

Planning Committee Meeting

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

Thursday, 06 November 2014 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. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable 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, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

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Material Planning Considerations

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

The following approach should be taken:

- 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.

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 Colchester’s own Local Plan documents
- Government guidance, case law, appeal decisions, planning history, “fallback” positions
- Design, scale, bulk, mass, appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations such as archaeology, listed buildings or conservation areas
- Environmental issues such as impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism
- Social issues such as affordable housing, accessibility, inclusion, education, recreation
- The ability to use planning conditions or obligations to overcome concerns

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 including 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
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development

Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

Inspectors and Courts (see *North Wiltshire DC V SoS & Clover, 1992*) have established that precedent can be a legitimate consideration, but it is not enough to have a “general anxiety” and there has to be evidence of a real likelihood that similar applications (in all respects) will be submitted.

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 and Considering Reasons for Refusing Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework reinforces this by 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. However, not all development is acceptable and almost every permission will require planning conditions in order to make them acceptable. Some will remain unacceptable and should therefore be refused. Circular 11/95 (The Use of Conditions in Planning Permissions) and Circular 03/2009 (Costs Awards In Appeals And Other Planning Proceedings) set out advice on the government’s policy regarding the appropriate use of planning conditions and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. They derive from an interpretation of court judgments over the years and, although not planning law, are important material considerations. A decision to set them aside would therefore need to be well-reasoned and justified.

In terms of the Planning Committee, Circular 03/2009 makes it clear that “*Planning authorities 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*”.

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that “*Whenever appropriate, planning authorities 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. The Circular adds that “*A planning authority refusing planning permission 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.*” Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, 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, Circular 03/2009 makes it clear that planning authorities must “*properly exercise their development control responsibilities, 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 public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.



Colchester Borough Council Development Control

Advisory Note on Parking Standards

The following information is intended as guidance for applicants/developers.

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.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

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. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



Colchester Borough Council Environmental Control
Advisory Notes for the Control of Pollution during Construction & 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**

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.

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.

Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

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**

- 1) 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.
- 2) 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**

- 1) 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. Dwelling houses

Use as a dwelling house (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 dwelling house 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), nightclubs, 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.

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 06 November 2014 at 18:00

Member:

Councillor Theresa Higgins
Councillor Jon Manning
Councillor Peter Chillingworth
Councillor Helen Chuah
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Mike Lilley
Councillor Jackie Maclean
Councillor Jessica Scott-Boutell
Councillor Laura Sykes
Councillor Julie Young

Chairman
Deputy Chairman

Substitutes:

All members of the Council who are not members of this Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-

Councillors Christopher Arnold, Nick Barlow, Lyn Barton, Tina Bourne, Roger Buston, Kevin Bentley, Nigel Chapman, Barrie Cook, Robert Davidson, Beverly Davies, Andrew Ellis, Annie Feltham, Ray Gamble, Dominic Graham, Marcus Harrington, Dave Harris, Julia Havis, Jo Hayes, Peter Higgins, Margaret Kimberley, Cyril Liddy, Sue Lissimore, Kim Naish, Nigel Offen, Gerard Oxford, Philip Oxford, Will Quince, Rosalind Scott, Lesley Scott-Boutell, Peter Sheane, Paul Smith and Dennis Willetts.

AGENDA - Part A

(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and agenda items may be considered in a different order if appropriate.

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 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

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for

microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to silent;
- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

2 Have Your Say! (Planning)

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

These speaking provisions do not apply in relation to applications which have been subject to the Delayed Decision Protocol.

3 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

4 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

5 Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The

Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6 Minutes 16 October 2014 17 - 24

To confirm as a correct record the minutes of the meeting held on 16 October 2014

7 Planning Applications

In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.

7.1 145607 48a William Harris Way, Colchester 25 - 38

Change of use of premises from A1 (retail) to A3 / A5 (restaurant and take away)

7.2 145820 Rose and Crown, The Quay, Wivenhoe, Colchester 39 - 46

Use of an area of public highway measuring 1.6 metres by 3.8 metres for the placing of 3 tables and 12 chairs, in connection with the use of the Rose and Crown Public House

7.3 131935/131936 Garrison Area B1b, Flagstaff Road, Colchester 47 - 94

The erection of 138 residential units, along with demolition of buildings and the creation of access, car and cycle parking, landscaping and open space

7.4 145776 Bawley House, Walter Radcliffe Road, Wivenhoe, Colchester 95 - 108

Proposed A1 retail use, A3 restaurant use or B1 office use to ground

floor and 7 no. poly-functional units (B1 and C3 use) to first, second and third floors with associated car parking. Amendment to planning approval 131568

- 7.5 **144976 99 and 105 London Road, Copford, Colchester** 109 - 136

Demolition of dwelling and workshop building and erection of 8 no. residential units and extension to car park to neighbouring employment units. Resubmission of 140216

- 7.6 **145513 Coopers Beach Caravan Park, Church Lane, East Mersea, Colchester** 137 - 154

Conversion of existing barns and stables to 18 self-catering holiday accommodation units and for the erection of 14 new holiday cottages

- 7.7 **145733 The Laurels, Pyefleet View, Langenhoe, Colchester** 155 - 168

Proposed detached garage to front garden and associated landscaping works including alterations to access onto public highway

- 7.8 **145730 7 Chaney Road, Wivenhoe, Colchester** 169 - 174

Proposed conversion of existing garage with front extension and addition of new mono-pitch roof. Part 2-storey and single storey rear extension

- 7.9 **145683 John Lampon Court, Smiths Field, Colchester** 175 - 180

Construction of mobility scooter store for up to 8 no. scooters and additional space for up to 4 no. bicycles

- 7.10 **145857 Worsnop House, Old Heath Road, Colchester** 181 - 186

Variation of Condition 11 of planning permission 130230 – Proposed refurbishment and extension to existing sheltered housing scheme to include the conversion of bedsits to one bedroom flats

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)

Planning Committee

Thursday, 16 October 2014

Attendees: Councillor Peter Chillingworth (Group Spokesperson), Councillor Jackie Maclean (Member), Councillor Theresa Higgins (Chairman), Councillor Jon Manning (Deputy Chairman), Councillor Laura Sykes (Member), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Group Spokesperson), Councillor Julie Young (Member), Councillor Jessica Scott-Boutell (Member)

Substitutes: Councillor Professor Peter Higgins (for Councillor Helen Chuah)

54 Site Visits

The following members attended the formal site visit: Councillors Chillingworth, Hazell, T. Higgins, Jarvis, Lilley, Maclean, Manning and Sykes.

55 Minutes

The minutes of the meetings held on 11 September and 2 October 2014 were confirmed as correct records, subject to Minute 35 on 11 September 2014 being amended to reflect the fact that Councillor Chillingworth had not attended the site visit at that location.

56 142446 Holmwood Farm, Brook Hall Road, Fingringhoe, Colchester

The Committee considered an application for the development of solar photovoltaic panels and associated works including inverter housings, access tracks, security fencing and CCTV on land at Holmwood Farm, Brook Hall Road, Fingringhoe, Colchester. This application had been referred to the Committee because it constituted a Major application in respect of which material objections had been received and former Councillor Terry Sutton had submitted a call-in request prior to him not seeking re-election. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Carl Allen, Planning Officer, presented the report and, together with Simon Cairns, Planning Projects Manager, assisted the Committee in its deliberations.

Terry Canham, on behalf of Fingringhoe Parish Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the

application. He considered that the proposal was in the wrong location as it was an area well used by visitors and the local road network was already very busy and subject to major disruption. He was of the view that the land was of high value, having previously been successfully cropped, it was located in the coastal protection belt and adjacent to several other designated sites. The roads in the area were not suitable for use by large Heavy Goods Vehicles which is why the mineral extraction in the area was undertaken by the use of barges. The proposal lacked compliance with the National Planning Policy Framework and efforts at local consultation had been poorly delivered by the developer. He considered that brownfield sites needed to be considered ahead of agricultural sites for solar panel developments and there were also outstanding issues in relation to the public rights of way in the area. The submission of more than 200 letters of objection from a village with a population of little more than 300, indicated the strength of local opinion against the proposal. He asked the Committee to refuse the application.

Bob Ayres addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He welcomed the support given to the proposal from the statutory consultees and the recommendation of approval contained in the officer's report. He acknowledged the considerable planning history associated with the site but considered the planned solar panel development to be very different to the mineral extraction operation, particularly in so far as the development would be very quiet and neighbourly. The proposal had followed the published guidance on solar farm development and it had taken into account the close proximity of the Nature Reserve. He believed the proposal would enhance biodiversity in the area and the natural environment in general. He confirmed that all practical and reasonable steps would be taken to ensure the local road network would not be adversely affected. He requested the Committee to approve the application.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He referred to the very strong feeling in the village against the application and his concerns regarding the many outstanding questions and the lack of community engagement undertaken. The Community Benefit Fund not been the subject of discussion with the Parish Council and its offer by the developer seemed to have been a last minute afterthought. The village of Fingringhoe was in an idyllic rural setting and the development was out of scale with the surroundings. He was particularly concerned about the negative impact on Jagers Farm and the potential disruption which would be caused to secure transmission to the National Grid which was 7km distant. He questioned whether the suitability of the site for development in this way had been evaluated appropriately. The site visit undertaken by the Committee members would have demonstrated the limitations on the existing road network which effectively provided one way in and one way out of the village. The roads were already subject to heavy congestion, particularly at school drop off and pick up times and he questioned whether the developer was proposing measures to mitigate any additional traffic related problems. He referred to the use of the area by military for aviation purposes and questioned whether 16 Air assault Brigade had been consulted. He was concerned

about the transporting of materials during the period of construction and advocated the use of barges to avoid additional traffic problems.

The Planning Officer explained that changes to one of the bridleway routes were an existing historical issue and, as such, the public rights of way in the area would not be adversely affected by the proposal. The transmission arrangements to the National grid were not matters which required planning approval. The impact on the local highway network during construction was a temporary issue and, in any event, the Highway authority had not objected to the proposals. He was not able to comment on the detail of the Community Benefit Fund as the acceptability of the proposals had not been subject to the inclusion of the Fund and, as such, he had not been involved in its negotiation. He confirmed that the land was agricultural land graded sub 3b and grade 4 which was suitable for this type of proposal and the additional planting would provide adequate screening over a period of time. The closest property to the site was Jagers Farm and any negative impact would be of a temporary nature which had been considered satisfactory by the Council's Listed Buildings Officer. Colchester Garrison had not been specifically consulted on the proposals but a Condition had been proposed to address any problems associated with glare from the solar panels.

Members of the Committee expressed concern regarding the impact on the local road network and the likelihood of damage being caused to verges and hedgerows. It was considered that the developer should be encouraged to secure the use of barges for the transportation of materials rather than heavy goods vehicles, as was currently the case with the mineral extraction operation. There was also a view that more detailed discussions needed to have been undertaken with the Parish Council, that the Community Benefit Fund needed to be secured by condition and by means of the signing of a legal agreement whilst other Committee members questioned whether the Community Benefit should be in the form of a lump sum payment to each household in the village or other direct benefit to the local residents.

RESOLVED (UNANIMOUSLY) that:

(i) Consideration of the application be deferred and the Head of Professional Services be requested to undertake further negotiations to secure:

- Agreement to the construction transport method being undertaken by means of barges;
- Further discussions between the Parish Council and the developer concerning the details of the Community Benefit Fund being offered and, if necessary its provision in the form of a Unilateral Undertaking.

(ii) When the matter is reported back to the Committee further information be supplied regarding the transmission arrangements for connection to the National Grid.

57 144693 Rowhedge Wharf, Former Rowhedge Port, Rowhedge, Colchester

The Committee considered an application for the redevelopment of part of the former Rowhedge Port to provide 170 dwellings, a potential community facility building (use classes A1, A3, A4, B1, C3, D1), public waterfront area incorporating dinghy park, car park, viewing platform, public facilities, new river wall and new subway, upgrade to access road from Rectory Road, new footpath from access road to existing recreation ground, internal roads, open spaces, drainage, landscaping and all ancillary works. The development included an Environment Statement. This application had been referred to the Committee because it constituted a Major application in respect of which material objections had been received and the recommendation was for planning permission to be granted subject to the signing of a Section 106 agreement. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Sue Jackson, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Tony Pullon, Chairman of East Donyland Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the Parish council was genuinely pleased to see the proposals to regenerate the site and he confirmed that there had been meetings with the developers to discuss the proposals. However, he felt that the views of the Parish Council had been ignored and that they had been misled in terms of the community benefit proposals. In particular he did not consider it appropriate for the costs associated with the infrastructure for the development to be included in the community benefit package. He was also concerned about the inclusion of a proposal for the extension of the Village Hall within the Section 106 agreement given requirement for Parish council approval to the release of the land. He questioned whether the arrangements for community use of the slipway from the development to the water would be workable bearing in mind the responsibility for the maintenance would be assumed by the management company for the development. He also referred to the lack of lighting for the footpath link and asked the Committee to defer their consideration to allow time for further discussions to take place.

Trevor Faulkner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the scheme reflected the extensive pre-application discussions which had taken place between the developers and the Planning Officers. The report demonstrated that the proposals were in compliance with the development brief for the site and he also referred to the commercial viability assessment which had been submitted with the proposals. This had confirmed the very high costs associated with the development. He considered the proposals submitted were of very high quality, incorporating a new waterfront, dinghy

park, slipway, landscape enhancements, together with a commercial community facility which would be the subject of market testing.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He confirmed his delight that the scheme had come forward and he welcomed the benefit for the village. He was, however, concerned about the lack of affordable housing within the development and the details of the community benefit package. He referred to what appeared to be a breakdown in communication between the Parish Council and the developer at such a late stage in the delivery of the application and he appealed for further discussions to take place.

The Principal Planning Officer explained that the costs associated with the infrastructure for the development did not form part of the community benefit package but they had been taken into account in relation to the viability assessment. She confirmed that the viability assessment had indicated that it would not be possible to incorporate an affordable housing element on the development site but that a financial contribution to affordable housing in the Borough would be possible in addition to other community benefits in the form of the completion of the Rowhedge Trail cycle path and a proposal to extend the Village Hall which had been included at the suggestion of the Council's Community Initiatives Officer.

The Principal Planning Officer also explained that English Heritage had objected to the application. However, officers considered that, whilst there would be some harm to the conservation areas, this was not significant and any harm would be outweighed by the public benefits of the proposal and the development of a brown field site allocated for residential development. She also explained the response from Natural England and the Council's responsibilities under the Habitat Regulations.

Some members of the Committee expressed concerns about the identification of a scheme at the Village Hall without the involvement of the Parish Council, the commercial element of the proposed community building and the future management of the slipway as a community asset. However, others referred to the benefits to be gained from the proposal in terms of improvements to the long derelict site, the pleasing layout and the contemporary design of dwellings. Questions were also asked about surface water and foul drainage arrangements as well as the possibility for a review of the viability statement to reflect likely escalation in the value of the properties. One member also sought the inclusion of LED lighting for the site bearing in mind the likely improved sustainability to be gained.

The Principal Planning Officer confirmed that Anglian Water and the Environment Agency had not objected to the proposals and Simon Cairns, Planning Projects Manager, explained that the viability for the development had been assessed as particularly poor such that a review clause had been relinquished in favour of a community development package by way of Section 106 agreement.

The Committee members were of the strong view that officers needed to ensure, so far as was possible, that the financial contribution to affordable housing would be allocated within the village of Rowhedge and, in addition, the developer should be requested to undertake further discussions with the Ward Councillor and the Parish Council with a view to making the proposal a real benefit to the local community.

RESOLVED (TEN voted FOR and ONE voted AGAINST) that:-

- (i) Having regard to the Habitat Regulations, the application with all the agreed mitigation, management measures and planning conditions, would not affect the integrity of the Ramsar or Special Protection Area either alone or in combination with other plans or projects;
- (ii) The application be approved subject to the signing of a Section 106 agreement, together with the conditions set out in the report and the amendment sheet with an additional condition for the provision of LED lighting on the site, subject to Essex County Council Highways confirmation regarding its adoption.

58 145553 The Gilberd School, Brinkley Lane, Colchester

The Committee considered an application for the Application for the variation of a condition 02 (approved drawings) attached to application no 131977 following the grant of planning permission at the Gilberd School, Brinkley Lane, Colchester. This application had been referred to the Committee because it constituted a Major application in respect of which material objections had been received. The Committee had before it a report in which all the information was set out.

RESOLVED that the application be approved subject to the conditions set out in the report.

59 145748 Armoury House, 24 Lexden Road, Colchester

The Committee considered an application for the variation of condition 1 (use of pool) and 2 (opening hours) attached to planning permission no 144722 at Armoury House, 24 Lexden Road, Colchester. This application had been referred to the Committee as a result of a call- in by Councillor Cope. The Committee had before it a report in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

David Whybrow, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Colin Macallan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he lived

in one of the neighbouring properties and that he considered that the residents had been misinformed by the Council's enforcement officers who had indicated that the initial planning application in June 2014 was unlikely to obtain approval. He made reference to the proposals submitted by the applicant elsewhere in the country which had not received approval and that he considered the existing operating hours were sufficient. And that any additional sessions were not necessary. He was concerned that the enforcement report and the planning officers report was very brief and that insufficient information was available on the applicant's business plan. He considered that West Lodge Road had previously been a quiet residential street but that the introduction of the swimming pool had changed the ambience of the neighbourhood. He was of the view that the properties in the area were designed for residential rather than commercial use and this designation should be retained.

Steve Ames addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the additional sessions being applied for were in order to provide pre-natal classes for expectant mothers. He was aware that this type of session was not offered in Colchester or nearby towns closer than Cambridge and Chelmsford. He intended to restrict the classes to five people for relaxation and stretching exercises and to prepare for the birthing process. He did not envisage that this would generate noise problems or additional traffic and, as such, there would be no negative impact on the local community. He considered that the objections submitted were based more on concerns associated with the initial planning application.

Councillor Cope attended and, with the consent of the Chairman, addressed the Committee. He explained that he was representing the views of local residents who had been disappointed that the application had not been dealt with by means of enforcement action. There was also some concern that the proposals did not accord with the current operation of the premises. He was of the view that the parking provision did not comply with the Council's parking standards and that, as a consequence the local residents were experiencing problems due to on street parking in neighbouring streets this was particularly an issue for residents in Sylvanus Close which did not have restrictions on parking.

The Planning Officer explained that any views expressed by the Council's enforcement officers would have been informal comments and that the original planning application had been determined on its merits, whereupon it was not possible to take into account planning applications in other parts of the country. He was of the view that the area was largely residential but that it did contain a number of business type operations including schools and doctors surgeries which can be accommodated if they are of a sympathetic scale. The parking requirements were outside the scope of the current application, the Highway Authority had not submitted any concerns and the Council's Environmental Health team had not reported any complaints associated with the premises.

Some members of the Committee considered that the hours of operation proposed may

lead to problems of noise at night and it was therefore unreasonable to place the onus on residents to submit complaints if this was a likely outcome. Other Committee members were of the view that as the application complied with national and local planning policies and statutory consultees had not submitted objections then a temporary 12 month approval as recommended in the report would provide sufficient opportunity for any problems to be reported by residents and for them to be taken into account when the application came to be renewed.

RESOLVED (NINE voted FOR and TWO voted AGAINST) that the application be approved for a temporary period of 12 months subject to the conditions set out in the report.

60 145333 Abbey House, St Johns Green, Colchester

The Committee considered an application for the provision of an interpretation panel containing general historical information and logos including the heritage lottery fund at Abbey House, St John's Green, Colchester. The application had been referred to the Committee because the applicant was the Colchester and Ipswich Museum Service. The Committee had before it a report in which all the information was set out.

RESOLVED that the application be approved subject to the conditions set out in the report.



Application No: 145607

Location: 48a William Harris Way, Colchester, CO2 8WJ

Scale (approx): 1:1250

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Meeting of

Committee Report

Agenda item

7

Planning Committee

on: **6 November 2014**

Report of: **Head of Professional/Commercial Services**

Title: **Planning Applications**

7.1 Case Officer: James Ryan Due Date: 08/11/2014 CHANGE OF USE

Site: 48a William Harris Way, Colchester, CO2 8WJ

Application No: 145607

Date Received: 11 August 2014

Agent: Turnkey Designs

Applicant: Mr S Gecin

Development: Change of use of premises from A1 (retail) to A3/A5 (restaurant and take away).

Ward: Berechurch

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it was called in by Councillor Harris due to the impact the scheme will have on neighbouring amenity in terms of noise, odour and disturbance.

2.0 Synopsis

- 2.1 The key issues explored below are the impact the scheme will have on neighbouring amenity in terms of parking, noise, disturbance, odour and design.

3.0 Site Description and Context

- 3.1 The site is a vacant and boarded up commercial unit in the central mixed use section of a modern housing estate. There are three floors of flats above and a convenience store next door. To the rear is a parking court, bike store and bins for the flats. Three large stair cores protrude from the rear elevation. Windows, serving the flats and communal stair ways are located on this elevation also.

- 3.2 In front of the unit is an attractive area of public realm. A children's nursery, a barbers, a tanning salon and another small vacant unit also front this area. There are 13 short term parking bays (two of which are disabled parking bays), seating and planting. This area is the focal point of the mixed use development.

4.0 Description of the Proposal

- 4.1 The change of use to an A3/A5 restaurant and take-away mix is proposed. The agent has estimated that due to the relatively large floor area the mix will be 80% restaurant and 20% take away. A new shop front is proposed. An internal extraction system with carbon filtration and an external metal flue is also proposed.

5.0 Land Use Allocation

- 5.1 The site is located in a Neighbourhood Centre as allocated in the Local Development Framework Proposals Maps (October 2010).

6.0 Relevant Planning History

- 6.1 The unit was granted consent as part of the wider Garrison Masterplan estate permission O/COL/01/0009 in June 2003 and the reserved matters were approved via application RM/COL/04/1871 in January 2005. This scheme does not appear to have been implemented. Following this the reserved matters were approved again in March 2006 under reference RM/COL/05/2071 and this permission does appear to have been implemented.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
CE2c - Local Centres
CE3 - Employment Zones
UR2 - Built Design and Character
TA5 - Parking

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses

DP7 Local Centres and Individual Shops
DP17 Accessibility and Access
DP19 Parking Standards

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Vehicle Parking Standards
Shopfront Design Guide

8.0 Consultations

- 8.1 Environmental Services – No objection subject to conditions (which will be imposed)⁸

- 8.2 ECC Highways – No objection.

- 8.3 Planning Policy - The application site is located in a Neighbourhood Centre as stipulated in the adopted Proposals Maps. Development Policies policy DP7 defines which uses will be acceptable in Neighbourhood Centres to ensure the provision of services to local residents.

DP7 states:

Within Neighbourhood Centres... the primary retail role of the centre will be safeguarded. Other uses will be supported where they complement the existing role of these centres, provided that the proposal:

- (a) meets the needs of residents within the local neighbourhood...; and
- (b) would not reduce the number of A1 retail units in any centre to below 50% of the units used for commercial purposes.

Development Management should therefore be satisfied that the loss of a potential A1 retail unit is justified due to a lack of market interest in the site under its current use class. In principle an A3/A5 use is considered suitable for a Neighbourhood Centre bearing in mind that a functioning A1 retail unit is located adjacent the application site.

In respect of the effects on amenity, Development Policies policy DP1 seeks to ensure that development does not create an unacceptable impact on the amenity of surrounding properties and their occupants. Development Management should therefore be satisfied that all necessary mitigation measures have been provided for by the applicants in terms of (but not limited to) lighting, noise and odour control.

In summary there are no objections to the principle of the proposal in terms of land use. However it must be satisfied that there is a lack of demand for the existing use at this site and that the appropriate mitigation measures are carried out to minimise any adverse impacts on amenity caused by the proposal.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations

10.1 28 objections were received. In summary these objected to the scheme on the following grounds:

- 1) The use will cause noise and disturbance.
- 2) The use will encourage people to congregate outside the premises.
- 3) The use will cause parking problems from the customers, staff and deliveries.
- 4) The use will cause smells, noise and vibration from the extraction system.
- 5) The use will cause smells and vermin from the bins.
- 6) The bins in the communal bin store are already overflowing.
- 7) When we bought our dwellings we did not expect an A3 or A5 use in this unit.
- 8) It will devalue our property and/or make it hard to sell.
- 9) The extraction and filtration is insufficient.
- 10) The flue will be an eyesore.
- 11) The Council refused the same application nearby.
- 12) The scheme will be a fire risk.
- 13) The scheme will cause the dwelling above to become unbearably warm.

10.2 In response:

1, 2, 3 and 10 are dealt with in the report.

5 and 6 – The commercial bin (measuring 1m x 1.27m x 1.38m) will be stored in or next to the communal bin store that was provided on site for the entire block – the flats and the commercial units. This is considered to be an acceptable solution. The fact the existing bins are sometimes overflowing is not relevant as the unit will have its own commercial bin which will be emptied by commercial waste contractors – possibly the Council in this instance.

4 and 9 - The Environmental Services Team has assessed the detail of the scheme and is satisfied with the findings. On the basis of the technical specifications they do not have reason to object to the scheme.

7 - Residents appear to have been promised at the point of sale that the unit is to be an (A1) retail use only. The vendor may have meant that the approved use on site was A1 retail. If the vendors said the unit will only ever be A1 that is unfortunate as it would mean that the residents would have been made promises over possible uses that the vendor had no control over. Regardless of an approved use, applications for changes of use can be made at any time and must be assessed on their own merits in line with national and local adopted policy.

8 - The impact this scheme will have on property value or the saleability of a property is not a planning consideration.

11 - The Council has not refused a scheme nearby. A take-away proposal opposite was withdrawn prior to determination. There is no indication on the file as to why this was withdrawn. As the point of decision was not reached the scheme does not add any weight to a refusal of this scheme and in any case, each application must be assessed on its own merits.

12 and 13 - It is not considered that this scheme poses a materially greater fire risk than an equivalent A3 use. Restaurants and hot food take-aways are often located below residential properties and there are a number of examples of similar situations across the Borough. To refuse the scheme because restaurants/take-aways are a perceived fire risk to residential properties above would therefore be unreasonable. There is no evidence to suggest that this scheme will cause materially harmful warming of the flats above.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 This scheme will generate a demand for short term parking. However the adopted standards do not require any minimum parking provision and therefore this scheme complies with the adopted parking standards. This section of the estate has short term parking spaces in bays located directly outside the unit.

11.2 The Highway Authority has also stated that staff will park in the spaces to the rear. This is not the case. This was brought to the attention of the Highway Authority but it does not want to change its recommendation. The site is sustainably located a short walk from a bus stop and from other residential areas therefore there is a good chance staff will not have a car. However if the staff do drive they will have to park in non-controlled sections of the highway. This situation will be the same as with any commercial use, for example A1 retail.

11.3 Residents are concerned that customers will find the short term spaces full and will use the parking court to the rear. The Council can not control customers parking in spaces that customers have no right to park in. However in this instance it is considered that there are sufficient short term parking spaces (13 in total, two of which are disabled bays) in front of the unit to limit this possibility to within tolerable levels.

11.4 Therefore a refusal on parking grounds is not warranted.

12.0 Open Space Provisions

12.1 As a change of use this application raises no issues in this regard.

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. The impact the scheme will have in terms of extraction emissions is dealt with in the report.

14.0 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of Development

- 15.1 The original permission for the site (reserved matters application RM/COL/05/2071) granted A1 use for these units under condition 19. No conditions were imposed to restrict the opening hours of the use.
- 15.2 Policy DP7: Local Centres is relevant to this scheme. It requires development to a) meet the needs of residents within the neighbourhood development and b) requires that a proposal would not reduce the number of A1 retail units in any retail centre to below 50% of the units used for commercial purposes.
- 15.3 With regards to a) this scheme is designed to meet the needs of the residents of the neighbourhood and also the wider area.
- 15.4 With regards to criterion b) the policy test is met. The day nursery forms part of the original permission for the estate layout. Out of the 5 ground floor units one is a convenience store, one is a tanning salon, one is a barbers and two are vacant. The store, the barbers and the other vacant unit are A1. The tanning beauty salon has the character of an A1 use but is sometimes held to be a *sui generis* use. Either way, this proposal would not take the number of non-A1 units below 50%.
- 15.5 The Policy Team is comfortable with the scheme in policy terms and accept that the multipurpose convenience store directly next door reduces the likelihood of another A1 use being viable in this unit.
- 15.6 In terms of marketing, the application has supplied detail demonstrating how the unit has been marketed. It was advertised as an A1 unit. The particulars mention the possibility of other uses but are clear that applicants would need to check regarding consents first. Therefore the unit has not been marketed as an A3/A5 use. The estate agent has confirmed that there have been 13 accompanied viewings and also suspect that a number of interested parties have visited the site unaccompanied. They have had interest from three different parties, all of which drew up heads of terms for an A3/A5 use. There does not appear to be interest in an A1 use in this site and no representations have been received from anyone suggesting they wish to open a retail use in this unit.
- 15.7 The NPPF and the development plan is supportive of economic development such as this and is especially supportive of schemes that provide new jobs, four of which will be created.
- 15.8 The acceptability of the scheme therefore turns on the detail of the particular proposal.

Design and Layout

- 15.9 Although for a change of use, this scheme also involves the installation of a new shop front. The shop front proposed is simple and contemporary in design and is similar to that used next door at the existing convenience store. In this context the proposed new shop front is acceptable.

- 15.10 This scheme proposes a large flue. It takes the shape of a square metal tube that is 400mm square. It will exit the unit to the rear at ground floor level, runs along the rear elevation at ground floor level and then runs up the side of the existing stair block. It terminates one metre above the eaves of the building. It will be wrapped in mineral wool lagging which will be held in place with a light metal mesh and metal or plastic straps. It will appear as a rather utilitarian structure.
- 15.11 Whilst the flue is not considered to be an attractive addition and is visible from the private parking court to the rear, it has been sited in a position that is as tucked away as possible. The front of the flats is attractively designed with a great deal of detail, modelling and variation in materials that break up the mass of the building. However the rear elevation of the large block of flats is of no particular architectural sensitivity and is not publicly prominent. It is dominated by three large protruding stair cores that serve the flats. As the stair cores project out and the proposed flue is to be situated in a corner close to the junction of the central stair core and the rear elevation, it will not be 'read' (in visual terms) against a large blank backdrop. In this context the proposed flue will not be overly dominant and will not cause a materially harmful impact on the composition of the rear elevation. There does not appear to be any way in which the flue could be internalised. It has therefore been positioned in as sensitive a position as is possible. On balance it is considered to be acceptable in design terms.

Impact on the Surrounding Area

- 15.12 Unlike some other purely residential sections of this recently built estate, the site is located in the mixed used section with residential uses located over ground floor commercial units. The unit in question is currently vacant and therefore is still boarded up from when it was built. Empty units such as this have a negative impact on the street scene. Unlike the small vacant unit opposite, this unit is very prominent in the street scene due to its position and size. The boarded up nature of the unit does not create the vitality that was planned when this mixed used section of the estate layout was designed. It is therefore considered that this scheme will have a positive impact on the surrounding area by introducing an active frontage that is missing currently.

Impact on Neighbouring Amenity

- 15.13 Intensifying the use from a vacant unit to an A3/A5 restaurant and take-away will have an inevitable impact on neighbouring amenity. The test is whether the impact is within tolerable levels.
- 15.14 Environmental Services have assessed the scheme in detail and in particular the technical specification of the proposal. They have provided the following assessment of the scheme:

'A catering establishment involves the preparation and cooking of foods, the cooking process is associated inevitably with the generation of odours. However, this can be minimised and controlled by the use of appropriate extraction and filtering techniques. The main concern is the potential loss of amenity to neighbouring premises, particularly due to odour and noise from these Class uses.'

The proposed grease and odour control system must be installed in accordance with Colchester Borough Council's Guidance for Odour Extraction and Control Systems.

The following three main elements for grease/odour extraction have been addressed;

Filtration-

The application demonstrated that the extract canopy will be of an adequate size to collect all odours/steam from cooking, fitted with x5 removable and washable baffle grease filters and washed 2-3 times a week.

