

Planning Committee

Council Chamber, Town Hall
23 May 2013 at 6.00pm

This 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 take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

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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 a 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
PLANNING COMMITTEE
23 May 2013 at 6:00pm**

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Peter Chillingworth, Stephen Ford, Sonia Lewis, Cyril Liddy, Jackie Maclean, Jon Manning, Philip Oxford and Laura Sykes.

Substitute Members

: All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-
Councillors Christopher Arnold, Nick Barlow, Lyn Barton, Mary Blandon, Mark Cable, Nigel Chapman, Barrie Cook, Nick Cope, Beverly Davies, John Elliott, Annie Feltham, Bill Frame, Marcus Harrington, Dave Harris, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Michael Lilley, Sue Lissimore, Colin Mudie, Nigel Offen, Gerard Oxford, Will Quince, Lesley Scott-Boutell, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

Agenda - Part A

(open to the public including the media)

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. Could 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.

Pages

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!

The Chairman to invite members of the public to indicate if they wish to speak or present a petition on any of 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.

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 and to give reasons for the urgency.

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 judgment 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 1 - 10

To confirm as a correct record the Minutes of the meeting held on 11 April 2013 and 25 April 2013.

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.

1. 130466 Weston Homes Community Stadium, United Way, Colchester (Mile End) **11 - 27**

Change of use of Stadium car parks to mixed-use car park / car boot venue.
2. 130505 Roman Barracks, Berechurch Hall Road, Colchester (Berechurch) **28 - 48**

Proposed 48 dwellings with associated access, car parking and landscaping.
3. 112176 Layer Wood, Maldon Road, Layer Marney (Birch and Winstree) **49 - 70**

Proposed paintball facility, including reception building, paintball area and improved associated access. Resubmission of 101903.
4. 130292 Mersea Court, High Street North, West Mersea (West Mersea) **71 - 83**

Erection of 6 No. flats.
5. 130296 Akhurst Court, Melrose Road, West Mersea **84 - 95**

(West Mersea)

Detailed application for extension to provide 5 no. additional flats following outline approval 121334.

6. 130631 Visitors Centre, Turner Road, Colchester
(Mile End)

96 - 100

Free standing entrance signage at the driveway to Highwoods Country Park.

7. 130665 97 Lexden Road, Colchester
(Lexden)

101 - 107

Erection of single storey timber clad garden room to be used as a hobby room.

- 8. Amendment to the 229a Garrison Legal Agreement in Respect of the Provision of Affordable Housing on Area H and Area S2North**

108 - 112

See the report from the Head of Commercial Services.

- 9. Amendment Sheet**

113 - 114

See attached Amendment Sheet.

- 10. Exclusion of the Public**

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).

PLANNING COMMITTEE

11 APRIL 2013

- Present :-* Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
Helen Chuah*, John Elliott*, Stephen Ford, Sonia Lewis,
Cyril Liddy*, Jackie Maclean, Jon Manning*,
Nigel Offen*, Philip Oxford and Laura Sykes*
- Substitute Member :-* Councillor Brian Jarvis for Councillor Nigel Chapman
- Also in Attendance :-* Councillor Julie Young

(* Committee members who attended the formal site visit.)

111. Minutes

The Minutes of the meeting held on 14 February 2013 were confirmed as a correct record.

112. **130243, 130244 & 130247 – Wilkin & Sons Ltd, Factory Hill, Tiptree, Colchester, CO5 0RF and 130245 – Land North East of Factory Hill, Tiptree, Colchester**

The Committee considered the following applications:

130243 – An outline application for the erection of a new factory with gross internal floorspace of up to 13,300 sqm, new roundabout junction to Factory Hill, service road, footpaths, cycleways, car parking, motorcycle and cycle parking, foul and surface water drainage and landscaping.

130244 – An application for the demolition of the existing factory complex (with the exclusion of the Tiptree Visitor Centre, the Timekeepers Cottages and Factory Hall) and the erection of 118 dwellings, garages, car parking spaces, 3 commercial units, new roundabout onto Factory Hill, roads, footpath / cycleways, foul and surface water drainage, public open space and amenity areas, landscaping, boundary treatment, changes to the setting of the listed Trewlands Farm House and demolition and replacement of part of the existing listed wall.

130245 – An application for the erection of 126 dwellings, garages, car parking spaces, road, footpaths and cycleways, a Dentist Surgery, a new roundabout onto Factory Hill, foul and surface water drainage, public open space including play and amenity areas, allotments and landscaping.

130247 – An application for the erection of a new private sewage treatment plan and associated service road, storage attenuation reservoir, foul and surface water drainage network with outfall to Layer Brook to serve the new factory, diversion of existing foul water rising main, provision of a new pumping station and new foul water

rising main to the Tiptree Sewage Treatment Works and surface water drainage network with outfall to Layer Brook to serve the proposed residential development.

The Committee had before it a report on each application in which all information was set out, together with additional information provided in two Amendment Sheets.

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.

Mr Mark Russell, Principal Planning Officer, and Mr Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations.

Mr Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He drew the Committee's attention to proposed condition 13 in relation to the proposed buffer strip, highlighting the fact that it was unlawful and unenforceable. The condition would therefore be likely to be subject to a successful appeal in which the condition would be struck out. He requested that consideration of this application be deferred in order to determine an appropriate way forward.

The Principal Planning Officer drew attention to the contents of the Second Amendment Sheet in which it was proposed that the detailed condition on the buffer be deleted and that authority be delegated to the Head of Professional Services to agree an appropriate mechanism to secure the provision of the buffer.

Members of the Committee referred to the significant public consultation undertaken by Wilkin and Sons Ltd regarding their applications. The low density of the development proposed by Wilkin and Sons Ltd was welcomed and a low density approach was unlikely to be taken by any other developer. It was highlighted that the highways throughout Tiptree needed improving and these applications, particularly the proposed widening of Station Road, would deliver significant highway improvements. Wilkin and Sons Ltd was a major employer in the village and was looking to continue to employ individuals on a full time basis, so every effort should be made to keep the factory in Tiptree.

The Committee emphasised that it was vital the contract regarding the building of the new factory should be signed before the housing development is started. It was stated that this should be standard practice for any business in a similar situation. The Committee believed that it was sensible to agree to a buffer strip in principle and delegate the delivery of the final method to allow time for a practical solution to be devised.

In response to several questions raised, it was explained by the Principal Planning Officer that unlike applications relating to outdoor developments, a factory building could be insulated and, as such, a condition regarding sound levels had been proposed. He explained that the distance from the boundary of the houses in Quince Court to the proposed buildings would be approximately 20 - 25 metres, although the car park would be nearer than this. He also stated that the distance from the boundary of 4 Wood View to the wall of the new properties would vary between 21 / 24 metres,

with an additional metre distance between the boundary of Wood View site and the house itself. In the case of 5 Wood View an additional 10 metres would exist. It was considered that these were acceptable levels of separation.

In the proposed Section 106 Legal Agreement, the reference to the 'Health Authority' was outdated, and should be altered to 'Health Provision.' The Principal Planning Officer also stated that a Habitat Survey had been undertaken and the development would have to comply with the Wildlife Acts.

(a) In respect of Planning Application 130243 it was *RESOLVED* (UNANIMOUSLY) that the application be approved subject the completion of the Section 106 Legal Agreement to secure the payment of the Travel Plan Monitoring Fee and to the conditions and informatives as set out in the Report and Amendment Sheets and subject to a further extra condition ensuring that no occupation occur until a roundabout is provided onto Factory Hill and a travel plan is provided, and a wheel cleaning facility be provided prior to and during works.

(b) For Planning Applications 130244, and 130245 it was *RESOLVED* (UNANIMOUSLY) that the applications be approved subject the completion of the Section 106 Legal Agreement to secure –

- Phasing (as described in the Head of Environmental and Protective Services report));
- Affordable Housing (16 units);
- Open space provision (land to the south of the housing site subject to application 130245, parcels on the housing site subject to application 130244, allotments, access to Birch Woods, contribution for play equipment);
- Monies for Health Provision (£83,657);
- Transfer of the Factory Hall to the Parish Council;
- A site for a dentist surgery;
- A financial contribution of £666,343.00 (less the cost of providing the Station Rd widening works and the bus stop improvement works) for affordable housing

(ii) Following the successful completing of the Section 106 Legal Agreement the Head of Professional Services be authorised to grant planning permission with conditions and informatives as set out in the Report and Amendment Sheets subject to further extra conditions ensuring that no occupation occur until a roundabout is provided onto Factory Hill, and a wheel cleaning facility be provided prior to and during works.

(iii) In respect of application 130245, the deletion of condition 13 and authority be delegated to the Head of Professional Services to agree an appropriate mechanism to secure the provision of the buffer.

(c) In respect of Planning Application 130247 it was *RESOLVED* (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the Report and Amendment Sheets and subject to a further extra condition ensuring that a wheel cleaning facility be provided prior to and during works.

113. 130156 – The Quayside Café, University Quays, Lightship Way, Colchester, CO2 8GY

Councillor T. Higgins (in respect of her spouse being employed by the University) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the change of use of part of the café to provide additional student bedrooms with Block B5; external alterations to the ground floor elevations of Blocks B4 & B5 and erection of free standing mail box. The Committee had before it a report in which all information was set out.

This item was taken as urgent because the application had been called-in for determination by Members and the period for formal determination had already expired.

Andrew Tyrrell, Planning Manager, attended to assist the Committee in its deliberations.

Mr Chris Oldman, Deputy Director of Campus Services at the University of Essex, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He emphasised the University's need to increase the number of students living on campus, which would in turn help decrease on-street parking problems in the surrounding area. He highlighted that the previous café on the site had made a loss and was not widely used, despite considerable marketing. He suggested that the scaled down operation of the café, with toilets, seating and food and drink vending facilities would be sufficient for requirements. No objections had been received to the proposals. This set-up would also be able to operate for longer hours.

Councillor J. Young attended and, with the consent of the Chairman, addressed the Committee. She suggested that closing a community facility was excessive and had garnered significant objection in the community. She highlighted that the café was one of nine on campus and, as such, may have been the least profitable of all but it was unfair to compare this café with those on the main campus site. It was still important to the local community. She stated that the concession of seating was insufficient in relation to the loss of a business. She also raised concerns about the safety of the proposed student accommodation on the site.

Members of the Committee appreciated that the University needed to run as a business and accepted that the reduced café service was a reasonable compromise, which would still provide the essential toilet, seating and refreshment facilities.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives set out in the report.

PLANNING COMMITTEE
25 APRIL 2013

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
Helen Chuah*, Stephen Ford, Sonia Lewis*,
Cyril Liddy*, Jackie Maclean, Jon Manning, Nigel Offen*,
Philip Oxford and Laura Sykes

Substitute Members :- Councillor Will Quince for Councillor Nigel Chapman
Councillor Dennis Willetts for Councillor John Elliott*

(* Committee members who attended the formal site visit.)

114. Minutes

The Minutes of the meeting held on 28 March 2013 were confirmed as a correct record.

115. 130362 Land adjacent to Marks Tey Hotel, London Road, Marks Tey

Councillors Chillingworth Lewis, Quince and Willetts on behalf of his Group, (in respect of a Conservative Group member's brother having an interest in the site) and Councillor Maclean (in respect of her acquaintance with the applicant) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the continued use of land for Car Boot Sales operating between 06:00 – 16:00hrs for Sellers and 07:00 – 16:00hrs for Buyers together with the formation of new access. The Committee had before it a report an amendment sheet in which all the necessary information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report and amendment sheet.

116. 130230 Worsnop House, Old Heath Road, Colchester

The Committee considered an application for the refurbishment and extension of an existing sheltered housing scheme to include the conversion of bedsits to one bedroom flats. The Committee had before it a report in which all the necessary information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report.

117. 130186 Ilex Close, Colchester

Councillor Quince (in respect of his governorship at Montgomery Junior School) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for an infill development of 43 dwellings and associated parking, landscaping and creation of allocated spaces for existing residents. The Committee had before it a report and amendment sheet in which all the necessary 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.

Ms Lucy Mondon, Planning Officer, Mr Simon Cairns, Planning Project Manager and Mr Lee Smith-Evans, Urban Designer, attended to assist the Committee in its deliberations. The Committee were informed that a late objection had been received as well as a consultation response from the Environment Agency.

Mr John White addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He claimed that the development would breach Section 1 and Section 8 of the Human Rights Act. He also suggested that the proposal was unsustainable, as the site had no access to industry or travel support, the local schools would not have sufficient spaces for new families and trees were to be removed. He suggested that armed forces families' ability to access doctors and schools was likely to be significantly negatively impacted.

Mr Michael Calder addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the proposed density of the development accorded with Council policy and would create a more secure environment. He drew the Committee's attention to the fact that the parking proposals were up to standard and that no objections had been raised by the Education or Highways Authorities and the proposals had been recommended for approval by Officers. He explained that new planting would take place to replace trees that were removed. He also highlighted that the development would deliver 100% Affordable Housing through the Guinness Partnership, which required completion by 2013 to secure funding.

The Planning Officer explained that during the planning deliberation process, consideration had been given to the effect the development would have on individuals and, as such, had been considered proportional in relation to Human Rights. The application was felt to have a neutral affect on the local economy. It had also been stated by the North East Essex Clinical Commissioning Group that there was sufficient capacity at local GP surgeries to accommodate the increase in demand.

Members of the Committee expressed their disappointment that neither the local Borough Councillors, nor the Garrison had been involved in discussions with the developer on the proposals. Much concern was raised regarding the impact on local

schools, particularly bearing in mind the impact of armed forces families with school age children posted to Colchester at short notice. Additionally, reservations were made regarding the car parking proposals which allocated two spaces for new properties and one space for existing properties.

