

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 14 March 2019 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

Have Your Say!

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 14 March 2019 at 18:00

The Planning Committee Members are:

Councillor Pauline Hazell	Chairman
Councillor Brian Jarvis	Deputy Chairman
Councillor Lyn Barton	
Councillor Vic Flores	
Councillor Theresa Higgins	
Councillor Cyril Liddy	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

The Planning Committee Substitute Members are:

All members of the Council who are not members of this committee and who have undertaken the required planning skills workshop training:-

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Andrew Ellis	Adam Fox	Dave Harris	Darius Laws
Mike Lilley	Sue Lissimore	Patricia Moore	Beverley Oxford
Gerard Oxford	Lee Scordis	Lesley Scott-Boutell	Martyn Warnes
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 6 are normally dealt with briefly.

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 **Have Your Say! (Planning)**

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 **Substitutions**

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

4 **Urgent Items**

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

5 **Declarations of Interest**

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

6 **Minutes**

There are no minutes for confirmation for this meeting.

7 **Planning Applications**

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

7.1 **181930 Former Essex County Council Highways Depot, Station Road, Marks Tey, Colchester** 7 - 28

Demolition of the old railway units located within Marks Tey Station car park and a change of use of land as car parking with associated infrastructure.

7.2 **180874 The Langenhoe Lion, Mersea Road, Langenhoe, Colchester** 29 - 32

Demolition of former public house and erection of 4no. dwellings and car parking.

7.3 **190266 Sir Isaacs Walk, Colchester** 33 - 42

Installation of fixing points on 20 buildings throughout the street. Installation of catenary cables between each fixings to create the foundations for the umbrella street. Further catenary cables complete with umbrellas would then be installed between the catenary cables. Once installed there will be a 5.7m clearance from the floor to the lowest point of the umbrella to ensure the installation conforms to highways regulations.

7.4 190267 Sir Isaacs Walk, Colchester

Listed Building application for the installation of fixing points on 20 buildings throughout the street. Installation of catenary cables between each fixings to create the foundations for the umbrella street. Further catenary cables complete with umbrellas would then be installed between the catenary cables. Once installed there will be a 5.7m clearance from the floor to the lowest point of the umbrella to ensure the installation conforms to highways regulations.

See report at agenda item No 7.3

7.5 183133 Colchester Crematorium, Mersea Road, Colchester 43 - 50

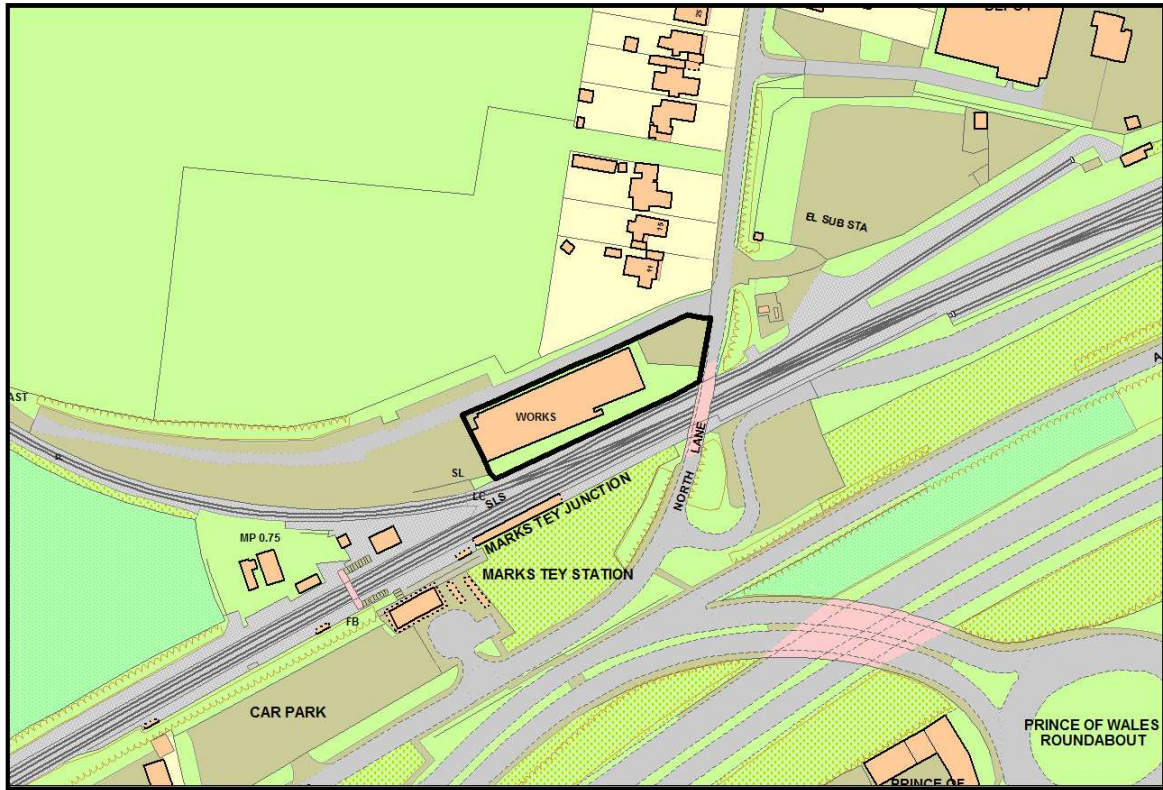
Widening of existing entrance, part removal of existing boundary walls and provision of new gates and railings repositioned to fit revised entrance. Also the introduction of electrical gate opening system – all for the purposes of Health and Safety.

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8 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**Part B
(not open to the public including the press)**



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Item No: 7.1

Application: 181930

Applicant: Mr Marek Dowejko

Agent: Mr Alistair Kelly, SHW

Proposal: Demolition of the old railway units located within Marks Tey Station car park and a change of use of land as car parking with associated infrastructure .