A pre-filter and carbon filter will be installed. A pre-filter is used to trap any particulates which may have got through the initial grease filter, and a carbon filter unit will be used to absorb any odours produced. Filter elements will be replenished every 4 weeks and carbon panels every 9-12 months to ensure sufficient filtration.

Duct Design & Extraction –

The proposed duct design demonstrates a smooth surface and no harsh bends which will ensure the smooth flow of air, the galvanized steel will warrant no leaks and will be wrapped in 30mm thick mineral wool which will reduce leaks and ensure minimal heat loss thereby maximising thermal buoyancy of discharge.

The flue riser is to be wall mounted with anti-vibration mountings to reduce any vibration to the residential flats.

The fan unit submitted, Elta Axial Unit, has described a two-speed design to achieve optimum flow rates of the odour control.

The fan is to be wrapped in an acoustic Fan jacket type A F J which will be effective in minimising noise and vibration.

Silencers will be incorporated to the fan in and out to reduce the sound level impact.

Dispersal-

The duct stack is proposed to be at least 1m above the eaves and windows of the building, which will be sufficient but must not be any lower.

The duct termination must be designed to achieve a vertical efflux velocity of 15 m/s, (average flow rate of material emitted into the atmosphere from a source) according to the plans an efflux of 12m/s will be reached with the proposed stack. More information will need to be provided to the Local Planning Authority prior to first use to demonstrate how this can be improved to achieve a vertical efflux of 15 metres per second (m/s).

It will be obligatory that whenever food is being prepared/cooked on the premises the grease/odour system is used and that nothing is altered without agreement by the Local Planning Authority.

Taking this into account and after accessing the potential impacts, I am confident with the information, high specification equipment and schemes provided; the odour, undue noise and vibrations on the neighbouring properties can be successfully controlled. The potential environmental impacts of the change of use to an A3 establishment have been addressed and control measures have been put in place to assure good practice. Environmental Protection are satisfied that if the agreed specification and above conditions are adhered to and thereafter maintained there will be minimal impact to the local amenity.'

- 15.15 Therefore it is considered that the quality of the extraction system and flue is sufficient and therefore it is felt that a refusal on the basis of odour, noise or vibration would not be sustainable at appeal.
- 15.16 Set against the current vacant situation, the scheme will cause intensification in noise and disturbance to residential neighbours. It is accepted that restaurant/take-aways, and in particular the take-away element, can cause noise and disturbance beyond that which one would expect from a retail unit for example. They can generate a large number of comings and goings, particularly in the evening when nearby residents are at home and expect to be able to relax.
- 15.17 Notwithstanding the neighbours' objections which have been carefully considered, it is not considered that this use will cause a level of noise and disturbance that will be materially harmful to the point of warranting a refusal of this scheme. Following negotiations with the developer it is suggested that the scheme is conditioned to open between: 8am to 9.30pm Monday to Friday with the A5 Element opening at 10am, 9am to 9.30pm on Saturdays with the A5 element opening at 10am and 10am to 9.30pm on Sundays with an 11am start for the A5 element. This is considered to be a marked improvement on the approved A1 permission which has no conditions relating to its opening hours.

Highways

- 15.18 Essex County Council has no objections to the scheme on highways grounds. Parking has been dealt with in the relevant section above.

Economic Development

- 15.19 As this scheme comprises economic development and proposes four full time jobs it will make a small but useful contribution to the jobs market. It therefore accords with the economic development sentiments of the NPPF.

15.20 Access for All

- 15.21 The unit has a level entrance with a proposed internal ramp to finished floor level and therefore will be accessible for those in wheelchairs.

16.0 Conclusion

- 16.1 This change of use to a mixed A3/A5 restaurant/takeaway will have an impact on neighbouring amenity but that impact is considered to be within tolerable levels. The flue to the rear is utilitarian in design terms but has been sited in a position where it is as tucked away as possible. Environmental Services have assessed the scheme in detail and are satisfied that the scheme will not be materially harmful to neighbouring amenity. This scheme will bring a commercial unit that has been vacant since it was built into use and will also provide employment. Therefore on balance, the scheme complies with the Development Plan and the NPPF and an approval is warranted.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

18.1 WA2 - Application Approved Following Revisions

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

1.0 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

2.0 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 TD01, TD03, TD04, TD05, TD06, TD07 and TD08 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3.0 ZGO - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems.

The duct termination must be designed to achieve a vertical efflux velocity of 15 m/s. More information will need to be provided to the Local Planning Authority prior to first use to demonstrate how this can be improved to achieve this. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

4.0 Z00 Non-Standard Condition

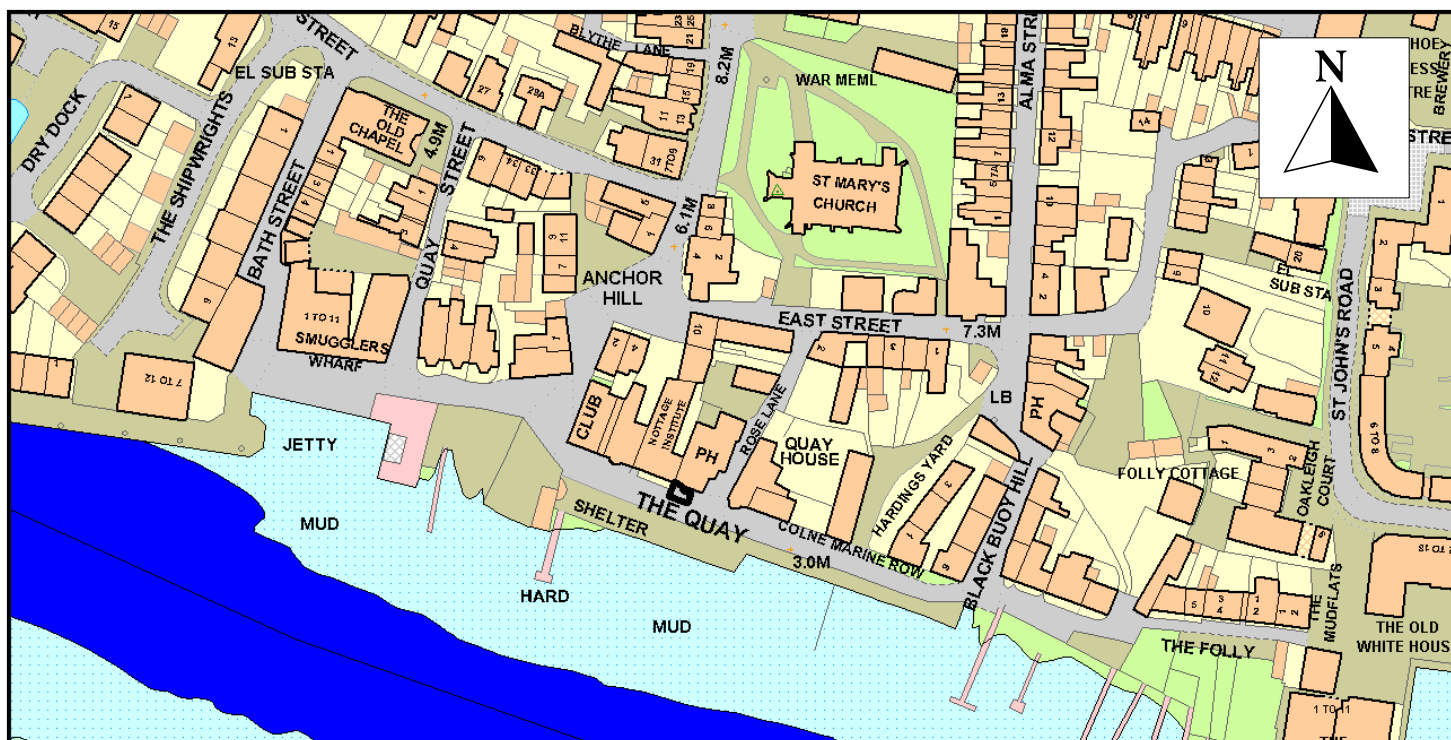
No food may be prepared or cooked on the premises without the grease/odour system being in use. No food may be prepared or cooked on the premises unless the grease/odour system is serviced and maintained in line with the manufacturer's details.

Reason: To ensure that the extracting system is used when food is being prepared and cooked and to ensure the system is correctly maintained to ensure scheme does not cause material harm to neighboring amenity in terms of odour.

- 5.0 ZGA - *Restriction of Hours of Operation*
- The use hereby permitted shall not OPERATE outside of the following times:
8am to 9.30pm Monday to Friday with the (A5) Hot Food Takeaway element not opening until 10am but closing at 9.30pm;
9am to 9.30pm on Saturdays with the (A5) Hot Food Takeaway element opening not opening until 10am but closing at 9.30pm;
10am to 9.30pm on Sundays and Bank Holidays with the (A5) Hot Food Takeaway element not opening until 11am but closing at 9.30pm;
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.
- 6.0 ZGG - Site Boundary Noise Levels
- Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.
- 7.0 ZCH - Litter
- Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order unless otherwise subsequently agreed, in writing, by the Local Planning Authority.
Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.
- 8.0 ZHA - Grease Traps Required
- Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.
Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.
- 9.0 ZGF - Self-Closing Doors
- Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

20.0 Informatives

- (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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.
- (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. Please pay particular attention to these requirements.



Application No: 145820

Location: Rose & Crown, The Quay, Wivenhoe, Colchester, CO7 9BX

Scale (approx): 1:1000

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Site: Rose And Crown, The Quay, Wivenhoe, Colchester, CO7 9BX

Application No: 145820

Date Received: 10 September 2014

Agent: TLT LLP

Applicant: Spirit Pub Company (Services) Limited

Development: Use of an area of public highway measuring 1.6 metres by 3.8 metres for the placing of 3 tables and 12 chairs, in connection with the use of the Rose and Crown Public House.

Ward: Wivenhoe Quay

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Councillor Cyril Liddy for the following reason:

“This application is highly contentious. In the light of the views of various groups that have an interest in the Wivenhoe Quay and their divergent views. It is not appropriate that this matter be determined by an officer under delegated powers, but given due consideration by the full Planning Committee.”

2.0 Synopsis

- 2.1 The key issues explored below are the potential impacts of the proposed change of use of an area of public highway for the provision of tables and chairs on the character and appearance of the area as well as its impact on highway safety and efficiency. In conclusion, it is considered that the proposal would cause neither material nor adverse harm to the wider area and would have minimal impact on highway safety and efficiency. The application is therefore recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The proposal relates to an area directly outside the Rose & Crown Public House located near to the waterfront in Wivenhoe. The application site in question has previously been used for the placing of tables and chairs. However, these have recently been removed and the area is now occasionally used for the parking of cars and/or motorbikes. The site is located directly adjacent to a byway open to all traffic (BOAT), a highway which is mainly used by the public for walking, cycling etc. but over which the public have a right of way for vehicular traffic. The byway is used by residents of East Street, Brook Street, Rose Lane, Bethany Street, Black Buoy Hill,

Hardings Yard and immediately adjoining streets for vehicular access to their properties.

4.0 Description of the Proposal

- 4.1 The application seeks permission to use of an area of public highway directly outside the Rose & Crown Public House measuring 1.6 metres by 3.8 metres for the placing of three tables and 12 chairs in connection with the use of the Public House.

5.0 Land Use Allocation

- 5.1 The application site is located within a predominantly residential area and within the Wivenhoe Conservation Area.

6.0 Relevant Planning History

- 6.1 In September 2014, permission was granted for the placing of eight 8-seater benches in connection with the Rose & Crown Public House opposite the public byway and adjacent to the waterfront (reference 145343).

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
UR2 - Built Design and Character
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
DP1 Design and Amenity
DP14 Historic Environment Assets

8.0 Consultations

- 8.1 Environmental Protection have no comments to make on this proposal.
- 8.2 The Historic Buildings and Areas Officer does not object to the proposal.
- 8.3 The Highway Authority initially objected to the proposal as the proposed tables and chairs would be classed as an obstruction within the highway and would be in breach of the Highways Act 1980. However, the Highway Authority has subsequently confirmed that there is no actual planning harm in the proposal. The granting of a planning approval does not remove duties to comply with other branches of legislation

and subsequently, an informative has been recommended which highlights that prior to any works commencing, the applicant will be required to confirm that an appropriate license under the Highways Act 1980 can be granted.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 Wivenhoe Town Council have the following recommendations/comments to make:
- Only one table and four chairs in the designated area due to the danger of the highway.
 - A gap of 3.1 metres must be left for vehicles to manoeuvre along the highway.
 - Table and chairs should be put away at night.
 - No right of ownership is to be accrued.

10.0 Representations

- 10.1 18 letters of support have been received, the contents of which are summarised as follows:
- This application would re-normalise the situation of the Quay as a public amenity.
 - Since the tables have been removed the area in question has normally been occupied by parked cars and motorcycles. This is a hazard to the general public using the Rose and Crown as well as passing people.
 - Hopefully, this proposal will stop cars and vans parking in this position.
 - The tables acted as a traffic calming measure.
 - The Rose & Crown is a good tourist spot for visitors to Wivenhoe, attracting them here has a positive effect on other business' in the Town, and supporting local business is a positive thing for the general community.
 - The Quay area is enjoyed by residents and visitors to the town. Being able to sit, eat and drink looking at the river is an attractive feature. Some seating in this position adds to the ambience of the Quay and also helps to prevent unsightly parking right beside the pub.
 - The positioning of the new tables will not affect quayside-rose lane vehicular access.
 - There will still be a more than adequate carriageway for vehicles.
 - The public should also be able to use these facilities, whether they be customers or not.
- 10.2 There have also been six letters of objection which, in summary, state the following:
- The eight tables on the quayside opposite the Rose and Crown do not cause traffic hazards, but extra tables obtruding into the road would cause additional dangers to an area that already carries a lot of car traffic, bicycles, pedestrians, children, prams, dogs and service vehicles.
 - Customers sitting outside the pub spread (and leave) their chairs across the carriageway, causing both an obstruction to vehicles, and a hazard to customers and their children.
 - The tables and chairs were blocking the highway and I could not gain access to my property.

- This application is an attempt to repeat the spread of free trading area for a business in an area which should be free for everyone to enjoy, including customers of the pub.
- Residents of the quayside and emergency vehicles need to have clear access.
- The plan provided is misleading, showing a saloon car with apparently adequate room.

10.3 In addition to the above, one letter of general observation has been received stating that the idea of seating and the reduction of parking in the proposed area is supported, however, the Council should ensure that the pub complies with the designated area for tables and chairs or otherwise remove permission.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 The nature of the proposed development does not have an impact on the provision of parking for the Public House.

12.0 Open Space Provisions

12.1 The nature of this development means that there is no policy requirement for the provision of open space in this case.

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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 The area for the proposed change of use is located directly outside and adjacent to the entrance of the Public House. It has been established that this area has previously been occupied by tables and chairs provided by the Rose & Crown Public House. However, since they have been removed, the area is occasionally used for the parking of vehicles.

15.2 The Layout Plan that has been submitted in support of this application indicates that the area proposed to be occupied by tables and chairs would not interfere with vehicles using this byway to gain access to properties in Rose Lane and other immediately adjoining streets in the vicinity of the application site. At its narrowest point, there would be a width of at least 5.9 metres to enable vehicular traffic to pass by. This is a greater distance than further along the road where a width of 5.2 has

been allowed between the edge of the public house and a bollard on the opposite side of the road.

- 15.3 Having regard to the above, it is considered that the principle of changing the use of the area in front of the Public House to a sitting out area is acceptable. In an email dated 2nd October 2014, the Applicant's agent has confirmed that the tables and chairs would be removed each night. Consequently, tables and chairs are not development in themselves (although of course tables and chairs are an inevitable result of the change of use). It would therefore be inappropriate and unenforceable to impose a condition to control the design of such movable and transient furniture.
- 15.4 It is noted that the Highway Authority had raised an objection to the proposal. However, its objection was based on the fact that it is unable to grant a licence for the eight benches that were permitted in September 2014 which in turn results in the unfortunate situation where the applicant is unable to implement their planning permission. The reason why no such licence can be granted is because the structures would be classed as an obstruction within the highway and would be in breach of the Highways Act 1980.
- 15.4 The Applicant's agent has been made aware of the fact that, should planning permission for the proposed change of use be granted, the Applicant may not be able to implement their permission, given that they are unlikely to obtain a licence from the Highway Authority. However, the Applicant nevertheless wished to have the application determined on the basis it was submitted. With this in mind, clarification has been sought from the Highway Authority as to what obstruction and/or harm the proposed tables and chairs would cause in planning terms and in an email dated 2nd October 2014, it has confirmed that the proposal will cause 'no planning harm; it is only Highway problems' and has instead recommended an informative which reiterates that the applicant will be required to confirm that an appropriate license under the Highways Act 1980 can be granted and where the legislation does not provide for the granting of a licence, this may result in the developer being unable to implement any permitted planning permission. Having regard to this, it is concluded that in terms of highway safety and/or efficiency there is no justifiable reason for refusing planning permission for the proposed change of use that would be sustainable at appeal.
- 15.5 Concerns have been raised that the tables and chairs may spread into the road. However, as set out above, these structures are not in fact development and it is the change of use that has to be assessed as part of this application. Consideration has been given to all other objections raised by local residents and, where these are planning matters, they have been addressed above. Nevertheless, none of these outweigh your Officer's conclusion that the proposed change of use would be acceptable in this instance.

16.0 Conclusion

- 16.1 On the basis of the above, it is concluded that the proposed change of use would not cause visual or material harm to the character and appearance of the area, nor would it have a materially harmful impact on highway safety and/or efficiency that would warrant a refusal.

17.0 Recommendation

17.1 APPROVE subject to conditions.

18.0 Positivity Statement

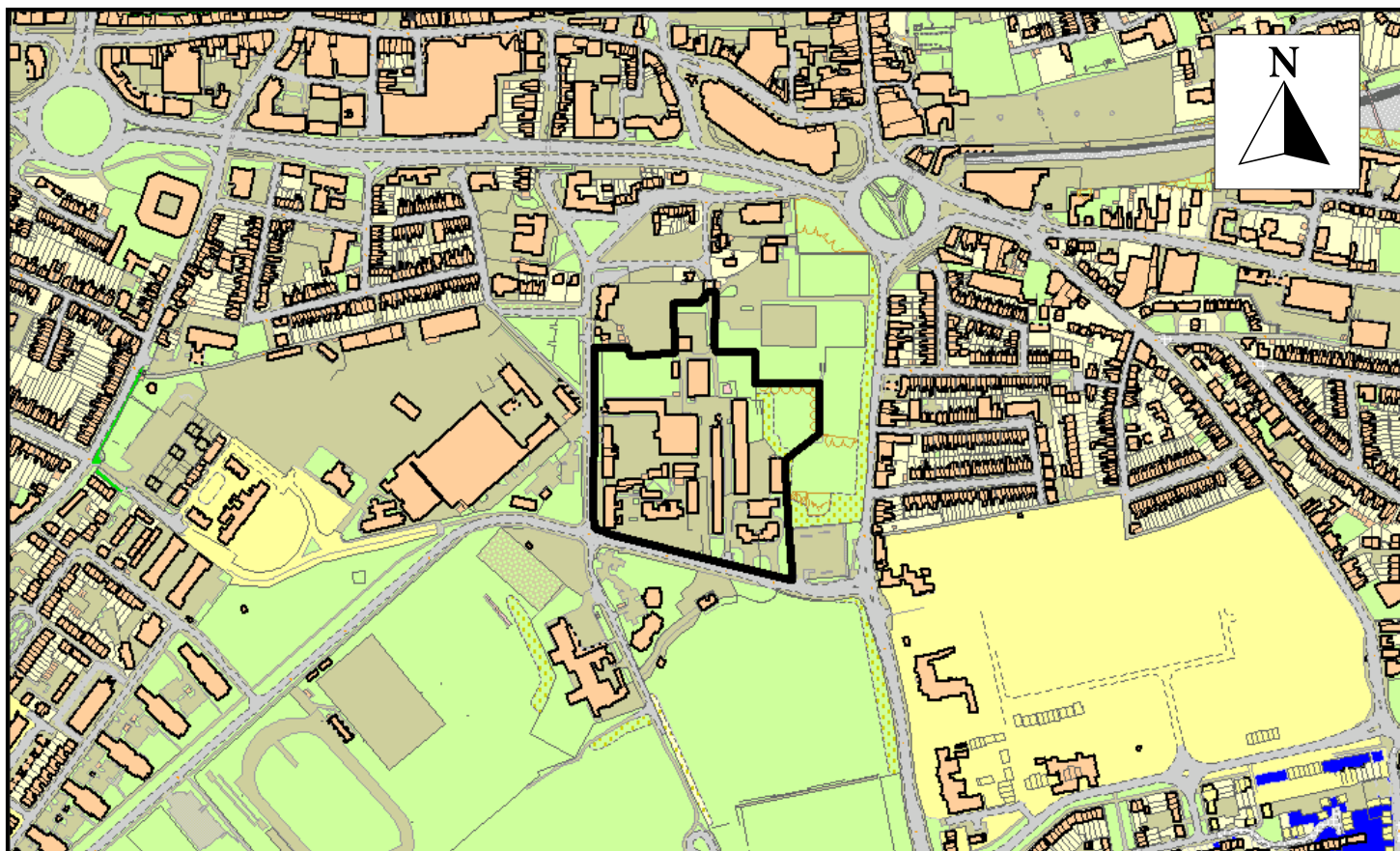
18.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

- (1) 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) The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number 2812-02 Rev C.
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.
- (3) There shall be no tables or chairs on the site in association with the approved use at any time that the Public House is not open to the public.
Reason: To ensure that there are not obstacles in the public highway at such times as the area is unsupervised by staff of the restaurant, in the interests of pedestrian safety.

20.0 Informatives

- (1) The granting of a planning approval does not remove duties to comply with other branches of legislation. Prior to any works commencing, the applicant will be required to confirm that an appropriate license under the Highways Act 1980 can be granted. Commencement of the development without an appropriate license will be classed as an obstruction of the highway contrary to the aforementioned Act and the Highway Authority will require all offending works to be removed. Where the legislation does not provide for the granting of a licence, this may result in the developer being unable to implement any planning permission.



Application No: 131935 and 131936

Location: Garrison Area B1b, Flagstaff Road, Colchester

Scale (approx): 1:4500

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7.3 Case Officer: Alistair Day

MAJOR

Site: Garrison Area B1b, Flagstaff Road, Colchester

Application No: 131935 & 131936

Date Received: 1 October 2013

Agent: Barton Wilmore

Applicant: Taylor Wimpey

Development: The erection of 138 residential units, along with demolition of buildings and the creation of access, car and cycle parking, landscaping and open space.

Ward: New Town

Summary of Recommendation: Approved subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because representations have been received to the proposed development and the viability of the scheme is such that it is unable to provide the obligations in-line with adopted planning policy that would typically be required for a development of this size.

2.0 Synopsis

- 2.1 The key issues explored are:

- the extent to which the proposal accords with the development plan and the agreed Master Plans for the redevelopment of the 'alienated' Garrison land;
- whether the development would constitute sustainable development;
- the impact of the proposed developments on the character and appearance of the area (including the setting of designated and non designated heritage assets) and whether the proposal constitutes good design;
- the extent to which the proposal consistent with the advice to promote more sustainable transport choices and whether the proposal complies with local car parking standards;
- the extent to which the proposed development, together with the proposed ecological mitigation, would comply with planning policies on conserving and enhancing the natural environment particularly in relation to protected species and to biodiversity interests within the wider environment; and
- whether sufficient measures are proposed, given the overall viability of this development, to adequately mitigate its impact on local services and facilities.

3.0 Site Description and Context

- 3.1 The application site is located approximately 0.7 miles to the south of Colchester town centre. The site is bounded by Flagstaff Road to the west and by Napier Road to the south. Abbey House (a locally listed building) and its grounds are located to the north west of the application site. To the north of the site is St John Abbey Gatehouse (a dual designated Grade 1 listed building and Scheduled Ancient Monument (SAM)). The recently rebuilt Colchester Garrison Officers Club and associated tennis courts and car parking is located to the north east of the site. To the east of the application site is an overgrown area of land (colloquially referred to as the Rose Garden in 2003 Garrison legal agreement) beyond which is the precinct wall to St Johns Abbey and Mersea Road. To the south east of the site and separated from the area of overgrown land by a southern section of the precinct wall is a public car park.
- 3.2 The application site extends to some 3.2 hectares and historically formed part of Colchester Garrison, having last been used by the Defence Clothing Textile Authority (DCTA). The site is known as Area B1b of the Garrison Urban Village Development but is more commonly referred to the Flagstaff Complex. The application contains a variety of buildings (residences for high ranking officers, wagon sheds, administration buildings, storage and mixed-use buildings) which range considerably in date, form and character, together with areas of hard standing and a number of mature trees.
- 3.3 Eight of the buildings are locally listed and the whole of the application site is located within the Garrison Conservation Area. The Benedictine Abbey of St John SAM and the Roman Circus SAM are partially located within the application site. The boundary of the Benedictine Abbey overlaps the northern and eastern parts of the site; elements of the precinct wall survive. The Roman Circus occupies much of the south part of the site. It is a buried monument and is overlain by some of the existing locally listed buildings.
- 3.4 No Public Rights of Way (PROW) bisect the application site, but several footpath routes extend from Abbey Field past the site to St John's Green with links to Colchester town centre and to the broader footpath network.

4.0 Description of the Proposal

- 4.1 The proposed development comprises the conversion of seven locally listed buildings to residential use, the demolition of some of the existing buildings (including one locally listed building) and the erection of two L-shaped apartment blocks (NB5 and NB4) in the north west of the application site and three smaller blocks of terraced houses (NB1, NB2 and NB3). A total of 138 residential units are proposed, along with associated access, car and cycle parking, landscaping, and open space.
- 4.2 A concurrent application for conservation area consent has been submitted for the demolition of various buildings.

5.0 Land Use Allocation

- 5.1 Garrison Regeneration Area – mixed use.

6.0 Relevant Planning History

- 6.1 O/COL/01/0009 – Outline Planning application for the Garrison Urban Village Development
- 6.2 080710 - Reserved matters application pursuant to outline planning permission O/COL/01/0009 with approval being sought for access, appearance, landscaping, layout, and scale for the erection of 41 no. 2 bedroom flats (blocks B, D, K, L and M) together with modified access roads and public open space.
- 6.3 080712 - Full planning application for change of use and conversion of existing buildings to create 60 no. 2 bedroom flats and 16 no. 1 bedroom flats (blocks A, G, H, J, I and N) together with modified access roads and public open space. (Block N there has been a reduction of 1 unit)
- 6.4 080713 - Reserved matters application pursuant to outline planning permission O/COL/01/0009 with approval being sought for access, appearance, landscaping, layout, and scale for the erection of 680sqm (gross) B1 commercial accommodation including the provision of 24 car parking spaces (blocks P and Q).
- 6.5 080716 - Conservation Area application for the proposed demolition of existing buildings within a conservation area.
- 6.6 080717 - Full planning application for change of use and conversion of existing buildings to create 3485sqm gross, B1 commercial accommodation together with provision of 116 car parking spaces (blocks C, E, F and O).

7.0 Principal Policies

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning application are determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan comprises the adopted Core Strategy (December 2008), Development Policies (October 2010) and Site Allocations Plan (October 2010)
- 7.2 The following Core Strategy policies are most relevant to this application:
- SD1 - Sustainable Development Locations
 - SD2 - Delivering Facilities and Infrastructure
 - SD3 - Community Facilities
 - H1 - Housing Delivery
 - H2 - Housing Density
 - H3 - Housing Diversity
 - H4 - Affordable Housing
 - UR1 - Regeneration Areas
 - UR2 - Built Design and Character
 - PR1 - Open Space
 - PR2 - People-friendly Streets
 - TA1 - Accessibility and Changing Travel Behaviour
 - TA2 - Walking and Cycling
 - TA3 - Public Transport

- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 In addition, the following are relevant Development Policies are relevant:

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP10 Tourism, Leisure and Culture
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- 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
- DP25 Renewable Energy

7.4 Further to the above, the following policy in the Site Allocations (2010) set out below should also be taken into account in the decision making process:

- SA GAR1 Development in the Garrison Area

7.5 The National Planning Policy Framework (the Framework) must also be taken into account in planning decisions and sets out the Government's planning policies that are to be applied when making decisions. The Framework makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.6 Other material considerations which should be taken into account include the subsequent planning guidance to the Framework as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

7.7 The following adopted Supplementary Planning Guidance/Documents are material planning considerations:

- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- The Essex Design Guide

- External Materials in New Developments
- Affordable Housing
- Cycling Delivery Strategy
- Garrison Master Plan
- Le Cateau Barracks Development Brief

7.8 Regard should also be given to the Master Layout Plan that was approved in discharge of condition 1 of the outline planning approval for the Garrison Urban Village development.

8.0 Environmental Impact Assessment (EIA)

8.1 The proposal is Environmental Impact Assessment development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. An Environmental Statement (ES) has been produced to examine and evaluate the likely environmental effects of the development as required by Schedule 2 (Urban Development Projects of over 0.5 hectares in size) of the Regulations. The Environmental Statement contains the information necessary to enable a decision to be made for the purpose of assessing the significant environmental effects of the development.

8.2 A Screening Request was submitted to the Council on 4 April 2013. The Council issued a joint Screening and Scoping Opinion on 4 June 2014.

8.3 The environmental issues identified are given as historic environment, landscape and visual impact, ecology, air quality, ground conditions and interactive and cumulative effects.

8.4 For each issue identified the Environmental Statement sets out the methodology used, including details of the baseline situation and impacts likely to result from the proposed development. All effects direct, indirect, secondary, cumulative, short, medium, long term, permanent, temporary, positive and negative have been analysed within the Environmental Statement and measures considered such as to mitigate any identified impacts. Consultation outcomes were also taken into account along with a consideration of the cumulative effects.

8.5 The Environmental Statement concludes that the proposal is a large scale scheme and would have environmental effects which are assessed for significance in the document. There would be an alteration in the visual impact of the site, together with ecological benefits through habitat improvement and management and the delivery of significant socio-economic and heritage benefits. Recommendations have been made for the implementation of various measures to minimise potential adverse effects during the construction period and post construction period. It is proposed that these matters are addressed and are controlled by the conditions in accordance with the Planning Practice Guidance (PPG).

8.6 An Environmental Statement Addendum was submitted in March 2014 to deal with the revisions to the proposed development including:

- Revised application forms,
- Design and Access Statement Addendum
- Revised layout

- Revised elevation and floor plans
- Revised Parking Allocations
- Revised Landscape Master Plan
- Revised Sections and Views

8.7 The fundamental objectives of the scheme remain unchanged. The overall environmental balance remains unaltered as a result of the scheme amendments and does not affect the overall conclusions of the original Environmental Statement.

9.0 Consultations

Planning Projects Team (Conservation):

- 9.1 The regeneration of this important site within the Garrison Conservation Area is to be welcomed in principle. The existing dilapidated condition of surviving Victorian and Twentieth Century buildings within the site threatens to erode the significance of the conservation area designation. The site contains/adjoins two scheduled monuments (The Roman Circus and the St John's Abbey Gatehouse), which are, by definition of national importance. The setting of these monuments is a statutory consideration in addition to the general duty to preserve or enhance the character and appearance of the area (s.72(1) of the PI (Listed Buildings & Conservation Areas) Act 1990.
- 9.2 The site is more densely developed at its southern end fronting Napier Road with twin Victorian villas of H plan form flanking the main axial route that roughly bisects the site. The western boundary defined by Flagstaff Road has a semi-boulevard character with long terraces of domestic character set behind a continuous line of mature tree. The dominant grain of the site is derived from long, linear blocks aligned on a north-south axis. Twentieth century interventions are distinct from this pattern with a general disregard for the earlier narrow plan linear form and grain. The eastern edge of the site merges into the informal mature planting associated with the Abbey Gardens. The northern part of the site is also generally more open in character on the approach to the Abbey Gatehouse. To the east of the Gatehouse driveway is the former Officer's Club, and to the west, Abbey House; both now in separate ownership and set within generous spaces.
- 9.3 The traditional buildings within the site share a dominant palette of Gault Clay facing brick with slate roofing. The Twentieth Century buildings employ non-contextual finishes and detailing.
- 9.4 The proposals retain all of the significant buildings that contribute positively to the conservation area designation. Furthermore, the removal of the unsympathetic Twentieth Century buildings is also welcomed. The removal of some buildings from the south east quadrant of the site will serve to better reveal the significance of the Circus and this will be expressed through landscaping works. The conversion works are generally well considered and honest in approach. The works would serve to express the key elements of the surviving buildings with 'building surgery' undertaken to remove accretions. These works are consciously handled in a consistently contemporary treatment that lends an integrity and legibility to the phasing or works across the site.