Other comments made by the Committee related to:

- The welcome addition of Affordable Housing to address housing need in the Borough;
- The possibility for priority to be given to armed forces families in the allocation arrangements;
- Provision of adequate lighting for the cycle path;
- The fear of crime issue identified by objectors to the application; and
- Possible options to provide more parking allocation for existing housing.

It was explained by the Planning Officer that Essex County Council had confirmed that significant investment would be made in education provision in the local area, leading to the expansion of existing and the creation of new schools. Also, it was explained that the housing allocation arrangements prioritised people with a local connection. It was advised that the issue of lighting for the cycle path could be provided for with the landscape condition.

RESOLVED (TEN voted FOR and FOUR voted AGAINST) that –

(a) subject to no objection from Anglian Water being received and the signing of a Section 106 of the Town and Country Planning Act 1990 Legal Agreement within six months of the date of the Committee meeting, to provide the following:

- Development to be 100% affordable housing; and
- Landscape Management Plan.

authority be delegated to the Head of Professional Services to approve the application subject to:

- (i) conditions set out in the report and the amendment sheet;
- (ii) any additional conditions required by Anglian Water; and
- (iii) an additional informative to the developer to make their best endeavours to provide more parking within the scheme for existing residents.

(b) In the event that the Section 106 Legal Agreement is not signed within six months, authority be delegated to the Head of Professional Services to refuse the application.

(c) A letter be sent to Essex County Council explaining the Committee's concerns regarding the arrangements for schools local to the Garrison to accommodate families with the children being posted to Colchester at short notice and to urge them to increase school places, especially for children from military families.

118. 130233 Innisfree, De Vere Lane, Wivenhoe

Councillor Ford (in respect of his association with the applicant) declared a disclosable pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.

The Committee considered an application, which had been called in by Councillor Liddy, for the erection of a detached dwelling with associated parking facilities. The Committee had before it a report and amendment sheet in which all the necessary information was set out.

Mr Carl Allen, Planning Officer, attended to assist the Committee in its deliberations. He drew attention to the amendment sheet, which stated that the comment regarding a TPO Holm Oak being removed without consent was incorrect.

Dr Neil Newman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He stated his belief that this application was, in material, a repeat of the application refused by the Planning Committee in May 2010. He considered that the site was too small and that he agreed with the Officer recommendation that the development was out of character and incongruous with the western side of De Vere Road. He asked the Committee to refuse the application.

Mr Steve Norman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that this application site was significantly larger than the previous application site had been. He suggested that the problems highlighted with the previous application had been addressed and soft landscaping could now be included around the development. He stated that the street view of the development was not cramped at all and that it was not incongruous with the harsh appearance of the bowls club pavilion opposite.

Several Members of the Committee commented on the potentially subjective nature of the decision, although understood the planning basis for it. The Committee considered that the problems encountered with the previous application, i.e. the size of the plot, had not been sufficiently addressed.

The Planning Officer explained that the host site's main garden at the front and the side could not be considered private, with the only private area being five metres of land at the rear.

RESOLVED (TWELVE voted FOR and ONE ABSTAINED from voting) that that the application be refused on the grounds set out in the report.

119. 130448 111 Straight Road, Colchester

Councillor Lewis and Qunice (in respect of their acquaintance with the objector) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for a two storey rear extension to create a new family room and two bedrooms. The Committee had before it a report in which all the necessary information was set out.

Mr Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations.

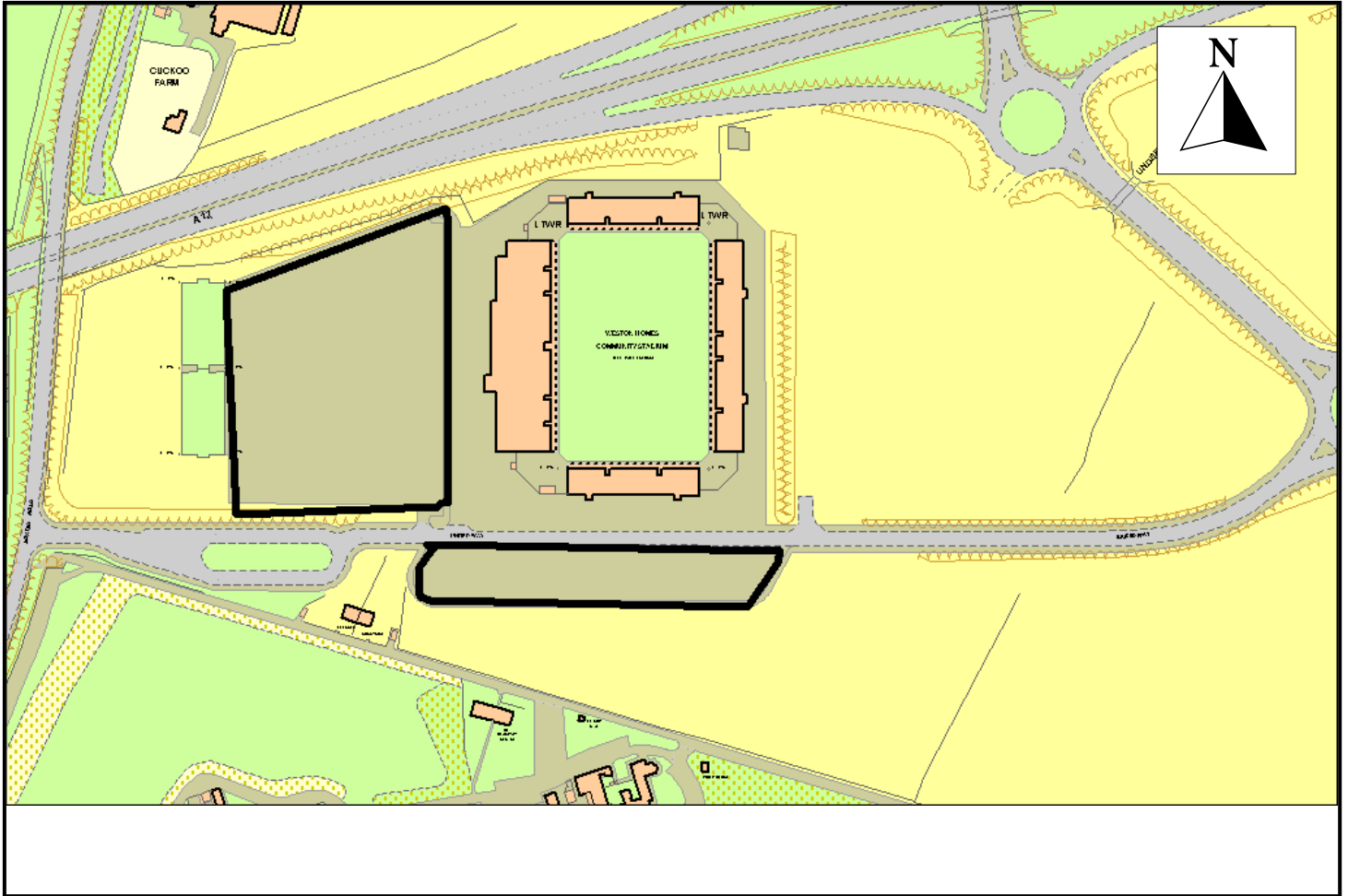
Mr Lechner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He appreciated his neighbours' desire for increased space, however believed that the proposed extension would dwarf and dominate his property. He also suggested that the natural light to his property would be significantly reduced, that the effectiveness of his solar panels would be drastically reduced and the general enjoyment of his property diminished.

Mrs Lowe addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She stated that the extension was intended to solve several spatial problems faced within the property, in order for the family to remain living there. She believed the design fitted well with the traditional structure and indicated the intention was to use sympathetic materials and local tradesman. She also highlighted that the '45 degree rule' had been adhered to and obscure glazing would be utilised to minimise any overlooking problems.

The Principal Planning Officer acknowledged that there would indeed be a loss of light impacting the efficiency of neighbouring solar panels. The Council's Planning Policies did not currently support refusal for reasons such as this.

RESOLVED (THIRTEEN voted FOR and ONE ABSTAINED from voting) that -

- (a) the application be approved subject to the conditions and informatives as set out in the report.
- (b) That the issue regarding the impact of neighbouring development on existing solar panels be referred to the Planning Policy Team for consideration.



Application No: 130466

Location: Colchester United Football Blue Eagle Society, Weston Homes Community Stadium,
United Way, Colchester, CO4 5UP

Scale (approx): NOT TO SCALE

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **23 May 2013**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

7.1 Case Officer: Peter Hill

Due Date: 07/06/2013

MAJOR

Site: **Weston Homes Community Stadium, United Way, Colchester, CO4 5UP**

Application No: **130466**

Date Received: **8 March 2013**

Applicant: **Colchester United Football Club**

Development: **Change of use of Stadium car parks to mixed-use use car park / car boot venue.**

Ward: **Mile End**

Summary of Recommendation: **Conditional Approval**

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is before the Planning Committee because it has been referred by Councillor Martin Goss on the grounds that the proposal “may well impact local residents in Boxted Rd with noise and an impact on their human rights.”
- 1.2 Members are reminded that Colchester Borough council, whilst not the applicant, is the site owner.

2.0 Synopsis

2.1 Section 8 of this report includes full consultation comments and shows that there are no objections to this proposal from consultees. Sections 9 and 10 deal with representations for the Parish and the public and it is evident therein that major concerns exist in relation to parking and noise in particular. Section 15 – the main part of this report - shows that these concerns can successfully be addressed through conditions and do not outweigh the material planning benefits of the proposal which are identified as being employment generation, economic development and a more efficient use of land. It breaks down the key issues into the following sections:

- a. The principle of development
- b. Sustainability and impact on town centre
- c. Car parking
- d. Noise and disturbance
- e. Litter and toilets
- f. Highways safety
- g. Matters that are not material planning considerations

2.2 Weighing these issues together with consultation comments and representations, it is then concluded in section 16 that the material benefits outweigh the harm, subject to the imposition of conditions (outlined in section 19). Amongst these recommended conditions is one that would make planning permission temporary on a six-month basis so as to enable evidence to be gathered by the applicant that will demonstrate whether management processes and proposed parking provision are adequate.

3.0 Site Description and Context

3.1 The application site comprises the car and coach parks of the Weston Homes Community Stadium. Access to the stadium car parks is via United Way that connects Boxted Road to the west with the slip road on the A12 and with Axial Way that in turn connects to Severalls Lane and north Colchester. Vehicular access from Boxted Road onto United Way is controlled by a movable barrier. A public footpath runs to the south of United Way, connecting Boxted Road, near the junction with United Way to Mill Road in the East. To the South of this is the Severalls Hospital site.

3.2 The nearest residential properties are 'Glencoe' and 'Sunnyside' – a pair of semi-detached cottages just 25 metres from the coach park area. Officers understand these properties to be currently empty and derelict. Boxsted Road is fronted by linear residential development, the closest of which is 150 metres from the nearest part of the car park. The Boxted Road access to Chesterwell Mews and Pleasant Plains Mews is some 280 metres away (as the crow flies), Walnut Drive is 450 metres away and Whitebeam Close 550 metres away.

3.3 Whilst the site is owned by Colchester Borough Council, the applicant is Colchester United Football Club.

4.0 Description of the Proposal

- 4.1 The applicant proposes a change of use to allow the car parks of the site to be used for car boot sales. It is proposed that up to 200 stalls would attend with visitor parking for 500 cars. Permission is sought for these car boot sales every Sunday with an 8am start and 7am entrance for stall holders. Submitted drawings indicate that stalls would be positioned in the eastern half (approximately) of the car parking area closest to the stadium, with the rest of the existing car park and the coach parking area being given over to customer parking.

5.0 Land Use Allocation

- 5.1 The site is situated within the settlement limits and within an area defined in the LDF Site Allocations Document as the Northern Growth Area.

6.0 Relevant Planning History

The following planning history is of relevance to this application.

- 6.1 O/COL/01/1622 - Outline application for community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, two storey business unit, employment use, associated parking, transport interchange facilities and landscaping.
Approved 21/ 3/2006
- 6.2 F/COL/06/1727 - Section 73 application to vary Conditions 9 and 10 of application O/COL/01/1622 which relates to the need for the implementation of a new junction with the A12 trunk road and Northern Approach Road Phase 3 in advance of commencement or occupation of any of the development elements granted by that consent (i.e. the football stadium in this instance)
Approved 5/ 7/2007
- 6.3 071539 – (Reserved Matters for O/COL/01/1622). New 10,000 seat capacity community stadium with associated facilities and 2 no. 5-a-side football pitches, plus associated landscaping, road works and car parking.
Approved 23/11/2007
- 6.4 081644 - Variation of condition 37 attached to O/COL/01/1622 to allow use of the stadiums internal concourses for the holding of a monthly farmers market on the first Thursday and an annual Christmas fayre and the variation of condition.
Approved 24/3/09

7.0 Principal Policies

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and an environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
 - SD3 - Community Facilities
 - CE1 - Centres and Employment Classification and Hierarchy
 - UR2 - Built Design and Character
 - TA1 - Accessibility and Changing Travel Behaviour
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
 - DP4 Community Facilities
 - DP10 Tourism, Leisure and Culture
 - DP17 Accessibility and Access
 - DP19 Parking Standards
- 7.4 Further to the above, the adopted Site Allocations (2010) policies set out below should also be taken into account in the decision making process:
- SA NGA1 Appropriate Uses within the North Growth Area
 - SA NGA3 Employment Uses in the North Growth Area
- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Vehicle Parking Standards

8.0 Consultations

8.1 Environmental Protection recommend the following conditions:

To assess the impact on local residents we would recommend a temporary permission be granted for 6 months from the first event.

No music or amplified sound shall be played on the application site prior to and during the car boot sales.

Reason: To safeguard the amenities of nearby residential properties.

No generators shall be used on the application site.

Reason: To safeguard the amenities of nearby residential properties.