Location: Former Ecc Highways Depot, Station Road, Marks Tey, Colchester, CO6 1EE

Ward: Marks Tey & Layer

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because this application is a Major item and objections have been received

2.0 Synopsis

- 2.1 The key issues for consideration are the principal of the development, landscape impact, highway safety issues, impact upon residential amenity, trees and vegetation, historic assets and wildlife.
- 2.2 The application is subsequently recommended for approval. It is considered that, the proposed car park is acceptable in principle and represents sustainable development in accordance with National and Local Plan Policy. It is considered that the need for it has been demonstrated and that, subject to landscaping conditions this is an appropriate position for it, including in terms of impact upon the character of the landscape. It is not considered there would be significant impact upon highway safety, neighbouring residential amenity, trees and vegetation, historic assets or wildlife. Contaminated land conditions can be applied.

3.0 Site Description and Context

- 3.1 Marks Tey Railway Station is on the Great Eastern Main Line serving Marks Tey, and the surrounding areas within Essex and Suffolk. The sites for this Planning Application are the car parks (North and South) at Marks Tey Station, including former railway buildings. The overall site area is split into two car parks, with the north car park and the south.

4.0 Description of the Proposal

- 4.1 The application is for the demolition of the old railway units located within Marks Tey Station car park and a change of use of land to car parking with associated infrastructure at land opposite Marks Tey Station. The proposal involves the expansion of the car park to the north of the railway line to provide a net increase of 195 car parking spaces, resulting in a proposed gross number of spaces to 363 in this car park.
- 4.2 The following documents were submitted with the application: Site Clearance plans, Arboriculture Report, Archaeology Report Ecology Report Flood Risk Assessment, Heritage Assessment, Landscape and Visual Impact Assessment, Lighting Assessment, Topographical and Utility Mapping, Transport Statement.

4.3 In support of the application, the agent makes the following points:

- The additional spaces proposed are required to accommodate the existing parking demand and need; the additional parking demand / need that is expected to be generated in the future following the implementation by Greater Anglia of committed infrastructure improvements at the station by the end of 2019; and the forecast increase in passenger numbers at the station over the next 15 years as a result of the Local Plan housing growth.
- The proposed car park expansion will enable more passengers to use Marks Tey station. Although the passengers would be arriving via car the intention is that more would be using the sustainable public transport (train) and avoiding taking their cars into the centres. With Mark's Tey having direct access to Colchester, Chelmsford, Stratford and London Liverpool Street this should be seen as a substantial benefit.
- The northern car park will be expanded in two areas. (i) the existing buildings situated in the east of the site will be demolished and replaced with 46 standard parking bays and 20 accessible bays. The accessible bays would be located close to the crossing access to the station. (ii) extension to the north to provide an additional 154 standard bays. In addition to this a pedestrian and cycle route would be provided to connect the car park extension to the existing parking area. In total 100 additional cycle spaces would be provided within the extended car park in the form of a large two-tier cycle rack.
- The staff parking would be formalised to provide 8 car parking bays which would front directly onto the access road from North Lane. The existing 2 staff parking bays located within the main car park area would be retained.

Description	Total
Standard Bays	328 (+183)
Accessible Bays	25(+16)
Ironing Service Bays	0(-4)
Staff Bays	10 (No Change)
Total	363 (+195)

5.0 Land Use Allocation

5.1 Station Building Countryside

6.0 Relevant Planning History

6.1 PE172818 Extend current car park by utilising green area and demolition of old industrial buildings next to the station all of which are within Abellio lease area.

- 6.2 161657 – Car Park Near Station North lane, Marks Tey– Proposed works to the existing car park involving the following changes, 1 – demolition of 2 small brickwork out buildings, 2 – Removal of existing Hawthorn hedgerow to be replaced on a like for like basis, 3 – Reconfiguration of 29 No. existing – Application approved conditionally September 2016.
- 6.3 120369 – Car Park Near Station North Lane, Marks Tey - Continued use of site as a temporary public pay and display car park (Renewal of Planning Permission Ref: 110189)- Approved Conditionally April 2012.
- 6.4 110189 - Car Park Near Station North Lane, Marks Tey - Continued use of site as a temporary public pay and display car park for a three year duration. Renewal of current planning permission 090874. Site was also granted permission under application C/COL/05/1918 – Approved Conditionally March 2011.
- 6.5 C/COL/05/1918 – Land Opposite Marks Tey Station North Lane, Marks Tey Colchester CO6 1EG – Change of use of land as car parking – Approved Conditionally January 2006.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
External Materials in New Developments
EPOA Vehicle Parking Standards
Sustainable Construction
Managing Archaeology in Development.
Developing a Landscape for the Future

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

- 8.2 The Tree Officer is generally in agreement with the survey and report subject to clarification of the width of the access into the new car park and loss vegetation being adequately shown. Subject to the above, he agrees the arboricultural aspect of the application subject to condition.

- 8.3 Essex County Council state that “ as the matter does not directly relate to Community Infrastructure, we have no further comment to add.”

- 8.4 Highway Authority state:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. The bicycle parking facilities as shown on the approved plan are to be provided prior to the first use of the development. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority’s Development Management Policies February 2011.

2. The new car parking facilities as shown on the approved plan are to be provided prior to the first use of the development and the development shall not be occupied until such time as the car parking area, indicated on the approved plans, has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

3. Prior to the first use of the proposed development, both bus stops north and south bound, nearest the proposed development site on the A120, shall be improved by the provision of level entry kerbing, new posts and flags, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development in accord with Policy DM 9 of the Highway Authority's Development Management Policies February 2011.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

8.5 Natural England have no objection.

8.6 Environmental Protection: Should planning permission be granted:

ZPA – Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and

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a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

The lighting report submitted appears satisfactory. However, we recommend the following condition to ensure future compliance with the relevant standards:

ZGR - Light Pollution

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

- 8.7 Contaminated Land officer: The comments from MLM are noted. However, without a Phase 1 Desk Study and site walk over report, a complete initial conceptual site model cannot be developed. This will identify any potential sources of significant contamination and direct the location/depths/lab analysis etc. for any intrusive investigation to further assess the initially identified potential risks (if deemed necessary by the desk study for the proposed use). This is recognised as essential in any contaminated risk assessment process. It is also a requirement of all Essex Local Authorities, as detailed in their guide for developers: Essex Contaminated Land Consortium's technical guide.

Consequently, based on the information provided to date, should this application be approved,

Environmental Protection would recommend inclusion of the following conditions:

ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

ZG3 - *Validation Certificate*

If a Phase 1 risk assessment is received prior to decision, we will re-assess these recommendations.