- 9.5 Inevitably, the removal and replacement of the substantial Twentieth Century buildings presents the area of greatest controversy. It is proposed to replace the existing negative buildings by two new L-shaped blocks that would enclose parking courts. These are suggestive of the former parade grounds defined by simple, linear blocks. The proposed buildings are bold in scale/form and elevated in grids of rectangular openings reflecting the form of traditional buildings within the wider Artillery Barracks.
- 9.6 The scale of these buildings is derived from the Twentieth Century precedents on the site. However, their plan form, articulation and elevational treatment are markedly more sympathetic than that which exists currently. The statutory test in this case is whether these elements would serve to preserve i.e. keep from harm or enhance the character or appearance of the area designation. In my opinion this test is satisfied by the development proposals that would result in an enhancement of this part of the site. Whilst these proposed replacement blocks are substantial, their scale is moderated by the use of penthouse top storeys that are recessed from the plane of the lower floors and clad in a contrasting darker finish. This would be successful in mitigating the scale and massing of the blocks. The end elevation of the northern most block, abutting Abbey House, needs to be given a similar treatment to avoid a cliff-like presence. It is suggested that the top storey is similarly recessed behind the plane of the lower floors and clad in the contrasting finish used on the other elevations of the penthouse storey.
- 9.7 The scheme includes a short terrace of three, two storey houses immediately to the south of the Abbey Gatehouse. This would enclose the west side of the carriageway. This terrace employs a modest domestic scale with each four-windowed gable folding around the central line of symmetry to create a gentle concertina effect along the terrace. Whilst this part of the site is currently open, new buildings have been previously consented in this location and this is a material consideration. The provision of enclosure to the important north-south axial route way through the site does reflect historic patterns of development within the site. Furthermore, this would helpfully screen the new historicist terrace of townhouses that is consented (not yet built) on the southern edge of the Abbey House garden.
- 9.8 The submission demonstrates that considerable thought has been given to the public realm within the site. Crucially, the handling of car parking has clearly been afforded weight. Parking needs to be accommodated without being overly dominant in the street scene or alternatively too remote from units to discourage their use and encourage anti-social parking. In my opinion an acceptable balance has been struck between these conflicting aims.
- 9.9 This is an important site within the Garrison Conservation Area. The current submission would achieve the sustainable re-use of buildings of historic or townscape significance whilst introducing new built forms that are compatible with the character and appearance of the area. In my opinion, the development satisfies the statutory test (s.72(1) 1990 Act) and has due regard to national policy (especially paragraph 131 of the NPPF). Subject to the minor design revision suggested, I recommend that planning permission and conservation area consent be granted.

Planning Project Team (Archaeology)

- 9.10 Archaeological evaluation has been conducted on this site intermittently over several years. Recently, meetings have been held with the applicant, his archaeological consultant and English Heritage to conclude a satisfactory arrangement for the

protection and display of the known heritage assets that exist on site. These include the recently discovered Roman Circus and the precinct of St. John's Abbey: both scheduled monuments. Other archaeological features such as burials have also been recorded.

- 9.11 It is recommended that the standard archaeological condition is imposed if consent is granted. The applicant will need to apply to English Heritage, (Cambridge Office), for scheduled monument consent.

Planning Project Team (Landscape)

- 9.12 The Landscape Officer has confirmed that the submitted landscape strategy is acceptable and has no objection to the proposal subject to conditions to securing detailing and the long term management of the areas of landscape area

Planning Project Team (Urban Design)

- 9.13 The Urban Design Officer's comments can be summarised as follow:

- This is a well considered scheme of refurbishment and new interventions. The layout shows the retention and enhancement of a strong character based upon the military legacy of the site. The new buildings have been placed to create a layout that has great sympathy to the military use and heritage with parade ground-like spaces and strong linear arrangements of buildings.
- The new buildings are sympathetic to the rhythm of fenestration and massing whilst providing a more modern style and design. The relationship between new and old provides a successful integration of the two styles.
- The arrangement of units provides satisfactory relationships to existing and proposed neighbouring buildings without compromising amenity or their setting.
- The scheme provides a private open space for the residents which appears to be relatively secluded and of a different character to the rest of the site.

Spatial Policy Team

- 9.14 The site is allocated as a 'mixed use' site on the Proposals Map. Policy SA GAR1 of the Site Allocations DPD identifies the site for B1 employment use. The application is, however, for residential development.
- 9.15 The applicant has submitted evidence in the form of a report on employment provision and viability, to demonstrate that the development of the site for employment use is not a viable option at the current time. The report has been produced by a long established local firm of chartered surveyors; it covers a number of factors relating to the viability of the site and the prospects of its development and use for employment purposes. The report states that new office development is not currently viable and that there is little or no prospect of establishing a prime office core in this location. It also states that the location of the site, coupled with the age and design of the existing buildings make it significantly more difficult to complete a viable mixed use redevelopment scheme on the site.

- 9.16 The NPPF states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.
- 9.17 In this case, the site is part of a wider mixed use site, meaning a change of use would not result in the complete loss of a mixed use element in the Garrison growth area.
- 9.18 In conclusion, there is no policy objection to the principle of a change of use from employment to residential, based on the evidence submitted, national policy and specific site circumstances.

Environmental Control Team

- 9.19 The comments from the Environmental Control Team can be summarised as follows:

- The air quality assessment report for the proposed development at Colchester Garrison Area B is accepted. It is noted that the development would have a slightly adverse impact on the receptors along Mersea Road. No mitigation measures have been proposed. As the increased exposure at the receptors along Mersea Road has been shown to be slightly adverse the following conditions should be set: A financial contribution of £500 to provide additional air quality monitoring in nearby residential areas for the next five years. This will provide evidence for future Air Quality Action Planning processes; and incentivisation for future residents' uptake of low emission vehicles by requiring the developer to provide 5 EV charging points within the development.
- The submitted contamination report identifies some potential sources of contamination and it has been recommended that these are investigated further. Based on the information provided, it would appear that the site could be made suitable for the proposed use, with the necessary intrusive investigations and any revised risk assessments/remedial actions being dealt with by way of condition. Consequently, should permission be granted for this application, the standard contamination conditions are recommended.
- The Environmental Control Team has also recommended that conditions are attached regarding the submission of a Construction Method Statement, hours of work, and the management of communal storage area.

Tree Officer

- 9.20 The comments from the Tree Officer can be summarised as follows:

- The conclusions and recommendations made within the report are agreed with the exception of the retention of T009, T015 and T020.
- T009 is a C category Cherry that is shown to be retained within a carpark. The tree is of low value and has a short useful life and as such a more sensible approach would be remove this tree and replace it with a new tree.
- T015 is a B category tree but is situated in an inappropriate position and will almost certainly require extensive pruning for the rest of its natural life to accommodate it's ongoing retention.
- T020 is a Walnut tree of low value as per BS5837:2012 with the possibility of pockets of decay. This tree will not survive for the long term without significant

tree work and as such it's removal and replacement as part of any landscaping scheme would be of more benefit to this scheme.

- A full site specific arboricultural method statement outlining details of how all bespoke construction techniques affecting trees will be undertaken; details of tree protection and site supervision etc is required.
- In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above. If consent is granted conditions are recommended to ensure the protection of the trees.

English Heritage

9.21 The comments made by English Heritage can be summarised as follows:

- In 2012 planning permission was granted for a mixed use development on this site which essentially retained and converted all the buildings on the site whether positive negative or neutral. In parallel with this approval scheduled monument consent for the works was granted. When considering the current proposal, the existing permissions on the site are therefore seen as the default position.
- This is a major development on a sensitive site. Large parts of the site are designated as scheduled monuments. These comprise the buried archaeological remains of a second century AD Roman Circus and the buried and upstanding remains of the medieval Benedictine Abbey of St John. Within the site is a large office building (Building N0 built in two parts and linked together. This building is architecturally undistinguished and English Heritage regards it as a negative feature within the conservation area. Its demolition is therefore welcome along with other negative and neutral structures. The development proposals include two new L shaped blocks to replace the existing office block. These will be 3 and 4 storey in height so potentially would have a similar impact in longer views to the existing building N. However the new blocks are architecturally much more considered and their setting form and massing have been designed to relate positively to the retained buildings within the site; thereby creating a series of positive spaces between the buildings.
- In addition to the 3 and storey blocks of flats the development also includes 3 blocks of two storey housing. These broadly follow precedents for built forms established with earlier approvals, though the dealing and architectural language now proposed has been carefully considered to provide positive enclosure to the public realm.
- Elsewhere the project includes proposals to better reveal the significance of the Roman Circus, including the demolition of a later extension at the eastern end of Building A that will enable the alignment of the cavea to be marked out where it curved around at the eastern end of the Circus. The alignment of the spina is also identified within the landscape proposals. With a development of this nature there will be some harm to the buried archaeology within the scheduled area. However an appropriate archaeological mitigation strategy has been provided as a part of the planning application and the harm would be similar to that resulting from the current consented scheme. The new archaeological mitigation strategy will also support a revised application for scheduled monument consent.

- The proposals include for a large number of parking bays to be incorporated within the hard landscaping between the buildings. The sheer extent of parking is a matter of regret but it is noted that the historic character of the space between buildings on the site would have been predominantly hard paved and the designers have taken the limited opportunities available to them to break up the parking with new tree planting which in turn includes a degree of formality consistent with the site's military past.
- On balance, English Heritage believe this application will result in an enhancement of the conservation area and will better reveal the significance of the Roman Circus. In the event that the application is to be approved English Heritage recommends that consideration is given to requiring a s106 agreement to the phasing of the development so as to ensure the improvements to the site (including the conversion of existing building of interest are delivered along with the new build components. Appropriate conditions would also be required to control the quality of materials and detailing of both buildings and landscaping. This is to ensure that the design quality suggested in Fielden Clegg Badley Studios proposals are delivered on the ground.

Victorian Society

- 9.22 Many thanks for your invitation to comment on this application. We appraised the scheme and feel it strikes a good balance between the retention of the site's most important historic buildings and its redevelopment. We are content that the application is acceptable and balanced in heritage terms.

Health Authority

- 9.23 The Health Authority has raised an objection to this application. Their comments are summarised set out below:
- The proposal comprises a 137 unit residential development, which is likely to have a significant impact on the NHS funding programme for the delivery of healthcare provision within this area, and specifically within the health catchment of the development. NHSPS would, therefore, expect these impacts to be fully assessed and mitigated by way of a developer contribution secured through a Section 106 planning obligation.
 - A Healthcare Impact Assessment (HIA) has been prepared by NHSPS to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area. In this respect, it is considered that a developer contribution of £18,007 would fairly and reasonably address the identified healthcare impacts.

Natural England

- 9.24 The comments from Natural England can be summarised as follows:
- Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. Natural England has no objection to this application in terms of its impact on statutory nature conservation sites.

- It is noted that a survey for European Protected Species has been undertaken in support of this proposal. On the basis of the information available to us, our advice is that the proposed development would be unlikely to affect bats.
- The application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework.
- The application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; for example through green space provision and access to and contact with nature.

Highway Authority

- 9.25 The Highway Authority has no objection to this application subject to the attachment of conditions relating the requirement for a wheel wash facility to prevent dirt on the roads and the requirement for a residential travel plan and travel information packs.

Anglian Water

- 9.26 Anglian Water has advised that the Surface and Used Water Drainage Strategy is acceptable in principle and that connection could be made at following locations as shown on Drawing No. 44599/P/SK04, Rev B. Conditions are recommended regarding the detailing of the drainage strategy.

Environment Agency

- 9.27 The Environment Agency has advised that the principle of the surface water scheme for this site is acceptable. However, its effectiveness is related to the overall drainage scheme (Condition 16) of the Outline planning permission for the garrison site O/COL/01/0009. This condition is yet to be discharged. Concerns were previously highlighted over the need to consider current guidance on peak flow and discharge rates. We note that Anglian Water stated by email that “as far as A.W. are concerned the various S104 submissions for the Colchester Garrison development would not have been approved, and S104 agreements entered into, if the original agreed drainage strategy had not been adhered to”. This implies that the rate to Bourne Brook sewer (draining the Northern area site, including site B1b) has been previously approved.
- 9.28 The Environment Agency comment that they are aware that a finalised overall Drainage Strategy is being prepared by Richard Jackson to support the discharge of Condition 16. They also note that it is stated that this document will also include the latest information proposed for area B1b. On this basis, the Environment Agency advise that further comment for the planning application for Area B1b should be reserved until the finalised drainage scheme has been produced and Condition 16 has been discharged. If the Council is minded to grant planning approval, thus should be subject conditions
- 9.29 With regard to Area B1b, the Environment Agency notes that Anglian Water is satisfied with the connection to their network. The Environment Agency go on to state that, whilst it has been determined that the on-site piped network has been designed

to cater for the 1 in 30 year storm, they have concerns at how surface water will be managed on-site for storm events above the 1 in 30 and up to the 1 in 100. The Environment Agency notes that there are constraints on site particular in respect of archaeology. The Environment Agency advise that this issue can be dealt with by detailed surface water conditions appended to the full application for area B1b, which refer to Condition 16.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

10.0 Parish Council Response

10.1 N/a

11.0 Representations

11.1 A number of representations have been received in respect of this application. The representations are set out in the order in which they were received.

The Heritage and Design Champion

11.2 The comments made from Cllr J Hayes can be summarised as follows:

- It is disappointing that the Heritage and Design Champion was not on the consultation list for this important site.
- There is no comment from the Council's Conservation Officer. In my view, they should be asked to comment. A letter from English Heritage is all very well but local experts have more particular interest in and knowledge of Colchester.
- The proposed use of a generic design used in Cambridge is a missed opportunity to use and celebrate the specialness of this site and the unique sense of place and character of Colchester. If this is allowed, we will live to regret the bland sameness of our towns. The architects can surely come up with better proposals that celebrate difference and sustain interest.
- The height of the proposed blocks will dominate the skyline from the north (i.e. from Castle Ward, my own ward). In my view it is too high and should be reduced. It will adversely affect St John's Green as a whole, which is a conservation area, and the setting of the Abbey Gatehouse which is an important Grade 1 Scheduled Monument. Please refer to the guidance in the NPPF with regard to heritage assets.
- The northern end (i.e. towards the town centre) of the block is too close to the adjacent site, currently under development, so as to crowd it, and in my view should be further away.
- Having more and lower buildings that more closely correspond in dimensions and shape to the character of the existing formerly military building adjacent to Flagstaff Road would in my view be referable to the two proposed L-shaped blocks.
- Viewed from St John's Green facing southwards, the proposed dwellings near the north eastern corner of the site, near the Abbey Gatehouse, will particularly adversely affect the setting of that Scheduled Monument. The present view from St John's Green over the boundary wall is one of trees and sky and allows space and a degree of solitary dignity to the Gatehouse. The trees seem in

good health and should be retained if possible. I would point out that this site was reputedly originally chosen by the medieval monks for the former Benedictine Abbey because it was already regarded as a sacred site. Whether that be true or not, it was used as a sacred place for centuries. I feel that the redevelopment should be sensitive to that aspect by preserving a feeling of spaciousness in and around the site of the former Abbey. I therefore think the proposed dwellings near the Gatehouse would be a mistake

Colchester & North East Essex Building Preservation Trust (CNEEBPT)

11.3 The NEEBPT raised objection to specific aspects of the original application submission. The objections raised in this letter are summarised below:

- Feilden Clegg Bradley award winning projects are well known to us and Accordia in Cambridge in particular, is a development that Colchester should view as a yardstick of high quality. The Accordia site is quite different to Flagstaff Road and there is concern that the Architects have 'lifted' too many stylistic features of Accordia and applied them to this application. As such, the scheme for Colchester will inevitably be regarded as a 'dumbed down' version Accordia and will fail to reflect the special character of the local context. The application should explain how local distinctiveness has been considered.
- We could not see a landscape/floorscape plan. These matters are far too important in a scheme such as this to be left as a planning condition.
- External storage of domestic waste/ wheelie bins should be avoided.
- One area of the scheme that we feel particularly uneasy about is the proposed design of the short terrace of houses NB3, adjacent to Abbey Gate. The architecture would present too harsh a contrast against the quality and character of Abbey Gate. Whilst a contemporary design is appropriate, the form and materials need further consideration. A more 'toned down' design would sit more happily against this monument of International interest. The external threshold of this terrace and the design and detailing of the public/private realms is critical. The blank side elevations are considered inappropriate and ugly.
- The end of the new, four storey block NB5 is also blind and considering that this directly faces the street that contains many heritage assets, this seems also, poorly considered. The bulky and over-sized block will appear unnecessarily dominant and assertive in this context and as such, would be harmful to the preservation of the special character of the Conservation Area. The existence of an existing, ugly and over-scaled building on the site should not persuade the Council to allow a replacement building of similar magnitude. Surely, the correct approach would be to allow the retained, historic buildings to dominate.
- In conclusion, the Trust is of the view that the Flagstaff Road barracks is a special place in the history of the town and, when considered together with Abbey Gate, the development of the site is a unique opportunity to showcase what can be achieved in Colchester. The present scheme we fear would be an embarrassment and one that could never be undone.

Colchester Civic Society

11.4 The Colchester Civic Society's comments to the application as originally submitted can be summarised as follows:

- The applications are in part within a Conservation Area and the proposals pay scant attention to the particular importance of the area close to St. John's Abbey Gate.
- The houses immediately behind, and accessed through, the Abbey Gate will materially detract from this historically important building.
- The original application proposed to convert the warehouse and was only acceptable in that it included some visual improvement to the structure. The new proposal to demolish changes the scenario. Demolition brings the responsibility to rebuild in the context of the surroundings – the Abbey Gate and Abbey House, for example. Moreover the visual impact of this proposed building on the historic view **from** the town will be even more oppressive than that of the current building. The opportunity to alter an overbearing block built in the days of crown immunity is being lost!
- The level of car parking appears to be less than the "set" standard. The lack of parking spaces will encourage on-street parking which will adversely impact on the appearance of a Conservation Area.

Lexden Restoration

11.5 Lexden Restoration (the developer of Garrison Area B1a, which is location to the south of the site) has raised an objection to the application. The comments made are summarised below:

- The previously consented scheme for Area B1b was for a mixed-use scheme which was in accordance with the original Garrison Master Plan. The current application proposes only residential uses and conflicts with the Council's current policy.
- This application does not provide any affordable housing and does not therefore accord with the Council's current policy.
- This application appears to provide just 1 parking space per unit (immaterial of size) and just 7 visitor spaces. The current consented scheme (no.080717) had 1.5 spaces per unit for the residential element (149 spaces) along with a further 140 spaces for the commercial space. The parking provision conflicts with Council's policy.
- Taylor Wimpey are pursuing an economic justification for allowing the departure from policy as well as this scale of development. Whilst there is no doubt that the purchase of the Garrison was at the top of the property boom and that the land cost was high, the uplift in value by not providing the commercial space and allowing residential, along with not having to provide affordable housing will in itself substantially increase the viability of this site. These arguments need to be independently tested for robustness.
- The proposed layout and scale of some of the proposed new buildings will have a serious negative impact on the consented development at Abbey House, as well as other nearby historic buildings.
- Whilst the retention and conversion of the Historic Buildings is to be applauded the scale and bulk of the two main blocks of flats buildings NB4 and NB5 cannot

be justified. These buildings are going four storeys high, 12.5 metres tall with flat roofs. The adjoining historic buildings are 10.8 metres with pitched roofs. The existing four storey building should not be used as a precedent for any new buildings. The proposed new building NB5 would dominate the site and the three storey return wing that comes within 6 metres of the boundary to the Abbey House site will completely overshadow our site. The return wing will unnecessarily breach the skyline and will be seen from many vantage points across the town and particularly from St John's Green. The Ingram Consultancy Historic Buildings Report says in its summary of the Flagstaff Complex *"The Flagstaff Complex with its officers' houses, commissariat (office) buildings and wagon sheds is a third important group of buildings with good adaptability potential, albeit intruded by a good 1930's block (block C) and a poor 1960's PSA building of totally inappropriate scale and materials for its location"* Surely these new buildings will be exactly that!

- The major exceptions to planning policy can only be being made in order to encourage the restoration of the historic buildings and to bring this site back into use. It therefore follows that the primary consideration for any new application should be the preservation of the historic buildings and their setting. This application would see the historic buildings completely overshadowed by large blocks of inappropriate and alien buildings, surely not the outcome that the Council should be encouraging?
- Block NB3 is located in an area where the previous scheme had proposed a small detached office building which of a traditional design. The proposed new building comprises three terraced houses which will directly overlook the garden of Abbey House and the front of the new terrace. It will also block the view from the end of terrace house towards St John's Gatehouse. It will have a significant detrimental impact on our scheme. There is a significant group of mature trees located where this block is now proposed; how has their removal been justified when they are clearly thriving specimens and form such an important landscape feature. The gable of this new block of houses will completely close the open skyline space between the Gatehouse and the adjoining cottage to the right when looking up at St Johns Gatehouse from St Johns Green. This filling of the gap will make the Gatehouse appear cramped and enclosed when surely its visual beauty is all about its open setting!
- It is disappointing that English Heritage believe that this is the best design solution for this important space.
- None of the submitted plans show our proposed development, which makes their impact very difficult to judge.

Local Resident

11.6 Whilst agreeing that the site cannot remain as it is, it is felt that that the development as proposed is not suitable for the following reasons:-

- The development comprises 137 residential units which could potentially lead to a total of about 550 residents (if four people occupy the two bed flats) which seems excessive for an area of this size.
- Only 144 parking spaces have been provided, which seems inadequate and could lead to problems with on street parking in surrounding areas.
- There will be an increase in pedestrian traffic through St Johns Green leading to an increase in noise and disturbance to the residents of this area.

- Some of the proposed new buildings appear bulky and dominant and will overshadow, St Johns Green, in particular the St Johns Abbey Gatehouse, which is a scheduled Ancient Monument.
- The increase in vehicular/pedestrian traffic passing the Abbey Gatehouse could lead to damage to the fabric of the building. There is an ideal opportunity here to protect the Gatehouse from damage by restricting this to pedestrian access only and making all vehicular access from Napier Road, not only for this development but also for the Officers Club.

The full text of all of the representations received is available to view on the Council's website.

12.0 Parking Provision

12.1 See paragraph 16.62 -16.68 of the report

13.0 Open Space Provisions

13.1 See paragraph 16.4.8 – 16.55 of the report

14.0 Air Quality

14.1 The site is outside but immediately adjacent to an Air Quality Management Area (AQMA). The potential impacts of the development on the AQMA are discussed at paragraph 16.74-16.79 of the report

15.0 Development Team and Planning Obligations

15.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. The Development Team noted that the scheme based on the developer's viability submission was not viable and could not support any s106 contributions. It was also noted that the Council had appointed consultants to verify the conclusions of the applicant's viability submission.

16.0 Report

Background

- 16.1 The Garrison Urban Village Development (ref: O/COL/01/0009) was granted outline planning permission in June 2003 and remains extant.
- 16.2 In July 2004 the Master Layout Plan (MLP) was approved in discharge of Condition 1 of the garrison outline planning approval. This plan sets out the strategic principles to be followed in the implementation of the garrison development. The MLP identifies the application site as being suitable for residential development and mixed use.
- 16.3 In 2008 a suite of planning applications were submitted for the redevelopment of Area B1b. This scheme comprised: the change of use of six of the existing buildings to residential use, creating 60 two-bedroom flats and 16 one bedroom flats; the change of use of four buildings to create 3485sqm of B1 office accommodation; the erection of five new build blocks, creating 41 two bedroom flats; and the erection of two new

blocks providing 680sqm of B1 office accommodation. The parking provision for the residential development was provided at 1.2 spaces per 1 and 2 bedroom flats, plus 2 spaces for penthouse apartments (total 142 spaces); for the commercial development parking was provided at 1 spaces per 30sqm making a total of 138 spaces. This application essentially retained and converted all the buildings on the site whether positive, negative or neutral.

- 16.4 Changing market forces and a significant decline for small edge of centre employment in the Borough has resulted in the permitted schemes no longer being considered viable. The current application has been submitted to address these changes whilst safeguarding the long-term future of the heritage assets on this site.

The Proposed development

- 16.5 The current application proposes the conversion of seven of the existing buildings on the application site (all locally listed) to residential use; the demolition of the PSA building, Block C, FLG 11 & 12 (the latter locally listed), FLG 1 & 2 and other small scale buildings; and the erection of two L-shaped apartment blocks (NB5 and NB4) together with three smaller blocks of terraced houses (NB1, NB2 and NB3). A total of 138 residential units are proposed, along with associated access, car and cycle parking, landscaping, and open space.
- 16.6 The application proposes 22 x 1 bedroom, 80 x 2 bedroom and 25 x 3 bedroom apartment units. In addition, the proposed houses comprise 4 x 3 bedroom and 7 x 4 bedroom houses. Excluding the pocket park, the density of the development equates to 40 dph.
- 16.7 The proposed access to the site is via the existing access point from Flagstaff Road and a new access from Napier Road. As part of the proposed development, a series of pedestrian and cycle paths will be created and will include a route linking the site to Colchester town centre, through the Abbey Gate to the north. A total of 179 car parking spaces are to be provided.
- 16.8 It is proposed that a series of public and private open spaces, including a new 'pocket park' will be provided as part of the proposed development.
- 16.9 The current application follows the principles of the extant planning permissions and the MLP with the exception of the commercial element.

Land use

- 16.10 The Core Strategy 2008 designates the Garrison both as a brownfield Regeneration Area (CS Policy UR1), as well as a Growth Area (CS Policy SD1) where growth is focussed to deliver new sustainable development. These two areas, which have the same boundaries, are defined on the Proposals Map.
- 16.11 Site Allocations Policy SA GAR1 states that within the Garrison Area as shown on the Proposals Map residential, employment, retail, leisure, community and health uses will be considered acceptable. With specific regard to this site, the policy anticipates that 3485sqm of B1 (office) floorspace will be provided. This policy reflected the make-up of the application submitted in 2008 for the redevelopment of this site. This policy does

however note that levels of development set out in Policy SA GAR1 should not be considered prescriptive but a guide to inform development proposals.

- 16.12 The current application to develop this site entirely for housing is at odds with the policy aspirations set under SA GAR1. This is noted in the representation received from Lexden Restoration.
- 16.13 Evidence in the form of reports on employment provision and viability have been submitted to demonstrate that the employment use envisaged for this site is not a viable option and that there is little or no prospect of establishing a prime office core in this location.
- 16.14 The Framework states that planning policies should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. In this case, the Spatial Policy Team notes that the site is part of a wider mixed-use site, meaning that an entirely residential use on this site would not result in the complete loss of non-residential uses in the Garrison Growth Area. Having given careful consideration to the evidence submitted, national policy and specific site circumstances this application, the Spatial Policy Team has advised that they do not wish to raise an objection to this application on the grounds that non residential uses are not proposed.

Heritage and Design Considerations

- 16.15 The site falls within the Colchester Garrison Conservation Area, a large conservation area (covering c.69.5 hectares) that was designated in May 2004. None of the buildings within the application site are listed; eight of the buildings are however included on the Council's adopted Local List of Buildings of Architectural or Historic Interest. The site includes two SAMs: the Benedictine Abbey of St John and the Roman Circus. St John's Abbey Gatehouse, immediately to the north of the application site, falls under two designations: it forms part of the Benedictine Abbey of St John SAM as well as being Grade I listed. Abbey House, located to the north west of the application site is included on the Local List. The site and its immediate setting is complex in terms of its development with nationally important archaeology from the Roman and Medieval periods and rich in buildings from its more recent past dating from its time served as a part of the garrison.
- 16.16 The Flagstaff complex with its officers' houses, commissariat (office) buildings and wagon sheds contain one of the most important group of buildings within the Garrison Conservation Area. The buildings fronting Napier Road (FLG 5/6 and FLG 7/8) were originally built as commanding officer's accommodation and each incorporated two separate residences. The buildings are three storey in height and are of a similar elaborate design to one another. FLG 5/6 and FLG 7/8 are fine buildings of their type and this, combined with their prominent position on Napier Road, and the fact that they remain substantially intact, marks them as the most significant of the former garrison buildings in the Flagstaff Complex. Blocks FLG 1 and Block G front Flagstaff Road. These buildings are two storey in height and are of a stripped classical design that in many respects is reminiscent of nineteenth century terraced houses of the same period. Block C and the PSA Building occupy the north-west part of the site. These two modern buildings are architecturally undistinguished and contrast markedly with the more historic buildings on the site. Both buildings are considered to have negative impact on the character and appearance this part of the conservation area. Between Block C and FLG 5/6 there is an ensemble of nineteenth and twentieth century

buildings that vary considerably in terms of their design, scale and character. These buildings are considered to have a neutral impact on the character of the conservation area. On the east side of the site and located behind FLG 7/8 is a group of wagon sheds. The wagon sheds (FLG 11 & 12, Block K, Block Q and Block T) are aligned north-south and date to a later period than the residences and offices described above. The wagon sheds and the spaces between them form a distinctive part of the application site.

- 16.17 The application proposes the conversion of seven of the locally buildings (FLG 5/6, FLG 7/8, FLG1, Block G, Block T, Block Q and FLG11) to residential use and the erection of two L-shaped apartment blocks (NB5 and NB4) and three smaller blocks of terraced houses (NB1, NB2 and NB3). To facilitate this development FLG 12 (locally listed) and other buildings that are considered to have a neutral or negative impact on the area are proposed to be demolished.
- 16.18 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The Ancient Monuments and Archaeological Areas Act 1979 and subsequent amendments make provision for the Secretary of State to protect SAMs. CS Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and Development Plan Policy DP1 seek to promote and secure high quality design. Section 12 (paragraphs 126 to 141) of the Framework deals with conserving and enhancing the historic environment.
- 16.19 When considering the impact of a proposed development the Framework at paragraph 132 requires that great weight should be given to the conservation of the heritage asset's significance. In this case, the designated heritage assets are the two SAMs and the Garrison Conservation Area as a whole (which includes Area B1b and its locally listed building). Paragraph 133 deals with substantial harm to, or total loss of significance of, a designated heritage asset. It is not considered that the proposed development would result in substantial harm to the designated heritage assets. Paragraph 134 deals with less than substantial harm and indicates that any such harm should be weighed against the public benefits of the proposal. The ES states that the proposed development will cause some harm to the identified heritage assets. In this instance, the benefits of the scheme include: bringing seven locally listed buildings back into re-use; the enhancement and interpretation of the Roman Circus; the provision of a choice of housing types in a sustainable urban location and the economic benefits as result of construction activity and possible job creation. These benefits are considered to outweigh any harm caused to the identified heritage assets.
- 16.20 Paragraph 138 of the Framework indicates that the loss of a building that makes a positive contribution to the significance of a conservation area should be treated either as substantial harm or less than substantial as appropriate, taking into account the relative significance of the elements affected. The buildings proposed for demolition (with the possible exception of FLG 12 which is discussed below) are those buildings that are considered to have a neutral or negative impact on the conservation area and the setting of the two SAMs. There is thus no objection to their loss and the tests set out by paragraph 138 are not triggered.