Only existing lighting shall be used prior to and during car boot sales.

8.2 Planning Policy make the following comment;

There are no policy objections to the principle of this proposal. However, I am concerned about the potential impacts on residential amenity if 200 booters are permitted to start setting up from 7am on a Sunday morning. In accordance with policy DP1 (Design and Amenity) of the Development Policies DPD development must 'protect existing residential amenity particularly with regard to ... noise and disturbance ...' A condition could be attached in regard to the start time of the event. I note that Environmental Control has suggested allowing a temporary permission in the first instance, which could be a means of assessing the impact on residential amenity.

8.3 The Highway Authority raises no objection, commenting;

This site is already used for large levels of vehicle parking and benefits from trained stewards who monitor and organise this parking. Axial Way and Boxted Road are both clearways thereby allowing the parking enforcement authorities to move on any vehicles left on them, and similar to match days the applicant states the stewards will be required to patrol the residential streets thereby limiting the inappropriate use of them by attendees of the Car Boot Sales.

The Highway Authority would, however, welcome any permission granted being subject to conditions whereby all advertising material produced in any media must contain prominent advice requesting that no public vehicles be left in the local residential roads.

8.4 The Highways Agency raises no objection, commenting;

The proposal is unlikely to have any affect upon the A12. The Highways Agency therefore raises 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 Myland Community Council comment “MCC supports this planning application and has no objections”

10.0 Representations

- 10.1 128 residents and Councillors were consulted. This consultation has resulted in objections being received from eleven people. Two are Councillors of Colchester Borough Council (Councillors Scott Greenhill and Martin Goss), two are from residents of Ardleigh (including the operator of Ardleigh Boot) and seven are local residents. In addition, two letters of comments have been received, one from a local resident and one from Councillor Anne Turrell.

- 10.2 Objections raised and comments made are summarised below and then addressed in italics as follows;

- 10.2.1 Concern about congestion in Whitebeam Close, plus the resulting poor access for emergency vehicles. Stewarding on Boxsted Road entrance will not prevent pedestrian access nor cars parking there.
Addressed within section 15.3.

- 10.2.2 Reference made to a particular incident where parking has been uncontrolled and ‘indiscriminate’.
Addressed within section 15.3.

- 10.2.3 Noise and disturbance on a Sunday morning (earlier start than existing stadium licence permits). Set up should be much later (various times are suggested by different objectors).
Addressed within section 15.4. This application must be addressed on its own merits.

- 10.2.4 Stated aim to have 200 pitches and 500 visitor spaces means total will be in excess of the total 626 parking spaces available at the site.
Addressed within paragraph 15.3.4. The coach parking area accounts for the additional spaces.

- 10.2.5 Because there will be no vehicular access to the pitches during opening hours, vendors delivering additional stock will park nearby and walk in.
This is considered unlikely, but in any case should be controllable by stewards.

- 10.2.6 Litter in the surrounding area will be generated by the event.
Addressed in section 15.5.

- 10.2.7 Vending area should be as far from residential properties as possible.
Addressed in section 15.4.2.

- 10.2.8 Noise pollution resulting from loudspeakers etc.
Addressed in paragraph 15.4.2

- 10.2.9 Stewards and signage should be in position on Boxsted Road by 7am.
Such arrangements will need to be addressed within the management plan for which a condition is recommended.
- 10.2.10 Clashes with Ardleigh Car Boot Sale.
Addressed within paragraph 15.7.3
- 10.2.11 Inadequate parking for number of sales
Addressed within section 15.3.
- 10.2.12 Customers and sellers arrive and leave continuously at car boot sales. This is not the cases with the usual events run at the stadium and a different traffic management system to handle two-way traffic will be required.
Such arrangements will need to be addressed within the management plan for which a condition is recommended.
- 10.2.13 Toilets must be clearly signposted to avoid people using surrounding countryside.
Such arrangements will need to be addressed within the management plan for which a condition is recommended.
- 10.2.14 Loud music and lighting should be directed away from the stadium
Addressed within section 15.4.2 and recommended conditions.
- 10.2.15 No vehicular access from Boxted Road – this should be clear on signs and all printed publicity.
Addressed within recommended conditions
- 10.2.16 A12 will be “jammed”.
Addressed within section 15.6

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

11.0 Parking Provision

- 11.1 500 visitor spaces

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It went before Development Team on 2/5/13. No recommendations were made for any legal agreements or conditions at that meeting.

15.0 Report

15.1 The principle of development.

15.1.1 A raft of local and national policy supports the principle of economic development, strengthening community facilities and visitor attractions and making efficient use of land. The following extracts are key examples;

15.1.2 Core Strategy Policy SD1 *“Development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land”*

15.1.3 Core Strategy Policy SD3 *“The Council supports the retention and enhancement of existing community facilities and encourages multi-purpose community facilities that can provide a range of services and facilities to the community at one accessible location”. The Community Stadium is identified in accompanying table SD3 as a key community facility and is described as having regional and national significance.*

15.1.4 Core Strategy Policy CE1 *“The Council will promote employment generating developments through the regeneration and intensification of previously developed land...”*

15.1.5 Development Policy DP4 *“Support will be given to the provision of new community facilities and to the enhancement of existing community facilities where these positively contribute to the quality of local community life and the maintenance of sustainable communities in accordance with other policy requirements.”*

15.1.6 Development Policy DP10 *“Development for new and extended visitor attractions, leisure and cultural facilities...will be supported in sustainable locations. Proposals for tourism, leisure and cultural development should promote accessibility by a choice of means of transport and must not cause significant harm to the amenity of people living and working nearby....Urban areas of Colchester will be the focus for larger scale tourist, leisure and cultural facilities and accommodation in line with the need to concentrate development at the most sustainable and accessible locations.”*

15.1.7 NPPF, Para 19: *“The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”*

15.1.8 Very little information has been provided with the application to enable the economic benefits or job creation that would result from this proposal to be quantified, however it is not unreasonable to assume that the proposal will have positive implications for both. Such benefits will not only result directly from the car boot sales, but a more efficient use of the site with additional income streams is also likely have a positive impact on the overall operation and viability of the Community Stadium. In the context of the afore-mentioned policies, such benefits must be given significant weight. Such material considerations in favour must however be weighed against any planning harm that result from the development.

15.2 Sustainability and impact on town centre

15.2.1 The site currently offers relatively poor access by public transport for an urban area, although this is likely to improve as surrounding development in the Northern Growth Area continues.

15.2.2 Car boot sales by their nature require easy access to private cars – both to vendors and to customers who may wish to purchase bulky items. The nature of sale items (being primarily second-hand domestic goods) is also such that it does not compete with the town centre – its closest ‘competitors’ are other car boot sales and website such as ebay. Consequently the function of the town centre would not be harmed by this type of vendor.

15.2.3 Car boot sales do attract some more professional traders who trade in new goods and fresh produce. This is difficult to restrict as it forms an integral part of modern car boot sales, adding to their viability and attraction. Such stall holders usually comprise a minor element and are unlikely to result in material harm to the town centre. A material shift in the balance towards what could be called a market is likely to comprise a material change of use requiring planning permission in its own right.

15.2.4 In many ways, the proposed site provides an optimum balance between being easily accessible by non-residential road, yet still within the defined settlement limits where the principle of such development is accepted and where there is potential access by foot and on bicycle.

15.3 Car parking

15.3.1 The Council’s adopted parking standards make no reference to car boot sales and in any case are maximum rather than minimum standards for all development types other than residential development.

15.3.2 The adequacy (or otherwise) of customer parking provision and management is arguably the single-most concerning aspect of this proposal as it has the potential to result in cars parking in residential streets around Boxsted Road that could in turn cause material harm to residents’ amenities.

- 15.3.3 If there is adequate customer parking on site and it is adequately managed (including in the way the events are marketed with directional advertising), there is no good reason for customers to park in such residential streets. The applicant has indicated that customer parking will be free and parking close to the stalls will clearly be preferable to customers who will not wish to carry their potential purchases long distances.
- 15.3.4 Of course, this conclusion does rely on the assumptions that there will be adequate parking and that it will be adequately managed. The applicant has stated that there will be 500 customer car parking spaces and has shown where these will be situated. No detailed layout has been provided of car parking in the coach park area, but it is of a size to conclude that together with the main car park, 500 cars can reasonably be accommodated in these areas. However, the applicant has not provided any evidence that 500 parking spaces will be adequate. In response to these concerns expressed by officers, the applicant has stated that *"We have good links with others such as Rapid and Total Car parks who provide overflow facilities on a matchday on local business parks."* It is not unlikely that faced with a full car park on site and a distant alternative option, some customers may choose to try to park in residential areas and so such a 'solution' does not fully address officer concerns.
- 15.3.5 In reality, it is almost impossible to tell at this stage how 'successful' the car boot sales will end up being and what parking demands are likely to be. To some degree it will correlate to the number of stall holders (or the area given over to stall holders), but there is no set formula for this, as the weather and the activities of competing car boot sales (amongst many other factors) will also influence attendances on a weekly basis. To some degree, the adequacy (or otherwise) of parking provision will only be fully understood some time after car boot sales are up and running.
- 15.3.6 The management of parking also has the potential to influence the likelihood of customers parking on-street. Good stewarding can reduce inappropriate parking, as can good publicity and signage. Similarly, good on-site management and stewarding can ensure that vehicles are not queuing too long to get in, causing drivers to resort to alternatives.
- 15.3.7 Consequently, it is recommended that planning permission only be granted on a temporary basis so as to allow customer and stall holder numbers to be monitored as well as unwanted impacts. With regard to ensuring good management, some details have been provided with this application, but a detailed management plan can be required by condition. It would also seem prudent to initially restrict the development to 100 'booters' – a figure which is stated by the applicant as being the "long term aim" even though they propose a 200 booter upper limit. A higher limit could be considered as part of a new application when the temporary permission expires.

15.4 Noise and disturbance.

- 15.4.1 It is common practice for vendors to arrive early at car boot sales to queue for 'best position'. Sometimes trading even happens between and with vendors queuing to gain admission. Such activities are notoriously difficult to control. Arrangements for minimising such activity will need to be required by condition.

15.4.2 Environmental Control has no objection to the proposed hours of operation. If cars are restricted to the Axial way access, it is primarily noise from the site itself that has the potential to generate materially harmful noise levels. To a large extent the normal on-site background noise of cars, vendors and customers will be heard in the context of the adjoining A12 dual carriageway and the distance from the vast majority of residential properties mitigates against potential noise nuisance. Whilst the submitted plan shows the 'booters' area close to the southern boundary of this site, conditions could require it to be closer to the A12 where it would be further from residential properties. Amplified music and announcements would still have the potential to cause noise nuisance and this will need to be controlled by condition.

15.5 Litter and toilets

15.5.1 Clearly the applicants will be responsible for ensuring the clearing up of litter on site and that will be in their own interests. Whilst there is the potential for on-site litter to be blown off-site by the wind, should this become a problem, it is noted that the Council can require them to clear litter from the footway and adjacent land within 100 metres of their premises and planning should not seek to replicate what can be achieved under other legislation. No further controls have been recommended by Street Services at Development Team.

15.5.2 The applicants have stated that toilets within the concourse will be made available to vendors and customers. The stadium has adequate toilet facilities to serve thousands of visitors and there is consequently no reason to suppose that the lack of such facilities will be a problem at this site.

15.6 Highway safety

15.6.1 The Highway Authority has made no objection to this proposal nor has it formally recommended any conditions (although welcoming promotional material to direct users to the Axial Way access). The Highways Agency (which deals with matters affecting trunk roads such as the A12) has not objected either, commenting that the proposal will not affect the A12. As the recognised experts in highway safety, the opinion of these bodies (or apparent opinion) that the proposal will not cause harm to interests of highway safety must be given considerable weight and officers have no grounds to come to a different view.

15.7 Matters that are not material planning considerations

15.7.1 It is a fact that the site is owned by the Council, although it is not the applicant in this case. This report must be thorough, transparent, consistent in its recommendation and robust in its analysis of material planning considerations as the same 'rules' that apply to all applicants apply to the Council. The fact that the Council owns the site and has an obvious financial interest in it is not a material consideration for which the Planning Service and/or the Planning Committee can have regard.

15.7.2 Similarly the fact that, as landowners, the Council will have the ability to influence and control the correct management of the site outside of the planning process is not a material planning consideration.

15.7.3 As members will be aware “competition” is not a material planning consideration and the planning system has no remit to protect one trader/business from competition from another. The guiding government philosophy has consistently been through various Governments of the day that the market will decide.

15.7.4 Matters relating to the Royal Charter that exists in relation to Colchester Market are not material planning considerations. The impact on the town centre is, but is addressed in the preceding sections of this report.

16.0 Conclusion

16.1 The proposed use will bring with it economic and employment benefits, ensure a more efficient use of land and help shore-up the economic viability of a community facility of regional and national significance. The site has many advantages for its proposed use. It is not hemmed in by residential development, has an existing underutilised hard surfaced area, has good vehicular access off non-residential roads, is accessible on foot and by bicycle from large parts of Colchester, is within the defined settlement limits, does not harm the countryside and has the A12 as context for any noise generated. As a community stadium and conference centre it is well equipped to handle large events. These factors must be given significant weight.

16.2 Impact on the town centre will not be significant. Identified planning harm to neighbour amenity has the potential to be successfully mitigated against by condition and so does not outweigh the identified benefits. Whilst a degree of uncertainty also exists – particularly in relation to the parking, such certainty cannot be achieved in advance of the car boot sales getting underway and so does not constitute grounds for refusal. Conditions, including provisions to make the use temporary in the first instance, provide adequate insurance against potential harm to residential amenity together with other non-planning legislation that protects against noise nuisance, litter and illegal parking.

16.3 For these reasons, the proposal is considered to be acceptable (subject to conditions) and is recommended for approval.