- 8.8 Archaeologist: An adequate heritage assessment has been submitted with this application. No material harm will be caused to the significance of heritage assets by the proposed development. There will be no requirement for any archaeological investigation.

3.0 Recommendation

- 3.1 Agreement to the arboricultural aspect of the application subject to condition

8.9 The Landscape officer states:

Regarding the landscape content/aspect of the strategic proposals lodged on 07/09/18 and subsequent revised soft landscape proposals submitted under dwg 2056.01.C (not currently lodged on planning file):

- 1.2 To accord with the Council's [Landscape strategy for development sites](#) the landscape element of the proposal needs to be cross-checked against the Council's standard generic requirements under Landscape Guidance Note LIS/A (this is available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link); and where applicable amended accordingly to fully accord with them. In particular the clause(s) of LIS/A noted in the Appendix to this document need(s) to be cross-checked against the current submission.

- 1.3 In support and addition to this/these LIS/A clause(s) and accordance with policy/policies detailed in 3.1 below, the following points should be taken into consideration as part of any revised proposals:

Landscape proposals - under drawing 2056.01.C:

- A post and rail fence needs to be proposed to the sites western boundary where it runs directly alongside the access road, this in order to help protect the hedge whilst it matures. The fencing (symbol) needs to be clearly illustrated on plan (as running alongside the kerb side) and detail description and symbol included in the drawing key.
- The proposed 'landscape specifications' and first 2 'general notes' are not acceptable (gen notes: any revisions also need to be agreed with the LPA), but are not required at this the application stage. If full landscape details are submitted at this the application stage they will need to be cross-checked against Guidance Notes B (LIS/B) (this is available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link). However, as this level of detail is not normally required at this the application stage it is recommended these details be agreed to be addressed under condition, it will be assumed this has been agreed when reviewing any revised proposals unless notified otherwise.

Colchester Borough Landscape Character Assessment:

- The car park extension site lies outside the settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that *'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'*.
- The site lies within Colchester Borough Landscape Character Assessment Area B2, this identifies a key characteristic of the landscape as *'a mixture of small, medium and large irregular, predominantly arable fields'* and a key planning issue as *'pressure from potential visually intrusive expansion of Marks Tey settlement'*. It goes on to set a landscape strategy objective to *'conserve and enhance'* the landscape character of the Area, with a landscape planning guideline to *'conserve the mostly rural character of the area'* and *'ensure that any development on the edges of Marks Tey and Copford responds to traditional settlement patterns and uses design and materials, which are appropriate to local landscape character'*.
- It should be considered within the planning balance that the current proposal to losing an area of arable field and introduce non-locally compatible native hedgerow enclosure would not be conducive with its rural location. This as it fails to conserve and enhance the character of the site through the loss of agricultural land and by introducing non-native hedging stock and thereby fails to comply with the requirements of the Colchester Borough Landscape Character Assessment and therefore Core Policy ENV1.

Agricultural Land Classification:

- It should be noted that the planning application makes a declaration that the car park extension is not agricultural land, but the landscape appraisal submitted as part of the application states (under clause 3.1.3) that it is.
- If classified as agricultural land then in the absence of any agricultural land classification report the Natural England mapping indicates the site is located within an area of higher grade (2) agricultural land, with a requirement under the NPPF (clause 112) that *'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality'*. It is recommended therefore that a site specific Agricultural Land Classification report be submitted as part of any revised proposal in order that the classification might be identified at a local level.

Landscape Appraisal – under LVIA dated March 2018:

- In order to fully assess the appraisal, and thereby the potential landscape and visual impact of the proposal, it needs to be cross-checked against the above and 9.1 & 9.2 of LIS/A and developed further to fully assess/comply with these points/requirements.

2.0 Conclusion:

2.1 In conclusion, taking into account all relevant considerations and for the reasons set out above, this application cannot currently be supported on landscape grounds. In order fully consider the proposals the above points will need to be satisfactorily addressed.

9.0 Parish Council Response

- 9.1 The Parish Council have stated: “Objection - The Parish Council would request the application is refused due to exasperating the existing highway restrictions, the impact on already poor air quality and additional disabled parking with no provisions for additional disabled access due to the narrow footpath over the bridge.
The proposal needs to be considered with the wider strategic plan for parking at Marks Tey Station.”

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council’s website. However, a summary of the material considerations is given below.

- 10.2 14 letters of objection have been received which make the following comments:

- Have attached a schedule from 2009, of the origin of railway season ticket holders, as you can see only 12% lived in Marks Tey. Look how far these people come from to get to the Marks Tey Transport HUB. Two pages attached.
- This is the view we get at night from the rear of our homes, you can see this eye sore two miles away from the road from Aldham to Marks Tey. All of the northern boundary of this car park needs to have Leylandii planted.
- New North car park on agricultural land. Network Rail are not reducing the traffic in the area, they are increasing it, ask them to produce a list of their season ticket holders, they are drawing in commuters from all over Essex and Suffolk.
- The new flood lighting on a SSSI site would contravene the Colchester Borough Councils 5.7 Environment and Rural Communities Policies ENV1 and would bring a light pollution and noise pollution problem to all neighbours.
- This new car park should not be given planning permission unless they pay for improvements in the infrastructure in Marks Tey.

- All Car parking bays in Station Road should be removed. If they have an extra 195 bays there would be no need to block the highway in Station Road. This is a major problem for two way traffic in the area especially HGVs.
- Station Road junction with the A120 roundabout should be widened to two lanes for at least 200 m with arrows pointing to left lane and right lane, this would help move the traffic at night at peak times as commuters leave the station.
- The A120 from London road to the roundabout junction with Station Road should be painted on the road: Left lane A120 Braintree Stansted, GET IN LANE STAY IN LANE. The right lane should be marked Station and Colchester GET IN LANE STAY IN LANE. At peak times in the morning the traffic is backed up to the roundabout with London Road, People use the right lane to jump the queue and cut in at the roundabout, this causes more delays and road rage.
- Leaves of deciduous trees will fall opening up the site. They need to plant Leylandii to hide all the site all year round, they also need to plant Leylandii on the fence from this new car park along the fence to hide the station. The area from the homes to the new car park should all be planted as a small woodland to hide the station and the new car park.
- If Network Rail does not meet all these points, then the planning application should be declined.
- Unacceptable highway impacts – blind exit.
- Hardstanding and lighting would be viewed from nearby residences.
- Should be lighting baffles.
- More landscaping would reduce impact to slight adverse. Need more planting than as proposed.
- There will be more cars, not reduced mileage.
- No proposal to increase public transport.
- Increase in number of lorry movements. Construction problems.
- Should be improved disabled infrastructure in place before approve.
- Contrary to the NPPF.
- More car capacity would add to pollution.
- 10 car spaces for staff proposed but I've not seen more than 5 staff.
- Demolition of building will be severe negative impact on nearby residences.
- Coach problems, and adding further vehicles to this already hazardous situation is seriously an opportunity for significant traffic accidents.
- road infrastructure is not suitable to support any further traffic on this stretch of road without significant upgrade.
- Noise problems will be exacerbated from extra traffic and loss of hedgerows.
- This area has many more minor accidents in which no personal injury occurs.
- A direct route with pedestrian markings should be provided from the additional carpark to the station platform.
- Railway bridge too narrow.
- Light pollution.