- 16.21 Building FLG 12 is included on the Council's adopted Local List of Building of Interest and therefore constitutes a non-designated heritage asset. The proposal to demolish this building therefore requires closer examination. The inclusion of FLG 12 on the Local List was based on the conclusions of the Ingram Consultancy's *Historic Building Assessment* that this building had survived "*virtually unchanged*" and that it is of "*above average quality*". From a site inspection it is apparent that the principle elevation of FLG12 has been substantially altered and that the other elevations are blind and of little inherent architectural interest. Given the extent of alterations, and the fact that the building is not prominently positioned, it is the view of officers that FLG 12 has a neutral impact on the character and appearance of the conservation area. The proposed demolition of FLG 12 does not therefore trigger the tests set out in paragraph 138.
- 16.22 The buildings within Area B1b have been redundant since the army vacated the site and have not been actively maintained for many years. As a result of this, the buildings are showing signs of deterioration and some have been affected by vandalism. In response to the problem of vandalism, Taylor Wimpey has secured all of the buildings and undertakes routine inspections of the site. This situation is not sustainable and in order to secure the long-term future of these garrison buildings it is important that they find an appropriate new use. The application proposes the conversion of seven of the eight locally listed buildings to residential use and this represents a viable end use that will secure their long future. The adopted design philosophy has been to retain as much of the original character of the buildings whilst removing unsympathetic additions. This approach is welcomed and is supported by all of the heritage groups.
- 16.23 The layout of the new buildings has been designed to respect the overall linear pattern of the site. The proposed two apartment buildings have been designed as a pair of L-shaped buildings. The apartment block (NB4) fronts the main north / south road within central part of the site and has a side wing that runs parallel to the alignment of the Roman Circus. The second apartment block (NB5) is set parallel to the internal road accessed from Flagstaff Road with a return wing running parallel with Block T. The apartment buildings are three to four storeys in height. The principal mass of the apartment buildings is expressed in brick with a regular pattern of openings reflecting the rhythm and proportions of the retained garrison buildings. The brick form of the principal elevation is topped by penthouse accommodation that is set back from the building façade and is expressed as a light structure; in contrast to the solidity of the brickwork. The design and layout of the apartment buildings has been thoughtfully considered so that their mass relates well to the retained garrison buildings and creates a series of positive spaces between the buildings. The comments by CNEEBPT regarding the dead treatment of the west elevation on NB5 (that overlooks Flagstaff Road) are noted. Through negotiation, the design of this elevation has been amended to incorporate windows thereby adding visual interest and natural surveillance to the street.
- 16.24 Cllr J Hayes has expressed concerns about the design of the proposed apartment buildings and stated that buildings should correspond more closely to the scale and mass of the retained military buildings. Other objectors have also raised concern at the height of the proposed apartment buildings and opine that these buildings will dominate the site and have an adverse impact on adjacent buildings and their setting. The proposed apartment buildings are similar in height to the buildings that they replace. However, their plan form, articulation and elevation treatment have been

carefully considered and designed to respond positively to the buildings within the site. The setting back of the top floor of the apartment accommodation is a key architectural component and has been employed to visually mitigate the scale and mass of these buildings. It is important to note that the statutory test is whether the proposal would serve to preserve or enhance the character and appearance of the conservation area. It is considered that development would satisfy this statutory test.

- 16.25 In addition to the apartment buildings, three smaller blocks of new terraced housing are proposed between Block K and the east boundary of the site and to the north of Block T. The proposed houses broadly follow the precedents for built form established by the 2008 planning consent and provide enclosure to public realm. The terraces are of a contemporary style and the architectural language of the houses has been carefully considered to work as part of a mews type environment and compliment the character of the retained buildings. During the course of this application, the design of these units has been amended to further improve their general appearance. The comments made in respect of the relationship between the proposed building NB3 and the St Johns Abbey Gatehouse are noted. A two storey office building was proposed in this general location under the consented scheme; the principle of erecting a building in this position has therefore been established. The proposed building (NB3) provides enclosure to public realm and natural surveillance to this street and its scale and mass has been designed to respect the setting of the listed Gatehouse (and is not dissimilar in this respect to the previous proposal). The proposed block has been set slightly back from the street frontage at the specific request of English Heritage to further improve the dominance of the Gatehouse when viewed from within the site. Amendments to the treatment of the north elevation (insertion of windows and detailing) have also been carried out to improve the appearance of this building when viewed from the open space. To ensure that future alterations to the dwelling houses are properly considered in terms of their impact on the setting of the heritage assets, conditions are proposed removing permitted development rights.
- 16.26 The site is affected by two SAMs. The Roman Circus SAM is regarded as significant in the international context. The project includes proposal to better reveal the significance of the Roman Circus, including sympathetically cutting through Block K and the demolition of later extension on FLG 7/8 to allow the alignment of the circus to be fully marked out. It is also proposed that the Spina (The median strip of a circus was called the *Spina* and usually featured ornate columns, statues and commemorative obelisks) is marked out as apart of the landscaping proposals. The current application does not propose any works for the interpretation of St John Abbey; however an area of land adjacent to the gatehouse has been secured as public open space at the request of Museum Service for this purpose. With a development of this nature, there will be some harm to buried archaeology. However an appropriate mitigation strategy has been provided as a part of the planning application and the harm caused would be similar to that resulting from the current consented scheme. Members are advised that the mitigation strategy forms the basis an application for scheduled ancient monument consent and that this has been approved by English Heritage.
- 16.27 Paragraph 134 of NPPF advises that any harm to a heritage asset should be weighed against the public benefits of a proposal. In this instance it is considered public benefits of securing the long-term use of the locally listed building, the enhancement of the conservation area and the better revealing of significance of the Roman Circus demonstrably outweigh any harm caused.

The current application is therefore accords with Policy ENV 1 and DP 14 and the Framework objectives that seek to conserve heritage assets.

Residential Amenity

- 16.28 Development plan policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. Part III of this policy seeks to protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity.
- 16.29 Lexden Restoration, the developer of the adjacent site (Area B1a), opines that the proposed apartment block NB5 will dominate and overshadow the approved development at Abbey House. Concern has also been expressed that the housing block NB3 will directly overlook the garden of Abbey House and the frontages of the new terrace and that the new block will dominate the views from Abbey House.
- 16.30 In negotiations with Taylor Wimpey, Officers have consistently advised that the proposals for this site must meet the Council's amenity standards in terms of the fundamental aspects of neighbourliness. Apartment building NB5 is located to the south Abbey House. The main range of this building is aligned east – west and fronts the new access road from Flagstaff Road. A smaller range is set to rear of the main block and runs parallel with Block T. The rear wing of building NB5 is located 11.3m from the boundary with Abbey House (not 6m as stated by Lexden Restoration) and will be located some 18.9m from the rear face of the new terrace consented at Abbey House. A new 1.8m boundary brick wall was erected by Taylor Wimpey (under the terms of the land sale of Abbey House to Lexden Restoration) and it is understood that Lexden Restoration has further extended the height of this wall.
- 16.31 The Building Research Establishment's Report "Site Layout Planning for Daylight and Sunlight 1991 suggests that acceptable daylight in interiors is achieved if a 25° vertical angle from a point two metres above the floor is not obstructed. The design and siting of apartment building NB5 as originally submitted and commented on by Lexden Restoration did not infringe this guideline. Regarding the juxtaposition between buildings, the Essex Design Guide states that where a new house is at right angles to an existing property and there are no windows in the flank, end the new building may encroach up to a metre from the boundary provided this does not create a problem of overshadowing. No windows are proposed in the flank wall of the return wing of NB5 and therefore an issue of direct overlooking is not created. Notwithstanding this, in negotiation, Taylor Wimpey has agreed to amend the design of NB5 so that the top floor is set back from the principal face of the end elevation. This has had the effect of reducing the visual mass of the proposed building when viewed from Abbey House and will further improve daylight from the sky to the proposed terrace at Abbey House.
- 16.32 With regard to block NB3, the original scheme proposed a terrace of three houses located between 10-12m from the site boundary with Abbey House. Building NB3 is set perpendicular to the new terrace at Abbey House. The southern end of the NB3 broadly aligns with the flank (dead frontage) wall of the Abbey House terrace. An issue of overlooking is not created between the two terraces. It is accepted that from the first floor rear windows of Block NB3 it will be possible to view the frontage area of the proposed terrace at Abbey House; this is however a quasi-public space and is not considered to create an issue of overlooking. With regard to the overlooking of the

garden to Abbey House, the back-to-back distance between this property and the proposed building NB3 is well in excess of 25m and is not therefore considered to create an unacceptable loss of privacy between habitable rooms or undue overlooking of the private zone of the garden (i.e. the area set immediately adjacent to the house). Arguably, a far greater degree of overlooking of the garden at Abbey House is generated from the new terrace within the grounds of Abbey House being built by Lexden Restoration. As Members will be aware, the planning system does not seek to protect views from a property and therefore the comments made about the loss of views from Abbey House are not considered to hold any material weight.

- 16.33 Whilst the siting of block NB3 as originally proposed was not considered to generate any substantive issues in terms of loss of daylight, sunlight or privacy, Taylor Wimpey has made amendments to this block. The amended block NB3 is sited in the approximately the same position as originally proposed; however a semi-detached unit is now proposed rather than a terrace of three units. On the southern most unit, the first floor bedroom window has been repositioned to the side elevation to mitigate the potential perception that it directly overlooks the adjacent site. To safeguard the amenity of nearby residential properties it is proposed that permitted developments rights are removed from the proposed dwelling houses for the insertion of windows above ground floor level and for their extension and alteration.
- 16.34 The ES recommends that to protect the amenity of nearby residents from construction noise a condition is attached requiring the submission of a Construction Method Statement. The ES also considers that noise and disturbance from the development once complete will be low. The proximity of proposed new parking areas to NB5 to the development at Abbey House has been raised as a potential source of disturbance. It is however considered that this would cause no more noise and disturbance than would normally be expected in residential neighbourhoods.
- 16.35 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 or Paragraph 17 of the Framework insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Trees, Landscape and Views

- 16.36 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in Section 11 of the Framework. The Council's Landscape Character Assessment and Townscape Character Assessment also provide useful baseline evidence documents.
- 16.37 The application is situated on a relatively level plateau immediately to the south of the brow of the north facing valley side that overlooks the town centre. Generally, the levels within the application site lie between 32.0 and 34.0 AOD. The exception to this is a small area of land in the centre of the northern part of the site which slopes in a north easterly direction to just over 29.0 AOD.
- 16.38 There are a number of mature trees on the site and a detailed 'Tree Survey and Constraints Plan' has been prepared by Hayden's Tree and Woodland Management Services to inform design proposals. As part of this survey a total of sixty two individual trees and four areas of trees have been identified. These were found to be of mixed condition and age providing limited amenity benefits. The Council's Tree

Officers has reviewed the submitted tree survey and is in broad agreement with its conclusions. (The Council's Tree Officer has recommended that two trees scheduled for retention are replaced due to their poor condition and has raised the issue of the large mature tree to the frontage of FLG 7/8 causing a potential nuisance).

- 16.39 An objection has been received to the loss the two poplar trees located to the east of the boundary of the rear garden of Abbey House. The Tree Officer has advised that these trees have been correctly categorised as C Category trees (i.e. those that should not constrain development) due to their previous management and their low life expectancy. The Tree Officer has also advised that the redevelopment of this site and the adjacent Abbey House will result in a significant change in the trees' context and that it is not considered appropriate to retain this type of tree in a well used urban environment.
- 16.40 Landscape proposals include new positive boundary treatments fronting onto Napier Road and Flagstaff Road. The historic alignment of the eastern end of the Roman Circus and its Spina dominate the proposed landscape treatment of the public realm at the southern end of the site. This new space will also provide an appropriate landscape setting for FLG 5/6 and FLG 7/8 in views from Napier Road. Internally the landscape scheme proposes a series of new public and private communal spaces that link together to create a contextually appropriate and permeable public realm.
- 16.41 A visual appraisal of the application site and the surrounding area has been undertaken to determine the visual influence of the development site. The ES notes that all public places have been assessed. The ES states that visual impact assessment has been undertaken in accordance with good practice guidelines and the Council's Landscape Officer has confirmed that this is the case. Views from within the application site are generally contained and screened by existing buildings, boundary treatments and vegetation. Internally the townscape setting of the site will be improved by the proposed development. The ES notes that the principal view to the north from within the site via St John's Abbey Gatehouse is currently obscured by hoardings; however the slightly raised elevation in the northern area of the site allows views beyond the site to the north east over the Officers Club House.
- 16.42 Views of the Flagstaff Complex from outside the application site have also been considered. The ES states that close views from Flagstaff Road and Napier Road will be improved by the refurbishment of the retained buildings and the improvement to the landscaping and new boundary treatments. A visual impact assessment has been undertaken to determine the extent of the development's impact from three identified strategic view points. In the two assessed views from St John's Green, the analysis shows that the proposed apartments NB5 will not be seen as they will be obscured by existing features and the approved terrace housing at Abbey House. Officers also requested that the visual impact of the proposed development was assessed from a point to the south of the Abbey Gatehouse. This location was requested because there are currently no buildings between the requested assessment point and the PSA building when looking in south westerly direction. The proposed apartment building will be similar in height to the existing PSA block and, as such, there was a general view that the visual impact of the new building was unlikely to be markedly different to the existing situation. Given the historic sensitivity of this site, Officers asked for this to be formally confirmed. The visual impact analysis shows that apartment building NB5 will be visible from this view point.

The analysis does however show that the proposed new housing (NB3) and terraced housing in the grounds of Abbey House will be in the foreground of these views and would have the effect of lessening the visual impact of the apartment building.

- 16.43 It is considered that the development proposals would result in a significant visual enhancement of the site in terms of hard and soft landscape and would not result in the loss of important trees. The current planning application is therefore considered to accord with Core Strategy Policy ENV1 and policies DP1 and DP21 that require development schemes to protect existing landscape features.

Ecology and Biodiversity

- 16.44 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment.
- 16.45 The ES states that application site does not directly affect a site designated for its nature conservation value. This view is shared by Natural England. The ES does however note that site has the potential to support breeding birds, roosting bats and slow worms but that the site is unlikely to support an invertebrate assemblage of conservation importance. By way of providing a safeguard, a condition is proposed requiring an updated ecological survey to be undertaken together with a scheme of mitigation.
- 16.46 The ES states that general recommendations for enhancing the site would be to include habitat creation to encourage the use of the site by the wide variety of invertebrate species known to be in and around the Colchester area. To encourage the use of the site by other species such as bats and birds, the ES recommends additional planting along with the installation of nesting and roosting cavities or boxes should be placed on buildings and in remaining trees. The ES also recommends lighting levels are controlled so as to reduce the impact of the site on nocturnal invertebrates and foraging bat species. By way of ensuring the ecology of the site is enhanced, as recommended by the ES, a condition is proposed.
- 16.47 The current planning application is therefore considered to accord with Core Strategy Policy ENV1, DPD Policies DP1 and DP21 and paragraph 118 of the Framework which requires planning application to conserve or enhance biodiversity interest.

Private and Public Open Space Provision

- 16.48 Core Strategy Policy PR1 states that the Council aims to provide a network of open spaces and recreational opportunities that meet local community needs. Development Plan Policy DP16 states that in addition to private amenity space, all new residential development will be expected to provide new public areas of accessible strategic or local open space. Precise levels of provision will depend on the location of the proposal and the nature of open space needs in the area but as a guideline, at least 10% of the gross site area should be provided as useable open space.
- 16.49 The application site has an overall area (excluding the overgrown area to the east) of 2.92 hectares and provides for both private and public amenity space in the form of a pocket park, communal open space areas, private gardens, balconies and two areas of public open space; one directly associated with the Roman Circus and the other associated with the Abbey Gatehouse.

- 16.50 It is proposed that the alignment of the Roman Circus will be fully integrated into the scheme and expressed in the open space that is to serve this development. The site frontage and remains of the Roman Circus will provide 0.49 hectares of publically accessible open space. An area of Public Open Space (0.03hectares) has also been secured to the south of the Abbey Gatehouse. The ownership of this land has been a long-term aspiration of the Council and English Heritage as it will provide space for the interpretation of St John Abbey. These areas of publically accessible open space equate to 0.51 hectares and represents 17.5% of the site area.
- 16.51 In addition to the above, the legal agreement for the garrison outline planning permission provides that the Rose Garden (the area of unkempt land to the east of the application) can constitute up to 5% of the required open space for Area B1b. It is still intended to transfer the Rose Garden to the Council and it is proposed that this area will be managed as a nature reserve. A further area of public open space (that is directly associated with the Garrison Urban Village Development) is being provided on the opposite side of Flagstaff Road (Area C1). Area C1 is identified in the MLP for residential development; however with discovery of the Roman Circus it was agreed with Taylor Wimpey that this area of land could be used to serve as public open space for Area B1a and Area B1b. In addition to the above, Abbey Field forms an extensive area of open space to which the public have access.
- 16.52 Planning policy DP16 states for a three bedroom houses the requisite garden area should be a minimum of 60sqm and for a four bedroom houses the garden area should be a minimum of 100sqm. For apartment buildings a minimum of 25sqm per flat should be provided communally and that where balconies are provided this space may be taken off the communal requirement.
- 16.53 Both the proposed apartments and houses are provided with areas of private amenity space. The constraints imposed by the juxtaposition of the retained garrison buildings and the SAMs are such that the private amenity has had to be designed around these features. As a consequence of this many of the proposed private amenity areas form incidental spaces and help to soften what might otherwise be a very hard urban environment. In additional to private amenity areas provided within the curtilage of the apartment buildings, a 0.3 ha communal pocket park is proposed within part of the former Rose Garden for the use of residents and their visitors. Further private amenity space is provided in the form of balconies serving the top floor units of the new building apartment blocks.
- 16.54 Each of the town houses will be provided with a small courtyard style garden. The garden areas for the three bedroom house range in size from 50 to 57.5sqm and the four bed houses range in size from 63sqm to 187sqm. Whilst it is accepted that not all the gardens meet the adopted garden standards, it is not considered unusual for smaller gardens to be generally found in central urban areas. The local plan text accompanying policy DP16 acknowledges that these standards are not always helpful for producing good quality development in compact urban development.
- 16.55 In view of the heritage constraints of the site, its edge of centre location and the close proximity of high quality areas of public open space the proposed provision of public and private amenity space is considered acceptable. To safeguard against the loss of the private garden areas it is recommended that a condition is attached removing permitted development rights are removed for the extension and alteration of the dwelling houses.

Transport and Accessibility

- 16.56 Core Strategy Policy TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy. Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car travel and make the best use of the existing network. Public Realm Policy PR2 requires that the design creates secure attractive, safe and people friendly streets which encourage more walking, cycling, recreation and local shopping. The Adopted Cycling SPD (January 2012) sets out a number of measures to enhance and promote cycling. This SPD seeks to promote a range of non infrastructure measures such as training, lead rides, maintenance and events to promote cycling.
- 16.57 As set out in the report, the application site form part of the Garrison Urban Village land (ref O/COL/01/0009) and this application includes significant improvements to the local and strategic highway network, together with a financial contribution for transportation and bus services. The highway works and financial contributions are secured through the main garrison legal agreement. In this context the Highway Authority has confirmed that they are content that this application will not have a significantly detrimental effect on the local highway network in terms of capacity and/or highway safety.
- 16.58 The Highway Authority has requested that residential travel plan and information packs are provided as a part of to each residential unit. Travel Packs will help to influence the behaviour and travel choices of a proportion of the occupants of the proposed houses, initially at least. The requirement to provide travel packs accords with development plan policies and the principles in Framework which promote sustainable transport choices and accessibility.
- 16.59 Access to the application site is proposed from Flagstaff Road via the existing access (which is to be upgraded) and via a new access from Napier Road. There is no vehicular link between the two access roads. The Flagstaff entrance will therefore provide vehicular access to the southern part of the site only; access to the northern part of the site and to the Officers Club will be via the Flagstaff entrance. The Officers' Clubs rights to use Abbey Gatehouse access for vehicular access will cease following the construction of an adopt road to the north of the site.
- 16.60 There is an existing good network of pedestrian and cycle links and the proposed application fully integrates with these. As part of the proposed development, a series of pedestrian and cycle paths will be created and will include a route linking the site to Colchester town centre, through the Abbey Gate to the north. Access to public transport is also very good with a bus stop located approximately 150m from Napier Road with a high frequency of buses. The Colchester town train station is located just over 300m from the north of the site.
- 16.61 Given the above, it is considered that the proposed development would accord with relevant development plan policies and national planning policy guidance set out in the Framework.

Parking

- 16.62 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Development plan policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009.
- 16.63 The proposed development provides one space for each apartment unit and two spaces for each dwelling house (total 149 spaces). In addition to this, there are 34 unallocated parking spaces. Overall (including the unallocated parking spaces) the parking provision equates to 1.3 spaces per unit; this is similar to the approved scheme which had 1.2 spaces per residential unit (not 1.5 as stated in the representation submitted by Lexden Restoration).
- 16.64 Objection has been raised to this development on the grounds of the 'lack' of parking and the impact the indiscriminate parking will have on the surrounding area.
- 16.65 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided and that for one bedroom units 1 space per unit is acceptable. In addition to this provision visitor parking at a ration of 0.25 spaces per unit is generally required. The guidance does however state that where development is located within the urban areas with good links to sustainable transport a lower parking standard can be considered. The application site lies in close proximity to Colchester town centre and is easily accessible by public transport. In view of this, a lower level of parking provision can be accepted on this site.
- 16.66 The potential problems associated with car parking are fully appreciated. The design and layout of the car parking has been carefully considered to reduce the risk of indiscriminate parking – for example on-street parking has been designed as an integral part of the street design. The potential for unauthorised parking will be further managed by the introduction of formal parking control measures across the development. In addition to this, visitors to the development (and indeed occupiers of the development) will be able to use the two adjacent public car parks under the normal arrangements. It is considered that an appropriate balance has been struck between need to accommodate an appropriate level of parking to serve the development and need to ensure that car parking is not so overly dominate to detract from the heritage assets.
- 16.67 In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling to be provided. Secure cycle parking stores have been design as an integral part of this development and to ensure that an appropriate number of cycle parking spaces are provided it is proposed that a planning condition cover this matter.
- 16.68 The sensitivities surrounding parking are fully appreciated however in this instance, given the site's sustainable location and the unique heritage constraints the parking provision is considered to be acceptable.

Hydrology and Drainage

- 16.69 Core Strategy policy ENV1 sets out the strategic policy approach to safeguard people and property from the risk of flooding. ENV1 seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk. Core Strategy policy ER1 relates to Energy, Resources, Waste, Water and Recycling in Colchester. Development policy DP20 supports development proposals that include flood mitigation/ attenuation measures as well as flood resilience measures.
- 16.70 The drainage arrangements for the proposed development are designed to integrate with the overall garrison drainage strategy. The Environment Agency has confirmed that the principle of the surface water scheme for this site is acceptable and note that this scheme is linked to the overall garrison drainage strategy. The Environment Agency has advised that final comment on the drainage arrangements for this site should be reserved to ensure that it fully integrates with the overall drainage scheme for the garrison development. To this end, the Environment Agency has recommended that conditions are attached to ensure compliance / integration with the garrison wide drainage strategy. Anglian Water has also confirmed that the used and surface water drainage is acceptable in principle and recommends the attachment of conditions regarding the detailing of the relevant drainage schemes.
- 16.71 The submitted evidence indicates that there are effective mitigation measures to avoid any increase in flood risk and, as such, the development will not conflict with the intentions of the development plan or the Framework in respect of flood risk.

Contamination

- 16.72 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 16.73 The desk top based contamination report accompanying this application concludes that there is potential for the site to contain contamination and on this basis recommends that further investigation work is undertaken. The Council's Contamination Land Officer agrees with the conclusions of the submitted report and has recommended conditions to provide a framework for further assessment, and remediation works.

Air Quality

- 16.74 The Core Strategy contains policies for the delivery of development, infrastructure, facilities and services in Colchester to 2021. The Council does not have any specific policies on air quality within the Core Strategy; Policy TA4 however states that "The demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character." The adopted Colchester Borough Council - Air Quality guidance note is a material consideration.
- 16.75 The northern part of Mersea Road is located within an Air Quality Management Area (AQMA). The Council's Air Quality Guidance states the designation of an AQMA does not mean that there will be no development allowed within the area [or adjacent to an

area], but that greater weight must be given to the consideration and removal of the impacts of any proposed development on air quality.

- 16.76 The effect of the proposed residential development on air quality has been assessed as a part of the ES. The ES states that there would be a small increase in traffic from the development however the concentrations of NO₂ and PM₁₀ without the implementation of the proposed development would be similar to concentration with the proposed development. For this reason the ES concludes that the proposed development would not have a significantly adverse effect on existing residential dwellings within the AQMA.
- 16.77 The submitted air quality assessment report is accepted by the Council's Environmental Control Team (consultant) and they note development would have a slightly adverse impact on the receptors (residential properties) along Mersea Road. In view of this, the Environmental Control Team has recommended that a financial contribution of £500 is sought to provide additional air quality monitoring in nearby residential areas for the next five years. This monitoring will provide evidence for future Air Quality Action Planning processes. The Environmental Control Team has also stated that the installation of electric charging points would act as an incentive for residents to take up low emissions vehicles. Taylor Wimpey have stated that it would be appropriate to provide electric charging points as a part of this scheme, noting that the requirement to provide travel packs would help to promote sustainable transport habits from the outset. Taylor Wimpey has also noted that the main garrison legal agreement provides a significant financial contribution for transportation improvement, which could be used to improve traffic flows around St Botolphs roundabout. (Members may wish to note that some of the garrison money was used to finance the new bus facility in the town centre and therefore the development has already made a contribution towards the promotion of sustainable means of transport).
- 16.78 The ES also considers the effects of the proposed development during construction, taking into account local weather conditions and the presence of sensitive receptors. The ES concludes that mitigation measures will be required during the construction phase to limit potential dust generation and the effects from dust on nearby sensitive receptors. The potential for these effects can be controlled by a construction method statement condition.
- 16.79 It is considered that the proposed development is consistent with the requirements of the Council's adopted development plan policies, supplementary planning guidance and the Framework as regards to air quality impacts

Viability and Development Obligations

- 16.80 Policy SD2 of Colchester's Core Strategy provides that new development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. This policy goes on to state that the Council will seek to employ standard charges where appropriate to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. The viability of developments will also be considered when determining the extent and priority of development contributions. Further policies on specific topic areas are provided within

the Core Strategy and the Development Plan Policies (for example on affordable housing, health, community facilities and open space etc).

- 16.81 More detailed guidance on the level of contributions for commuted sums and the methodology for their calculation is set out in various adopted supplementary documents. Relevant guidance documents include Community Facilities (adopted September 2009; updated July 2013); Affordable Housing (adopted 2011) and Public Open Space, Sports and Recreation (SPD adopted July 2006). Essex County Council has adopted guidance documents in respect of Education and Transport contributions.
- 16.82 Paragraph 173 of the NPPF states that the scale of obligations and policy burdens should not be so great as to threaten the ability of a scheme to be developed viably. In order to be appropriate, the cumulative impact of local standards and policies should not put the implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. Paragraph 176 states that where safeguards are necessary to make a particular development acceptable in planning terms (such as environmental mitigation or compensation), the development should not be approved if the measures required cannot be secured through appropriate conditions or agreements. The need for such safeguards should be clearly justified and the options for keeping such costs to a minimum fully explored, so that development is not inhibited unnecessarily.
- 16.83 The Framework provides guidance on when planning obligations should be used. Paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 16.84 The Framework states that obligations should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.
- 16.85 The Council's Development Team considers all major planning applications submitted to this Council and makes recommendations in respect of priorities for s106 obligations. The Development Team considered this application in January 2014. The following obligation requests have been received:
- Affordable Housing – to be provided in-line with policy, unless the viability of the development indicates otherwise.
 - Health – £18,007 to address identified health care impacts
 - Education - the contribution towards primary school provision of £197,051 and a contribution of £199,571 towards secondary school provision.
 - Open Space – An appropriate financial contribution requested in the event that the Council is asked to maintain the proposed public open space.
- 16.86 The Development Team noted that the applicant had stated that the proposed scheme was not viable and could not therefore fund any s106 obligations. The Development

Team recommended that an independent viability assessment was undertaken to verify the applicant's claim in respect of this matter.

16.87 The Council appointed BPS Chartered Surveyors (BPS) to review the applicant's viability appraisal. The context for this review is set by paragraph 173 NPPF which states "To ensure viability, the costs of any requirements likely to be applied to development, such as affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable".

16.88 The key considerations are therefore:

- a) Are the costs of development and the other assumptions that have been applied to the appraisal 'normal'?
- b) Does the development appraisal demonstrate a competitive return to both land owner and developer?
- c) Is the development deliverable if a greater burden of cost is placed upon it?

16.89 BPS has audited all development costs and confirmed that the assumptions (such as construction costs, professional fees, planning costs, cost of funds, land, predicted selling prices; marketing costs, etc) are within the normal parameters. BPS has also advised that a developer will seek a return of 20% of the total sale income (aka Gross Development Value – GDV) as a minimum and that this margin of return has been supported in appeals. Notwithstanding this, the viability assessment indicates that the project yields a return of less than 5% of GDV, considerably below expected market levels. If no land value is ascribed, the profit rises to 6%. (These percentages are based on the provision of no planning obligations).

16.90 In addition to this profit reduction, Taylor Wimpey has made provision for land value write down. The land costs inserted into the appraisal at £225,000 per hectare is well below the Council's CIL evidence base, which explains that £500,000 per hectare is the minimum price at which land will come forward for residential use. It should be noted that Taylor Wimpey paid substantially more than these figures in better market conditions.

16.91 Given the above, it is concluded that the current proposal does not deliver a market return for Taylor Wimpey and officers accept the proposed development can not support any planning obligations. Officers have been advised that this site is coming forward for development on the basis that it is an historic land purchase and in the context of the delivery of the overall garrison development.

16.92 Whilst it is concluded that the development can not support any planning obligations, BPS has recommended the proposal is subject to a viability review mechanism. This is to cover the eventuality of a significant up-turn in the residential market. If a financial contribution is justified in the future, it is recommended that this is put towards the off-site provision of affordable housing. This is suggested on the basis that affordable housing provision has been reduced in the later phases of the garrison development.

16.93 With regard to the request education contributions, Members may wish to note that land for a primary school (now constructed) and a financial contributions was secured as a part of the main garrison legal agreement and that these obligations have thus far remained unaffected by the review of the overall garrison viability. Likewise, the main garrison legal agreement secured the provision of two buildings and a contribution for their conversion for health and community uses. The conversion of the former MRS building has allowed two local medical practices to expand. In terms of Public Open Space, the Taylor Wimpey has advised that, since the development can not afford a maintenance contribution, the Roman Circus Open Space will be maintained by the management company for the site. Unrestricted public access to this space is to be secured via the proposed legal agreement. With regard to the open space adjacent to the Abbey Gatehouse and the Rose Garden it is proposed that these areas will be offered to the Council at the maintenance rates set out in the main garrison legal agreement.

16.94 Notwithstanding viability of the proposed development, a s106 agreement has been proposed by the developer to cover the following:

- A £500 contribution towards the cost of monitoring air quality in Mersea Road
- A scheme to prevent vehicular traffic from using the Abbey Gatehouse once an adoptable highway is provided from the south.
- the long term management of the Roman Circus public open space and unfettered access by the general public to this land
- A commuted sum & timeframe for implementation and delivery of the public open space adjacent to the Abbey Gatehouse
- The introduction of a Parking zone Control

17.0 Conclusion

17.1 The current application will deliver 138 residential units and provide a choice of housing types with a range of prices in a sustainable location. The development will contribute positively towards the Borough's supply of housing. There would be economic benefits as a result of construction activity, continuing the regeneration of the garrison area and the possible creation of additional jobs. There is sufficient evidence to be confident that overall the development would not cause significant harm to ecology, flood risk, air quality or would not have a severe impact upon the highway network; in terms of capacity or safety.

17.2 The Framework has at its heart the promotion of sustainable development. The proposal has significant sustainability credentials. A core planning principle of the Framework is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The proposal would secure the retention and reuse of seven locally listed buildings which contribute to the designated heritage asset of the conservation area. The scheme would also better reveal the Roman Circus, a heritage asset of international significance and provide land for the interpretation of St Johns Abbey. It is considered that the scheme would acceptably fulfil the environmental dimension of sustainable development by preserving and enhancing the identified heritage assets and by promoting new development of a high quality design.

- 17.3 In conclusion, it is considered that the benefits of the scheme significantly outweigh by any adverse impacts and, as such, Members are asked to endorse the officer recommendation that planning approval should be granted subject to the suggested conditions heads and the signing of the s106 agreement.