17.0 Recommendation - APPROVE subject to the conditions in section 19 below.

18.0 Recommended Reasons for the Decision

YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee having considered the recommendation contained in the officer’s report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because the material benefits of the development to the economy and job creation resulting from this more efficient use of land outweighed the identified potential harm to neighbours’ amenity which can be adequately controlled by condition and the minor harm to the town centre. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.

19.0 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 - Non-Standard Condition/Reason

The Local Planning Authority shall be notified in writing of the date of the first car boot sale within 7 days of it happening. This planning permission shall expire 6 months from the date of that first car boot sale, after which the use of the site for car boot sales shall cease and it shall return to being only parking ancillary to the stadium.

Reason: Inadequate information has been submitted with this application for the adequacy of proposed customer parking or the workability of management arrangements to be properly assessed. A temporary permission is therefore necessary in order to give the applicant the time and ability to compile such evidence.

3 - Non-Standard Condition/Reason

No car boot sales shall be operated from the site until such times as revised layout plans have been submitted to and approved in writing by the local planning authority, identifying vendor areas, customer parking areas, and access, maneuvering and circulation areas. This revised plan shall show the vendor area so positioned as to maximise the distance from residential properties and shall accommodate no more than 100 'pitches'. Car boot sales shall subsequently operate in precise accordance with these approved plans, with no sales being undertaken at any time outside the areas defined as vendor areas and with the areas defined as customer parking, access, maneuvering and circulation used only for that those specific purposes.

Reason: To ensure that the distance between vendor areas and residential properties is maximised, in the interests of residential amenity and to ensure that there is adequate customer parking in relation to the number of 'booters' and adequate maneuvering / circulation areas.

4 - Non-Standard Condition/Reason

No car boot sales shall be operated from the site until such time as detailed arrangements for the management and stewarding of the site have been submitted to and approved in writing by the Local Planning Authority. This Management Plan shall include detailed provisions for minimising the potential for vendors to arrive outside the site before 7am, detailed provisions for preventing vehicular access to the site via the Bosted Road access, detailed provisions for minimising the potential for vehicles to arrive at the Bosted Road entrance to the site, and detailed provisions for minimising the potential for vehicles to park on surrounding streets. To this effect, it shall include a scheme of signage, a policy on publicity, and details of the numbers and roles of stewards in attendance at each event. Car boot sales shall thereafter only be operated in such a way that complies in full with the provisions set out in the Management Plan.

Reason: To minimise the potential for harmful impact on the amenities of surrounding residents through on-street parking and through early morning noise. Submitted details do not include adequate detail for a proper assessment to be made or for the provisions therein to be enforceable.

5 - Non-Standard Condition/Reason

Car boot sales shall only be undertaken on Sundays. No customers shall be allowed on site prior to 8am and no vendors shall be allowed on site prior to 7am. There shall be no vendors on the site after 8pm.

Reason: The application has been submitted on this basis and consequently all consultations have been undertaken on this basis. Different timings would need to be separately considered on their own merits as part of a formal re-submission.

6 - Non-Standard Condition/Reason

No music or amplified sound shall be played on the application site on Sundays prior to and during the car boot sales with the exception of emergency announcements.

Reason: To avoid sound pollution that may harm the amenity of the occupiers of nearby residential properties.

7 –Non-Standard Condition/Reason

No generators shall be used on the application site.

Reason: To avoid sound pollution that may harm the amenity of the occupiers of nearby residential properties.

8 - Non-Standard Condition/Reason

No additional lighting shall be installed in any part of the application site unless details have previously been submitted to and approved in writing by the Local Planning Authority as an application to discharge this condition.

Reason: To prevent unacceptable light pollution to the detriment of residential amenity.

20.0 Informatives

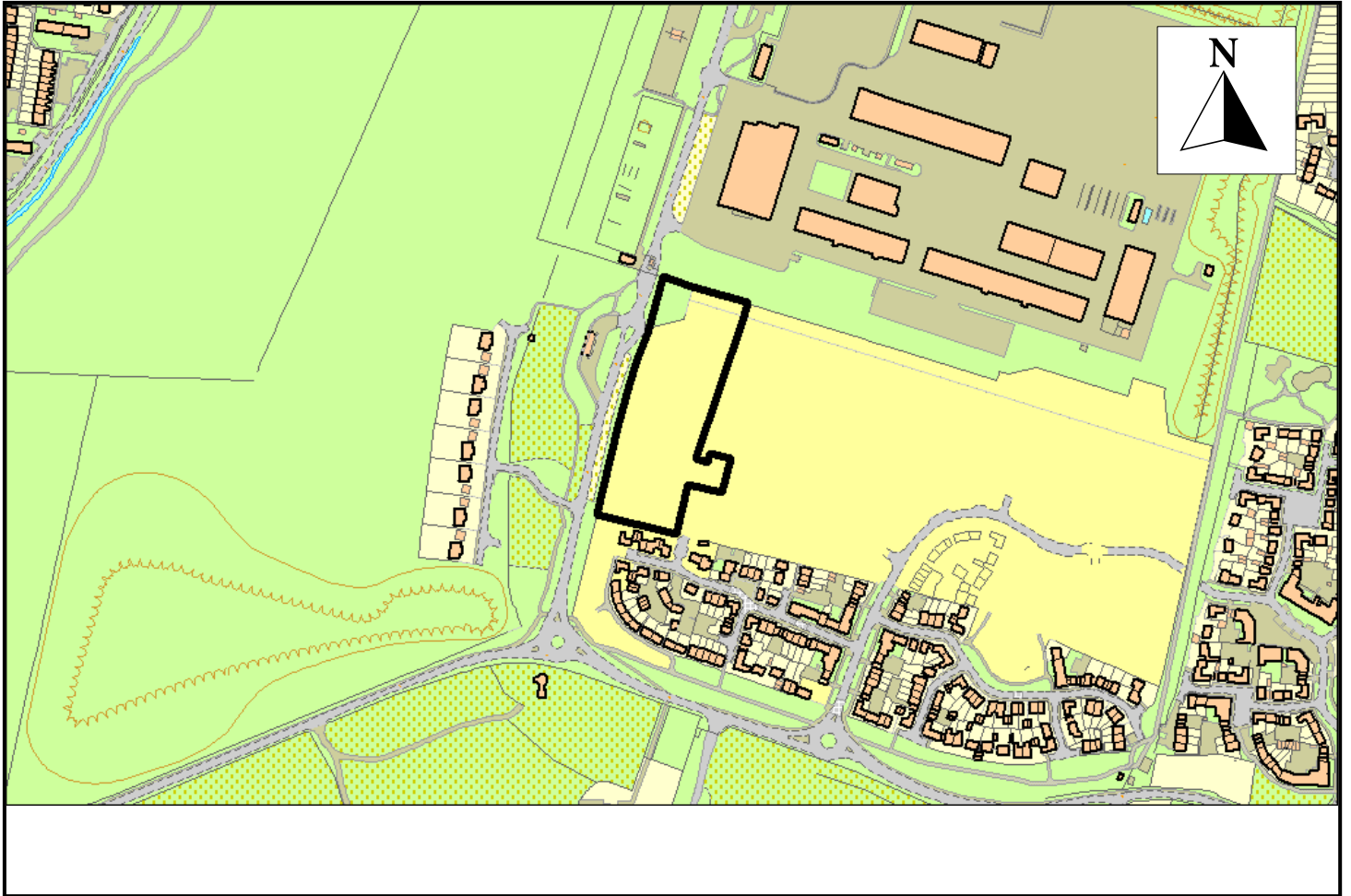
(1) This is a temporary permission for 6 months from the date of the first car boot sale. Should you wish to apply for a further permission after that date you are strongly advised to collect evidence in support of that application from the date of the first event and at each event thereafter. Such information should include (but not be limited to) records of the number of 'booters' each week and the number of visitor cars entering and exiting the site each hour. It should also include details of any problems or complaints that may occur, any measures taken to address these complaints and details of the success or otherwise of such measures. Copies of publicity materials should also be retained as evidence.

(2) This permission only permits activities that fall within the reasonable definition of 'car boot sales'. It does not include activities that as a whole could more reasonably be described as a market.

(3) 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.

21.0 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.



Application No: 130505

Location: Garrison Area S2 North West, Roman Barracks, Berechurch Hall Road, Colchester, CO2 9NT

Scale (approx): NOT TO SCALE

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7.2 Case Officer: Alistair Day Due Date: 07/06/2013

MAJOR

Site: **Roman Barracks, Berechurch Hall Road, Colchester, CO2 9NT**

Application No: **130505**

Date Received: 8 March 2013

Agent: Barton Willmore Ltd

Applicant: Taylor Wimpey East London

Development: Proposed 48 Dwellings with associated access, car parking and landscaping.

Ward: Berechurch

Summary of Recommendation: Conditional Approval 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 objections have been raised to this development proposal and a s.106 agreement is required.

2.0 Synopsis

2.1 The application is for the erection of 48 residential units on land formerly identified for employment purposes as a part of the Garrison Urban Village Development. This allocation reflected the original intent for a particular end user (ABRO) to move to the site, which will no longer take place. Given this, the redevelopment of this land for residential development is considered acceptable. The design and layout of the proposed development reflects the surrounding housing and conforms to the principle of the approved Design Codes. The concerns raised by local residents in respect of the potential impact of the development on the amenity of the adjacent houses have been fully considered against the Council's guidance and found to be acceptable.

2.2 The applicant has submitted a viability appraisal, which has been assessed by the Council's consultant. This appraisal demonstrates that the viability of this development is such that a 'reduced' s.106 package (three affordable houses and a commuted sum for the maintenance of public open space) is justified.

3.0 Site Description and Context

3.1 The application site is a rectangular shaped parcel of land of 1.83 hectares and forms part of Area S2 (North) of the Garrison Urban Village Development. The site (which is known as Area S2 (North West) is bounded by residential development to the south (Areas S2 (South) and S2 (Southwest)). To the east of the site is a residential development (currently under construction) known as Area S2 (North). Roman Way (which provides a secondary access to the Merville Barracks) forms the western boundary of the site.

4.0 Description of the Proposal

4.1 The application seeks planning permission for the erection of 48 residential units. The mix of the dwellings comprises 12 x 2-bed houses, 21 x 3-bed houses and 15 x 4 bed houses, with associated access, parking and landscaping. A s.106 agreement is also proposed in relation to affordable housing and a maintenance sum for the management of the public open space.

5.0 Land Use Allocation

5.1 Garrison Regeneration Area – including residential development and up to 5,000sqm of B1 floor space, off Berechurch Hall Road

6.0 Relevant Planning History

6.1 O/COL/01/0009 - A new 'Urban Village' comprising residential development (up to approx 2,600 dwellings) mixed uses including retail, leisure and employment, public open space, community facilities, landscaping, new highways, transport improvements and associated and ancillary development in accordance with and subject to the provisions of the master plan drawing reference 98.018/42d – Approved 30 June 2003

6.2 072928 - Reserved Matters application for residential development of 146 dwellings on Area S2 (South) – Approved 27 February 2008;

6.3 091563 - 21 dwellings on Area S2(South West) – Approved 23rd May 2012;

6.4 091641 – Reserved matters application for the erection of 163 dwellings on Area S2(North) – Approved 1st April 2010

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) 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
- 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
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- 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
- DP25 Renewable Energy

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

- SA GAR1 Development in the Garrison Area

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

- The Garrison Master Plan
- 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

8.0 Consultations

8.1 Spatial Policy

The Spatial Policy Team notes that the site is allocated for employment use in Site Allocation Policy GAR1. This allocation reflects the original intent for a particular end user to move to the site, which did not occur, rather than any advantageous locational features of the site. The principle of the acceptability of the loss of employment land in this instance was established through consideration of the previous proposal. There is accordingly no objection to the proposed change to residential use.

8.2 Major Development Team

The Council's Urban Design Officer considers that the design and layout of this scheme reflects the character of the surrounding development and will not generate adverse amenity issues for existing residents. No objection is raised to this proposal.

Archaeological Officer has stated that this land has been fully excavated following archaeological evaluation and the report has been produced. There is no requirement for any further archaeological intervention; thus no further recommendation is necessary.

Landscape Officer has confirmed that he is satisfied with the landscape content of the proposal and does not wish to raise an objection to this application subject to the attachment of appropriate conditions.

8.3 Environmental Control

The Environmental Control Team has not raised an objection to this application and has asked for conditions to be attached in relation to a method statement and expected contamination.

8.4 Parks

The Parks Manager has advised that based on 5,100m² grass cutting and 23 trees to be maintained the grounds maintenance costs will be:

Grass cutting	£29,000
Tree maintenance	£8,950

Total sum required for CBC to maintain the site £37,950

The Council's Tree Officer has not raised an objection to this proposal and has recommended tree protection conditions.

8.5 Highway Authority

The Highway Authority has confirmed that it does not wish to raise an objection to this application subject to the attachment of conditions relating to wheel cleaning facilities and the provision of travel packs to the occupiers of the proposed dwellings.

8.6 Anglian Water

Anglian Water raises no objection to this application and has confirmed that the foul drainage and sewage system has sufficient capacity.

8.7 Environment Agency

The Environment Agency has no objection to the principle of the development. It has, however, requested that further details be secured in respect of surface water drainage and that these details will need to integrate into the overall drainage strategy for Area S2.

Its comments are as below:

'The Environment Agency notes that it is proposed to dispose of surface water through a combination of connection with the public sewer and through the use of soakaways for drainage of private areas. The details submitted indicate that surface water run-off can be managed onsite for the 1 in 100 year storm, inclusive of climate change. In order to confirm that the restricted discharge to the existing highways sewer at 20l/s is acceptable, details of the original surface water scheme for the S2 area should be submitted with this application to make it clear how this area (NW) fits into the overall scheme.