11.0 Parking Provision

11.1 Total 363 (195 extra proposed).

12.0 Open Space Provisions

12.1 Not applicable.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that no Planning Obligations should be sought.

15.0 Report

Principle

15.1 The site lies within the countryside and accordingly there needs to be a justification for development in this location. With regard to National Policy the NPPF indicates a presumption in favour of sustainable development with three overarching objectives; economic, social and environmental. With regard to Local Plan Policy, Policy DP18 (Transport Infrastructure Proposals) is particularly relevant and indicates, inter-alia, that new public transport facilities will be expected to be sited in sustainable locations, minimise the impact on the environment and provide a full business case for the need.

15.2 With regard to the need for the extra parking the applicant has confirmed that the additional spaces proposed are required to accommodate the existing parking demand and additional parking demand that is expected to be generated in the future “following the implementation by Greater Anglia of committed infrastructure improvements at the station by the end of 2019; and the forecast increase in passenger numbers at the station over the next 15 years as a result of the Local Plan housing growth.”

15.3 It is considered that the need for the car park has been satisfactorily demonstrated having regard to the above. On site it is clear that the existing parking spaces are in high demand and there is also pressure on the on street parking spaces. The details submitted regarding future demand are considered to represent an adequate justification for the provision of the extra 195 spaces.

15.4 The site is in a relatively sustainable location, being an existing railway station in close proximity to the A12, Marks Tey and with direct station links to Colchester, Chelmsford, Stratford and Liverpool St. Accordingly, whilst more cars will be arriving on site, this would encourage more use of sustainable public transport (i.e train.). This is considered to meet the sustainability and economic objectives of the NPPF.

15.5 Having regard to the criteria of Policy DP18 it is considered that this is a sustainable location, that connectivity will be enhanced and that the business case justification has been shown. Policy DP17 provides that there should be appropriate provision for public transport and linkages to networks. Accordingly, overall it is considered that the principle of the proposal can be supported and that the proposal should be judged on its planning merits, which include impact upon the environment, highway safety, residential amenity and impact upon historic assets such as building loss and archaeology. Any impact upon wildlife also needs to be considered.

Highway Safety

15.6 The Highway Authority have raised no objections on highway safety grounds and the scheme is accordingly considered acceptable on highway safety grounds subject to the application of conditions suggested by the Highway Authority. These conditions include the parking layout according with the approved plans. The concerns raised by objectors have been noted but it is considered the highway network, including the junction on to North Lane is suitable for the proposed intensification of vehicular use. The traffic impact assessment submitted indicates that the proposed car park expansion is predicted to result in an additional 115 vehicles entering and exiting the car park during the AM peak hour (7 AM to 8 AM) and an additional 109 vehicles during the PM peak hour (5.30 PM to 6.30 PM). The proposed development is not expected to have a material traffic impact on the surrounding highway network. The proposal is therefore considered to be safe in accordance with the provisions of Policy DP1.

Landscape Impact

15.7 As the car park extension site lies outside the settlement boundary, it is therefore subject to Core Policy ENV1. ENV1 requires that 'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'.

15.8 Overall, on balance it is considered that the proposal is acceptable in terms of its impact on the landscape and that its use as a car park is justified. The

site is relatively low lying and in close proximity to the existing station complex. It is partly screened by existing vegetation. An appropriate landscape impact assessment has been submitted. However, there will need to be further appropriate boundary screening with native species and this can be conditioned. This will minimise any visual impact of the proposal on the countryside and rural character of the area. Any boundary enclosures will also need to be sympathetic, and this can include post and rail fencing. It has been confirmed that the site is classified as agricultural land but it is not considered the loss of this relatively small area of agricultural land would justify an unfavourable recommendation.

- 15.9 Subject to appropriate conditions, in particular native landscaping, it is considered that there would not be a significant adverse impact upon the landscape and that the proposal would respect its surroundings in accordance with policy DP1.

Impact upon trees and vegetation

- 15.10 With regard to impact upon trees and vegetation, an appropriate Arboricultural Impact Assessment has been submitted. This assessment outlines the tree constraints that affect the construction of new car parking facilities and demonstrates how the retained trees can be protected throughout the development process.
- 15.11 One C category tree (T2), one C category group (G4) and 25 linear metres of hedging that form G1 will need to be removed for development purposes. However, the tree losses will be replaced with remedial planting designed to be in keeping with the new development and provide landscape benefits and new wildlife habitats.
- 15.12 All the retained trees will be provided with proper protection as set out in BS5837:2012 during the construction phase. Protection measures will include erecting temporary protective barriers. Arboricultural supervision can then follow. The Council's tree officer has no objections to the scheme (following clarification received) and subject to appropriate conditions and the proposal is therefore considered acceptable in terms of its impact upon trees and vegetation.

Impact upon neighbouring Residential Amenity

- 15.13 The proposal is considered to be acceptable in terms of impact upon neighbouring residential amenity. The site would be far enough away from the nearest dwellings to ensure there would not be a significant impact from noise and disturbance. The Head of Environmental Protection has raised no objections and the suggested conditions can be applied. This includes lighting levels, and a condition will be applied to ensure details of any lighting is agreed to ensure there is no detriment to residential amenity from lighting. Additional screening can also help in this respect. The proposal is therefore considered to comply with Policy DP1 as existing residential amenity would be protected.