18.0 Recommendation

- 18.1 That the planning and conservation area applications are APPROVED subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting and to delegate authority to the Head of Commercial Services undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement. The s106 agreement shall cover as a minimum:

- A £500 contribution towards the cost of monitoring air quality in Mersea Road
- A scheme to prevent vehicular traffic from using the Abbey Gatehouse once an adoptable highway is provided from the south.
- Free public access to be secured in perpetuity to the Roman Circus Open Space
- The introduction of a Parking zone Control

- 18.2 On the completion of the s106 agreement, the Head of Commercial Services be authorised to grant planning permission (131935) subject to the following conditions heads:

Time

- 1 The development hereby permitted shall be begun before the expiration of two 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.

Scope of Permission

- 2 The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below. No variation from the approved plans should be made without the prior approval of the Local Planning Authority. Amendments may require the submission of a further application

1683/P/60/PL1	Site Location Plan
1683/P/70/PL2	Buildings to be demolished
1683/P/81/PL10	Parking Allocation
1683/P/82/PL9	Waste Management Strategy
1683/P/90/PL9	Site Plan Ground Floor
1683/P/91/PL9	Site Plan First Floor
1683/P/92/PL9	Site Plan Second Floor
1683/P/300/PL1	Proposed Bin Storage
1683/P/A/100/PL1	Building A Proposed Floor Plan
1683/P/A/201/PL1	Building A Proposed Section
1683/P/A/302/PL1	Building A Proposed Elevations

1683/P/C/100/PL1	Building C Proposed Floor Plan
1683/P/C/302/PL1	Building C Proposed Elevations
1683/P/E/100/PL1	Building E Proposed Floor Plans
1683/P/E/302/PL1	Building E Proposed Elevations
1683/P/F/100/PL1	Building F Proposed Floor Plan
1683/P/F/201/PL1	Building F Proposed Cut Through
1683/P/F/202/PL1	Building F Typical Window & Time
1683/P/F/210/PL1	Building E and F Cut Through
1683/P/F/302/PL1	Building F Proposed Elevations
1683/P/F/310/PL1	Building F West Elevations
1683/P/G/100/PL1	Building G Proposed Floor Plans
1683/P/G/302/PL1	Building G Proposed Elevations
1683/P/H/100/PL1	Building H Proposed Floor Plan
1683/P/H/302/PL1	Building H Proposed Elevations
1683/P/I/100/PL1	Building I Proposed Floor Plans
1683/P/I/201/PL2	Building I Proposed Cycle and
1683/P/I/302/PL2	Building I Proposed Elevations
1683/P/NB1/100/PL6	Building NB1 Proposed Plans
1683/P/NB1/300/PL6	Building NB1 Proposed Elevations
1683/P/NB2/100/PL6	Building NB2 Proposed Plans
1683/P/NB2/201/PL1	Building NB2 Proposed Sections
1683/P/NB2/300/PL6	Building NB2 Proposed Elevations
1683/P/NB3/100/PL6	Building NB3 Proposed Plans
1683/P/NB3/300/PL8	Building NB3 Proposed Elevations
1683/P/NB4/100/PL6	NB4 Ground Floor Plan
1683/P/NB4/101/PL6	NB4 First Floor Plan
1683/P/NB4/102/PL6	NB4 Second Floor Plan
1683/P/NB4/103/PL6	NB4 Third Floor Plan
1683/P/NB4/104/PL6	NB4 Roof Plan
1683/P/NB4/200/PL1	NB4 Proposed Sections
1683/P/NB4/201/PL2	NB4 Proposed Sections
1683/P/NB34/301/PL6	NB4 Proposed Elevation 1
1683/P/NB4/302/PL6	NB4 Proposed Elevation 2
1683/P/NB5/100/PL7	NB5 Ground Floor Plan
1683/P/NB5/101/PL7	NB5 First Floor Plan
1683/P/NB5/102/PL7	NB5 Second Floor Plan
1683/P/NB5/200/PL1	NB5 Proposed Sections
1683/P/NB5/201/PL2	NB5 Proposed Sections
1683/P/NB5/301/PL6	NB5 Proposed Elevations 1
1683/P/NB5/302/PL7	NB5 Proposed Elevations 2
16823/P/O/100/PL1	Building O Proposed Floor Plan
1683/P/O/201/PL1	Building O South Elevation
1683/P/O/202/PL1	Building O South Elevation
1683/P/O/302/PL1	Building O Proposed Elevations
1474 02 Rev I	Outline Landscape Masterplan
16831P-96 PL4	
TWD-PP-B1b Rev B	Phase Plan

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

ZAK - *Alternative to Previous Permission only*

- 3 This permission shall not be exercised in addition to the extant permissions (80710, 080712, 080713, 080716 and 080717) granted by the Local Planning Authority but shall be an alternative to that permission. Should one of the 2008 permissions be implemented, the development hereby permitted under this application shall not be implemented.

Reason: In order to ensure that the development permitted by this permission and that granted by previous (2008) permissions are not implemented together as this would be considered to be an overdevelopment of the site and the implications of such a proposal would need to be carefully considered.

Site Levels

- 4 No development shall commence within any phase or part thereof until details of the proposed ground floor slab levels of that Phase or part thereof have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

Phasing

- 5 The implementation of the development hereby approved shall be undertaken in accordance with drawing no. TWD PP B1b Rev B. Furthermore, Phase 6 of the development shall not commence until the retained buildings in Phases 3 and 4 have been converted in accordance with the approved details and are available for occupation. Phase 7 shall not commence until retained buildings in Phases 6 have been converted in accordance with the approved details and are available for occupation. The development shall be implemented strictly in accordance with this condition unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is appropriately phased and that the locally listed buildings are brought back into use concurrently with the construction with the new build element of the development hereby permitted.

Construction

- 6 No works, including works of demolition and/or enabling works shall take place 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. The Statement shall provide for:

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

- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - ix) a method statement for piling works
- 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.

Recording and Protection of Heritage Assets

ZNL - Scheme of Archaeological Delegation

- 7 No works shall take place, including demolition, until a scheme of archaeological investigation (including a programme of archaeological excavation, recording any finds and publishing the results) has been submitted and agreed, in writing, by the Local Planning Authority. The approved scheme of investigation shall be thereafter implemented in accordance with the details approved, unless otherwise subsequently agreed in writing by the Local Planning Authority.
- Reason: To enable a proper archaeological investigation of the site and the identification and recording of any items of archaeological importance.

8 ZLN - Building Recording

Prior to the commencement of any works, an appropriate programme of building recording (including architectural/historical analysis) shall be carried out in respect of the building pre-dating 1939. This record shall be carried out by an archaeologist or building recorder, or an organisation with acknowledged experience in the recording of standing buildings who shall have previously been agreed, in writing, by the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has previously been agreed, in writing, with the Local Planning Authority.

Reason: To secure the proper recording of the listed building that formed part of the historic development of this site.

- 9 The buildings for which consent is hereby granted for conversion to residential use shall be maintained in a wind and weather tight condition and shall be secured to prevent unauthorised entry until such time that they have been converted and are available for residential occupation.
- Reason: To ensure the proper protection of the locally listed buildings prior to their conversion.

Materials and detailing

- 10 No development shall take place until full details of the materials (including brick bond and mortar type) to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- Reason: In order to ensure that suitable materials are used on the development and to safeguard the character and appearance of the heritage assets and their setting.

- 11 Notwithstanding the details submitted, no works shall start until additional drawings that show details of any proposed new windows, doors, eaves, verges, cills, arches, plinths, porches, balconies, brickwork detailing and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: In order to ensure that the architectural detailing of the development is appropriate and to safeguard the character and appearance of the heritage assets and their setting.

Contamination

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

- 12 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

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

- 13 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

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

- 14 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

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

- 15 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 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, 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 14.

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

ZG3 - *Validation Certificate*

- 16 Prior to the first occupation 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 14.

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

Drainage

- 17 No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.
Reason: To prevent environmental and amenity problems arising from flooding
- 18 No development shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas shall be constructed until the drainage works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.
Reason: To prevent environmental and amenity problems arising from flooding.
- 19 Prior to the commencement of development an updated surface water drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The updated information shall reflect the Flood Risk Assessment undertaken by Richard Jackson Engineering Consultants, referenced 44599 and dated August 2013 and shall address the following:
- Investigation into the feasibility of infiltration SuDS as a preference.
 - A drainage plan for the site including the proposed location/size of any infiltration/attenuation devices.
 - Discharge to the Anglian Water piped network shall be at the rate agreed with Anglian Water.
 - Calculations of the piped network performance in the 1 in 30 year event.
 - Details of any exceedance and conveyance routes for events above the 1 in 30 year storm and events up to the 1 in 100 year rainfall events, including climate change.
 - Attenuation storage shall be provided on-site to cater for the 1 in 100 year critical storm plus allowance for climate change.
 - Details of the future adoption and maintenance of the proposed surface water scheme for the lifetime of the proposed development.
- The agreed surface water strategy shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme unless otherwise agreed, in writing, by the Local Planning Authority.
Reason: To prevent environmental and amenity problems arising from flooding
- 20 The surface water drainage scheme for the application site shall be carried out in accordance with the overall drainage strategy agreed for the for the Garrison Urban Village development (ref: O/COL/01/0009) unless otherwise agreed in writing with the Local Planning Authority.
Reason To prevent environmental and amenity problems arising from flooding.

Trees/Ecology/Landscape Management

- 21 No works shall commence (including demolition of building) until all trees, shrubs and other natural features not scheduled for removal on the approved plans shall have been safeguarded behind protective fencing to a standard that will have

previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

ZFT - Tree and Hedgerow Protection: General

- 22 No works or development shall be carried out until a site specific Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been 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.

ZFR - Tree and Natural Feature Protection: Entire Site

- 23 No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

ZFS - Tree and Hedgerow Protection: General

- 24 All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, by the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

ZFU - Tree Canopy Hand Excavation

- 25 During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

- 26 No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 22 has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)
- Induction and personnel awareness of arboricultural matters
 - Identification of individual responsibilities and key personnel
 - Statement of delegated powers
 - Timing and methods of site visiting and record keeping, including updates
 - Procedures for dealing with variations and incidents.
 - The scheme of supervision shall be carried out as agreed.
 - The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority
- Reason: To protect trees on the site in the interest of visual amenity

- 27 No building shall be demolished until the presence of otherwise of bats has been established. Any building that contains a bat roost or where internal inspections are not conclusive in determining the absence of bats and/or full access to suitable features is not possible shall not be demolished and/or altered until a supplementary bat emergence / re-entry survey of the relevant building(s) has been undertaken.

Following the completion of the emergence survey, an ecological mitigation, compensation and enhancement strategy that takes into account the recommendations as set out in the Environmental Statement (such as the control of light spillage from the development into wildlife corridor and the installation of bird and bat boxes) and the additional survey work shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The development shall be carried out in full accordance with the approved detailed and retained thereafter

Reason: To ensure the protection of wildlife during the course of this development and to ensure that there is appropriate mitigation for any ecological interest on the site.

ZFB - *Full Landscape Proposals TBA*

- 28 No works of development 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.);
- retained historic landscape features;
- proposals for restoration;

- 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

ZFE - Landscape Management Plan

- 29 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.

Refuse

ZCF - Refuse and Recycling As Shown

- 30 The refuse and recycling storage facilities shall be implemented in accordance with the details shown on the approved plans and made available prior to the occupation of each building they are intended to serve. Such facilities shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

ZCG - Communal Storage Areas

- 31 Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and in order to avoid any potential adverse impact on the quality of the surrounding environment and to avoid bin blight there is a potential adverse impact on the quality of the surrounding environment.

Parking Provision

- 32 No unit shall be occupied until the car parking space(s) intended to serve that unit and any associated unallocated visitor car parking space(s) intended to serve that part of the development have been hard surfaced, sealed, marked out and made available for use to the satisfaction of the Local Planning Authority.

The respective spaces shall thereafter be retained at all times for their designated purpose.

Reason: To ensure that each unit is provided with an appropriate parking space and that the unallocated parking space available for use by all residents and their visitors and in the interest of highway safety.

- 33 Each residential unit shall be provided with at least one secure covered cycle parking space. No unit shall be occupied until cycle parking for that unit has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be retained in accordance with the agreed details

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety

Travel Pack

- 34 On the first occupation of each dwelling, the residents shall be provided with Travel and Information Packs, the contents of which shall previously have been agreed in writing by the Local Planning Authority, in consultation with Essex County Council.

Reason: To promote modal shift towards more sustainable forms of transports.

Permitted Development Rights

ZDC - Removal of PD for All Residential Extensions & Outbuildings

- 35 Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and to safeguard the character and appearance of heritage assets and their setting

ZDI - *Removal of PD for Windows Above Ground Floor Level*

- 36 Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the west elevation wall S) or roof face of the Block NB3 HEREBY PERMITTED unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

- 37 Notwithstanding the provisions of Part 40 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no micro-generation equipment shall be installed unless otherwise approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to safeguard the character and appearance of heritage assets and their setting

18.3 The consent is issued for application (131936) subject to the following conditions heads:

ZAB - Time Limit for LBCs

1 The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

ZLN - Building Recording

2 Prior to the commencement of any works of demolition, an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the building concerned. This record shall be carried out by an archaeologist or building recorder, or an organisation with acknowledged experience in the recording of standing buildings who shall have previously been agreed, in writing, by the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has previously been agreed, in writing, with the Local Planning Authority.

Reason: To secure the proper recording of locally listed and other buildings.

19.0 Positivity Statement

19.1 WA2 - Application Approved Following Revisions

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

20.0 Conditions

20.1 See Section 18.2 and 18.3 above

21.0 Informatives

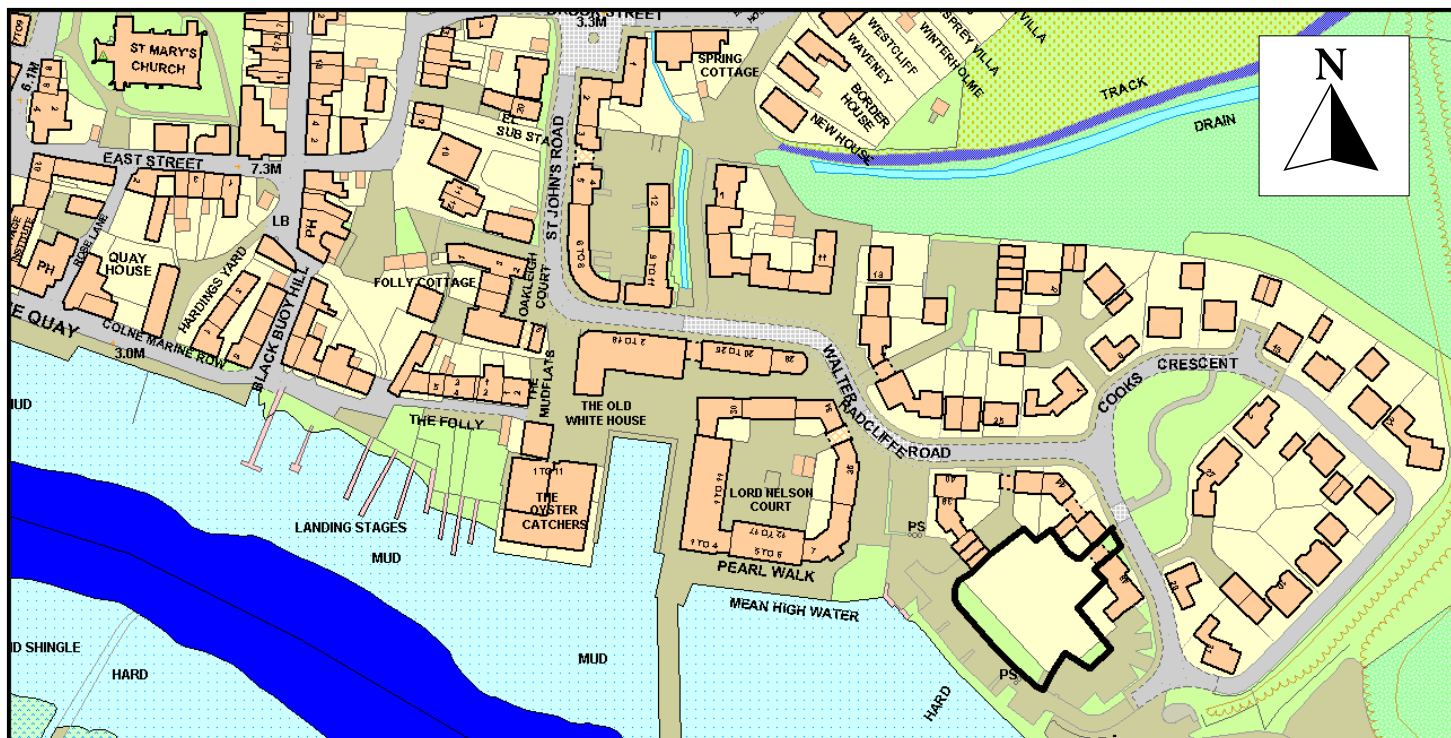
ZT0 – Advisory Note on Construction & Demolition

(1) 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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

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. Please pay particular attention to these requirements.



Application No: 145776

Location: Bawley House, Walter Radcliffe Road, Wivenhoe, CO7 9FG

Scale (approx): 1:1250

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Site: Bawley House, Walter Radcliffe Road, Wivenhoe, CO7 9FG

Application No: 145776

Date Received: 26 August 2014

Agent: Mark Perkins Partnership

Applicant: Mr Jonathan Frank

Development: Proposed A1 retail use, A3 restaurant use or B1 office use to ground floor and 7no. poly-functional units (B1 & C3 use) to first, second and third floors with associated car parking. Amendment to planning approval 131568.

Ward: Wivenhoe Quay

Summary of Recommendation: Approval subject to the signing of a Legal Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application, objection has been received and the recommendation is to grant planning permission.

2.0 Synopsis

- 2.1 The key issues explored below are the planning history and impact on residents' amenity.

3.0 Site Description and Context

- 3.1 Bawley House is the name given to a yet to be constructed building located on the former Cooks Shipyard site in Wivenhoe. The Cooks site is on the east side of the town accessed via Anglesea Road or through the historic centre, as the name suggests it was formerly used as a shipyard and has a substantial river frontage.
- 3.2 Bawley House forms the final part of Phase 3, all the residential elements of this phase are now build and occupied. Planning permission has been granted for this three storey building facing the river.

4.0 Description of the Proposal

- 4.1 This application seeks to amend the design plus internal changes to a building which benefits from a planning permission granted in November 2011 and two planning permissions granted in May 2014. These permissions permit the ground floor to be used for retail, B1 office or restaurant purposes and the upper floors for B1 business use or use for eight polyfunctional units (use classes C3 residential /B1 business).

- 4.2 This application proposes seven instead of eight polyfunctional units. Although one less unit than previously consented, the proposal involves the use of the roof space and the units are larger ranging in size between 94-206 square metres. The consented scheme has units between 78-97 square metres.
- 4.3 The approved scheme would provide a weatherboarded building. The current application proposes a building externally finished partly in weather boarding and part brick. The elevation to the river is fully weatherboarded whilst the other elevations are predominantly brick with detailing to reflect traditional brick warehouses. Changes to the fenestration are also proposed

5.0 Land Use Allocation

- 5.1 Settlement boundary for Wivenhoe Residential
Conservation Area
Environment Agency National Flood Zone

6.0 Relevant Planning History

O/COL/01/1799 - Outline planning permission approved on 5 November 2004 for erection of houses, flats, offices, fisherman's store and W.C. Refurbishment of wet dock, jetty, slipway and waterfront. Reconstruction of St John's Road and Walter Radcliffe Way.

RM/COL/04/2159 - Phase 1 - Reserved Matters approval for new access road, one 3-bed house, a 1-bed maisonette, four 2-bed maisonettes, five 2-bed flats, 19 garages and 28 space parking court

RM/COL/05/1808 - Phase 2 - Reserved Matters approval - Removal of public footpaths, restoration of White House, fisherman's store, six commercial units, 12 houses and 42 flats, seven polyfunctional spaces and associated parking for all the above.

072630 - Reserved Matters approval for access road, play area, dinghy park and public car park.

072701 - Reserved matters approval for Phase 3 comprising 32 residential units, affordable housing, commercial units – Planning permission granted

091559 - Full application approved to erect 32 dwellings and class B1 and A1 retail floor space

122122 - Variation of Conditions 2 and 8 of application no. 091559 in order to include A3 restaurant use and to include reference to Drawing Nos. 1369-105 & 1369 - Approved

131568 - Change of use of approved eight office units on the first and second floors of the commercial block to eight poly-functional units with associated parking. Approved

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP10 Tourism, Leisure and Culture
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- 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 Guidance/Documents:

- Backland and Infill
- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction

Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Shopfront Design Guide
Cycling Delivery Strategy
Wivenhoe Town Plan

8.0 Consultations

8.1 Environment Agency

The proposed development sits within Flood Zone 3 as defined in the Planning Practice Guidance, Flood Risk and Coastal Change, [Reference ID: 7-065-20140306](#), and is therefore at risk of flooding.

We have produced a series of standard comments for local planning authorities and planning applicants to refer to on lower risk development proposals where flood risk is an issue to replace direct case by case consultation with us. This planning application sits within this category.

These standard comments are known as Flood Risk Standing Advice (FRSA). FRSA can be viewed on our web site at www.gov.uk/environment-agency

We recommend that you view our standing advice in full on our web site before making a decision on this application. Please refer the applicant to our standing advice at the above web address.

Applicants should follow the advice and submit a completed form as part of their planning application submission. We do not need to be consulted further on this application.

8.2 Environmental Protection no objection subject to conditions

8.3 Highway Authority would not wish to make comment further to the formal recommendation dated 30 August 2013 submitted under application 131568 (this recommendation was no objection).

8.4 Spatial Policy no comment

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 The Parish Council have stated that:-

This falls below the minimum car parking standards, and the access to parking is constrained. Additionally there appears to be no provision for staff and customers of the restaurant. It also completely fails to deliver any private amenity space. Wivenhoe Town Council also still has concerns that the residential properties above the restaurant will eventually jeopardise the future of the business. Lastly a new floor has been added which adds to over-development of this unit.

10.0 Representations

10.1 Numbers of three objections/one support

- poly-functional units would make sense on the ground floor where artists can exhibit their work and interact with people walking by. Our concern is that the transition from B1 to B1 and C3 poly-functional units will not lead to more artists settling in lower Wivenhoe but will lead to easy sellable residential apartments like the ones which do already exist. This will add to the already existing problems, such as too much traffic during rush hours and lack of off street parking on Walter Radcliffe Road.
- The new floor plans show a different version of the restaurant's seating area: a much bigger seating area and four folding doors across the whole length of the restaurant instead of one folding door in the middle of the restaurant on the previous plan. The new plan shows three doors facing the public car park/flood gate, without further description of what type of doors these are.
- The much bigger seating/waiting area is going to be misused as a place to cater for guests who come and have drinks only. Further we are very much concerned that the new foldable doors at the front and the undeclared windows (doors) to the side of the property will considerably add to the noise level. The toilet facilities on the right hand side of the property with their false windows would have certainly resulted in a lower noise level.
- There is a no parking concept for the restaurant's employees and guests. We have severe doubts that restaurant guests will make any use of the two public pay and display car parks to either side of the property. Provision has been made for 21 car parking spaces at the rear of the development. With potentially 21 vehicles using the car park daily, this will by definition cause increased traffic volumes in the already-congested Walter Radcliffe Road. Plus having up to 21 vehicles using the entranceway between 46-48 Walter Radcliffe Road to access the car park is especially detrimental to 46 and 48 Walter Radcliffe Road.
- There will be sitting or standing outside the restaurant. We are afraid that this will add to the noise level and were wondering about the rules concerning the opening of the folding doors, playing music, smoking outside etc.
- A two storey building would have blend in better with the existing residential buildings on this side of the Cooks Shipyard development.
- gardens and rear elevations of 42, 44, 46 and 48 Walter Radcliffe Road will be overlooked causing a loss of privacy and also suffer a very definite loss of light.
- What is the provision for storage of domestic waste and for waste collection from the rear of the development? Will a large dustcart be required to reverse between 46-48 Walter Radcliffe Road to access the development - in which case this will produce undue noise, or will residents have to bring their rubbish out to the roadside, thus creating an environmental issue and an eyesore between 46-48 Walter Radcliffe Road for all local residents?
- How will the elimination of cooking smells from kitchen extractor fans be dealt with for those whose gardens back onto the development? How will the disturbance caused to local residents by delivery trucks supplying the restaurant and from late-night noise (emptying bottles into a skip, vehicles leaving the area) be dealt with?
- Commercial waste collection will also cause additional noise and disturbance to local residents plus emptying of bottles

- Noise - Has a music license been granted? if it has been granted the residents were not in agreement of this? if it has not been granted will it get granted in the future as all the other eating establishments in the village have a music license.

One letter of support These are improved additions to plans already consented to. This project can only benefit Wivenhoe, both commercially and socially.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The parking provision remains the same. Twenty one spaces to the rear of the building plus two within the building, four spaces near the river front, a public car park next to the building plus a further nine public spaces . Provision is also made within the building for 32 cycle spaces and two areas for motorcycle parking are shown within the car park.

12.0 Open Space Provisions

- 12.1 A balcony is indicated for each polyfunctional unit

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 Development Team and Planning Obligations

- 14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. A financial appraisal was considered and accepted by the Development Team. On the basis of the financial appraisal a contribution of £40, 000 was proposed for the Council to decide where it should be spent. As the Cooks Shipyard site includes areas of open space and did not require a community facilities contribution the Development Team agreed this contribution should be used towards affordable housing. This will be secured in a Unilateral Undertaking.

15.0 Report

Introduction

- 15.1 The main issues for consideration are the revisions to the design of the building and the changes to the fenestration and internal layout. The restaurant and polyfunctional units already have planning permission. These uses form the mixed use element of the larger Cooks redevelopment and a legal agreement requires their construction.

Design layout height

- 15.2 The footprint of the building is substantially the same as the approved scheme and the height is unchanged. The design is essentially the same with a series of weatherboarded gabled roofs facing the river. The side and rear elevations are now a

mix of weatherboarding and brick. The brick elevation includes a blue contrast detail to the doors and windows and these features reflect brick warehouses. The amendments to the design and materials are acceptable.

Impacts on Neighbouring Properties

- 15.3 Residents have raised a range of concerns and these are considered below.
- 15.4 As noted above there is planning permission for the proposed uses and the applicant is seeking permission for revisions to the existing approved scheme. The parking provision and use of the access for delivery and service vehicles has been agreed. The restaurant will have 50 covers the same as the approved scheme and this will be controlled by a condition. Internal alterations allow the restaurant to extend into an area previously providing a stair case and this has allowed some spaces such as the waiting area to increase. Whilst the position of the toilets is also altered it is considered this would have no impact on neighbour's amenity. An amended plan has been received in respect of the rear elevation of the restaurant, the revisions include the feature panels to the north elevation fixed shut and the applicant has confirmed "it was always anticipated that the main entrance to the building will be to the south elevation facing the waterfront".
- 15.5 Environmental Protection has been consulted and has raised no objection to the extract equipment or its location but recommends a series of condition relating to odour and noise. The time of deliveries will also be controlled. Environmental Services would also consider any application for a music license.

Other matters

- 15.6 A unilateral Undertaking has been submitted securing the contribution of £40,000 towards affordable housing and the construction of the building no later than 24 calendar months from the date of the planning permission.

16.0 Conclusion

- 16.1 The application is considered acceptable and planning permission is recommended.

17.0 Recommendation

- 17.1 APPROVE subject to the signing of the unilateral undertaking to secure the financial contribution and construction of the building.

18.0 Conditions

1 - 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. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1025-01A, 02, 03, 04, 05 and 06.

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

3. The ground floor of the building hereby permitted shall be used for either A1 retail, A3 restaurant or B1 office purposes only.

Reason: For the avoidance of doubt as to the scope of this permission.

4. The first and second floors shall only be occupied as a total of 7 polyfunctional units within Class B1 and Class C3 of the Town and Country Planning (Use Classes) (Amendment) Order 2005

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

5. Prior to the commencement of development a scheme to sound insulation the building between each floor and between each unit shall be submitted to the local planning authority for approval. The development shall be implemented in accordance with the approved scheme prior to any of the units being first bought into use.

Reason: To protect the amenity of the occupiers of the units.

6. No windows, doors or any other form of opening shall be formed in any elevation of the building without the prior written approval of the local planning authority.

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

7. Non-Standard Condition/Reason

The internal design of the polyfunctional units shall incorporate the design principles; higher than normal ceiling heights, a central service point and fire-proof centralization; as set out in the Planning Statement submitted with the application.

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

8. Finished floor levels should be set as high as reasonably possible but no lower than 3.8m above Ordnance Datum (AOD).

Reason: To reduce the risk of flooding to the proposed development and future occupants.

9. Surface water run-off generated on site shall be discharged to the River Colne and storage shall be provided on site to accommodate the 1 in 100 year storm, inclusive of climate change, as detailed within the submitted FRA.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

10. The A1 A3 B1 uses hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 07.00- 23.00

Saturdays: 07.00 -23.00

Sundays and Public Holidays: 07.00-23.00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

11. No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 07.00-19.00

Saturdays: 07.00-19.00

Sundays and Public Holidays: none

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission

12. ZGG

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

13. ZGO

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority.

This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

14. ZGR

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 (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity).

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

15. ZGS

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution

16. ZGW

Any externally illuminated sign shall comply with the guidelines in the current “Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements”

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

17. ZCE

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

18. ZCH

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority.

Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order.

Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.

19. Prior to the commencement of development, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

20. No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

- Existing and proposed finished contours and levels.
- Means of enclosure.
- Car parking layout.
- 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, signage, lighting).
- Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).
- Retained historic landscape features and proposals for restoration.
- Soft landscape details shall include:
 - Planting plans.
 - Written specifications (including cultivation and other operations associated with plant and grass establishment).

- Schedules of plants, noting species, plant size and proposed numbers /densities.
- Planting area protection or decompaction proposals.
- Implementation timetables.

Reason: To safeguard the provision of amenity afforded by appropriate landscape design.

21. All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed in writing with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

22. Prior to the commencement of development details of a management company to be responsible for all areas other than those in private ownership or leased to Wivenhoe Town Council, shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of these areas.

23. The A3 restaurant hereby approved shall have a maximum of 50 covers and there shall be no A5 (takeaway) or A4 (drinking establishment) use

Reason: For the avoidance of doubt as to the scope of this permission.

24. 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.

25. 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.

26. 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.

27. 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 24, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 25, 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 26.

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

28. The development shall be carried out in accordance with the Flood Warning Response Plan prepared by Richard Jackson dated November 2009, Flood Warning and Excavation Plan submitted by Richard Jackson dated May 2010 Revision A and Site Specific Flood Risk Assessment prepared by Richard Jackson dated November 2009 together with the additional information submitted by Richard Jackson in correspondence dated 6 April 2010 and 18 June 2010.

Reason: To ensure appropriate measures are put in place to protect residents and property against flood risk in accordance with Planning Policy Statement 25.

29. Prior to the commencement of any work on site, a scheme of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the occupation of the building hereby permitted.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage.

30. Prior to the first occupation of the development hereby permitted, the parking spaces, cycle parking and powered two wheeler parking shall have been laid out within the site in accordance with the approved plans. The approved parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.

Reason: To ensure that a suitable parking layout is agreed and that there is satisfactory parking provision at the site at the time when the development becomes occupied.

19.0 Positivity Statement

19.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

20.0 Informatives

(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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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. Please pay particular attention to these requirements.

(4) **INF2 Cost of Works** - The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.



Application No: 144976

Location: 99 & 105, London Road, Copford, CO6 1LG

Scale (approx): 1:1250

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7.5 Case Officer: Sue Jackson

MINOR

Site: 99 & 105, London Road, Copford, CO6 1LG

Application No: 144976

Date Received: 22 May 2014

Agent: Pomery Planning Consultants Ltd

Applicant: Oak Home Developments Ltd

Development: Demolition of dwelling and workshop building and erection of 8 no. residential units and extension to car park to neighbouring employment units. Resubmission of 140216.