It is essential that soakaways are maintained to ensure that they are able to function at their design capacity for the lifetime of development to prevent flooding problems occurring in the future. Over time soakaways are likely to collect debris and sediment which can reduce the storage capacity and the efficiency of the soakaway itself. Regular maintenance is therefore necessary to ensure efficiency of the system and we advise that your local planning authority is satisfied that a suitable management scheme is in place to secure long term management and maintenance of the system. Failure to manage soakaways adequately can lead to increase flooding problems in the future.

With regard to foul water drainage, the Environment Agency notes that this is to be disposed of into the main sewer network. The Agency comments that Anglian Water will need to confirm the capacity in respect of the existing foul water drainage and sewage works. '

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 Following the initial consultation, the Council received five letters of representation. The issues raised are summarised below:

- The juxtaposition between the existing houses and the proposed housing will result in overlooking, overshadowing and a loss of daylight.
- The proposed development will result in the loss of trees.
- The development may exacerbate potential flooding.
- The new dwellings are served off Fowler Road which is already very cramped and busy due to it being the main road to all the other properties to the south of the proposed development.
- The development will result in increased traffic passing the existing houses
- ‘When we purchased our property we were told that there would be no new dwellings built to the back of our property and with this new proposed application this does not appear to be the case.’
- The land is MOD land.
- The site abuts vehicle access to the Merville Barracks military installation. This vehicle access point is at risk from vehicle borne improvised explosive devices.
- The affordable housing provision is not compliant with policy requirements

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

11.0 Parking Provision

11.1 Parking is provided at 200 per cent plus 0.25 spaces per unit for visitor parking. This complies with adopted standards.

12.0 Open Space Provisions

12.1 The development provides 0.41ha of public open space.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and is not considered to 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 Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:

- Affordable housing provision
- Commuted sum for the maintenance of the public open space

15.0 Report

Principle of the development

- 15.1 Core Strategy Policies SD1 and UR1 state that the Council will promote sustainable development and high quality design, focusing on the town centre, the regeneration areas and key gateways to Colchester. The application site is located within the Garrison Regeneration Area and therefore conforms to this policy. Policy SA GAR1 of the Site Allocations DPD identifies the western sector of Area S2 for employment uses (up to 5,000sqm) and reflects the historic proposal for ABRO (now DSG) to be relocated from their current location off Flagstaff Road to this site.
- 15.2 The Garrison Urban Village Development was granted outline planning permission in 2003. The Master Layout Plan (as required by condition 1 of the outline planning permission) was approved in July 2004 and sets out the broad strategic position in terms of major linkages and distribution of land uses on the Garrison development. A Design Code and Landscape Design Brief (as required by conditions 3 and 4 of the outline planning permission) have been approved for Area S1 and Areas S2 (North and South). These documents are intended to inform and guide development in terms of the principles and details that are to be incorporated into scheme to ensure that there is a consistency in terms of the character and quality of the environment created.
- 15.3 The western sector of Area S2 is identified in the approved Master Layout Plan as a site to include employment use. The approved Design Code for Area S2 identifies the area as providing a minimum of 270 dwellings with an element of employment fronting the access road to the new Garrison. The Design Code states that the employment use could be serviced incubator units and will be a minimum of 50 per cent of the hatched area.
- 15.4 In the early stages of master planning the redevelopment of the Garrison site, it was 'proposed' to relocate ABRO from its existing site in Flagstaff Road to Berechurch Hall Road. This site was chosen principally due to its location adjacent to one of the access points into the new Garrison. While the relocation of ABRO was 'master planned' as a part of the redevelopment of the Garrison, ABRO was never formally part of this development proposal and it has since made it known that it does not wish to relocate to the Berechurch Hall Road site. Other employment uses have been considered for this site; however the Council has previously been advised that the site's location does not lend itself to general commercial development.
- 15.5 Planning permission has been granted for 330 units on Area S2 (excluding the current application site); this is composed of 146 units on Area S2 (South); 21 units on Area S2SW and 163 units on Area S2 (North).
- 15.6 In considering the planning application for Area S2SW, the Spatial Policy Team advised that, as ABRO no longer intended to relocate to this site, the proposal to use this land for residential development is considered appropriate. This principle of accepting the loss of employment land on this part of Area S2 of the garrison site has therefore been previously set. Given this, and the fact the viability of the garrison development is in the balance, the proposal to develop housing on Area S2 North-west is considered to acceptable.

Design and Layout

- 15.7 Core Strategy Policy UR2 seeks to promote and secure high quality design. Encouragement is given to creative design and innovative sustainable construction methods. The Policy states that developments that are discordant with their context and fail to enhance the character and quality of the area will not be supported. Core Strategy Policy ENV1 also requires development proposals to be appropriate in terms of their scale, siting and design. Development Plan Policy DP1 sets out design criteria that new development must meet; these require new developments to respect the character of the site and its context in terms of their detailed design and respecting and enhancing their surroundings.
- 15.8 The application has been submitted for a total of 48 dwellings comprising 12 x 2-bed houses, 21 x 3-bed houses and 15 x 4 bed houses. The approved Design Code for Area S states that a family of building types will be used and that the development will typically be between two and three storeys in height, although Area S2 will include fewer taller buildings. The Design Code also requires new residential development to adopt traditional domestic forms and materials. The general design and layout of the proposed development reflects the pattern of development established (or approved but not implemented) to the south and east of the application site and, as such, is considered acceptable.

Impact on Neighbouring Properties

- 15.9 Development Plan Policy DP1 requires all new development to be designed to a high standard and to avoid unacceptable impacts on the residential amenity, particularly with regard to privacy and overlooking. Development Plan Policy DP12 states in considering new development proposals the Council will have regard to avoidance of adverse overshadowing between buildings, acceptable levels of daylight and acceptable levels of privacy for rear facing habitable rooms and sitting out areas.
- 15.10 The principle issue arising from the submitted layout is the potential impact that the proposed development would have on the recently constructed residential development that is immediately to the south of this site. The current application has been designed as a continuation of the existing development and the proposed properties are sited / oriented to avoid having an adverse impact on existing dwellings.
- 15.11 The concerns expressed by the occupiers of the housing immediately adjacent to this development in respect of the potential loss of amenity and overshadowing are appreciated. In designing the current scheme, the developer has been mindful of the layout of the existing residential development and the current proposal has always been regarded as a continuation of this residential estate. Concern has been expressed by the owners 56 Fowler Road regarding plot 432 appearing overbearing when viewed from their rear garden. The Essex Design Guide notes that where a new house is set at right angles to an existing dwelling and there are no windows in the flank end and no problems of overshadowing (such as this) the new house may be set one metre from the boundary. Notwithstanding this, the developer has attempted to address this concern by reorienting plot 432 so that it follows the same building line as plots 430-1 to the north and aligns with the garaging between 56 and 54 Fowler Road. The amended scheme will significantly reduce the perception of the new building seeming overbearing when viewed from the rear garden of 56 Fowler Road. The owner of 54 Fowler Road has raised concern that the layout of the development will

result in a brick wall on the other side of the garden of 54 Fowler Road and that this will result in a loss of light to the property. 54 Fowler Road would back onto the rear garden of plot 432 with the existing garden fence to 54 Fowler Road retained; a garage is proposed to the north of the garden of plot 432. This arrangement would not generate overshadowing or the loss of light to the rear garden of 54 Fowler Road.

- 15.12 A number of residents have stated that they were advised by Taylor Wimpey's sale staff that there would be no development behind the existing dwellings. This point has been raised with Taylor Wimpey and they have provided Officers with the sales plan for Area S2 (SW) – which includes the properties in Fowler Road – which identifies the land to the north for residential development. While Officers can not comment on what may or may not have been said to prospective purchasers, Members should note that this land was identified for employment use (possibly ABRO, the vehicle repair shop for the MoD) as a part of the Garrison Urban Village development. The land has therefore been earmarked for development since 2003 and the residential development proposed by this application is considered a more suitable neighbour than the employment uses originally intended for this site.

Sustainability

- 15.13 Core Strategy policy ER1 and Development Plan Policy DP25 seek to promote sustainable construction techniques in tandem with high quality design and materials to reduce energy demand, waste and the use of natural resources. The Council's Supplementary Guidance Document "Sustainable Construction" (adopted 2011) provides further guidance on sustainability matters.
- 15.14 The current application provides limited information in respect of sustainable construction techniques. Planning conditions attached to approvals on other parts of the garrison site (including Area S2 (North)) require new houses to be built to Code Level 3. It is proposed to attach a condition to the granting of any planning permission requiring the development to be constructed to a minimum of Code Level 3.

Highway and Accessibility Issues

- 15.15 Core Strategy Policies TA1, TA2, TA3 and TA4 address transport strategy and promote accessibility and changing travel behaviour. These policies seek to strike a balance between improving accessibility through land-use planning, managing traffic flows and growth and seek to encourage a change in travel behaviour and, where appropriate, give priority to walking, cycling and public transport. These policies are closely linked to Core Strategy policies PR2 (People Friendly Streets) and UR1 (Urban Regeneration). Policy PR1 aims to provide a network of public open spaces that meet local community needs within walking distances of people's homes and work.
- 15.16 Policy DP17 provides guidance on ensuring accessibility for sustainable modes of transport as well as requirements for Travel Plans and Transport Assessment and the requirements for incorporation of satisfactory and appropriate provision for pedestrians and cyclists as well as protection for the public rights of way network.

- 15.17 The main vehicular access to the site is provided from the estate road from Area S2 (North); a secondary access to the site is provided from Fowler Road to the south. There is no vehicular access to the site from Roman Way. The roads on Area S2 (SW) and Area S2 (North) have been designed with the potential traffic flows from this application site in mind. The concerns raised by nearby residents in respect of congestion and increased traffic movements are noted. The Highway Authority is satisfied that the proposed development will not generate any adverse capacity or road safety issues.
- 15.18 The current application has been designed to integrate with existing pedestrian and cycle routes that have been proposed / secured as a part of the Garrison development and, as such, the current proposal is considered to conform to Core Strategy Policies TA1, TA2 and PR2. As a part of the main Garrison development, highway and public transport improvements have previously been secured. The applicant has confirmed that the new residential occupiers of this development will be issued with the same Travel Packs as residents on the other parts of the garrison development

Parking

- 15.19 Development Plan Policy DP19 refers to the adoption and application of parking standards in a Supplementary Planning Document adopted in November 2009. This policy notes that the level of parking provision required will depend on location, type and intensity of use. For dwellings, the guidance states that two parking spaces should be provided for each house of two or more bedrooms, in addition to 0.25 spaces per dwelling for visitors.
- 15.20 The proposed dwellings have two private parking spaces each (which accords with the adopted standards) and twelve visitor parking spaces ($48 \times 0.25 = 12$ spaces).
- 15.21 The adopted parking standards state that the preferred bay size for cars is 5.5m x 2.9m, although in exceptional circumstance (as determined by the Local Planning Authority) a minimum bay size of 5.0m x 2.5m can be accepted. With regard to garage parking the minimum size required by the Parking Standards is 7.0m x 3.0m (internal dimensions). This dimension is considered large enough for the average sized family car and cycles as well as some storage space. Both the proposed garages and the parking spaces conform to the Council's adopted car parking standards.

Private Amenity Space and Open Space Provision

- 15.22 Development Plan Policy DP16 states that all new residential development shall provide private amenity space that is appropriate to its context and is to a high standard. This policy requires the following standards to be applied to new development: 50 square metres for 1 or 2 bed properties; 60 square metres for 3-bed properties; and 100 square metres for 4-bed houses.
- 15.23 The proposed dwellings are provided with private gardens that reflect the garden size required under DP16.
- 15.24 In addition to private amenity, policy DP16 states that all new residential developments will be expected to provide new public areas of accessible open space.

- 15.25 The approved Master Layout Plan requires the provision of a landscape buffer (approximately 30 metres wide) between the new development and Berechurch Hall Road, which forms an integral part of the Green Links and landscape structure that was agreed as a part of the overall Garrison development. The garrison legal agreement states that this land is capable of forming part of the public open space for Area S1 and Area S2.
- 15.26 The current application proposes a landscape buffer to the western boundary of the site and this forms a continuation of the landscape treatment agreed as a part of the planning application for Area S2 (SW). A commuted sum has been secured for the maintenance of the proposed public open space.
- 15.27 The proposed private amenity and public open space provision is considered compatible with the guidance set out in Development Plan Policy DP16.

Trees

- 15.28 The application site contains some 63 individual trees and two groups of trees. The planning application is supported by Tree Survey, Arboricultural Implication Assessment and method statement and tree protection plan.
- 15.29 Within what may be described as the influencing area of the application site, there are a total of 63 individual trees and two groups of trees. These trees were found to be of mixed quality and age providing a variety of amenity benefits. There is one Category "A" (high quality) tree; and one group and 27 individual Category "B" (modest quality) trees. All of these trees are to be retained as an integral part of the proposed layout. Thirteen trees are to be felled due to their poor quality. This includes the removal of three trees immediately to the west of plot 432. The Council's Tree Officer has confirmed that he is in agreement with the categorisation of the trees. The Tree Officer has also advised that the British Standard states that Category "C" trees should not act as a constraint on new development and, as such, it would be inappropriate to seek their retention as a part of this Planning application. On land proposed for adoption as Public Open Space, the Council's Tree Officer has advised that all of the category "C" should be removed (due to their low life expectancy) and replaced with compensatory tree planting. A condition is proposed to this effect.
- 15.30 The alignments of the new dwellings do not encroach within the root protection areas (RPA) of any of the trees that are to be retained. The alignments of some of the new footpaths do encroach within the RPA of these trees; in these circumstances, it is proposed to use 'no dig' construction techniques. The Tree Officer has confirmed that he has no objection to the use of no-dig construction techniques.
- 15.31 Councillor Dave Harris has raised the possibility of the retained trees being protected via a tree preservation order (TPO). In the short term (i.e. during the construction of the proposed development) the trees can be adequately protected via conditions. The Tree Officer, however, has been asked to consider serving a TPO on the retained trees (on both Area S1 and Area S2) that fall outside land identified for transfer to the Council as public open space.