Impact Upon Historic Assets

- 15.14 The buildings to be removed are not considered to have any particular historic merit and an appropriate heritage assessment has been submitted. Accordingly there are no objections to their removal. There is also no requirement for further archaeological investigation and appropriate details have already been submitted in this respect. The Council's archaeologist has raised no objections. There is no impact upon the setting of any Listed Building. Overall the proposal therefore accords with Policy DP 14 which aims to protect the Historic Environment.

Other

- 15.15 The conditions suggested by the Contaminated Land officer will need to be applied.
- 15.16 There is no significant impact upon wildlife. Appropriate assessments have been submitted and Natural England have raised no objections. The proposal therefore accords with Policy DP21 which aims to conserve biodiversity.
- 15.17 There are not considered to be flood risk issues and a surface water drainage condition can be applied.

16.0 Conclusion

- 16.1 To summarise, the proposed car park is considered to be acceptable in principle and represents sustainable development in accordance with National and Local Plan Policy. It is considered that the need for it has been demonstrated and that, subject to landscaping conditions this is an appropriate position for it, including in terms of impact upon the character of the landscape. It is not considered there would a significant impact upon highway safety, neighbouring residential amenity, trees and vegetation, historic assets or wildlife. Contaminated land conditions can be applied.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM – Development To Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers as submitted and revised (precise numbers to be confirmed).

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. Non Standard Condition - Bicycle Parking

The bicycle parking facilities as shown on the approved plan are to be provided prior to the first use of the development. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

4. Non Standard Condition - Car Parking

The new car parking facilities as shown on the approved plan are to be provided prior to the first use of the development and the development shall not be occupied until such time as the car parking area, indicated on the approved plans, has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

5. ZPA – Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors;

- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

6. ZPD - Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours. The lighting report submitted appears satisfactory. However, we recommend the following condition to ensure future compliance with the relevant standards.

7. ZGR - Light Pollution

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

8. Non Standard Condition - Details of Floodlighting

No floodlighting, or other external lighting shall be constructed, installed or illuminated until full details of this have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

9. ZFB- Full Landscape Proposals

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS

ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);

- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

10. ZFE – Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

11. Non Standard Condition - Tree Protection

The provisions of the submitted Arboricultural Impact Assessment shall be complied with during the lifetime of the development works.

Reason: To safeguard the amenity provided by the Trees and Hedgerows.

12. ZCL Surface Water Drainage.

No works shall take place until details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: To minimise the risk of flooding.

13. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 13, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 14, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 15.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17. ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 2.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18. Non Standard Condition- Wildlife

The wildlife mitigation outlined in the submitted Ecological Survey shall be complied with throughout the lifetime of the development works.

Reason: In order to mitigate impact upon wildlife and protected species.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

2. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with

DC0901MWeV9.3

your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. Highway Informative 1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:
SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

4. ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.



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Item No: 7.2

Application: 180874

Applicant: Mr Karl O'Brien

Agent: Mr Robert Pomery

Proposal: Demolition of former public house and erection of 4no. dwellings and car parking.

Location: The Langenhoe Lion, Mersea Road, Langenhoe, Colchester, CO5 7LF

Ward: Mersea & Pyefleet

Officer: Chris Harden

Recommendation: **REPORT FOR INFORMATION ONLY**

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee for information purposes only further to the deferral of the application from the 31st January Committee meeting for a month to allow the potential of a community use on the site (i.e. ground floor shop in one unit) to be explored.

2.0 Synopsis

- 2.1 Since the deferral of the application, Abberton Parish Council have submitted a business plan to the Borough Council and to the applicant's agent relating to a community shop on the ground floor of plot 1 of the proposed 4 dwellings. The applicant's agent has indicated that there could be potential for the scheme to be viable and draft layout plans have been submitted. A reconsultation will be required so this report is for information only as an update to the application.

3.0 Details of potential Community shop

- 3.1 Since the deferral of the application, Langenhoe and Abberton Parish Council (ALPC) have submitted a business plan to the Borough Council and to the applicant's agent relating to the provision of a ground floor shop unit on Plot 1 which is at the Northern end of the site. The Parish Council "submits an alternative proposal to establish a small community village shop...with a parking area behind and additional street parking in the unrestricted Fingringhoe Road."

- 3.2 The Parish Council states:

"To provide evidence to support the proposal, ALPC carried out a questionnaire survey delivered to all 450 residences within the villages during the first week of February 2019. Of the 126 responses received from residents, either in hard copy or to a dedicated email address, 124 (99.2%) supported the proposal and stated that they would use the shop, 74 volunteered to work there and 55 volunteered to join the project team. Given this level of support, ALPC voted unanimously to progress the alternative proposal, at a meeting of the Parish Council held on 18 February 2019. ALPC also voted unanimously in support of the principle of providing financial support to assist in setting up such a community shop. Several local residents have stated recently that they would give a donation towards setting up a Community Shop. In addition, strong support to the proposal has been received from Fingringhoe Parish Council, Winstred Hundred Parish Council (neither of which communities have a village shop) and from West Mersea Town Council...."

3.3 The Parish Council adds:

“The aims of the community shop are to:

- maintain the product range of most convenience shops including general groceries and essential household goods locally sourced fresh produce.
- provide a central location for other local villages lacking similar resources.
- become a central location for the provision of essential Post Office services.
- provide a welcoming community hub for the village, to reduce social isolation (especially for the elderly).
- give general support – for example: to display and offer for sale work by local artists.