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval subject to the signing of a Legal Agreement

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it was considered at the meeting of the 2nd October and deferred for the following reasons

- (i) Authority be delegated to the Head of Professional/Commercial Services to secure the completion of a Section 106 agreement to provide for a review of the viability assessment of the development at the point of sale with a view to obtaining claw back from the development in the event of any economic upturn;
- (ii) Subject to the completion of the agreement referred to in (i) above and the conditions set out in the report, including amendments in relation to obscured glazing to rear facing windows on Plots 1 and 2 and the deletion of Condition 15, together with an additional condition to provide for access to the site by construction vehicles only from the North East of the site (London Road) authority to approve the application be delegated to the Head of Professional/Commercial Services;
- (iii) The determination of the application be brought back to the Committee in the event (i) and (ii) above are unsuccessful.

This report sets out details of a financial contribution and delivery traffic. The earlier report is produced below and all new text is in **bold**.

“1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because part of the application site is outside the adopted settlement boundary for Copford in an area shown as countryside. In addition the application does not provide contributions towards affordable housing, open space, or community facilities.

2.0 Synopsis

- 2.1 The key issues explored below are: principle of development; in particular the development outside the settlement boundary, the viability of the scheme; design and impact on the character of the area; impact on residential amenity; impact on parking and highway safety
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application site comprises a large detached house with swimming pool and detached outbuilding/car port, as well as a commercial workshop previously used in connection with a coach business. Both the house and the non-residential building are currently vacant and in a run-down state.
- 3.2 The site is accessed via a narrow driveway from London Road. The site backs onto a residential road, Allendale Drive, with the rear of the house being quite prominent as a visual stop to the end of the cul-de-sac. Although in its dilapidated condition the house does not present an attractive element in the street scene. The industrial building appears to have had an access from Allendale Drive, but this is currently fenced and unused
- 3.3 There is an industrial site adjacent to the north and north-east of the application site, part of which is owned by the applicant.
- 3.4 Whilst the part of the site containing the house and industrial building is within the settlement boundary for Copford, part is outside the settlement boundary and therefore within the countryside for planning purposes. The garden is enclosed by dense planting, separating the site from the open countryside beyond.

4.0 Description of the Proposal

- 4.1 The application seeks full planning permission for eight dwellings, with access from Allendale Drive. The development involves the demolition of the existing buildings on site. The layout drawing shows the mix of dwellings to be four houses, 2 4-bed and 2 5-bed, and 4 bungalows, 1 2-bed and 3 3-bed, with the properties arranged around a shared private drive.
- 4.2 The application also includes a seven space car park extension for the adjacent factory to be accessed through the factory site.
- 4.3 The application documents include an Acoustic Report, Arboricultural Report, Landscape & Visual Appraisal, Planning Statement and Ecology and Reptile reports

5.0 Land Use Allocation

- 5.1 Part of the site is within the settlement boundary for Copford the area for the proposed bungalows is outside the boundary within an area of countryside

6.0 Relevant Planning History

- 6.1 The relevant planning history of the site is as follows:

Application Number	Development Description	Decision	Decision Date	Appeal Decision	Appeal Decision Date
F/COL/06/0149	Demolition of existing house and outbuildings and new mews development of 16 no. 2, 3 and 4 bedroom houses with parking.	REFUSED	24-04-2006	APPEAL DISMISSED	08-11-2006
130239	Erection of 7 residential units and extension to car park to neighbouring units (outline application)	APPROVED WITH CONDITIONS	19-11-2013		

Part of the original garden for the house has been sold to the adjacent industrial estate and there is planning permission for additional buildings to be erected in connection with the industrial site on this land (refs: 120856 and revised under 131471).

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity

H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP15 Retention of Open Space and Indoor Sports Facilities
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill
Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
Extending Your House?
The Essex Design Guide
External Materials in New Developments
Affordable Housing

8.0 Consultations

8.1 Spatial Policy Response

The site was previously the subject of an application for seven units which was given outline approval in 2013 (although it is understood that the permission may not be extant since the dwelling on the site was partially demolished contrary to stipulations in the approval). Spatial Policy raised concerns at the time about the fact that the units proposed for the former garden area lay outside the settlement boundary. The outline approval dealt with this concern via a requirement linking construction of the units outside the settlement boundary to the construction of a factory on the adjacent site, which when completed would extend into former open countryside.

The current application for eight units was made on the basis that such an undertaking would not now be acceptable to the applicants. While planning policy concerns remain about development outside the settlement boundary, it is appreciated that in the climate of greater flexibility promoted by the NPPF, the application needs to be considered on its merits in sustainability terms. On that basis, the proposal is considered acceptable on balance given its proximity to existing development ; sustainable location in transport terms ; and lack of visual harm to countryside views. Access to the site would be via an established residential road. The application site is bordered on two sides by residential development and to the east an extension to a commercial development has been approved. It should be noted that there is greater planning policy flexibility for commercial development in the countryside than there is for residential, but the approval of the commercial units does imply that the site will eventually be surrounded by development on three sides.

Policy H4, as modified by the Focused Review to be adopted by Full Council on 16 July 2014, provides that sites in villages should provide 20% affordable units in sites over five units. It also provides that while rural exception can now provide an element of enabling market housing, the focus on rural housing adjacent to village boundaries should be on affordable housing. The proposal site is a hybrid of dwellings within and without the boundary, but as a development of eight units in total, provision of affordable housing would be expected subject to viability considerations.

- 8.2 The Highway Authority would not wish to make comment further to the formal recommendation dated 1 March 2013 submitted under application 130239.

Informatives

INF1 Highway Works – All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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 :

Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester
CO4 9QQ

INF2 Cost of Works – The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

HA comment in respect of application 130239 no objection subject to conditions

- 8.3 Environmental Protection no comment

- 8.4 Contaminated Land Officer

I am in receipt of the above report, which is satisfactory for Environmental Protection purposes. I note that this is the same report that was submitted for a previous application on the same site (130239). However, since the initial conceptual site model remains the same, our comments would stay as previously, namely:

I note that potential pollutant linkages have been identified (including the possible presence of an underground fuel tank) and that intrusive investigation and assessment of all identified risks is recommended, together with an assessment of ground gas risks. In addition, it is also recommended that a suitable asbestos survey is undertaken prior to any demolition. However, it has been concluded that the site can be made suitable for the proposed use, if the report's recommendations are undertaken.

Consequently, should planning permission be granted for this application, I 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*

- 8.5 Landscape Officer is satisfied with the landscape aspects of the application and raises no objection subject to the imposition of condition ZFB

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The Parish Council have stated **STRONG OBJECTION**
This Council consider this to be an overdevelopment of the site and consider that access to the site through the residential area of Allendale Drive is inappropriate and is unsuitable for large delivery lorries and/or parking of multiple contractors vehicles. As the development is on London Road all access/egress to the development site should be through London Road.

10.0 Representations

- 10.1 (numbers of objection - six and issues raised)
- Allendale Drive is unsuitable for building access as the proposed end of the Drive is already congested. The Drive would be unable to sustain the increased residential traffic and parking and make the area unsuitable for existing residents. Construction traffic will be able to get through at that end and existing residents cannot be forced to leave the road clear?
 - the noise and disruption from construction The residents of Allendale Drive have been subject to lots of disruption over the last year whilst the other development has been carried out
 - 8 properties on a plot of this size is excessive
 - 4 of these properties are outside the village envelope and I fear that this will set a precedent if it is authorized
 - the affect of the building will have on wildlife

- parking restrictions, working time restrictions and access restrictions could be considered whilst this development is under way,
- The retention of the clear division of residential status from mixed residential and industrial status.
- The safety of young children and of senior citizens currently resident in Ashwin Avenue and Allendale
- Increased difficulty of access for Police, Fire Brigade, Ambulance and Waste Disposal services
- There is no provision for social housing, a requirement for any development over 3 houses, surely this undermines council policy?
- We do not need more large 5 bedroom houses in Copford, we have recently had 8 built on the former Escape Nightclub site, what is needed is affordable family size houses to allow young families to stay in the village.
- The traffic situation is much worse now than it was in 2006, if it was unsuitable then, how can it be seemed suitable now?
- A previous application (F/COL/06/0149) was refused and dismissed at appeal on the grounds of the development being outside the village envelope, extra traffic, parking demand, and congestion;
- The development would cause additional parking and this would restrict access for emergency vehicles;

10.2 Colchester Cycling Campaign

All of these houses should have cycle parking included in their design. We note neighbours' comments on the likely increase in motor traffic as a result of this development, and ask for a s106 contribution towards nearby cycle routes, as defined by CBC's master map of bike routes.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The Vehicle Parking Standards SPD sets out that a minimum of two parking spaces are required for dwellings with two or more bedrooms, as well as 0.25 visitor spaces per dwelling (rounded up to the nearest whole number). Provision for at least one cycle space per dwelling should also be provided.
- 11.2 The layout submitted shows that each property would have a garage and at least one parking space, the majority would in fact have space to park two or more cars. This exceeds the parking standard. Two visitor spaces are also indicated within the site. Cycle parking could be accommodated in the gardens for each dwelling. The proposal therefore accords with parking standards.

12.0 Open Space Provisions

- 12.1 The proposal does not include on-site open space provision and no monetary contribution is offered in lieu of on-site provision. The reasons behind the lack of contribution are discussed later in this report.

- 12.2 Each property has a private amenity area with rear garden sizes ranging from 76 square metres to 275 square metres all of which exceed the minimum Essex Design Guide standard.

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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of Development

- 15.1 The main issue in terms of the principle of the proposal is that part of the site is outside the settlement boundary. Whilst development is acceptable in principle within the settlement boundary (Core Strategy Policy SD1), development outside settlement boundaries is strictly controlled in order to protect and enhance the character of the countryside, as well as safeguard the biodiversity, geology, history, and archaeology of undeveloped sites (Core Strategy Policy ENV1). It is important to note, however, that planning policy does not rule out development in the countryside altogether, but there are tighter controls to development in these locations. The main planning considerations for the principle of development in these cases are: whether the proposal represents sustainable development, having either a positive or negligible impact upon economic, social, and environmental factors; and its impact upon the character of the countryside.
- 15.2 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:
- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
 - **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

15.3 The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent: to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

15.4 The NPPF goes on to state that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):

- making it easier for jobs to be created in cities, towns and villages;
- moving from a net loss of bio-diversity to achieving net gains for nature;
- replacing poor design with better design;
- improving the conditions in which people live, work, travel and take leisure; and
- widening the choice of high quality homes.

Such sustainable development should be in accordance with the Local Plan.

15.5 Whilst the village of Copford is not specifically identified in the Adopted Core Strategy as a key settlement or development area, it is considered to be a sustainable location for development. The village has a number of facilities, including a primary school, village hall, playing fields, and pub. Many of these facilities are within walking distance of the application site. There is also a regular bus service to Colchester, Chelmsford, and Braintree, with several of the bus stops within Copford being within walking distance of the application site. Marks Tey train station is just over a mile from the site. Therefore, residents in Copford have access to a range of facilities and services that do not require the use of private transport. The proposed residential development would support these facilities, as future occupants would be likely to increase their usage. The proposal is therefore likely to have a positive economic impact, as well as a social one, by helping to ensure the continued availability of these facilities and services. There would also be an environmental benefit as many services are within walking distance from the site and there is access to a wider range of facilities and job opportunities by means other than private car, which would reduce pollution from regular private car use.

15.6 Further, the loss of the industrial unit would have an environmental benefit to existing residents, particularly at Allendale Drive and No 103a London Road. The site was previously used as a coach garage and has a permitted industrial use, which is likely to have caused noise and disturbance to residents. Planning policy seeks to retain employment sites (Development Policy DP5). However, the loss of an employment site can be justified if there is significant planning benefit, such as removing a use that has amenity problems. In this case, the removal of a use that would cause noise and disturbance to local residents, as well as potential issues with fumes and smells, is considered a positive step and in accordance with planning policy.

The loss of the industrial building is therefore justified in policy terms and the principle was accepted with the grant of outline planning permission last year.

- 15.7 The context of the site is important in determining its likely impacts upon the character of the countryside. The site is very secluded and not visually part of the open countryside, it being located between longstanding residential development (Allendale Drive) and an industrial site where planning permission has already been granted for further development within the countryside. The planning permission at the adjacent industrial site is important as, should it be developed, it would further screen and separate the application site from the open countryside to the east, meaning that there would be built form to all but the southern boundary of the site (i.e. the application site would be almost completely surrounded by development). The part of the site outside the settlement boundary was last used as garden to the existing dwelling it has a strong boundary with the adjacent countryside. The application documents include a landscape and visual impact assessment which indicates the site already reads more as part of the settlement than it does as part of the countryside. Views of the site in the wider landscape are of the urban edge of Copford and the existing commercial units dominate the skyline. It is considered the development would not be harmful to the character or appearance of the countryside
- 15.8 Application 130239, an outline application for seven units was approved in 2013. This application proposed three units outside the settlement boundary and a legal agreement precluded the erection of these three units until work had commenced on the adjacent commercial development. The commercial development has not commenced as quickly as anticipated. However for the reasons set out above it is considered the development outside the settlement boundary will not consider have an adverse impact on the countryside and it is unreasonable to link the two developments.
- 15.9 In assessing the acceptability of the proposal, the planning history of the site has been considered. The 2006 appeal is considered to be of particular relevance, although there have been significant changes to planning policy since the appeal was determined and the context of the site was somewhat different as development had not been approved on the adjacent industrial site. The appeal considered a proposal for 16 dwellings on the site (four outside the settlement boundary). The Inspector did not rule out development on this site in principle: the conclusions of the appeal were that the site has the potential for residential development, but that the appeal scheme was simply 'too much' for the site.

Viability

- 15.10 The proposal is required to provide 20% (Focused Review Adopted 16.7.14) affordable housing (i.e. two dwellings), as well as contributions towards open space and community facilities, in accordance with local planning policy.
- 15.11 The 2013 application included a viability assessment, which was independently assessed by the District Valuer Service, the development was shown to be unviable and the independent assessment concluded that, should the scheme provide the two on-site affordable units required, as well as the open space and community facilities contributions and a developer's profit of 17.5% on the market units, there would be a deficit against the benchmark land value, meaning that the scheme is unviable.

Even if no affordable housing or contributions were provided, there would still be a deficit against the benchmark value and the scheme unviable.

- 15.12 The viability appraisal has been updated to take account of the new application and changes in costs. The revised appraisal indicates build costs have increased, bungalows generally more expensive to construct and house values have also reduced as the units are now smaller. Although the application now proposes 8 not 7 units there would still be a deficit against the benchmark value and the scheme unviable even without the provision of affordable housing and contributions.
- 15.13 The NPPF states that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
- 15.14 In consideration of the outcome of the viability assessment, as well as requirements for developments to be deliverable, it has been concluded to forgo the contributions. The 2013 application included a legal agreement requiring a revised viability assessment to be undertaken if the development was not commenced within a specified period. However amending the time limit condition to require the development to commence within 18 months instead of the normal 3 years would serve the same purpose. If the development is not commenced within this timescale a new application will be required and viability will be re-assessed at that time

Design and Layout

- 15.15 A mix of bungalows and houses are proposed of traditional design with gable and hipped roofs and materials being brick, and render. The houses are 2-storey reflecting height of the existing development. They also have a footprint, proportions and fenestration similar to the established houses. The four bungalows proposed are at the end of the cul-de-sac and would provide a variation in house type. the bungalows are also of a traditional design of brick construction with hipped tiled roofs
- 15.16 The additional unit has been accommodated by a looser grouping of buildings around the private drive
- 15.17 The garden sizes are consistent with the predominant character of the area particularly the properties on the north side of Allendale Drive.

Impact on residential amenity

- 15.18 There are residential properties to the north and west of the site. The site is in close proximity to three properties: 103a London Road, and 22 and 31 Allendale Drive
- 15.19 A house is proposed on plot 1 adjacent to no 31. The front wall of the new property is forward of no 31 but as the existing property has a garage next to the site boundary there is satisfactory separation between the properties. The dwelling on plot 1 has a first floor bathroom window (obscured glazed) and bedroom window in the side elevation facing no 31. The bedroom window is at the end of the elevation and will

look towards the garage and blank side elevation of no 31. There is no unacceptable loss of amenity or overshadowing of this property.

- 15.20 A house is also proposed adjacent to no 22 Allendale Drive, this property follows a similar building line and both properties have a garage next to the common boundary. There are no first floor windows in the side facing no 22.
- 15.21 The houses on plots 1 and 2 have rear boundaries to 103a London Road. There is a parking area for 103a between the site boundary and 103a itself. The proposed properties on plots 1 and 2 are approx 20 metres from 103a. but are designed so there is only an en-suite window in the first floor facing this boundary.
- 15.22 In order to mitigate noise from the existing industrial site to the proposed development, the Environmental Protection Team has recommended that an acoustic fence is erected alongside the eastern boundary. This, along with the planting strip proposed along the boundary as part of the industrial site planning approval, will satisfactorily mitigate noise impacts. Further conditions have been recommended in terms of noise and emission control during construction.

Parking and Highway Safety

- 15.23 The majority of objections received from local residents relate to concerns regarding increased congestion and parking in the area, particularly along Allendale Drive. The properties on Allendale Drive have on site parking provision, which varies from one to three or four spaces (including garages). However, local comments explain that, due to extended families and visitors, this level of parking is insufficient and the road is often used for parking which can cause congestion and potential difficulties for emergency vehicle access. This is clearly frustrating for the occupants of Allendale Drive and is sympathised with, but this situation has not been caused by the proposed development: it is an existing situation as a result of the lifestyles of existing residents. In looking at the potential impacts of the proposed development, the proposal provides over and above the minimum amount of on-site parking spaces required by the Vehicle Parking Standards SPD, with each plot having at least three parking spaces, as well as visitor parking. The proposal therefore provides more than adequate parking in accordance with local plan policy so that it would not increase pressure for future occupants or visitors to park in Allendale Drive.
- 15.24 The Inspector in reaching his decision on the 2006 appeal recognised that car ownership in Allendale Drive exceeded off-road parking provision and that access along the road would be difficult if cars were parked on road (hence, kerb parking in practice). The Inspector was concerned with congestion, but this was in respect of sixteen new dwellings and the impact that car movements associated with this level of development would have in terms of the free flow of traffic on Allendale Drive. The current proposal has a significantly lesser impact than the 2006 proposal.
- 15.25 The Highway Authority has not objected to the proposal in highway safety terms, subject to conditions. The access from Allendale Drive is considered to be acceptable due to the low speed of road users on this road. The proposal is therefore considered to be acceptable on highway safety grounds.
- 15.26 Members should note there is planning permission for 7 units this application proposes an additional unit.

- 15.27 It is recommended that a construction management plan is submitted and agreed as part of a condition to ensure that parking of construction vehicles and storage of materials is undertaken in an acceptable manner and that residents are given prior notice of deliveries to minimise disruption.

Biodiversity

- 15.28 The application has been assessed in line with Natural England standing advice. The site is not within a nationally designated area or a local wildlife site and, apart from the indigenous southern boundary, does not have any features on site that may be a habitat for protected species. The planting on the southern boundary is likely to be strengthened as part of a landscaping scheme for the site and this would be of benefit in terms of ecology and biodiversity. The proposal is not, therefore, considered to have a significant impact upon protected species and, as protected species are protected by legislation other than planning (e.g. Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010) it is considered that a detailed advisory note regarding protected species would be appropriate to advise the developer of their responsibilities should protected species be discovered during construction.
- 15.29 A phase 1 habitat survey has been carried which looked at flora and habitats. The report indicated the south boundary hedge would be enhanced by planting a mixed native species hedge with trees. the report identifies suitable reptile habitat within the site and recommended a reptile survey should be undertaken at the appropriate time. This work has now been carried out and a report submitted. This report recommends a mitigation strategy, for the low population of grass snakes identified, which is secured by condition

Contamination

- 15.30 A phase 1 contamination report has been submitted with the planning application and the Councils' Contamination Officer has been consulted. The Contamination Officer has noted that there are potential pollutant linkages on site, such as possible underground fuel tanks at the former coach depot, and that intrusive investigation and assessment is recommended. It is concluded that the site can be made suitable for development if the recommendations in the report submitted are undertaken. It is therefore considered appropriate for the investigation, assessment and possible mitigation of the site to be conditioned.

Flood Risk

- 15.31 In terms of flood risk, Environment Agency standing advice has been taken into account. The standing advice states that, for developments (other than changes of use) less than 1 hectare in Flood Zone 1, the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere. Government policy strongly encourages a sustainable drainage system (SuDS) approach to achieve these objectives.

It is therefore considered that, whilst the proposed development is unlikely to be susceptible to flood risk itself (being in a flood zone 1 that is unlikely to flood), the development may contribute to surface water flooding, from increased hard surfacing, without suitable mitigation. A condition requiring details of surface water drainage is therefore required.

Other matters

- 15.32 Objections have been received from local residents expressing concern that the proposal represents an overdevelopment of the site and would set a precedent for further development.
- 15.33 The development meets the Councils adopted standards for private amenity space and parking provision and does not constitute overdevelopment. In terms of precedent, the application site is rather unique in terms of its context within existing development and impact on the surrounding countryside. It is considered to be highly unlikely that the specific context of the application site would be replicated elsewhere and the proposal is not, therefore, considered to set a precedent for similar development.

16.0 Conclusion

- 16.1 Whilst the proposal is contrary to planning policy in terms of part of the development being sited within the countryside and there being no contribution towards affordable housing or open space and community facilities, planning approval is justified due to particular context of the site which would enable development to occur without significant impact upon the character of the surrounding countryside and the viability assessment which demonstrates that the development would be unviable should contributions be made. The views of local residents and the Parish Council have been taken into consideration and it has been concluded that any impacts from the development can be suitably mitigated. A conditional approval is recommended.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

- WA2 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

1 - Non-Standard Condition/Reason

The development hereby permitted shall be begun before the expiration of 18 months 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 and to allow the viability of the development to be reassessed.

2 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 5376/13/101D, 5376/13/5A , 5376/13/7A, 5376/13/8A, 5376/14/1A, 5376/14/2A, 5376/14/3A, 5376/14/4A, 5376/14/6A , 5376/14/6 and SKI/1

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

3 - 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.

4 - 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.

5 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

Prior to the commencement of development 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.

6 - 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 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, 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 5.

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.

7 -*Validation Certificate

Prior to the first occupation 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 Conditions 3-6 inclusive.

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.

8 - *Full Landscape Proposals TBA

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.);
- retained historic landscape features;
- proposals for restoration;
- 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.

9 - Non-Standard Condition/Reason

No development shall commence until details of surface water drainage 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.

10 - Non-Standard Condition/Reason

No development shall commence until evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings has been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials

11 - Non-Standard Condition/Reason

Within 3 months of the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that the dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

12 - Non-Standard Condition/Reason

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. The roof material for the houses shall comprise plain tiles on the 2-storey roofs. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

13 - Non-Standard Condition/Reason

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.

14 - Non-Standard Condition/Reason

No development shall commence until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

15 - Non-Standard Condition/Reason

Prior to the first use of the vehicular access to the development, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

16 - Non-Standard Condition/Reason

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 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.

17 - Non-Standard Condition/Reason

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the rear facing elevations or roof faces of the dwellings on plots 1 and 2 unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

18 - Non-Standard Condition/Reason

Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have 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:

- prior notification of residents of delivery dates and times
- 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.

19 - Non-Standard Condition/Reason

Prior to the first use of the vehicular access to the development, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

20 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres within the site, tapering on-sided over the next 6 metres to any lesser width and provided with an appropriate dropped kerb crossing to the satisfaction of the Local Planning Authority.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway in the interests of highway safety.

21 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the existing access onto the site from Allendale Drive shall be suitably and permanently closed in accordance with details previously submitted to and agreed in writing by the Local Planning Authority. Such details shall include the reinstatement to full height of the kerbing.

Reason: To ensure the removal of, and to preclude the creation of, unnecessary points of traffic conflict in the highway.

22 - Non-Standard Condition/Reason

The development shall be implemented in accordance with the Reptile Survey dated 19 August 2014 reference DFC 2425

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

23 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the garage(s)/parking space(s) shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The garage(s)/parking space(s) shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

20.0 Informatives

ZT0 – Advisory Note on Construction & Demolition

(1) 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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

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. ****Please pay particular attention to these requirements****."

New Report

Since the committee meeting the applicants agent has confirmed his client has agreed to deliver a financial contribution of £25,000 which could be put towards open space.

On the matter of access to the site, the applicant would also be content to only access the site via Allendale Drive in fixed wheel vehicles and any articulated vehicles would use the neighbouring employment site accessed from London Road. The applicant would also be content to make provision that no contractors vehicles will park in Allendale Drive during the construction period.

The Viability Appraisal mentioned a financial contribution of £25,000 but indicated this would result in a very, very tight and arguably uncompetitive return to the land owner. The report also stated that despite moving from a scheme of seven units to one of eight, viability remains very marginal. The application did not secure this contribution.

The previous report recommended planning permission with no financial contribution, £25,000 is now offered. Whilst the applicant suggested this is used for open space purposes Members may consider a contribution towards affordable housing would be more appropriate.

Officer's recommendation is to grant planning permission with an amendment to condition 17 to secure the use of the London Road access for articulated vehicles as part of the Construction Management Plan and subject to the signing of a Unilateral Undertaking to secure a financial contribution towards affordable housing

Recommendation

1. APPROVE subject to the signing of a Unilateral Undertaking within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the Undertaking to provide the following:

- *a financial contribution of £25000 to be used for the provision of affordable housing*

On completion of the Undertaking, the Head of Commercial Services be authorised to grant planning permission subject to the following conditions:

1 - Non-Standard Condition/Reason

The development hereby permitted shall be begun before the expiration of 18 months 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 and to allow the viability of the development to be reassessed.

2 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 5376/13/101D, 5376/13/5A, 5376/13/7A, 5376/13/8A, 5376/14/1A, 5376/14/2A, 5376/14/3A, 5376/14/4A, 5376/14/6A, 5376/14/6 and SKI/1

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

3 - 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.

4 - 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.

5 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

Prior to the commencement of development 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.

6 - 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 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, 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 5.

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.

7 - *Validation Certificate

Prior to the first occupation 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 Conditions 3-6 inclusive.

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.

8 - *Full Landscape Proposals TBA

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.);
- retained historic landscape features;
- proposals for restoration;
- 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.

9 - Non-Standard Condition/Reason

No development shall commence until details of surface water drainage 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.

10 - Non-Standard Condition/Reason

No development shall commence until evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings has been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials

11 - Non-Standard Condition/Reason

Within three months of the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that the dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

12 - Non-Standard Condition/Reason

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. The roof material for the houses shall comprise plain tiles on the 2-storey roofs. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

13 - Non-Standard Condition/Reason

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.

14 - Non-Standard Condition/Reason

No development shall commence until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

15 - Non-Standard Condition/Reason

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 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.

16 - Non-Standard Condition/Reason

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the rear facing elevations or roof faces of the dwellings on plots 1 and 2 unless otherwise approved, in writing, by the Local Planning Authority. **The first floor windows in the side and rear elevations of the dwellings on plots 1 and 2 indicated on the plans as obscured glazing shall be glazed in obscure glass to a minimum of level 4 obscurity before these dwellings are first occupied and shall thereafter be permanently retained in this approved form.**

Reason: To protect the privacy of adjacent dwellings.

17 - Non-Standard Condition/Reason

Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have 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:

- **all deliveries by articulated vehicles to access the site from London Road via the neighbouring employment site.**
 - prior notification of residents of delivery dates and times
 - 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.

18 - Non-Standard Condition/Reason

Prior to the first use of the vehicular access to the development, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall thereafter be retained free of any obstruction at all times and must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

19 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres within the site, tapering on-sided over the next 6 metres to any lesser width and provided with an appropriate dropped kerb crossing to the satisfaction of the Local Planning Authority.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway in the interests of highway safety.

20 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the existing access onto the site from Allendale Drive shall be suitably and permanently closed in accordance with details previously submitted to and agreed in writing by the Local Planning Authority. Such details shall include the reinstatement to full height of the kerbing.

Reason: To ensure the removal of, and to preclude the creation of, unnecessary points of traffic conflict in the highway.

21 - Non-Standard Condition/Reason

The development shall be implemented in accordance with the Reptile Survey dated 19 August 2014 reference DFC 2425

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

22 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the garage(s)/parking space(s) shown on the approved plans shall be made available for use for the parking of motor vehicles to be used solely for the benefit of the occupants of the dwelling of which it forms part, or their visitors, and for no other purposes whatsoever. The garage(s)/parking space(s) shall then be maintained free from obstruction and for this purpose at all times thereafter.

Reason: In order to ensure that the development retains adequate parking provision.

Informatives

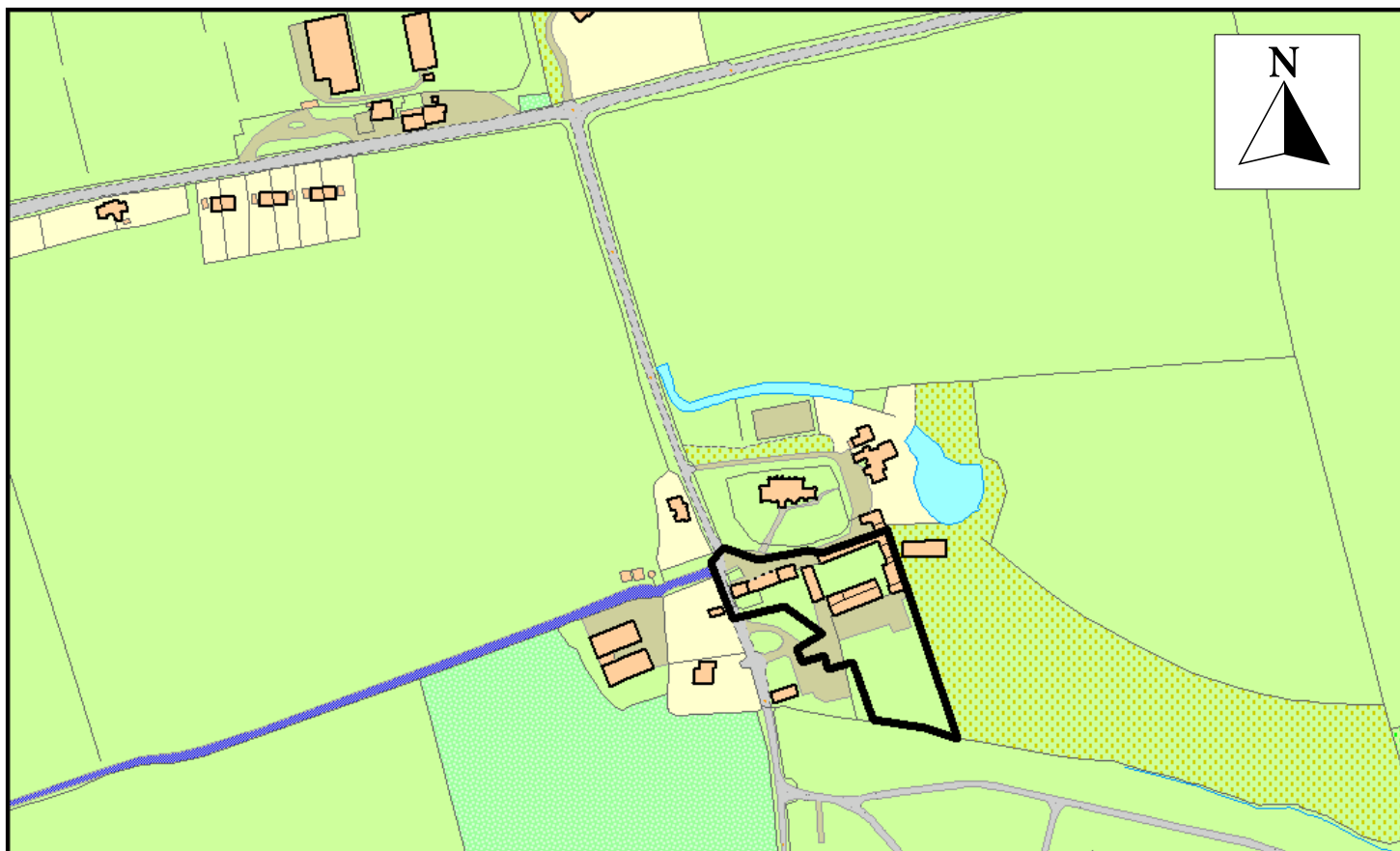
ZT0 – Advisory Note on Construction & Demolition

(1) 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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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. ****Please pay particular attention to these requirements****.