S106 Matter

15.32 Adopted planning policies and supplementary guidance documents set the framework for the provision of planning obligations associated with development proposals. Policy SD2 requires new development to provide necessary community facilities, open space, transport infrastructure and other requirements to meet community needs. Policy H4 of the Core Strategy states that the Council will seek to secure 35 per cent of new dwellings to be provided as affordable housing. Adopted supplementary planning guidance / documents also seek to secure contributions in respect of open space and community facilities.

15.33 The comments made by a local resident in respect of the level of affordable housing are noted.

15.34 National Planning Policy Framework (NPPF) of 2012 provides guidance on ensuring the viability and deliverability of development proposals. Paragraph 173 of the Framework states that:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. 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”.

15.35 With specific regard to existing planning permissions, the NPPF (at paragraph 205) states that:

“Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled”.

15.36 As previously noted, Taylor Wimpey has advised the Council that the viability of the Garrison development is in the balance. A financial appraisal has been submitted in support of this of this application and this has been assessed by the Council’s own consultant. The financial appraisal – which allows for a write-down in land value and a lower developer profit – demonstrates that this development can not support a s.106 package that would normally be associated with a development of this scale. In view of this, the proposed s.106 package (comprising 5 per cent affordable housing and a commuted sum for the maintenance of the public open space) is considered reasonable.

Other Issues

15.37 The land that is the subject of this application was formerly MoD land but is now owned by Taylor Wimpey.

15.38 One letter of representation raises concern at the close proximity of the proposed development to the garrison access and considers that this represents a health and safety risk due to the potential from vehicle borne improvised explosive devices. The MoD has been consulted on this application and no letter of representation has been received from them in respect of this development proposal. Officers have also spoken directly to the garrison regarding this matter and have been advised that the MoD does not have an objection to housing being developed on this land and that this housing is no closer than that approved on other parts of the Garrison Urban Village Development to the garrison boundary and/or entrance point. The proximity of this development to the Garrison entrance on Roman Way is not considered to constitute a reason to refuse this application.

15.39 The comments made by the Environment Agency in respect of the need to ensure that the drainage of this site integrates with the adjacent development are noted; a condition is proposed to cover this issue. Regarding the issue of the management of the soakaways, it is understood that these will be the responsibility of the management company or individual residents; a condition is proposed to ensure appropriate arrangements are in place to cover the long-term management of the soakaways.

16.0 Conclusion

16.1 The design and layout of the submitted application is considered appropriate to the local context and for the reasons described above it is recommended that Members endorse the proposed s.106 package.

17.0 Recommendation

17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six 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 Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

Affordable housing (three units)
A commuted sum of £37, 950 for Public Open Space

18.0 Recommended Reasons for the Decision

YPD - *Reason for Approval (Policy Conflict - Committee)

Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy in respect of the level of proposed s106 obligations. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because it will enable this sustainable development to be delivered. Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application.

19.0 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 - *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 09.092-10B, 09.092/101A, 09.092/102A, 09.092/200A, 09.092/AA21/20, 09.092/AA21/21A, 09.092/AA23/20, 09.092/AA23/21A, 09.092/MA/20, 09.092/MA/21, 09.092/MA/22, 09.092/BE/20, 09.092/BE/21A, 09.092/BE/22A, 09.092/DE/20, 09.092/DE/21, 09.092/KM/20, 09.092/KM/21, 09.092/KM/22, 09.092/CR/20, 09.092/CR/21A, 09.092/CR22A, 09.092/EA/20, 09.092/EA/21A, 09.092/EA/22A, 09.092/YE/20A, 09.092/YE/21A, 09.092/YE/22A, 09.092/ES/20, 09.092/ES/21, 09.092/KE/20A, 09.092/KE/21A, 09.092/CP/01A, 09.092/CP/02A, 09.092/G/01A, 09.092/G/02A, 09.092/G/03A 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 - Non-Standard Condition/Reason

Additional drawings of all architectural details including door cases, windows (including depth of recess), cills, arches, eaves, verges, barge boards, string courses, plinths, copings, chimney stacks, cupolas (roof features), recessed or projecting brick work, projecting features, dormers, porches and railings to be used, at a scale between 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure that the character and appearance of the area is not compromised by poor quality architectural detailing

4 - Non-Standard Condition/Reason

All external joinery shall be coloured white and where glazing bars are to be used they shall be affixed to the external face of the glass unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development has a visually satisfactory appearance appropriate to the architectural character of the buildings.

5 - Non-Standard Condition/Reason

All new rainwater goods shall be coloured black, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development is visually satisfactory and enhances the appearance of the locality.

6 - Non-Standard Condition/Reason

All new rainwater goods shall be coloured black, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development is visually satisfactory and enhances the appearance of the locality.

7 - *Full Landscape Proposals TBA

Prior to the commencement of development, full details of all landscape works shall 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.

8 - Landscape Management Plan

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

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

9 - Non-Standard Condition/Reason

All boundary enclosures that front a public or semi-public area (including parking courtyards) shall be formed in brick unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that these walls, which will be prominent features within this housing area, have a satisfactory appearance, in the interest of visual amenity.

10 – Tree and Natural Feature Protection: Protected Areas

Prior to the commencement of development, 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.

11 - Non-Standard Condition/Reason

The development hereby permitted shall be undertaken in accordance with Haydens Tree Survey, Arboricultural Implications Assessment and Method Statement and tree protection plan for Area S2NW and a site specific Arboricultural Implications Assessment which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works. The development shall be carried out strictly in accordance with the approved documents.

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

12 - Non-Standard Condition/Reason

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by conditions as above 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:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates (usually monthly throughout the development)
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

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

13 – Tree and Natural Feature Protection: Entire Site

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.

14 - Tree and Hedgerow Protection: General

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.

15 - Tree Canopy Hand Excavation

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.

16 - Non-Standard Condition/Reason

Notwithstanding the submitted landscaping details, all Category "C" trees that are located on land intended for transfer to the Council as public open space shall be felled and a compensatory tree planting scheme (which can form part of the landscaping drawings) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works. The development shall be implemented in accordance with the agreed details.

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

17 - Residential Code for Sustainable Homes (Part 1 of 2)

Prior to the commencement of development, 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 shall have 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.

18 - Residential Code for Sustainable Homes (Part 2 of 2)

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.

19 - Non-Standard Condition/Reason

The garages and cart lodges hereby permitted shall be retained as such at all times and shall at no time be physically altered in a manner which would prevent its use as a car parking space.

Reason: To ensure adequate parking and garage space is provided within the site in accordance with the adopted standards of the Local Planning Authority.

20 - Non-Standard Condition/Reason

In the event that contamination is found that was not previously identified it shall be reported immediately to the Local Planning Authority and works must cease. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation Strategy shall be submitted and agreed in writing with the Local Planning Authority. The agreed scheme shall be completed before work recommences unless otherwise agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved Remediation Strategy a validation report and certificate shall be submitted and agreed with the Local Planning Authority.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

21 - Non-Standard Condition/Reason

No works shall start until a scheme for surface water drainage has been submitted and approved in writing by the Local Planning Authority. The drainage scheme shall include details of the original water scheme for Area S2 and demonstrate how the application site is intended to fit into the overall drainage strategy for this part of the garrison development. The development shall be implemented in accordance with the agreed details.

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

22 - Non-Standard Condition/Reason

No works shall start on site until a scheme for the long-term management and responsibilities for maintenance of the soakaways has been submitted to and approved in writing by Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To ensure that satisfactory arrangements are made for long-term management and maintenance of soakaways.

23 - Non-Standard Condition/Reason

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. access arrangements to the site by construction traffic
- iv. storage of plant and materials used in constructing the development
- v. the erection and maintenance of security hoarding
- vi. wheel washing facilities
- vii. measures to control the emission of dust and dirt during construction and the transit of

materials to / from the site a scheme for recycling/disposing of waste resulting from demolition and construction works vii the hours of constructions work and delivery of times of construction vehicles.

Reason: In order to protect local amenity and ensure a consistent approach between the redevelopment of this part of the Garrison site and that permitted under O/COL/01/0009.

24 - Non-Standard Condition/Reason

Any lighting of the development shall be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Guidance Notes for the Reduction of Light Pollution issued by the Institute of Lighting Engineers published 2000.

Reason: In order to protect local amenity and ensure a consistent approach between the redevelopment of this part of the Garrison site and that permitted under O/COL/01/0009.

25 - Non-Standard Condition/Reason

No external lighting fixtures or moveable lighting for any purpose shall be constructed or used or installed whether for temporary or permanent use until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: In order to protect local amenity and ensure a consistent approach between the redevelopment of this part of the Garrison site and that permitted under O/COL/01/0009.

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) Highway Informative:

- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.
- Prior to any works taking place in the highway the developer shall enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All highway related details shall be agreed with the Highway Authority.
- Any proposed traffic calming shall be laid out and constructed having consulted the emergency services and bus operators.

21.0 Positivity Statement

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.



Application No: 112176

Location: Layer Wood, Maldon Road, Layer Marney, Colchester

Scale (approx): NOT TO SCALE

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7.3 Case Officer: James Ryan

MAJOR

Site: Layer Wood, Maldon Road, Layer Marney, Colchester

Application No: 112176

Date Received: 12 December 2011

Agent: Boyer Planning Ltd

Applicant: Andrew Wright

Development: Proposed paintball facility, including reception building, paintball area and improved associated access. Resubmission of 101903.

Ward: Birch & Winstree

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 is a major application that has received material planning objections. It was also called in by Councillor Andrew Ellis who considered the scheme to conflict with national and local planning policy.

2.0 Synopsis

2.1 The key issues explored below are the impact the scheme will have on the woodland ecology, the highway network and neighboring amenity.

3.0 Site Description and Context

3.1 Layer Wood is located in Layer Marney. The access is from the B1022 and is currently through a set of palisade gates. The access leads to an existing concrete access road. This passes south through the woodland to a large woodland clearing.

3.2 The site is approximately 12.5 ha and is broadly rectangular in shape. It is divided into two distinct sections, 1.7ha of open grassland/woodland clearing which is mainly short grass with a scrubby edge, and the mixed deciduous woodland itself. There are 5 ponds on site.

3.3 To the north/ north east is a chicken farm with large poultry sheds known as Layerwood Farm. The boundary is marked by scrub and tree planting. South of this is Grassreason Farm which also houses large poultry sheds.

3.4 To the south of the site is more woodland, woodland clearing and scrub. To the west of the site is the Forestry Commission section of Layer Wood.

3.5 There are no public footpaths running through the site nor any adjacent to the site.

4.0 Description of the Proposal

- 4.1 The scheme proposed a change of use to allow paintball activities for 80 days of the year on the site. Paintball games will be played in 'gameszone' which are defined areas of the site. There will be gamezones in the woodland clearing and there will be gamezones in the wood itself. Although the positions are set out on the plans, the games zones will be rotated in the interests of ecology and to avoid very wet areas.
- 4.2 A new building is also proposed which will house the paintball equipment, will provide a reception area and will have seating/ picnic tables for players to sit at while at safety briefings and for lunch.
- 4.3 The building proposed is 35m by 12m, with an eaves height of 3m and a ridge height of 4m. It is proposed to be timber clad and stained black. In front of the building a car parking area is proposed with room for 60 cars.
- 4.4 The paintball facility would be open 7 days a week 9.30 to 18.00. Most bookings would be at the weekend with only a few taken during the week. These would mainly be by schools and corporate companies. Games normally would begin 10.30 and finish by 16.30. The duration of each game is 10 minutes and a maximum of 7 games are played in a day. The use will operate in a way that results in no more than 2 game zones being in use at the same time.

5.0 Land Use Allocation

- 5.1 The site is a Local Wildlife Site. It is not a Site of Special Scientific interest, a Special Protection Area or Special Area of Conservation. Therefore this site has no statutory designation in wildlife terms. The area is not subject to a Tree Preservation Order.

6.0 Relevant Planning History

- 6.1 The planning history that is particularly relevant is the previous withdrawn scheme reference 101903. This was withdrawn in order to deal with the ecological and highway issues that were raised during the application period.

7.0 Principal Policies

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

ENV1 - Environment
ENV2 - Rural Communities

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

DP1 Design and Amenity
DP9 Employment Uses in the Countryside
DP10 Tourism, Leisure and Culture
DP21 Nature Conservation and Protected Lanes

8.0 Consultations

8.1 Policy Team - Subject to a Management Plan being prepared, all mitigation measures implemented and all conditions met and in light of expert advice from EWT and Natural England, the Spatial Policy Team feel that the paintballing facility can be delivered without causing significant harm to Layer Wood and the protected species in it. Conditions were requested with regards to a bat investigation carried out by a suitably qualified ecologist and the provision of cycle parking.

8.2 Landscape Officer – Following the amended plans, the scheme is acceptable in landscape terms subject to conditions.

8.3 Arboricultural Planning Officer - Whilst I am not convinced that the change of use of the site will not result in the decline of some parts of the woodland, overall only a very low percentage of the woodland area will be affected by the proposal. As previously stated it seems to me that it would be far better to manage the use of this site through robust planning conditions and monitoring rather than allowing the site to be used 28 days a year in an uncontrolled manner as I am led to believe is possible. If that were to occur I foresee that much more significant amounts of damage will occur. Conditions are requested.

8.4 Environmental Protection – No objection to the scheme. It is not anticipated that the scheme will have a significant impact with regards to noise.

8.5 Highway Authority – No objections subject to conditions which are suggested to be imposed.

8.6 Colchester Cycling Campaign – Require secure cycle parking for staff and customers and requires adverts to promote local cycle routes.