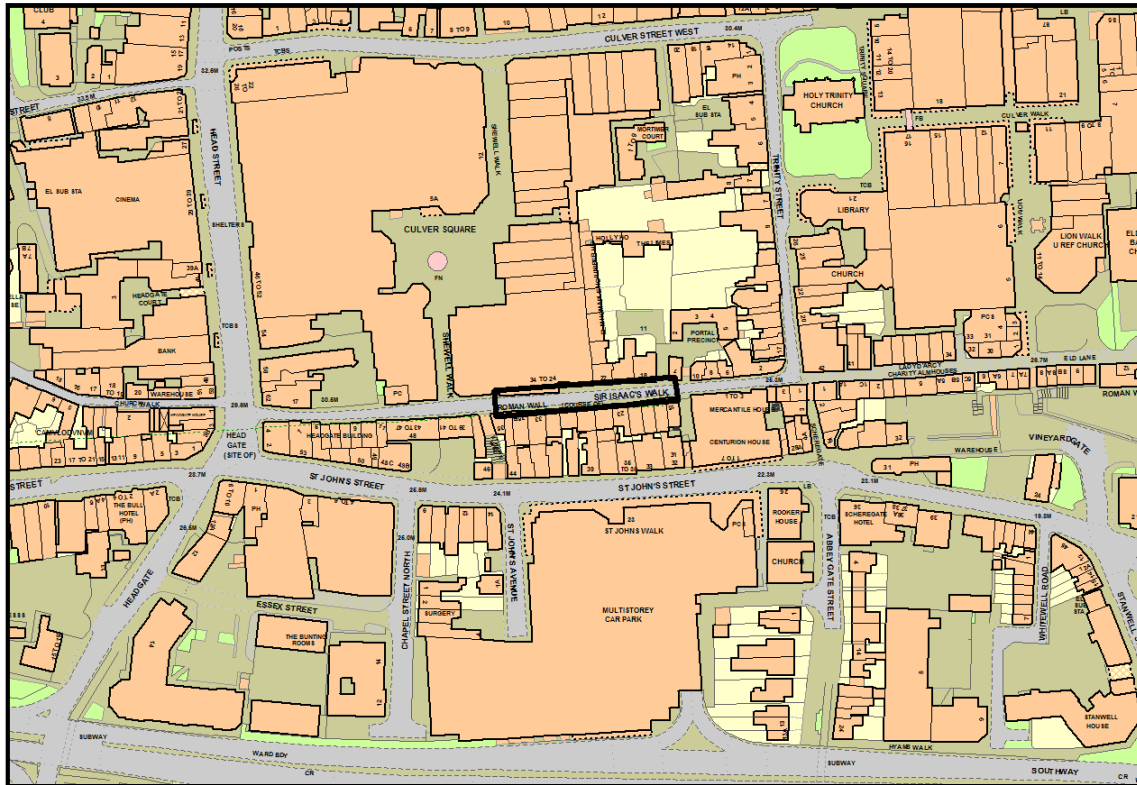
3.4 In terms of structure and Governance, the Parish Council state:

“The Community Shop will take a long-term lease of the ground floor of the northern terrace house including the garden portion which will be used for car parking. The legal entity for the new venture is Abberton and Langenhoe Community Shop Limited (ALCSL), which will be registered with the Financial Conduct Authority as a Community Benefit Society under the terms of the Co-operative and Community Benefit Societies Act 2014. ALCSL has adopted the model rules provided by the Plunkett Foundation, which supports community enterprises. Local people will be invited to become Members of ALCSL by subscribing to a Community Share Issue. Each Member will subscribe for one or more shares, priced at, for example, £25 each, but will only have one vote. The typical community shop with a structure similar to the one adopted here has nearly 200 Members and we anticipate this will be easily achieved in Abberton and Langenhoe.”

- 3.5 The Parish Council have presented the business plan to the applicant's agent who has initially considered there may be potential for the scheme as it could be close to a commercial bid that would not have to be heavily subsidised by the applicant. Accordingly the agent has submitted an initial draft revised scheme showing one ground floor shop unit and two parking spaces to the rear. This revised scheme will need a full re-consultation and assessment of any responses received.

4.0 Recommendation

- 4.1 That Councillors note the updated position of the application.



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Item No: 7.3 and 7.4

Application: 190266 and LB - 190267

Applicant: Mr Andrew Guyler, Decx Ltd

Proposal: Installation of fixing points on 20 buildings throughout the street. Installation of catenary cables between each fixings to create the foundations for the umbrella street. Further catenary cables complete with umbrellas would then be installed between the catenary cables. Once installed there will be a 5.7m clearance from the floor to the lowest point of the umbrella to ensure the installation conforms to highways regulations.

Location: Sir Isaacs Walk, Colchester

Ward: Castle

Officer: David Lewis

Recommendation: Approval for full planning permission and listed building consent.

1.0 Reason for Referral to the Planning Committee

- 1.1 These applications are referred to the Planning Committee because this is a project promoted by Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact on the Conservation Area and Listed Buildings and the contribution it would make to the vitality of this part of the town centre, whilst having regard to pedestrian and highway safety.
- 2.2 The works involve applying fixings to a listed building (as well as other properties within the street) which will affect the fabric of the building, however this is not irreversible and any harm is outweighed by the contribution the works will make to improving vibrancy of the area and support to the retail function by generating an increased footfall.
- 2.3 The application is subsequently recommended for Approval for a 3 year temporary period.

3.0 Site Description and Context

- 3.1 Sir Isaacs Walk is a narrow shopping street with traffic restrictions, on the south side of the town Centre adjacent to the Culver Square. It links Headgate through to Eld Lane and on to Queen Street. The application site is situated within the boundaries of Colchester's designated Conservation Area 1, with Sir Isaac's Walk including a number of nationally and locally listed buildings. In addition to the retail uses there a variety of retail and food and drinking establishments.

4.0 Description of the Proposal

- 4.1 The application relates to a system of cables spanning a section of Sir Isaacs Walk, between No's 15 – 35b odds and 18 – 36 evens and including 1 Portal Precinct. The cables are held in place by adding a number of fixings to support the cabling. This would then form a means for hanging an installation from the cabling, which in the first instance would be a series of coloured umbrellas, (some illuminated), to form a vibrant display to this area. It is intended that the umbrella display would be in place from March to autumn, although the catenary would remain to enable subsequent, seasonal displays, hence the temporary permission for a 3 year period. The lowest part of the installation would be 5.7m above street level, to enable traffic to pass unhindered.

5.0 Land Use Allocation

- 5.1 Within the Inner Core area of the Town Centre.