Application No: 145513

Location: Coopers Beach Caravan Park, Church Lane, East Mersea, Colchester, CO5 8TN

Scale (approx): 1:3000

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7.6 Case Officer: Sue Jackson

Due Date: 14/11/2014

MAJOR

Site: Coopers Beach Caravan Park, Church Lane, East Mersea,
Colchester, CO5 8TN

Application No: 145513

Date Received: 15 August 2014

Agent: GVA Hotels and Leisure

Applicant: Park Resorts

Development: Conversion of existing barns and stables to 18 self catering holiday accommodation units and for the erection of 14 new holiday cottages

Ward: Pyefleet

Summary of Recommendation: Conditional Approval subject to no objection by Highway Authority

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application, objections have been received and the application is recommended for approval.

2.0 Synopsis

- 2.1 The key issues explored below are the history of the Coopers Beach Holiday Park, policy and highway considerations; the objections received will also be commented on.

3.0 Site Description and Context

- 3.1 The site forms part of Coopers Beach Holiday Park, an established site comprising over 600 static holiday caravans, a club house, pool and recreation facilities, site reception/sales offices, maintenance buildings, redundant agricultural buildings and an area used for the display of caravans for sale.
- 3.2 The Holiday Park is in East Mersea and it is accessed from Church Lane leading off East Road, East Mersea. The holiday caravans are on a triangular shaped area of land with a direct frontage to the water. The entrance to the site is to the north of the holiday caravans and this area contains the offices and reception building.
- 3.3 The Holiday Park is located to the south of St Edmunds Church, a Grade 1 Listed Building and to the north of the church is East Mersea Hall, a Grade 2 Listed building. To the west and east of the site are areas of agricultural land.

- 3.4 The application site is an irregular shaped parcel of land located immediately north of the main holiday complex and can be divided into two parts. The northern part consists of a group of single storey former agricultural buildings. These buildings provide an enclosure along the northern boundary, with an inner courtyard, and a barn, which is used for storage/workshop. It also includes land used for caravan sales.
- 3.5 The other area of land lies to the south of the barn and is currently overgrown with a limited area of open storage. The eastern boundary is enclosed by an area of woodland.

4.0 Description of the Proposal

- 4.1 The application proposes the following:
- The conversion of the existing group of former agricultural buildings to provide 18 self catering holiday accommodation units and
 - The erection of a group of 14 new holiday cottages. These are in the form of three groups of terraced, one-and-a-half storey, two and three bedroom buildings
- 4.2 Parking areas between the self catering units and holiday cottages will provide 32 parking spaces. The scheme also proposes the provision of secure cycle parking racks, together with an on-site cycle hire facility.
- 4.3 The application is supported by a Planning Statement, A Design and Access Statement, a Transport Assessment/Travel Plan Framework, a Heritage Statement, a Structural Survey of the existing buildings within the site and an Acoustics Report.

5.0 Land Use Allocation

- 5.1 Caravan Park

6.0 Relevant Planning History

- 6.1 110953 Application for the conversion of existing barns and stables to form 18 self catering holiday accommodation units and erection of 14 new holiday cottages approved 21 February 2012
- 6.2 The above application is identical to that under consideration the planning permission is extant as it does not expire until February 2015.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through 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
- ENV2 - Rural Communities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP9 Employment Uses in the Countryside
- DP10 Tourism, Leisure and Culture
- DP14 Historic Environment Assets
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP22 Dedham Vale Area of Outstanding Natural Beauty
- DP23 Coastal Areas

- 7.4 Further to the above, the Site Allocations Document (adopted 2010, amended 2014) identifies a 7.8 hectare site as an extension to the Coopers Beach Holiday park site.

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

- Vehicle Parking Standards
- External Materials in New Developments
- East Mersea Village Design Statement

8.0 Consultations

- 8.1 Contaminated Land Officer - The report is satisfactory for Environmental Protection purposes. Some potential risks have been identified for further investigation and assessment (including the presence of asbestos in existing buildings). However, based on the information provided, it would appear that the site could be made suitable for the proposed use, with the necessary additional works conditioned. Consequently, should permission be granted for this application, we would recommend inclusion of conditions.

- 8.2 Environment Agency - As the proposed development site is less than 1 hectare in size, and located in Flood Zone 1, the main flood risk issue to consider is the management of surface water run-off. This is covered by our Flood Risk Standing Advice (FRSA) available online
- 8.3 Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

This application is in close proximity to the Colne Estuary Site of Special Scientific Interest (SSSI).

This SSSI forms part of the Colne Estuary Mid Essex Coast Phase 2 Wetland of International

Importance under the Ramsar Convention (Ramsar Site) and Special Protection Area (SPA) and also, the Essex Estuary Special Area of Conservation (SAC).

Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Colne Estuary Mid Essex Coast Phase 2 Ramsar and SPA, and Essex Estuary SAC have been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Colne Estuary SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

Impact Risk Zones for Sites of Special Scientific Interest

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated. Further information and guidance on how to access and use the IRZs is available on the Natural England website.

8.4 Environmental Protection no comment

- 8.5 Essex Wildlife Trust - With regard to the above application, we have some reservations and concerns in respect of the potential for increased recreational disturbance on the Colne Estuary Site of Special Scientific Interest (SSSI). This SSSI forms part of the Colne Estuary Mid Essex Coast Phase 2 Wetland of International Importance under the Ramsar Convention (Ramsar Site) and Special Protection Area (SPA) and also, the Essex Estuary Special Area of Conservation (SAC).

If the council is minded to grant permission for this development, we respectfully suggest that provision of sufficient recreational open space within the caravan park should be ensured through an appropriate planning obligation.

This is particularly relevant as it has come to our attention that additional concrete pitches for extra caravans and lodges are currently being built on the existing amenity open spaces within the site. We are concerned that this may be in breach of the conditions of the current site licence and will further increase the number of visitors to the Colne Estuary SSSI. We would appreciate your confirmation as to whether this increase in the number of caravan pitches on the site is permitted under the terms of the current licence.

- 8.6 Planning Policy comments - This application is a renewal of planning application 110953 that was approved with conditions on 21 February 2011. The development area falls within a 7.8ha extension to Coopers Beach Holiday Park in East Mersea that was approved through the Site Allocations process in 2010.

The key local policies of relevance to this application are ENV1 (Environment), of the Core Strategy; and DP1 (Design and Amenity) and DP10 (Tourism, Leisure and Culture) of the Development Policies DPD. The issues raised in the previous policy response are still relevant. Since the first application was approved the National Planning Policy Framework has been published and this is a material consideration as is the East Mersea Village Design Statement that was adopted in April 2013 as guidance.

The Site Allocations lists considerations that need to be addressed as part of any development in the extended part of the caravan park. These include:

- Delivery of or contribution towards highway and access improvements required as well as the public transport, cycling and walking.
- A landscaping scheme designed to minimise the impact of the extended site on the surrounding landscape, particularly to the western boundary of the site shall be provided.
- A code of conduct to be agreed between land owners, Natural England and Colchester Borough Council.
- Occupancy restrictions to be placed on the site to restrict occupancy during the sensitive winter months.

The principle of the proposed use complies with Colchester Borough Council's planning policies. Paragraph 8.17 of the Site Allocations DPD recognises the valuable contribution caravan parks such as Coopers Beach make to the supply of holiday accommodation in the Borough. The development site falls in Flood Zone 1 therefore there are no conflicts on with the Technical Guidance covering flood risk management in the NPPF or Development Policy DP20 (Flood Risk and Management of Surface Water).

Planning Policy supports the conversion of the existing rural buildings as part of the proposals; this accords with national policy particularly paragraph 28 of the NPPF which supports sustainable rural businesses which involve the expansion of existing rural businesses and the re-use of existing buildings. The conversion of the existing buildings also accords with local planning policies DP9 and DP10 relating to tourism use in the countryside. The original policy response raised concerns about the proposed new buildings in terms of their height and scale and potential impacts on the setting of St Edmunds Church and landscape character.

The proposal does not accord with the findings of the East Mersea Village Design Statement in which 76% of local residents strongly opposed the expansion of tourism related businesses. While local residents acknowledged that caravan parks were important to the local economy of Mersea they had concerns about the landscape impacts arising from the expansion of such businesses through increased light pollution, impacts on the local highway network, rural character of the area and on other local businesses.

ENV1 Policy ENV1 (Environment) of the Core Strategy states that the Council will conserve and enhance Colchester's natural and historic environment. Specific reference is made to Natura 2000 sites. The supporting text to policy DP10 states that extensions to existing holiday parks should include mitigation measures to manage environmental impacts on Natura 2000 sites. Given the close proximity of the site to the Colne Estuary Special Protection Area (SPA) and Essex Estuaries Special Area of Conservation (SAC) (Natura 2000 sites) and the potential increase in visitor numbers, the requirement for the site owners to enter into Code of Conduct agreed between CBC and Natural England to protect the integrity of the European Protected Sites remains valid. The code of conduct should cover the issues of educating guests about the sensitivity of the Colne Estuary and possible access information. To ensure no adverse affects, an occupancy restriction should be put in place to prevent the full time occupation of the units winter months, which are the most sensitive times of year for key features of the Colne Estuary SPA. This will also be needed to prevent the units being used as permanent residences.

The Site Allocations DPD requires the delivery of or contribution towards highway and access improvements required as well as the public transport, cycling and walking and policy DP10 also requires tourism proposals to promote accessibility. Due to the nature of the proposed use it is highly likely that the majority of visitors will arrive by car. Planning policy welcomes the preparation of a Travel Plan proposing new cycling facilities as part of the development. The caravan park owners should also provide additional information promoting walking and cycling routes in the local area for those staying at Coopers Beach. This would accord with proposals in the East Mersea Village Design Statement to improve cycling facilities between West and East Mersea.

In conclusion, the land is allocated in the Site Allocations DPD for an extension to the Coopers Beach Holiday Park. This application should only be permitted:

- If Development Management is satisfied that the proposed design of the new buildings accord with the objectives of policy DP1 parts (i) and (v), DP10 and DP14 and Site Allocations DPD with respect to height and scale and design objectives
- If it is considered that the proposed new buildings will not harm the landscape character and setting of the adjacent listed church (in accordance with policies DP1 and DP14).

- Contributions are secured towards highway/access improvements required as well as the public transport, cycling and walking as advised by the Highways Authority.
- A landscaping scheme designed to minimise impacts arising from the development on the surrounding landscape, is provided and agreed by the Council.
- A code of conduct is agreed between the applicants, Natural England and the Council (in accordance with policy ENV1).
- An occupancy restriction is imposed precluding the use of the units during winter months (in accordance with policy ENV1).

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The 'East Mersea Parish Council has discussed this resubmission of a significant (for East Mersea) building programme to provide 18 self catering cottages and 14 new holiday homes on the northern part of Coopers Beach. Whilst we accept that the original submission was approved in early 2012 we do have significant reservations:
- Since the 2012 approval for the original application Coopers Beach now has a 12 month season for its static caravans. Although the new application continues with the previous condition (9 months occupancy (1 Mar to 31 Oct) , a number of weekends and a 14 day occupancy period over Christmas) we would be very concerned if at a future date park Resorts applied for a 12 month season for these buildings as this could encourage all year round occupancy leading to individuals living full time as residents - we are aware that this practise of living full time on site is being carried out but does not appear to being policed properly by the site management.
 - We believe that the noise and transport surveys/reports date from 2010/11 - are these out of date. We note that the submission states that 'The Holiday park is well established and is accessible by a wide range of transport' - there is currently one bus a week on a Monday.
 - If the current usage of the sheds is for storage it seems likely that there will be a further application for storage facilities in the future - should this be included in this application in order to have a joined up end to end approach to planning?
 - In addition and in order to reinforce the first point made, whilst CBC may not consider the reputation and history of the applicant to be material, we have become very concerned that Coopers Beach management does not appear to be enforcing current conditions concerned with their 12 month season license. We understand that Coopers Beach salesmen are being, at the very least, disingenuous about the rules concerning residency on the site. In addition flyposting advertising Coopers Beach appears regularly on the routes to, and on, Mersea even though warnings have been issued by CBC Enforcement to Coopers Beach management to desist. Last Sunday (21 September) their advertising van was parked at the Strood car park. Approving this application may appear to be rewarding, and encouraging, further poor behaviour.
 - Pre planning applications are now seen to be good practise and that Planning Performance Agreements are becoming the norm - we are interested if Coopers Beach management (and therefore by implication Parks Resort management) has been through this process with CBC. Our point is that at no stage has Coopers Beach management engaged proactively with either affected neighbours or EMPC - on a project of this size we would have appreciated consultation.'

10.0 Representations

10.1 Colchester Cycling Campaign This development should have either a secure cycle compound or two cycle-parking spaces per cottage.

10.2 Two objections have been received

- staff at Coopers Beach have different agendas when it comes to selling their static caravans. Whilst reception staff reiterate that Coopers Beach is a holiday park, the sales staff pull all the stops to encourage sales, including promoting the idea of living as a resident on the park.
- More than 20 static vans and lodges being used as a residence although it's been arranged in some cases that those owners who don't have a permanent address in their name use an address belonging to a member of the family or a friend, and have their names added to that person's yearly council tax.
- At present new lodges and static vans are being added to the Coopers Beach site on new pitches currently being constructed. The first of these sites has already been sold to a family who has apparently just sold their house so as to live on Coopers Beach.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 The parking standard for Caravan Parks is one space per pitch and one space per full time equivalent, cycle parking is one space per five pitches. There is no specific standard for this type of holiday accommodation.

11.2 The application shows the provision of 32 parking spaces; 28 of these are within an area of land between the converted outbuildings and the holiday cottages, the remainder are on land occupied by sales caravans. The main parking area has been divided up by the use of planted spacers between the groups of three and four bays. The scheme proposes that each unit of accommodation will be provided with secure cycle parking. In addition cycle hire facilities are proposed.

There is space within the site to accommodate vehicles generated by this proposal.

12.0 Open Space Provisions

12.1 There is no standard for holiday accommodation but the development proposes a central courtyard for the self-catering accommodation and the converted holiday lets each have an amenity area.

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 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Policy Issues

- 15.1 This site is a small part (0.7 hectares) of a much larger area (7.8 hectares) allocated for holiday caravan use within the Site Allocations Document and forms an extension to the Coopers Beach Holiday Park. The main area of the extension relates to land on the opposite side of the access road. The allocation document lists a number of considerations that need to be addressed within any application. The main issues are: delivery of or contribution towards highway and access improvements as well as public transport, cycling & walking; a Code of Conduct to be agreed between land owners, Natural England and Colchester Borough Council; occupancy restrictions; landscaping scheme to minimise impact and no detrimental impact upon St Edmunds Church. These issues are all addressed in the application proposals.
- 15.2 The reuse of the existing buildings is supported policy terms, and this is acknowledged by Spatial Policy in their consultation response.
- 15.3 Planning permission was granted for an identical development under application reference 110913. This is an extant planning permission and a material consideration.

Design

- 15.4 The submitted scheme includes amendments to the layout and design previously negotiated by the Design and Heritage Team. Whilst the buildings are not listed they are of traditional design. The buildings when converted will have slate roofs and brick and weather boarded elevations and will provide an attractive edge to the holiday park site. The new build units have steeply pitched slate roofs and dark stained weather boarded elevations.

Scale Height and Massing

- 15.5 The proposal involves the conversion of existing buildings mainly single storey but including one 2-storey building. The new build cottages are 1 - 1.1/2 storeys in height. The new build reflects the scale of existing buildings and are mainly hidden from public views by existing holiday park development.

Highway Matters

- 15.6 The application is supported by a Transport Assessment (Transportation Statement & Travel Plan Framework). There are approximately 600 static caravans within the complex. The proposal is to provide an additional 32 units and whilst it will add to the existing vehicular activity within the area it is not of a scale that would justify withholding permission. The response from the Highway Authority is awaited but they did not raise any objection to the previous application.

- 15.7 The Travel Plan seeks to encourage staff & visitors to use cars more efficiently and to encourage alternative travel modes (walking, cycling & public transport).

Nature Conservation

- 15.8 The site is in close proximity to the coastal Ramsar, SPA and cSAC and the Colne Estuary SSSI however Natural England has confirmed the development will not have an adverse impact on the European site and has raised no objection. The application site is further from these protected areas than the existing holiday caravans. There is scope within the site for biodiversity improvements and this is secured by condition

Heritage Issues

- 15.9 The Heritage Statement assesses the impact on the adjacent listed buildings; namely the Church and Hall. The report concludes there will be no adverse impact. These buildings are separated from the new buildings by the existing former agricultural buildings, which are to be converted, as well as by the new parking area between the existing and the proposed buildings. The conversions in themselves will not adversely impact upon these listed building or their wider settings.

Comments on objections raised

- 15.10 The comments made by the parish council and residents refer to the 12 month occupancy of the caravans and refer to possible breaches of the site license in respect of residential rather than holiday use. The occupancy on the Coopers Beach site is controlled by the site license only. Planning permission was granted at appeal in the 1960's and the Planning Inspector decided it was not necessary to impose a planning condition restricting the occupancy period as this would be secured under the site license. The Council's Licensing, Food and Safety Team has recently amended the site license to allow the caravans to be occupied for 12 months but for holiday purposes only. The licensing team is aware of and investigating possible breaches of the license. The current application does not propose 12 month occupancy and a new planning application would be required to vary any of the conditions. The Planning Investigation Team is also aware of the issues involving the display of adverts. The existing buildings have limited use for storage and maintenance purpose; any new buildings would require planning permission.
- 15.11 It is understood new bases are proposed within the authorised caravan site area and the total number will not exceed the maximum number imposed on the license.
- 15.12 This application has to be determined on its planning merits and the extant permission for an identical development is a material consideration.

16.0 Conclusion

- 16.1 The site is allocated for holiday use and is therefore acceptable in principle and in accordance with policy. The development is also considered to be acceptable in terms of the design and layout and in terms of the landscape impact. A condition is proposed to restrict the period that the accommodation can be occupied. Other conditions will secure the provision of an agreed Code of Conduct and Travel Plan.

17.0 Recommendation

17.1 That subject to no objection being raised by the Highway Authority planning permission be granted 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 3147-215 rev B,, 210 Rev D, 216 Rev B, 217 Rev C, 225 Rev A and 226 Rev A

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

3. The new accommodation hereby permitted shall only be used to provide holiday accommodation as an extension to the existing Coopers Beach Holiday Park and shall not be occupied other than as follows:-

- (i) Between 1 March to 31 October; and then
- (ii) At weekends from 1 November to 14 January in the subsequent year (weekends being defined as mid-day Friday to mid-day Monday) both dates inclusive together with
- (iii) A period of 14 consecutive days from 23 December to 5 January, both dates inclusive.

Reason: The site is within an area where it is the policy of the Local Planning Authority to prevent permanent residential use. Planning permission is given in this instance for holiday use only as an extension to the existing Holiday Park.

4. The car parking facilities shown on the approved Drawing No. 3147-210 Rev D shall be provided prior to the use of any of the new accommodation hereby approved, and thereafter maintained as such to serve the development. The three disabled parking bays shall be marked out as such and thereafter retained.

Reason: In order to provide adequate parking facilities to serve the development in the interest of highway safety and the amenity of the area in general.

5. Cycle parking facilities, together with cycle hire facilities, shall be provided in accordance with the submitted Travel Plan Framework, or as agreed in writing by the Local Planning Authority in consultation with Essex County Council Highway Authority in the form of any amendments to the Travel Plan. These facilities shall be maintained thereafter to serve the development.

Reason: In order to provide adequate cycle facilities and to encourage the use of alternative modes of travel.

6. Prior to any of the development being first brought into use information relating to public transport facilities shall be made available to all occupiers of the new accommodation, and within the Holiday Park in general, in accordance with details to be submitted to and agreed by the Local Planning Authority in consultation with Essex County Council as the Highway Authority. These details shall be included within any amendment to the Travel Plan.

Reason: In order to encourage the use of public transport facilities.

7. Notwithstanding the details shown on the approved drawings, the accommodation to be provided by the conversion of the existing outbuildings and the new holiday cottages shall be compliant with the Disability Discrimination Act.

Reason: For the avoidance of doubt and to ensure that the development is DDA compliant.

8. 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.

9. 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

10. 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.

11. 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 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, 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 10.

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.

12. ZG3 - *Validation Certificate*

Prior to the first 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 9.

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

13 Samples of the materials to be used on the external finishes shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall only be carried out using the approved materials.

Reason: To ensure the use of appropriate materials and finishes within this site which lies within the open countryside and in close proximity to Listed Buildings.

14 No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate:

- Existing and proposed finished contours and levels.
- Means of enclosure.
- Car parking layout.
- 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, signage, lighting).
- Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).
- Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant size and proposed numbers/densities.
- Planting area protection or decompaction proposals.
- Implementation timetables.

Reason: To safeguard the provision of amenity afforded by appropriate landscape design.

15. All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

16 Before any works commence on site, details of advance or screen planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate standard of visual amenity in the local area.

17 No works shall take place until such time as details of a Code of Conduct have been submitted in writing to the Local Planning Authority and agreed in writing following consultation with Natural England and the local landowners. The Code of Conduct shall include provision for the education of guests about the sensitivity of the Colne Estuary and possible access information. The development shall then be carried out in accordance with the agreed scheme and this scheme shall remain in operation thereafter.

Reason: In the interests of the amenity of this area of land within the Coastal Protection Belt and adjacent to a protected European Site.

18 ZGT - No External Light Fixtures

No external lighting fixtures shall be constructed, installed or illuminated at any time.

Reason: To ensure that there are no undesirable effects of light pollution.

19 No works shall take place until details of a programme of biodiversity enhancements, including implementation timetable, has been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: In the interests of the amenity of the area.

18.0 Positivity Statement

18.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

19.1 See 17 above

20.0 Informatives

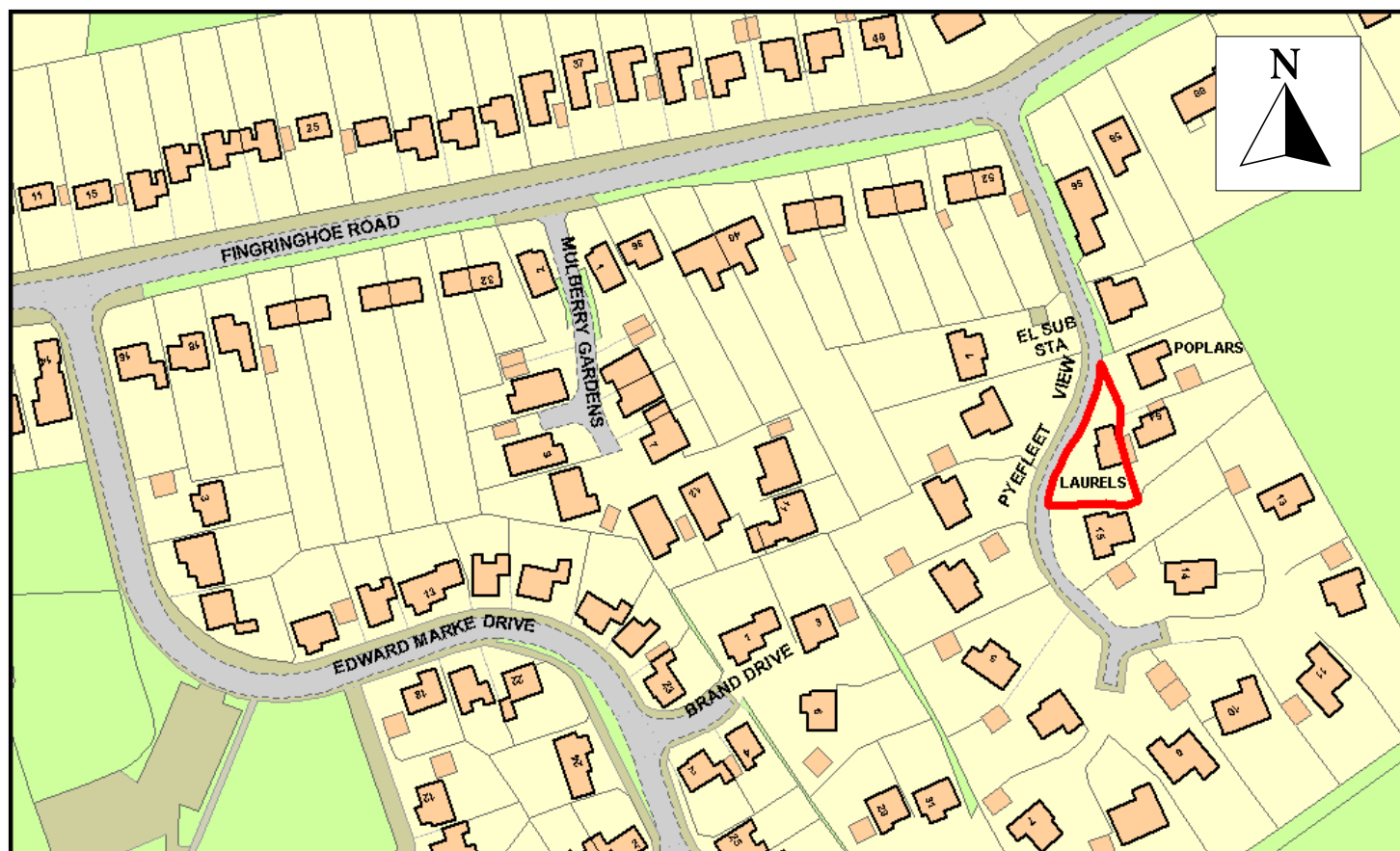
(1) ZT0 – Advisory Note on Construction & Demolition The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631

(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. Please pay particular attention to these requirements.

(4) PLEASE NOTE: It is possible that a protected species may be present at the site, which are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Eastbrook, Shaftesbury Road, Cambridge CB2 8DR, Tel. 0300 060 3787.



Application No: 145733

Location: The Laurels, Pyefleet View, Langenhoe, Colchester, CO5 7LD

Scale (approx): 1:1250

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7.7 Case Officer: Nadine Calder

HOUSEHOLDER

Site: The Laurels, Pyefleet View, Langenhoe, Colchester, CO5 7LD

Application No: 145733

Date Received: 18 August 2014

Agent: Duncan Clark & Beckett

Applicant: Mr John Warsap

Development: Proposed detached garage to front garden and associated landscaping works including alterations to access onto public highway.

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 The Planning Committee at its meeting on 2 October 2014 considered the officer report that recommended conditional approval, but was concerned that the proposed location of the garage may have a harmful impact on neighboring amenities and requested that other options for the location of a garage on the application site shall be explored and reported back to the Committee. The agent has since reviewed the proposal against comments received from the objectors and the Planning Committee which has led to three alternative locations being assessed, following which the agent confirmed that the proposed siting for the garage as originally submitted is the proposal they wish to proceed with.

1.2 The relevant section from the minutes is produced below:

“Members of the Committee sympathised with the wish for a garage by the applicant but generally were concerned about the potential loss of amenity at the neighbouring property from the current proposal due to its location on the site and the roof height.

The Planning Manager confirmed that further discussions could take place with the applicant to explore other options in terms of design and location.

RESOLVED (UNANIMOUSLY) that consideration of the application be deferred and the Head of Professional Services be requested to undertake further discussions with the applicant with a view to seeking an improved location and design to address concerns expressed by the owner of the adjacent property, following which the application be referred back to the Committee for further consideration.”

1.3 Given that the submitted drawings have only amended the height of the proposed development but not its location, no additional consultation letters have been sent out to neighbours as their comments have already been taken into consideration as part of the original report. This report considers the alternative locations that have been

submitted and the changes that have been made to the proposed development in terms of its design, having regard to concerns that have been raised by the Committee and representations made by third parties. A copy of the original report to the Committee is included at the end of this report as an addendum.

2.0 Report

- 2.1 Following the Planning Committee's request to seek an improved location and design for the proposed garage, the agent has explored the following alternative locations for the proposed garage:

Option A - Garage attached to the existing dwelling

- 2.2 This option considers the proposed garage to be directly attached to the side of the original dwelling and within the existing garden area. In this position, the garage would project forward of the original dwelling and would reduce the private amenity area of the application property to 56m². Policy DP16 requires dwellings with one or two bedrooms to provide a minimum of 50m² usable private amenity space and whilst the proposal would comply with this requirement, it is considered that the remaining 15 properties in Pyefleet View benefit from much larger private amenity spaces and in this context, the resulting garden area would be out of character with the surrounding area. Additionally, all 15 properties within the cul-de-sac benefit from a detached garage and to attach the proposed garage to the existing dwelling would therefore be wholly out of character with the surrounding area. This option is therefore considered to be undesirable.

Option B - Garage within landscaped garden to the north of the dwelling

- 2.3 The second option considers positioning the garage within the landscaped garden to the north of the dwelling. However, accommodating the garage in this location would require the removal of large areas of the existing laurel hedge and an existing semi-mature tree with no opportunities to provide replacement planting. The garage would be located in a very prominent location along Pyefleet View and the impact of the proposed development on the wider area would be greater due to its exposure as a result of the loss of existing soft landscaping features. Additionally, given the limited size of this area, it would not be possible to provide a garage with the required dimensions in order to be counted towards the parking space allocation. Finally, whilst it has to be noted that the Highway Authority's comments have not been sought on this option, it is obvious from the submitted drawing that there would be insufficient space to provide adequate turning facilities to enable vehicles to enter *and* exit the site in a forward gear, thereby creating potential risks with regards to highway safety/efficiency. Having regard to all of the above, this option is also considered to be unacceptable.

Option C - Garage located adjoining existing garden boundary wall

- 2.4 The third option shows the garage in the position for which planning permission has previously been refused in 2007 (reference F/COL/07/0219). The positioning of the garage in this location would require the removal of parts of the existing laurel hedge and a semi-mature tree in order to ensure that vehicles could enter and exit the site in a forward gear. As such, the increase in built development on the site would be more obvious as existing landscaping which would otherwise soften the impact of the development on the wider area would be lost. The garage would also be located within close proximity of the neighbouring ground floor window which would result in a loss of light and negative impact on their outlook. However, the main reason for refusing

planning permission for the garage in this location in 2007 was that the development would appear artificially cramped and out of character with the well-established street scene as a result of which the garage would detract from both the visual appearance and amenity of the adjacent dwellings and the surrounding area. As highlighted in the original report, the character of the area has changed since 2007 in that it is not as open compared to when the properties were first built or when the proposed development was most recently assessed in 2007. Notwithstanding this, the garage in this location remains unacceptable as it would cause material harm to the neighbouring occupiers in terms of loss of light and outlook while the increase in built development would be more obvious due to the loss of existing mature soft landscaping.

Proposal as originally submitted

- 2.5 Following the assessment of the above options, it is concluded that the proposed garage is most suitably located in the position the subject of the original application. In this location, the proposal would not have a negative impact on highway safety or efficiency, nor would it have a materially harmful impact on the wider area. This is as a result of the additional soft landscaping that is proposed along the front of the site which would aid in softening the development's impact on the wider area and which would be secured via a condition. Similarly, impacts on the neighbouring dwelling and its occupiers have been kept to a minimum by positioning the garage away from their ground floor window, thereby ensuring that there would be no materially harmful impact in terms of loss of light or outlook to and from their dining room window. Having had regard to concerns that have been raised by the Committee, the height of the proposed garage has been reduced by 0.5m to a maximum of 3.6m to keep the impact of the proposed development on the residential amenities of the neighbouring occupiers to a minimum.
- 2.6 In addition to the above, concerns were raised that the proposed garage would not be able to accommodate a family car. The adopted Supplementary Planning Document (SPD) "Vehicle Parking Standards" (2009) states that "garages need to be large enough to accommodate a modern, family sized car and some storage". For this reason, garages should measure 7.0m x 3.0m (internal dimension) in order to be counted towards a parking space allocation. The SPD goes on to state that "garages of the above dimension and over are considered large enough for the average sized family car and cycles, as well as some storage space, and will be considered a parking space. Any smaller and the garage could not be considered a parking space or count towards the parking space allocation."
- 2.7 The garage the subject of this application measures 6.5m x 3.0m and is therefore below the aforementioned dimensions. However, the garage only falls short of this requirement by 0.5m in depth which is the additional space that is required for storage. The proposed garage is therefore considered to be of sufficient size to accommodate the average sized family car as set out in the aforementioned SPD while it would also be of sufficient size to provide some additional space for storage which is considered to be a benefit given that outside the private amenity area there are no existing storage facilities on the site. Having regard to the above, it is your officer's view that refusing the proposed development on its shortfall in internal dimensions would not be sustainable at appeal.