8.7 Forestry Commission – Object to the scheme as the wood is adjacent to the Layer Wood ancient woodland which is a county wildlife site. The proposed paintball use is inappropriate for the adjoining wood.

- 8.8 The Woodland Trust – Object to the scheme due to proximity to ancient woodland. This woodland therefore acts as an important buffer for the ancient woodland. The scheme will also harm biodiversity.
- 8.9 Campaign to Protect Rural England – Object to the scheme as it will be harmful to the countryside in terms of traffic creation, noise, disturbance and possible future pressure to expand.
- 8.10 RSPB – Object to the scheme on the basis that no dormouse survey has been provided. Furthermore, the breeding bird survey was carried out in July at a time when Nightingales would have stopped singing and some would have left on migration. It is noted that following this objection a dormouse survey has been provided.
- 8.11 Natural England – No objection to the scheme on the basis of Ecologylink’s updated Ecology Management Strategy. An annual ecological review with the Essex Wildlife Trust as set out in the amended Ecology Management Strategy is required.
- 8.12 Essex Wildlife Trust – No objection to the scheme on the basis of 80 days a year with careful management being preferable to 28 days a year without the woodland management. Conditions have been requested.

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 Layer Marney Parish Council comment:

At a meeting called especially to discuss this proposal, the applicant (and their agent) were “made aware of the concerns and strong objections of very many of the residents of Layer Marney. Despite the clear opposition, the proposal has been re-submitted. The key issues were, and remain, the impact on wildlife, noise and traffic. The Forestry Commission, Essex Wildlife, Natural England and the CPRE have all made their concerns clear, and in some cases questioned the compliance of this proposal with Policies ENV1, ENV2, DP10, DP21.

You will be aware, from the communication you have received from both the residents and the above organisations that the general view is that opposing requirements of an ancient woodland which has become a haven for wild life and a high volume, high energy, outside activity facility simply cannot be reconciled. Notwithstanding anything said by the applicant, the residents of Layer Marney know for a fact that paintballers, however well supervised, become noisy - it is the nature of the activity! We already have a paint balling site in this small village and the residents who live nearby can state categorically that noise levels are sufficiently high to interrupt their quiet enjoyment of their property. Noise, and the kinetic nature of the event will undoubtedly impact on the wild life - to suggest otherwise is frankly disingenuous.

Most people, particularly those living adjacent to it, have raised the matter of the safety of the B1022. Whilst the average speed has been recorded as quite low (around 41mph), it is the driver doing 60mph that will collide with the traffic entering and leaving the paintball site, not the ones driving with care. It has also been pointed out that mostly young male drivers (a group identified by the insurance industry as most likely to have a car accident) leaving the site, "pumped up", are not likely to take sufficient care when pulling out onto the B1022.

As identified in some detail in the correspondence you have received, the wildlife will clearly be disturbed by the activity and the nature of the space will change irrevocably. In the absence of even a rudimentary business plan to support the application, one of our concerns is that the woods will be defaced by the hard standing and construction of buildings, the operation will close down (not unlikely in the current climate) and the woods will be left scarred by buildings rendered redundant. It has been brought to the attention of the meeting that other operations owned by the applicant have been the subject of considerable opposition from local residents, who have made complaints about the very matters we are concerned about.”

- 9.2 Tiptree Parish Council - TPC has no objection to this application subject to the comments submitted by Essex Wildlife Trust in their letter dated 23/2/13 being upheld, with the exception of the comment relating to the restriction on months of use. The Parish Council felt the months of use should be at the discretion of the applicant.
- 9.3 Messing and Inworth Parish Council - Further to our earlier objection to the original plan- the Planning Committee of this Parish Council met on 16/4/13 and wishes to restate its objection to this amended plan which merely relocates the reception building into the north east corner of the site with the associated car parking lying to the south. The extended access road will destroy existing woodland and as per the original plan increase noise pollution, general pollution and increase traffic levels through our Parish whilst damaging wildlife habitats which are at the end of a wildlife corridor which it has taken years of hard work to establish. In addition wildlife may be affected, displaced or destroyed by the intended activities upon this site.

10.0 Representations

- 10.1 In total 244 representations were received. 45 objected to the scheme and 199 supported the scheme. A number of the objections have come from the same address.

The full text of the representation can be read on the website. Some of the objections are very detailed and reproducing them in full is beyond the scope of this report, however in broad summary, representations objected to the scheme on the following grounds:

- The scheme will have a negative impact on the woodland ecology in terms of disturbance, loss of habitat, impact on the trees, harm to protected species.
- The scheme will cause unacceptable highway safety issues due the intensification of the access on a busy road.
- The scheme conflicts with adopted policy.
- The scheme will cause noise and disturbance that will cause material harm to neighbouring amenity.
- Nightingales used to/have been heard in the woods.
- If approved conditions should be imposed to limit the impact of the scheme.
- There are withdrawn proposals in the immediate vicinity for new chicken sheds and if approved these will add to the traffic issues.
- An Article 4 Direction should be served in order to remove the ‘28 day rule’.
- The gates and fence at the access are unsightly.

- The development has no benefits for the residents of the Parish but will have many negative impacts.

In response: The issues above will be addressed in the report.

- The scheme will harm the tranquillity of the woodland.
- The scheme would undermine the rights of the villagers to enjoy the wood.
- As the Forestry Commission allow people to walk freely on their site, you will be able to see the paintball activities going on next door.

In response: The scheme will have an impact on the tranquillity of the woodland next door (the wood its self is not open to the public) but due to the limit of 80 days per year this is not considered to be materially harmful. Therefore the scheme is not considered to be materially harmful to the enjoyment of the woodland next door.

- The scheme will run 7 days a week and the hours are anti-social.

In response: The scheme will run 7 days a week but will only run for 80 days in a calendar year. The hours will be restricted by condition.

- Once the wood is destroyed it can never be replaced.

In response: Due to the Ecological Management Strategy and the other relevant tree conditions that are suggested to be imposed, the woodland will not be destroyed by this scheme.

- The proposal is superfluous as there are other similar facilities in the area, will not be commercially successful and will lead to redundant buildings and structures in the woodland.

In response: The applicants are very confident that they have enough of a customer base already to make this scheme work commercially.

- Potential danger to walkers using nearby footpaths.

In response: The applicant has been running paintballing days for years and takes his duty of care to the public very seriously. Causing harm to the public would have serious ramifications for the applicant and therefore it is considered extremely unlikely that public safety will be compromised.

- No details of how sewage will be dealt with.

In response: This will be dealt with by condition.

- The chickens in the nearby chicken sheds will be affected by the noise.

In response: It is not considered that this scheme will have a materially harmful impact on the chickens located in the chicken sheds off site. The noise survey did not raise any issues of concern with regards to this.

- The noise survey was undertaken in secret.

In response: The noise survey was undertaken by acoustic engineers in accordance with methodology that the Environmental Protection team accept. There is no need for the local community to be informed that a noise survey is to be undertaken.

- It is likely that pyrotechnics and explosives will be used on site.

In response: The paintballing use will involve paintball specific items. Military explosives will not be used on site.

- The most noise will come from players shouting and swearing.
- *In response: The noise survey did not conclude that the noise from shouting would be materially harmful to neighboring amenity.*
- Significant damage to ecology has already occurred on site.

In response: Natural England have been copied in to correspondence that details the perceived damage to ecology that has already occurred but they have not objected to the scheme.

- Is the scheme EIA development?

In response: The scheme is not EIA development. The Council have issued a screening opinion and Natural England have confirmed they also do not consider the development to be EIA development.

- The Environmental Health Team has not robustly assessed the scheme.

In response: Environmental Protection are satisfied with the scheme.

- Paintballing has already taken place on site.

In response: The applicants have confirmed that the only paintballing activities that have taken place where run to facilitate the noise surveys. Not other paintballing has taken place on site since.

9.2 In summary, representations supported the scheme on the following grounds:

- Colchester needs more leisure facilities such as this.
- The Hadleigh scheme is very well run so we know this one will be well run too.
- The Council should be supporting someone who wants to run a new business in these uncertain times.
- The location is easy to get to.
- It would be great for children in the school holidays.
- As it is near Colchester Zoo it will result in more Colchester based weekend breaks.
- People would come from all over the UK and this would be beneficial for the hotel an associated economy in the wider area.

- Paintball is great for team building and comradeship.
- The staff at Gunsmoke are the best and most respected in the area, with a real eye for safety.
- The woodland in question is not an ancient woodland but is a modern plantation.
- The site is well located away from residential properties but in an accessible location.
- The objectors do not appear to be taking on board the fact that the Essex Wildlife Trust no longer object to the scheme.

10.3 In addition to the representations noted above, 4 letters were received from the Witham MP Priti Patel. These requested updates with regards to the application, details of the weight that would be given to neighbours concerns and confirmation that the neighbours concerns would be taken into account.

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 scheme has on site parking provision for 60 cars. This has been reduced from 90 car spaces which was considered to be excessive based on the applicants bookings at his current site. This is acceptable and it is not considered that this scheme will amount to harmful on street parking.

12.0 Open Space Provisions

12.1 As this scheme is for a paintballing use it does not generate any open space provisions.

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 due to the site area but as it is an application for a paintballing facility it does not generate any contributions.

15.0 Report

15.1 Report to cover:

- Principle of Development and the '28 Day' Rule
- The Previous Use of the Land
- Policy Context
- Ecology
- Landscape
- Trees
- Highways
- Noise/Impact on Amenity

Principle of Development and the '28 Day' Rule

- 15.2 This scheme is not a simple case of whether paintballing on site is acceptable in principle. Paintballing can be operated in a manner where temporary structures can be erected or inflated and can be run from the back of a van. The applicants have invested a significant amount of money into this operation (without the benefit of a planning consent it must be noted) and they are clear that they intend to use the field for paintballing purposes regardless of the outcome of the decision on this application.
- 15.3 The 'Temporary Uses of Land' section of the General Permitted Development Order allows for any use of land for up to 28 days in each calendar year. As the land is not a Site of Special Scientific Interest, the land does benefit from these permitted development rights.
- 15.4 Representations have stated that the Council should serve an Article 4 Direction to remove the permitted development rights granted by the Temporary Uses of Land section of the GPDO on this site. This means that a planning application would need to be made for the use of the land for paintballing 28 day a year or even for less. It does not constitute a presumption that a planning application of a similar nature will be unacceptable however.
- 15.5 Serving an Article 4 Direction is a possibility if Members consider it to be essential in this instance; however it would not prevent the use of site for paintballing in its entirety. For the Council to be able to control a use it must first constitute development. The temporary use of any piece of land on the odd occasion does not constitute development. The amount of days when this line is crossed is a very grey matter in planning terms, but as an example officers would not consider the use of the woodland for paintballing once a month to constitute development. Therefore it is clear that even with an Article 4 Direction in place some paintballing would still be able to occur.
- 15.6 Appendix D to Circular 9/95 gives advice on the application of Article 4 Directions. This circular was issued before the 2010 GPDO amendments. Two documents have been issued since the 2010 GPDO to assist with Article 4 directions. These documents are called "*Communities and Local Government guidance to Local Planning Authorities: New procedure for making a non-immediate Article 4 direction*" and "*Communities and Local Government guidance to Local Planning Authorities: New procedure for making an Article 4 direction with immediate effect*".
- 15.7 At paragraph 1 of the circular it is stated that permitted development rights should not be withdrawn locally without compelling reasons. It adds that they should be withdrawn only in exceptional circumstances and will rarely be justified unless there is a real and specific threat i.e. there is reliable evidence to suggest that permitted development is likely to take place which would damage an interest of acknowledged importance and which should therefore be brought within full planning control in the public interest.
- 15.8 Furthermore, even if the Council did commit to the time and resources that it takes to serve an Article 4 Direction, it would then have to be open to public consultation prior to being confirmed (or not) by the Secretary of State.

- 15.9 This planning application has received many more letters of support than objection. Article 4 Directions seek to allow the Council additional control, the facility does not exist to prevent development of a site wholesale. It is officer informal officer opinion that due to the lack of any special designation it is unlikely that the Secretary of State would confirm the Article 4 Direction ultimately.
- 15.10 Members must assess this application on the basis of the situation as it stands. It is a matter of fact that there is no Article 4 Direction in place and therefore the test Members must consider is whether 80 days of paintball subject to the restrictions set out in the conditions at the end of the report and the woodland management that has been agreed, is favourable when compared to 28 days of unrestricted paintball with no woodland management.

The Previous Use of the Land

- 15.11 It appears that the site has not been in use for a number of years. Anecdotal evidence suggests the clearing has previously been used for agricultural purposes, but has been left in recent years. There is no planning history that suggests any other previous uses.

Policy Context

- 15.12 The National Planning Policy Framework

The NPPF contains a presumption in favour of sustainable development. The common thread that runs through the NPPF is support for economic development. Paragraph 28 of the NPPF supports the growth of sustainable rural leisure enterprises that benefit rural businesses, local communities, visitors and that respect local landscape character.

Whilst it is accepted that those visiting the paintballing facility will be unlikely to spend money locally in other local businesses, the project will provide the equivalent of 5.5 full time jobs which is welcome and satisfies Paragraph 28 of the NPPF.

- 15.13 The Local Development Framework

Core Strategy Policy ENV1 recognises the important recreational opportunities that countryside areas provide supporting local economies and communities. The policy notes that development will be controlled in such areas to conserve the environmental assets of the Borough.

The applicants argue that the proposed use is appropriate in this location as the nature of paintball gaming requires a rural location. The proposal is small scale since most use will take place during the weekend, and due to the seasonality of the business the site will not be active all year round. As noted later in the report the use will be restricted to 80 days of paintballing per year. The proposal has given necessary attention to the sensitivity of the site to ensure no detrimental harm is caused and incorporates a mitigation plan into the design and layout of the facility. The site is well screened in all directions and the proposed reception building would be located within an area of rough grassland, surrounded by scrubland and mature woodland planting and would not be visible from beyond the application site as set out in the Landscape Visual Impact Assessment.