6.0 Relevant Planning History

- 6.1 This is an historic street, however, none of the planning history relating to the properties is considered relevant to the consideration of the application. The property 18-22 Sir Isaac's Walk is listed, (Grade II), and Colchester's Town Wall is a Scheduled Ancient Monument (list UID 1002772), that runs along Sir Isaac's Walk, but the surviving parts can be found in the basements of buildings in the locality and not aboveground in this immediate locality.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
CE2a - Town Centre
UR2 - Built Design and Character
PR2 - People-friendly Streets
TA4 - Roads and Traffic

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP17 Accessibility and Access

- 7.4 Some "allocated sites" also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA TC1 Appropriate Uses within the Town Centre and North Station
Regeneration Area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
Shopfront Design Guide
Urban Place Supplement
Street Services Delivery Strategy
Managing Archaeology in Development
Planning Out Crime
Town Centre Public Realm Strategy
St Botolph's Masterplan

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

- 8.2 Highway Authority states;

'From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions;

1. No development shall take place until the required licensing of the proposed private apparatus oversailing the highway and the traffic management plans have been secured by the applicant which shall be approved in writing by the Local Planning Authority.

Reason: To protect and preserve the integrity and fabric of the highway and the travelling public, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The applicant should be advised that any Safety Assessments, Risk Assessments, traffic management plans and technical specifications of load bearing catenary cables and fixtures should accompany any request for licensing of the proposed development.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

8.3 Environmental Protection states:

‘Should planning permission be granted Environmental Protection wish to make the following comments:-

Advisory

It is recommended that any illumination on the display is switched off at midnight to prevent light nuisance to any residential properties that may be above the shops.’

9.0 Parish Council Response

9.1 Non-Parished

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties in addition to a press and site notice. The full text of all of the representations received is available to view on the Council’s website. At the time of writing no representation had been received as a result of the notifications to the occupiers of the premises immediately adjacent to the proposal, however, the period for the press notice expiring does not occur until 8 March 2019, with the site notice expiring on 1 March 2019. An update will be provided of any representations received.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

Visual impact in Conservation Area and Listed Buildings

- 15.1 The relevant statutory framework for the review of the application includes Planning (Listed Buildings and Conservation Areas) Act (1990), with Section 72(1) requiring that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Additionally, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications are determined in accordance with the local development plan unless material considerations indicate otherwise. The relevant policies from Colchester Local Plan 2001-2021 include CS ENV1 and DPP14 which seek to protect and enhance the historic environment. Numbers 18-22 Sir Isaac's Walk is a listed building and will have the fixings applied to its wall.
- 15.2 The proposed works will serve the addition of an art installation over Sir Isaacs Walk during the summer of 2019. The project hopes to increase the attractiveness and footfall of the commercial street, following similar examples of other cities around the world. The enhancement of a Conservation Area's vitality and the support of the local businesses are key factors to ensure its sustainability. Therefore initiatives that promote this are to be supported for their effect on historic town centre. Importantly, the works are reversible and will not affect the character of and appearance of the Conservation Area in a permanent manner.
- 15.3 Although the installation is intended to be changed, the fixing would naturally be retained throughout the period of the permission. The majority of the buildings already have fixings of one form or another such as hanging signage, lights, alarm systems, ventilation ducts, and other fixings for seasonal decorations etc. and it is important to consider the impact of clutter if the fixings are left permanently and cumulative effects on the Conservation area and Listed Buildings. A suitable condition is therefore recommended to ensure components are removed at the end of the temporary period. The Colchester Town Wall, a scheduled ancient monument, whilst in this locality, is predominantly found in the basements of properties where it has survived and the works will have no visual or material impact on this heritage asset at all.
- 15.4 It is concluded that the proposals do not conflict with legislation and policies for the protection of heritage assets, listed buildings or enhancement of conservations areas.

Impact on the Vitality of the Shopping Area

- 15.5 The NPPF is supportive of ensuring the vitality of town centres and this is reinforced with the council's adopted planning policies for town centres in addition to the support for tourism, leisure and culture.

15.6 Stakeholder engagement with the occupiers prior to the submission of the application received a favourable response based on the expectations of greater footfall in the area and thus support for the proposals. The works are considered to be a positive contribution to bringing vitality to the part of the town centre and compliant with planning policy.

15.7 Due to the lowest point of the installation being set at 5.7m above street level, the works will not impact on the free flow of traffic or access for delivery vehicles serving local shops and services.

16.0 Conclusion

16.1 To summarise, the proposals are considered acceptable as having no irreversible impact on the listed buildings or conservation area and any temporary harm to the fabric of the listed building being outweighed by the positive contribution the development would make to the vitality of this part of the Town centre.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning application 190266 subject to the following conditions:

1. Non Standard Condition – Temporary Time Limit

The period of this permission shall expire on 31 March 2022 at which date the development hereby permitted shall be removed. Within 28 days from the date at which this permission expires any material or equipment resulting from, or used in connection with, the development hereby permitted shall be removed from the site in its entirety and in accordance with a scheme that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and because a longer permission would have to be carefully considered by the Local Planning Authority at the time at which any such proposal came forward, as well as to ensure that the site is returned to its previous state so that it does not suffer from any unacceptable long term impact.

2. Non Standard Condition – Accordance with details

The development hereby permitted shall be carried out in accordance with the details shown on the submitted documents accompanying the application.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. Non Standard Condition – Licensing of Proposed Private Apparatus

No development shall take place until the required licensing of the proposed private apparatus oversailing the highway and the traffic management plans have been secured by the applicant which shall be approved in writing by the Local Planning Authority.

Reason: To protect and preserve the integrity and fabric of the highway and the travelling public, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Non Standard Condition - Illumination

Any illumination on the display shall not be switched on between the hours of 12 midnight and 8.a.m. unless otherwise agreed with the Local Planning Authority.

Reason: To prevent light nuisance to any residential properties that may be above the shops.

18.0 Informatives

18.1 The following informatives are also recommended:

Informative1: The applicant should be advised that any Safety Assessments, Risk Assessments, traffic management plans and technical specifications of load bearing catenary cables and fixtures should accompany any request for licensing of the proposed development.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

3. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development. This is of critical importance.** If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled

DC0901MWeV9.3

'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

APPROVAL of listed building application 190267 subject to the following conditions:

1. Non Standard Condition – Temporary Time Limit

The period of this permission shall expire on 31 March 2022 at which date the development hereby permitted shall be removed. Within 28 days from the date at which this permission expires any material or equipment resulting from, or used in connection with, the development hereby permitted shall be removed from the site in its entirety and in accordance with a scheme that shall have previously been submitted to and agreed, in writing, by the Location Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and because a longer permission would have to be carefully considered by the Local Planning Authority at the time at which any such proposal came forward, as well as to ensure that the site is returned to its previous state so that it does not suffer from any unacceptable long term impact.