3.0 Conclusion

- 3.1 The additional information that has been provided by the agent has reiterated that the proposed development is most suitable in the location as originally submitted and considered by the Committee. Whilst it is accepted that the proposed garage would have some impact on the residential amenities of the neighbouring occupiers in terms of outlook, this is not considered to be materially harmful and does therefore not warrant a refusal. Furthermore, the reduction in height by 0.5m keeps the impact on the neighbouring occupier and the surrounding area as a whole to a minimum. The provision of additional soft landscaping to the front of the garage would further limit the impact of the proposed development on the wider area. On this basis, it is your officer's view that the development in its proposed location is acceptable.

ADDENDUM – PREVIOUS REPORT

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Cllr Robert Davidson as he believes the proposal to be overdevelopment of the site and to fail the standards set out in CBC's planning guide "Extending Your House?" and the Essex Design Guide.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposed development on neighbouring amenity, the character and appearance of the surrounding area and highway safety. In conclusion, it is considered that the proposal would cause neither material nor adverse harm and accords with national and local policy requirements. The application is therefore recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The application site is roughly triangular in shape and comprises of a detached two storey property located along the eastern boundary of the site. The main amenity space of the property lies to the side of the dwelling. The front boundary along Pyefleet View is well landscaped with Laurel bushes and there is existing off street parking and adequate turning and manoeuvring space within the front of the site.
- 3.2 Access to the site is gained off Pyefleet View, a cul-de-sac of modern detached houses set within generous plots and behind well-landscaped frontages which is accessed off Fingringhoe Road. The application site formerly formed part of a large side garden and provided garaging facilities to No. 15 Pyefleet View.

4.0 Description of the Proposal

- 4.1 Planning permission is sought for the erection of a detached garage in the front garden and within the south western corner of the application site. The proposed garage would measure 3.2m in width, 6.7m in depth and 4.1m in height and would be constructed with a brick plinth, weatherboard and plain tiles to match the materials used on the host dwelling.

- 4.2 As a result of the proposed garage, the existing vehicular access off Pyefleet View would be moved slightly further north which would result in the loss of some of the existing Laurel bushes along the western side of the site, however, existing soft landscaping would be reinforced and additional planting is proposed along the south western side of the site in between the road and the proposed garage.

5.0 Land Use Allocation

- 5.1 The application site is located within the Coastal Protection Belt.

6.0 Relevant Planning History

- 6.1 When consent was granted to erect the existing dwelling on this site (references O/COL/05/0214 and RM/COL/05/1036) permitted development rights for extensions, garages, sheds, conservatory, buildings etc. were removed (condition 3 of O/COL/05/0214). This was to safeguard the visual amenity of the area, to protect the amenity of adjoining residents and to prevent overdevelopment of the site by controlling future extensions, alterations and associated development.
- 6.2 In 2007, an application for the erection of a detached garage to the front of the dwelling (reference F/COL/07/0219) was refused and subsequently dismissed at appeal as it was considered that the structure would appear cramped and out of character with the street scene, thus detracting from both the visual appearance and amenity of the adjacent dwellings and the surrounding area. A further application for a detached garage in the front garden was submitted and subsequently withdrawn prior to a formal decision being made earlier this year (reference 144911).

Amendment to paragraph 6.2 (as per Amendment Sheet):

In 2007, an application for the erection of a detached garage to the front of the dwelling (reference F/COL/07/0219) was refused as it was considered that the structure would appear cramped and out of character with the street scene, thus detracting from both the visual appearance and amenity of the adjacent dwellings and the surrounding area. This refusal was however not, as stated in the report, appealed.

There have been two applications that were refused by the Council and dismissed at appeal. These are the original applications for the erection of a bungalow and associated garage (references O/COL/03/0111 and O/COL/04/0282), however, these are not particularly relevant to the current proposal.

The proposal for a detached garage only has not been challenged at appeal and what Members of the Planning Committee should therefore have regard to, as set out in paragraph 15.13 of the report, is whether the reasons for previously refusing a detached garage by the Council (instead of the reasons for dismissing an appeal by the Planning Inspectorate) remain applicable despite changes to the site and to our policies since that time.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to

be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
UR2 - Built Design and Character
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP19 Parking Standards
DP23 Coastal Areas
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Vehicle Parking Standards
Extending Your House?
The Essex Design Guide

8.0 Consultations

- 8.1 Environmental Protection have no objection to the proposal but recommend that should consent be granted, the Advisory Notes for the Control of Pollution during Construction & Demolition Works be attached.
- 8.2 The Highway Authority does not object to this proposal subject to a condition that restricts the use of unbound material in the surface treatment of the vehicular access within 6 metres of the highway boundary.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The Parish Council object to the proposed development as the revised proposal still represents over development when the overall street scene of Pyefleet is considered.

10.0 Representations

- 10.1 Five letters of objection have been received, stating the following:
- Overdevelopment of the site.
 - A garage in this position will completely remove the open feeling of the area.
 - Loss of light to our dining room.
 - Visual obstruction to our existing outlook.
 - The appearance of the garage is different to and not in keeping with the rest of the garages in the road.

- Visual obstruction at a bend in a single lane road, consequently putting pedestrian safety at risk.
- Block view around the corner to see oncoming traffic.
- Loss of existing driveway.
- During construction there will be disruptions for lengthy periods of time.
- The garage that is larger and nearer the road than that rejected in 2007 (Ref F/COL/07/0219).
- Development would set a precedent.
- Visitors to our house would feel vulnerable when walking to and from the front door.
- Development would create a screen, making our property a potential target for intruders.
- Visual obstruction to anyone trying to locate our house from the road.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The proposed garage would provide one parking space while an additional parking space and adequate turning and manoeuvring space would be retained on the site.

12.0 Open Space Provisions

- 12.1 The nature of this development means that there is no policy requirement for the provision of open space in this case.

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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 Core Strategy Policy UR2 states that the Borough Council will promote and secure high quality and inclusive design in all developments to make better places for both residents and visitors. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported while Development Policies DP1 and DP13 require all development to be designed to a high standard, avoid unacceptable impacts on public and residential amenity, and demonstrate social, economic and environmental sustainability.

- 15.2 The design of the proposed development is considered satisfactory on its own merits. The development is visually acceptable and would not detract from the appearance of the original property. Since the withdrawal of the previous application, the proposed garage has been considerably reduced in width and height, thereby reducing its impact on the wider area. As such, the proposed development is not considered to represent overdevelopment of the site. Furthermore, positioning the garage slightly further into the plot allows the reinforcement of existing planting and space to plant additional soft landscaping between the highway and the garage (which would further aid in reducing the impact of the proposed garage on the wider area).
- 15.3 It is noted that garages within the cul-de-sac are predominantly double garages constructed of brick and render whereas the proposed garage would be for a single garage with a brick plinth and weatherboard. However, these materials would complement the materials of the host dwelling which the proposed garage would be most associated with. Furthermore, the proposed garage would be considerably smaller in size compared to the double garages and although it is not as far set back into the plot as other garages within the immediate vicinity of the site, it is considered that neither the design nor the layout or appearance of the proposed garage would have a materially harmful impact on the character and appearance of the wider area. Furthermore, existing and proposed soft landscaping along the road would aid in softening the impact of and partially screen the proposed garage from wider views and as such, the impact of the proposed development on the wider area is considered to be limited.
- 15.4 It has been noted that the occupiers of No. 15 have raised concerns with regards to loss of light and outlook to their ground floor dining room window. However, due to its orientation, location and reduced scale and bulk, the proposed garage is not considered to have a materially harmful impact with regards to loss of light to the neighbouring dining room window. The usual 45 degree tests have been applied in making this calculation. Similarly, the current outlook from that dining room is towards the front garden of the application site, more specifically an area where the applicants park their cars and the proposed garage is therefore not considered to have a materially harmful impact on the neighboring outlook. It is acknowledged that the proposed garage would result in an increase in built development when viewed from the neighbouring dining room, however, this is not considered to impact on the residential amenities of the neighbouring occupiers to such a degree that would justify a refusal.
- 15.5 The occupiers further state that the proposed development would have a negative impact on their safety while creating a visual obstruction to anyone trying to locate their house. Whilst the latter is not a material planning consideration, health and safety, crime and fear of crime are valid planning considerations. Having said that, whilst these claims are taken seriously, Officers are not of the opinion that the proposed garage would result in an increased risk to the safety of neighbouring occupiers as there does not seem to be any direct connection between the proposed garage and the assumption that visitors would feel vulnerable when walking to and leaving the neighbouring property. Similarly, it cannot be reasonably argued that the proposed development would increase the risk of the neighbouring property being targeted by intruders. The proposed garage would of course result in a built structure that would be more prominent than the existing off street parking, however, this in itself would not justify the refusal of the proposed development on the basis of increased crime or safety risks.

- 15.6 Further concerns have been raised in terms of highway safety and efficiency, specifically with regards to the proposed garage being located along a bend within a single track lane, however, the Highway Authority has not objected to the proposal subject to conditions and as the recognised experts in highway safety and efficiency, the opinions of the Highway Authority must be given great weight. There is sufficient space to accommodate a minimum of 2 off street parking spaces on the site, thereby complying with current parking standards. With regards to highway safety, a site visit has shown that the proposed garage is clearly not proposed to be in a location that would block the view to see oncoming traffic when approaching the bend in either direction. In fact, the proposed garage would be set far enough into the plot as to not have an impact on visibility.
- 15.7 It is noted that the proposed garage would not meet the minimum internal dimensions of 7m x 3m which would normally be required from new developments, however, it is considered that in this instance, the garage only falls short of the required depth by 300mm which should nevertheless provide some space for cycle storage and which is considered to be a benefit given that there are no existing storage facilities on the site. Furthermore, whilst it is appreciated that the construction phase will result in some traffic, this is an inevitable part of new development and does not in itself constitute grounds of refusal. On this basis, it is concluded that the proposed development has limited impact in terms of highway safety and efficiency and is considered acceptable in this instance.
- 15.8 Consideration has also been given to previous refusals of planning permission relating to a detached garage on the application site, and more specifically the most recent decision by the Planning Inspectorate which dismissed the appeal following refusal of planning application reference F/COL/07/0219. These decisions have been based on the open character of the site which would have been disturbed by the proposed structure. Whilst these applications have been assessed against policies that have since been updated, it has to be noted that a site visit undertaken during the process of the current and previous application has shown that the front boundaries of properties along Pyefleet View now benefit from mature soft landscaping including trees, hedgerows and bushes which form some sort of enclosure and provide the properties and their front gardens with some screening when viewed from the road. As such, the character of the area is not as open as it may have been when the properties were first built some 20 years ago or when the proposed development was most recently assessed in 2007. This increased mature landscaping has certainly changed the character and appearance of the area to some extent and in its current context, the proposed garage and any associated proposed additional landscaping that would aid in softening the garage's impact on the wider area, are not considered to be detrimental to the character and appearance of the area nor would they result in the road feeling enclosed to such a materially harmful degree that would warrant a refusal. However, only limited controls exist to ensure that this landscaping is retained and this is a consideration in the determination of the application. Appeal decisions have gone either way on the question of whether plant screening justifies allowing a building given that over time it may eventually be removed without the need for planning permission.

Other matters

- 15.9 It has correctly been identified that condition 3 of planning consent reference O/COL/05/0214 removed permitted development rights for extensions, garages, sheds, conservatory, and buildings in order to safeguard the visual amenity of the area, to protect the amenity of adjoining residents and to prevent overdevelopment of the site. However, this does not rule out the principle of such development, it simply means that planning

permission would have to be obtained if such development was sought in order for the Council to control future extensions, alterations and associated development. The current application does therefore not contravene this condition.

- 15.10 Reference was also made to guidance relating to 'permissible outbuildings', i.e. permitted development rights for outbuildings. This is not applicable to the current proposal as the General Permitted Development Order (as amended) outlines the requirements a development would have to comply with in order to be allowed to be carried out without the need to apply for formal planning permission. However, it does not restrict development that exceeds these limitations in general. Similar to the paragraph above, it simply means that if development exceeds the requirements as set out within the aforementioned Order, development cannot be built without formal planning permission. Notwithstanding this, given that permitted development rights for outbuildings have been removed as part of the afore-mentioned consent, this section is not relevant to the current proposal as it would have required planning permission in any event due to its siting and size.
- 15.11 Further guidance in the form of the Essex Design Guide, adopted SPD 'Extending Your House?' and Colchester Planning Guide have been quoted. These are noted, however, none of these raise any fundamental concerns that would outweigh Officer's opinion as to the acceptability of the current scheme. In fact, the Essex Design Guide states that 'garages may be located on or near the frontage, but in such a way as not to dominate the street scene, e.g. through a carriage arch under the building, *placed sideways on to the frontage*, or down a side-way between houses'.
- 15.12 Concerns have been raised that the submitted planning statement states that informal communication between the agent and the case officer suggests that a revised scheme would be supported by the case officer. The current scheme has in fact been the subject of detailed negotiation and discussion between the agent and planning officers, however, no formal decision as to the recommendation was made prior to the resubmission of the proposed development. Whilst informal advice was provided stating that the current scheme would address the main concerns the previous development raised and may therefore be looked upon favourably, it has to be noted that the formal assessment of an application will always take into consideration the views of the Parish Council and any other consultees, including neighbours, while a fuller assessment of the impact of the proposed development will be undertaken on site. These informal comments therefore do not prejudice the formal consideration of this matter where it is the role of the planning officer to negotiate enhancement if they feel that these stand a chance of gaining permission. Planning is not here to obstruct development, but to assist in its delivery in a manner that does not result in significant harm to others.
- 15.13 Finally, should members remain concerned at the proposal in terms of its height and impact on neighbours or the surrounding area, consideration may be given to reducing the roof pitch further. This would require a change in materials to a slate (which is still a vernacular material) so that a lower roof pitch, and subsequently lower roof height, could be achieved. However, it is the officer's opinion that this is not necessary. Similarly, should Members disagree with the officers recommendation and wish to refuse the application then they would need to consider if the previous appeal decision's reasons for refusal and decide if they remain applicable despite changes to the site and to our policies since that time (although your officer's views on this are set out above).

16.0 Conclusion

- 16.1 In conclusion it is considered that the proposal represents an appropriate development on the application site. The reduced scale and bulk of the development, coupled with the suggested landscape enhancements, would ensure that the amenity of local residents and the character and appearance of the wider area would not materially or adversely be affected as a result of the development taking place. Similarly, given the distance the proposed development would be set into the plot and the fact that two parking spaces would be retained on site, highway safety and efficiency would not be compromised.

17.0 Recommendation

- 17.1 APPROVE subject to conditions.

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

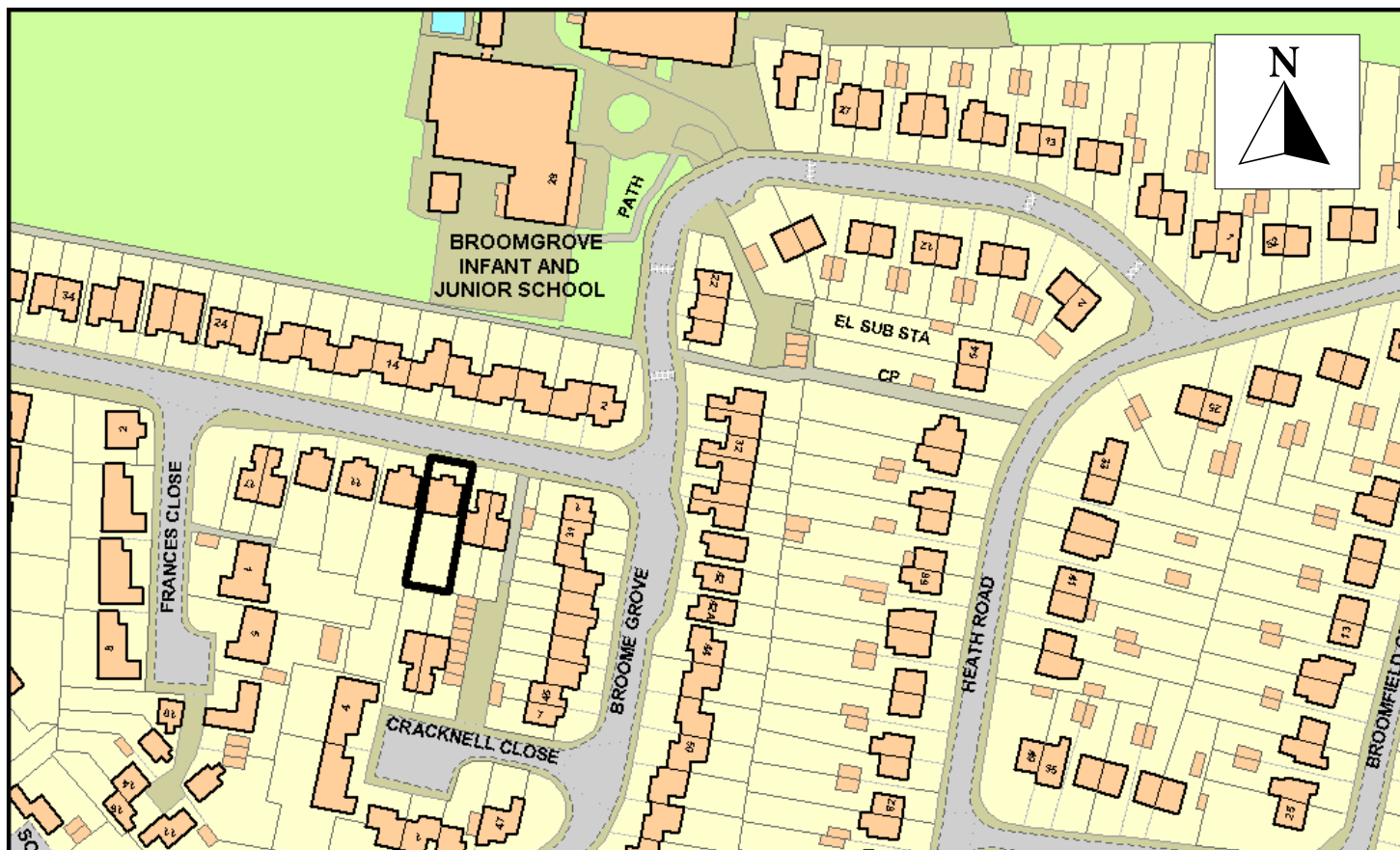
19.0 Conditions

- (1) 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) The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PAR-01, PAR-10B and PAR-11E.
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.
- (3) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.
- (4) No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.
Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

- (5) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding 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 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 there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

20.0 Informatives

- (1) 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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631
- (3) The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.



Application No: 145730

Location: 7 Chaney Road, Wivenhoe, Colchester, CO7 9QZ

Scale (approx): 1:1250

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7.8 Case Officer: Nadine Calder

Due Date: 7.11.14

HOUSEHOLDER

Site: 7 Chaney Road, Wivenhoe, Colchester, CO7 9QZ

Application No: 145730

Date Received: 8 September 2014

Agent: CPS Architecture & Design Limited

Applicant: Mr & Mrs Kieran Johnston

Development: Proposed conversion of existing garage with front extension and addition of new mono pitch roof. Part 2 storey and single storey rear extension.

Ward: Wivenhoe Cross

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues explored below are the design of the proposed development as well as its impact on neighbouring amenity, the character and appearance of the main dwelling and the surrounding area. It is considered that the proposal would not result in any design or amenity issues and accords with national and local policy requirements. The application is therefore recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The application site comprises a detached property with integral garage located on the southern side of Chaney Road within a predominantly residential area. No. 7 is one of four dwellings (Nos. 7 to 13 Chaney Road) which have a strong conformity in terms of design and appearance. However, the neighbouring property to the east of the application site (No. 5) is a semi-detached property of different architectural style and design and does therefore not share this uniformity. To the rear of the site lie the rear amenity spaces of Nos. 5 and 6 Cracknell Close.

4.0 Description of the Proposal

- 4.1 Planning permission is sought for a single storey rear extension, a first floor front extension and an extension to the front of the existing garage. The single storey rear extension at 3.3m in depth, 6.19m in width and 3.5m in height is within the limits of current permitted development rights and would not in itself require planning permission. Along the front it is proposed to convert and extend the existing garage by 1.1m and to build a first floor extension above the existing garage measuring a

maximum of 2.076m in depth and 5.7m in height with a pitched roof matching the pitch of the main roof. The converted garage itself would be provided with a mono-pitched roof. The proposed materials include facing brickwork and interlocking tiles to match the existing walls and roof of the main dwelling, timber framed windows painted brown, powder-coated grey aluminium bi-fold doors and an external door to match the existing.

- 4.2 In addition to the above, it is proposed to insert a new ground floor window serving the kitchen and a door providing access to the utility room within the flank elevation facing No. 5 Chaney Road.

5.0 Land Use Allocation

- 5.1 The application site is located within a predominantly residential area.

6.0 Relevant Planning History

- 6.1 The property on the application site has previously been extended by way of a two storey side extension for which permission was granted at appeal (reference 83/0747).

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
UR2 - Built Design and Character

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Vehicle Parking Standards
The Essex Design Guide

8.0 Consultations

- 8.1 Environmental Control does not object to the proposed development but suggests the Advisory Note on Construction & Demolition and an informative advising the applicant that the application site is recorded as being within 250 metres of filled land be included should permission for the proposed development be granted.

- 8.2 The Highway Authority does not wish to submit a formal recommendation to this proposal.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 The Parish Council is concerned that the proposal would lead to an overdevelopment of the site.

10.0 Representations

- 10.1 One letter has been received stating that no objection is raised as long as the off road parking spaces are still available and used.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The proposed development would result in the loss of existing garaging facilities. However, the submitted drawings show that two parking spaces can be retained on site and the proposal therefore complies with current parking standards.

12.0 Open Space Provisions

- 12.1 The nature of this development means that there is no policy requirement for the provision of open space in this case.

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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 The most significant planning issues are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy.
- 15.2 The design of the proposed development is considered satisfactory on its own merits. The development is visually acceptable and would not detract from the appearance of the original building. The application property forms part of a row of four dwellings which all share a common external design and appearance although this has been

slightly interrupted by the two storey side extension on the application property. Notwithstanding this, directly adjacent to the application property and on the opposite side of Chaney Road, there are residential properties of different style and design. Furthermore, the proposed development has been designed to be in keeping with the existing property while also respecting the neighbouring occupiers and surrounding area as a whole. Consequently, although the uniformity of the row of four dwellings will be interrupted, the design and layout do not cause visual or material harm to the surrounding area.

- 15.3 The proposed development would not appear overbearing on the outlook of neighbouring properties. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. Similarly, there are no concerns regarding loss of light. The proposed ground floor front extension coupled with the change from a flat to a mono-pitched roof may have some impact on the kitchen window of the neighbouring occupier at No. 5. However, given that this window is north facing and considering the limited scale of the proposed development, this is not considered to have a materially harmful impact in terms of loss of light to that particular window. Similarly, the proposed first floor extension at 2m in depth would not result in any material harm being caused in terms of overshadowing and/or loss of light and outlook. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 15.4 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD.
- 15.5 It is noted that the Town Council expressed concerns that the proposed development may lead to an overdevelopment of the site. However, while the rear extension complies with permitted development rights and could therefore be built without express planning permission, it is your Officer's view that the development to the front represents an extension of limited scale and bulk that is in harmony with the host dwelling. Although it is acknowledged that the application property has previously been extended by way of a two storey side extension, the current proposal would not fundamentally increase the floor area and/or built form and as such, the proposal, as a whole, is considered acceptable in this instance.
- 15.6 The Highway Authority notes that two spaces are retained and, although one space is not within the terms of the current policy standards, it appears to be an existing situation and the proposed extension will not encroach into this area. On this basis, it is concluded that the proposed development would not have an impact on highway safety and/or efficiency and is therefore considered acceptable in this instance.

16.0 Conclusion

- 16.1 On the basis of the above, it is concluded that the proposed development complies with local and national policies and is therefore acceptable subject to appropriate conditions.

17.0 Recommendation

- 17.1 Approve subject to conditions.

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

- (1) 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) The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 100, 101 Rev D, 102 and 103 Rev B.
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

20.0 Informatives

- (1) 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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631
- (3) The applicant is advised that the site to which this planning permission relates is recorded as being within 250 metres of filled land. Prior to commencement of the permitted development the applicant is therefore advised to satisfy themselves that there are no unacceptable risks to the permitted development from any ground gases. Where appropriate, this should be considered as a part of the design of the foundations (and may be required under Building Regulations). As a minimum, any ground gas protection measures should equal those in the main building and not compromise the effectiveness of existing gas protection measures.
The site lies within 250m of a former (or suspected) landfill site and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from landfill gas in this locality.



Application No: 145683

Location: John Lampon Court, Smiths Field, Colchester, CO1 2HP

Scale (approx): 1:1250

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7.9 Case Officer: Simon Osborn**MINOR OTHER**

Site: John Lampon Court, Smiths Field, Colchester, CO1 2HP

Application No: 145683

Date Received: 18 August 2014

Applicant: Mr Dale Boughtwood

Development: Construction of a mobility scooter store for up to 8no. scooters and additional space for up to 4 no. bicycles.

Ward: Old Heath

Summary of Recommendation: Conditional Approval

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 Homes.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposal upon the character of the surrounding area and neighbour amenity. The proposal will have little impact and is recommended for approval.

3.0 Site Description and Context

- 3.1 The site is located within a predominantly residential area and relates to a residential institution (Use Class C2) for elderly persons known as John Lampon Court. This includes a main building (unit nos. 13-40) and other units such as 11 and 12, which offer more independent living accommodation. A private driveway off Smiths Field within the application site leads to a small amenity area to the north of the main complex and the location of the proposal. The proposed mobility scooter shed is to be located within part of the site that is used for clothes drying/ partly for soft landscaping. The proposed shed will be located within a corner of the site that backs onto a small road that leads toward a centre for people with special needs.

4.0 Description of the Proposal

- 4.1 The proposal is for a small single-storey building, which will provide storage for 8 mobility scooters and additional space for up to 4 bicycles. The building will measure 6.3m by 5.1m and be 2.5m high and clad with fibre-cement horizontal cladding (such as hardi-plank).

5.0 Land Use Allocation

- 5.1 Predominantly residential

6.0 Relevant Planning History

- 6.1 86/0899 for 45 flats, 5 bungalows and 10 houses approved 1986. No relevant planning history since.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
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 Guidance/Documents:

The Essex Design Guide

8.0 Consultations

- 8.1 None

9.0 Parish Council Response

- 9.1 Not applicable

10.0 Representations

- 10.1 No comments received

11.0 Parking Provision

- 11.1 The proposal does not generate any parking requirement in itself.

12.0 Open Space Provisions

- 12.1 The proposal does not generate any requirement for public open space.

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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 The provision of mobility scooters will improve the independence and well-being of residents of the complex and the provision of the building can be supported in broad policy terms.
- 15.2 The proposed shed has a modest form and appearance and will be located in the north-west corner of the site. In this position it will be almost 50 metres from Smiths Field. This corner of the site is adjacent to a small road that leads toward a single dwelling and a centre for persons with special needs and the top of the proposed structure will be visible from the road, above the boundary fencing. Some small shrubs will have to be cleared back, which presently overhang the proposal location from the verge of this road and the grounds of a hall to the north. In overall terms the physical appearance of the proposal will have only a modest impact upon the character of the surrounding area.
- 15.3 The proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. In this instance, the proposed building will be positioned about 4 metres in front of Unit 15. The proposed structure will have only a modest impact upon the outlook of this unit; nonetheless it is within the red-lined application site area.

16.0 Conclusion

- 16.1 To summarise, the proposed development fully accords with the Council's policy requirements and no objections have been received.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

(1) **ZAA (Time Limit)**

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 01, 02 and 03.

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

20.0 Informatives

(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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.



Application No: 145857

Location: Worsnop House, Old Heath Road, Colchester, CO1 2ER

Scale (approx): 1:1250

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7.10 Case Officer: Carl Allen**MINOR****Site:** Worsnop House, Old Heath Road, Colchester, CO1 2ER**Application No:** 145857**Date Received:** 8 September 2014**Agent:** Mr M Gurton**Applicant:** Colchester Borough Council**Development:** Variation of condition 11 of planning permission 130230 - Proposed refurbishment and extension to existing sheltered housing scheme to include the conversion of bedsits to one bedroom flats.**Ward:** New Town**Summary of Recommendation:** Conditional Approval**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 explored below are that of amenity and highways. The description, whilst stated as "Variation of Condition 11" is, in fact, an application to *remove* that condition. It is considered that the removal of Condition 11 (which relates to a temporary car park) would not result in any amenity or highways problems for residents of Worsnop House or neighbours. Approval is recommended.

3.0 Site Description and Context

- 3.1 Worsnop House is a sheltered accommodation complex consisting of 28 one-bedroom flats, 16 bedsits and one two-bedroom flat. The site is located on the junction of Old Heath Road with Recreation Road. The Recreation Road frontage has four Silver Birches along with a few smaller trees in the garden area between the building and the boundary with the highway, and there are two mature trees (a Horse Chestnut and a Sycamore) in the street – outside the site. The vehicular access to the site is on Old Heath Road and leads to a central parking area. To the north of the site are the bowling greens of the recreation ground, to the east is a playground and the highway of Recreation Road, to the south and west are Old Heath Road and dwellings. Planning Permission was granted under 130230 for various improvements, new foyers, landscaping and temporary parking spaces for four vehicles adjacent to Recreation Road. Condition 11 required the four temporary parking spaces to be removed and the land returned to being part of the amenity space for Worsnop House.

4.0 Description of the Proposal

- 4.1 To remove Condition 11 from 130230 to retain permanently the four parking spaces adjacent to Recreation Road.

5.0 Land Use Allocation

- 5.1 Residential.

6.0 Relevant Planning History

- 6.1 130230 – Proposed refurbishment and extension to existing sheltered housing scheme to include the conversion of bedsits to one bedroom flats. Approved.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- UR2 - Built Design and Character

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP19 Parking Standards

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010, amended 2014) policies set out below should also be taken into account in the decision making process:

N/A

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

- Vehicle Parking Standards

8.0 Consultations

- 8.1 Highway Authority – No objection.

8.2 Environmental Control – No objection.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 None.

11.0 Parking Provision

11.1 Twelve spaces including the four to be retained.

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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 The proposal is to remove Condition 11 from 130230 to allow the retention of the temporary car park. Previously vehicles parked along the side of the road, so retaining the car parking spaces inside the site would have no detrimental visual impact on the local area. The existing trees that run along Recreation Road are to be retained and will provide some screening. It is noted that the Highway Authority has not raised any objection and therefore does not view the proposal as being detrimental to highway safety. The proposal is, therefore, considered to comply with DP19.

15.2 A Non-Material Amendment has already agreed the changes to the previously approved landscaping scheme as a precursor to this application. The proposal would not result in any significant loss of communal space for the residents of Worsnop House and a suitable amount of amenity space would still be provided. No additional amenity issues are raised as a result of retaining the four spaces and the requested removal of condition accords with DP1 & UR2.

16.0 Conclusion

- 16.1 No amenity or highways issues. No significant loss of outside amenity areas for the residents.

17.0 Recommendation

APPROVE subject to the following conditions:

18.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

- (1) With the exception of Condition 11 of Planning Permission 130230 which is hereby removed, the requirements of all other conditions imposed upon planning permission 130230 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the removal of the stated condition of the previous planning permission as referenced, and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

20.0 Informatives

- (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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

- (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. Please pay particular attention to these requirements.