2. Non Standard Condition – Accordance with details

The development hereby permitted shall be carried out in accordance with the details shown on the submitted documents accompanying the application.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. Non Standard Condition – Licensing of Proposed Private Apparatus

No development shall take place until the required licensing of the proposed private apparatus oversailing the highway and the traffic management plans have been secured by the applicant which shall be approved in writing by the Local Planning Authority.

Reason: To protect and preserve the integrity and fabric of the highway and the travelling public, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Non Standard Condition - Illumination

Any illumination on the display shall not be switched on between the hours of 12 midnight and 8.a.m. unless otherwise agreed with the Local Planning Authority.

Reason: To prevent light nuisance to any residential properties that may be above the shops.



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Item No: 7.5

Application: 183133

Applicant: Mr Peter Stewart, CBC

Agent: Mr Andrew Hastings, AH Landscape Consultants Ltd

Proposal: Widening of existing entrance, part removal of existing boundary walls and provision of new gates and railings repositioned to fit revised entrance. Also the introduction of electrical gate opening system - all for the purposes of Health and Safety.

Location: Colchester Crematorium, Mersea Road, Colchester, CO2 8RU

Ward: Berechurch

Officer: Eleanor Moss

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are visual impact of the proposal, impact upon trees and landscaping, impact upon amenity and also impact upon highway safety. In this instance the proposal will create a limited impact overall, with no adverse impact on the established street scene, trees or on local highway network. The proposal does not cause any unacceptable harm to the residential amenity of neighbouring residents.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site relates to Colchester Crematorium which opened in 1957. Colchester Crematorium includes a large expanse of garden and landscaped area. The site is served by two existing entrances/exits. This proposed seeks to replace the gates located to the south east of the application site. The existing gates are not of any particular merit.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the widening of the existing entrance, part removal of the boundary walls and provision of new gates and railings.

5.0 Land Use Allocation

- 5.1 The site serves a well established crematorium in a predominantly residential area.

6.0 Relevant Planning History

- 6.1 None relevant to this application.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP4 Community Facilities
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Community Facilities
Sustainable Construction

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 Highway Authority -

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

8.3 Arboricultural Officer – Raises no objection to the scheme following the submission of an Arboricultural Impact Assessment.

8.4 Landscape Planning Officer – No objection subject to recommended conditions.

8.5 Natural England – No comments.

8.6 Environmental Protection - No comments.

9.0 Parish Council Response

9.1 Non-Parished

10.0 Representations from Notified Parties

10.1 None received at the time of writing.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

Principle

15.1 The proposal relates to the provision of a new access and associated gates from Mersea Road into the application site. The proposal is located within the development boundary and as such the proposal should be judged on its own merits. In this case, the main considerations will be impact on local landscape character and visual amenity, highway safety and the residential amenity of local residents.

Scale and Appearance

- 15.2 The proposal is relatively small-scale, in terms of appearance, involving the removal of the existing fence and a section of walls and the insertion of metal decorative gates and railings consistent with the type and form that is currently on site. In terms of visual impact, it is not considered that the proposal would have any adverse impact on the character of the built environment or local landscape character.

Highway Safety

- 15.3 In terms of impact on highway safety, the Highway Authority have considered the proposal and raised no objections. The proposal has been submitted in order to improve safety and it is unlikely the proposal would result in an increase in vehicle movements to and from the site. The proposal is therefore considered to be acceptable in this regard.

Impact upon Residential Amenity

- 15.4 In regard to residential amenity, it is not considered that the proposal will cause material harm. Even though it is not a through road to any further development, this part of Mersea Road is a residential area, with regular vehicle movements expected. As with the consideration of highway safety, the proposed development is unlikely to create any significant increase in traffic movements and it is not considered the proposal will result in increased noise. As a result increased disturbance is likely to be minimal.

Archaeology

- 15.5 No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation

Trees and Landscaping

- 15.6 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area
- 15.7 In this instance, an Arboricultural Impact Assessment (AIA) has been submitted in support of the proposal which confirms the trees at the site entrance are limited in number (only eight trees) and are located within two shrub borders either side of the access drive. Most of the trees have modest amenity value but are visible from the public realm.

15.8 The main tree related issues relate to the protection of the existing trees, particularly T2 & T5 Holly, during the proposed site entrance re-alignment works, in particular during the excavation of the holes for the new metal railings where they are within close proximity to existing trees. Most of the trees are in need of some basic crown pruning works due to their lack of recent management. Tree protection measures, including the installation of tree protective fencing, will adequately protect the root protection areas, when accompanied by detailed methods and supervision by a consultant arboriculturist from Property Risk Inspection Ltd.

15.9 Overall, it is concluded that, subject to appropriate controls, the development can be implemented without undue impact on trees.

16.0 Conclusion

16.1 To summarise, the proposed development is considered to be acceptable. The visual impact of the proposal will be limited, with no adverse impact on the established street scene or on local landscape character. The potential increase in vehicle movements is not considered to be significant and as a result will have no detrimental impact on highway safety or cause any unacceptable harm to the residential amenity of neighbouring residents.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 18.4033.01 Revision A and 18.4033.02.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. ZFE - Landscape Management Plan

Prior to the first use of the development hereby approved, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

4. Z00 – Landscaping

The landscape details as shown on the approved drawing(s) 18.4033.01.A lodged on 03/01/19 shall be carried out in full prior to the end of the first planting season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that the landscape is implemented in accordance with the detail submitted within the application.

5. ZFT - Tree and Hedgerow Protection: General

Prior to undertaking work to trees or installing protective fencing a site specific Arboricultural Method Statement as detailed in the arboricultural impact assessment previously provided shall be submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees.

6. Z00 – AIA Approved Document

The development hereby approved shall be carried out in strict accordance with the submitted Arboricultural Impact Assessment dated 15th February 2019 for the lifetime of the development.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

2. Non Standard Informative – Landscaping

‘Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council’s Landscape Guidance Note LIS/B (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the ‘read our guidance’ link).’

3. Non Standard Informative - Trees

It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional (i.e. Arboricultural consultant – details of local practices available through Arboricultural Officer on 01206 282469 (am only).

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.