As will be detailed below, by incorporating the mitigation plan into the way in which the proposed paintball facility will be run, it is considered habitat, species and biodiversity of the Borough are protected by providing necessary mitigating measures. The proposal therefore falls in accordance with Core Strategy Policy ENV1.

Core Strategy Policy ENV2 relates to rural communities and states the Council will support small-scale rural leisure schemes that are appropriate to the local area and harmonise with the character and surrounding natural environment. The application proposes no changes to the integrity of the existing woodland with only minor works proposed. It is considered the use is small scale since actual paintball game time is limited to 70 minutes per day. This amount of paintball is unlikely to take place during the week and not expected throughout the year. The total area of games zones equates to approximately 3 ha comprising 25% of the application site. It is therefore considered that the use would not cause demonstrable harm to the character and surrounding natural environment. It would therefore accord with Core Strategy Policy ENV2.

Development Policy DP10 recognises that some leisure facilities may require significant amounts of space and that the countryside can be an appropriate location in these circumstances. A paintball facility would fall into this category since it requires space for activity of participants and the applicant has argued that locating in woodland is necessary for the type of paintball games the company wants to run. The reception building is not prominent in the landscape and is positioned where it would be screened in all directions by established scrub and woodland planting. The proposal therefore accords with Policy DP10.

In terms of Development Policy DP17 the proposal raises no objection with the Highway Authority in terms of access and additional road traffic that is likely to occur.

Development Policy DP21 relates to nature conservation. The proposed paintball facility has been designed in such a way that would cause no adverse harm to biodiversity of the application site and surrounding area since minimal changes are proposed to the existing woodland. The proposal incorporates a mitigation strategy to ensure habitat and species within the application site are conserved and biodiversity is enhanced. This will be discussed below.

Ecology

- 15.14 This scheme has taken a significant amount of time to come before Members due to several requests for information from interested parties with regards to the on site ecology. The various surveys and their findings can be read in full on the Council's web site. Fundamentally, the Biodiversity Survey carried out by James Blake Associates concluded the site to be of a high value ecologically.
- 15.5 The Biodiversity Survey concluded that the scheme will not be materially harmful to breeding birds, badgers and hedgehogs. No evidence of bats was found on site. Recommendations for the improvement of habitat for all of the above were made and will be secured by condition via the Ecological Management Strategy. A Reptile Survey has been provided. The Biodiversity Survey recommended further surveys for Great Crested Newts and Dormice both have which have been provided.

Bats

- 15.16 The Ecology Survey found no evidence of bats on site and did not recommend a further survey. Therefore a full bat survey has not been provided. The Biodiversity survey did note a number of mature oak trees in the North Western corner of the site which would have potential for bat activity. Natural England and the Essex Wildlife Trust have not raised any particular issues with regards to bats onsite.
- 15.17 In line with the Policy team's response, if Members are minded to approved this scheme it is recommended that a detailed bat survey be carried out as part of the Ecological Management Strategy to ensure that appropriate mitigation can be worked into the strategy if need be.

Dormice

- 15.18 The RSPB's objection was based on the lack of a dormouse survey. Following this a Dormouse Survey was carried out. The Dormice Survey found no evidence of Dormice on site. Dormice have been recorded in the adjacent ancient woodland and therefore recommendations for the improvement of habitat for Dormice will be secured by condition via the Ecological Management Strategy.

Breeding Birds

- 15.19 The RSPB noted the anecdotal evidence (also noted in representations from neighbours) detailing the possible presence of Nightingale on the site. Nightingales are an amber list species, which are of medium conservation priority due to their falling UK population. As a ground nesting species it would be particularly vulnerable to paintballing activity. A targeted bird survey as suggested by the RSPB has not been provided however. The Biodiversity Survey concluded that as there is a large amount of similar habitat to be found locally, the disturbance resulting from the proposed use is unlikely to cause harm to protected bird species.

Great Crested Newts

- 15.20 Great Crested Newts were found in 3 of the 5 ponds. The survey concluded that paintball could have an impact on the Great Created Newts; however mitigation measures and improvements to the currently unmanaged and degrading ponds should maintain and possibly enhance the conservation statues of Great Crested Newts in the woodland.
- 15.21 The layout of the proposed game zones has been informed by the Great Crested New Survey. Buffer zones have been left around the pond areas and players will be marshalled to and from the game zones leaving 75% of the site area untouched. The survey also made a number of recommendations that will be secured by condition and will be monitored via the ecological management survey.

15.22 One of the representations from a neighbour sets out the objector's issues with the scheme and concentrates on Great Crested Newts, their importance, their lifecycle and their range. The letter concludes that the scheme will be demonstrably harmful to the Great Crested Newts on site. It states that Natural England's standing advice requires no net loss of loss of habitat, be it ponds or terrestrial habitat. The representation goes on to state that no mitigation strategy could compensate for the huge loss of terrestrial habitat. Further information from DEFRA and Dr Tony Gent (CEO of the Amphibian and Reptile Conservation Trust) has also been sent in by the same objector. In summary, these documents concluded that Great Crested News are protected in law and whilst the applicant may be able to use the '28 day rule' to run paintballing on the site regardless of this application, they must not recklessly disturb the protected species as this could result in prosecution.

15.23 This scheme will have an impact on Great Crested Newts. The advice contained within the Great Crested New Survey concluded that with high quality management, it is possible to create an improvement in the conservation status of the Great Crested Newt.

Natural England and The Essex Wildlife Trust

15.24 Both Natural England and The Essex Wildlife Trust have no objection to the scheme subject to a number of conditions that are suggested to be imposed and are set out at the end of this report.

15.25 The Essex Wildlife Trust have requested a condition that requires the Ecological Management Strategy is implemented and have also requested a yearly meeting with the applicants to inspect the work that has been carried out in line with the ecological management strategy. A condition has therefore been suggested to ensure this happens. A degree of flexibility has been worked into the Ecology Management Strategy condition to allow for the strategy to be amended to reflect current best practice and to allow its requirements to change in line with the impact the paintballing use has on the woodland. If the requirements of the management strategy are not being implemented, the condition will require the use to cease within 3 months.

15.26 The Essex Wildlife Trust also require the amount of days that paintballing can take place to be restricted to 80. This will be secured by condition. They have also requested that no more than 20 days of paintballing occurs in the months of December, January, February, March and April when the ground will be at its wettest. This will be secured by condition.

15.27 Many of the representations focused on the impact the scheme will have on ecology. The Essex Wildlife Trust's stance has been challenged by many of the representations received, but they are now clear that they consider 80 days a year with the correct management to be a preferable situation when compared to 28 days a year with no management.

15.28 Natural England is the Government's ecology body and The Essex Wildlife Trust is the ecological body with specific local knowledge. Officers consider the Natural England and the Essex Wildlife Trusts' lack of objection to the scheme to mean that notwithstanding the representations regarding the importance of the wood in ecological terms, the lack of a targeted breeding bird survey and the perceived harm that that paintballing would cause to the sites' biodiversity, a refusal on this basis would be unsustainable at appeal.

Landscape

15.29 The scheme proposed a shed like building within the woodland clearing. The Council's Landscape Officer initially objected to the position of the building. This was discussed with the applicant on site and following this meeting the positioning was shifted and additional landscaping has been proposed. The building has been orientated to sit with a more comfortable relationship in terms of its landscape juxtaposition with the chicken sheds to the north. The scheme is now acceptable in landscape terms.

15.30 The palisade fence and gate that has already been erected on the frontage is ugly, utilitarian and is unacceptable in a countryside location such as this. Its removal and replacement with a sympathetic solution is suggested to be secured by condition.

Trees

15.31 The case officer and Arboricultural Planning Officer have visited the site and have also visited the applicant's Hadleigh operation in an attempt to ascertain the impact the development will have on trees. Detailed discussions have occurred between the Arboricultural Planning Officer and the applicant's ecologist. These discussions related to the impact the proposed use will have on the wood and its long term future viability. The Council's Arboricultural Planning Officer accepts this scheme will not have a significant impact on the trees that make up the wood.

15.32 Improvements to the access point on the B0122 will be required as set out in the Transport Statement. These works will require the removal of trees. The precise detail of these works will be secured by condition to ensure a workable highway solution that involves as little impact on the woodland trees and woodland ecology as possible. Providing a safe and workable vehicular access point onto a main road is essential and therefore the loss of trees is unavoidable. The loss of trees at the access point will be compensated for by the additional planting that will be secured by condition around the proposed parking area.

Highways

15.33 A number of representations detailed the harm to highway safety from the intensification of the existing access onto the B0122. The applicants have supplied a Transport Statement to justify the scheme in highway safety terms. The Highway Authority has no objection to the scheme subject to conditions which will be imposed. Therefore the scheme is acceptable in highway safety terms and a refusal on the basis of harm to the wider highway network would not be sustainable at appeal.

15.34 The Policy Team and Colchester Cycling Campaign have requested conditions requiring secure cycle parking on site. There is ample space within the proposed building to store bikes securely and therefore this condition will not be imposed. The Colchester Cycling Campaign has requested for cycle accessibility to be advertised on Gunsmoke Paintball's adverts. Requiring cycling to be mentioned in Gunsmoke Paintball's advertising is unreasonable and therefore a condition to that effect is not suggested to be imposed.

Noise/Impact on Amenity

15.35 Representations have detailed a perceived level of noise and disturbance from the proposal. In light of representations to the withdrawn scheme that detailed issues with regards to noise, the applicant has commissioned an acoustic impact report. The full report is available on the Council's website, however it concluded that the scheme would not have a demonstrably harmful impact on the nearest noise sensitive properties (Layerwood Farm and Grassreason Farm) in terms of noise and disturbance. This document has been assessed by the Council's Environmental Protection Team who accept its findings.

15.36 The Council's Environmental Protection team have suggested a number of possible conditions that could be imposed 'if noise remains a concern'. Officers considered that these conditions would be unreasonably restrictive and very difficult for the applicants to comply with in practice. As the Environmental Protection team do not consider this scheme to be materially harmful to neighbouring amenity in terms of noise, it is not necessary to impose conditions to that effect.

15.37 It is therefore concluded that the scheme will not cause a materially harmful impact on neighbouring amenity.

16.0 Conclusion

16.1 This is a scheme that enjoys much support from the wider area but has also received a number of objections from people who generally live in the immediate vicinity.

16.2 The ecology surveys have concluded that this scheme will not cause demonstrable harm to the ecology of this Local Wildlife Site. The Great Crested New Survey has concluded that this scheme will have an impact on Great Crested Newts; but the mitigation it suggests and the improvements to the ponds including the regular supervised management will mean the scheme will result in a long term improvement to the conservation status of Great Crested Newts onsite.

16.23 The scheme is also acceptable in terms of its impact on highway safety and on neighbouring amenity.

16.24 The judgment Members must make is whether 80 days of paintball activities per year controlled by strict conditions that will facilitate good quality woodland management overseen by the Essex Wildlife Trust, is preferable to 28 days a year of unregulated paintball activity and no woodland management. On balance, officers consider the former to be the preferable situation.

17.0 Recommendation - APPROVE subject to the following conditions:

18.0 Recommended Reasons for the Decision

YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because with careful and well monitored woodland management this use can operate whilst simultaneously increasing the value of the habitat on site. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely the impact on the woodland, the impact on the sites ecology, the impact on the highway network and the impact on neighbouring amenity.

19.0 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 - *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 10/616, 10.616/01 and 10.616/02 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 - Non-Standard Condition/Reason

The use hereby permitted shall be limited to a maximum of 80 events each year. There shall be no more than 20 days of paintballing activity during the months of December, January, February, March and April. A diary of all such events shall be maintained and available for inspection by the local planning authority. An assessment of the impact of the number of events taking place each year shall form part of the annual review to be incorporated in the Ecological Management Plan as required by condition 4.

Reason: In the interests of biodiversity and to ensure that the majority of the activity is carried out when the ground is at its driest.

4 - Non-Standard Condition/Reason

No development shall commence until such times as an Ecological Management Strategy (EMS) has been submitted to and approved in writing by the Local Planning Authority. The submitted EMS shall precisely set out and justify the measures to be taken to enhance the ecological potential of the application site. It shall include timings for the implementation of these measures and adequate provision for the annual monitoring of the success of those measures together with monitoring of the impacts of the approved development on ecology at the site by a recognised, qualified, independent specialist. All provisions set out within the EMS shall thereafter be implemented in precise accordance with the timings and other provisions set out within the EMS. Development and the continued use of the site for its approved purposes shall only proceed in such a manner that precisely conforms with the approved EMS. The results of annual monitoring, in accordance with the scheme outlined within the EMS shall be retained permanently by the operator of the site for inspection by the Local Planning Authority at their request. The use of the site for paintball activities shall cease within 3 calendar months of the failure to comply with any requirement of this condition and/or the approved EMS unless or until a variation in the condition or the EMS has been made through the appropriate formal application process to the Local Planning Authority.

Reason: This scheme is only acceptable on the basis that the ecological improvements that can be brought about by the successful management of the woodland outweigh the harm the paintballing use will cause to protected species.

5 - Non-Standard Condition/Reason

The use hereby permitted shall not operate outside of the following times 0900hrs and 1800 hrs on any day.

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 - Non-Standard Condition/Reason

Prior to the commencement of development, the precise siting of the game zones shall be submitted to and approved in writing by the Local Planning Authority.

Reason: This condition is needed to give the applicant the flexibility on the positions of the game zones which will need to be periodically moved in line with the findings of the Ecology Management Strategy noted in condition 4 above.

7 -Non-Standard Condition/Reason

No more than 2 games zones shall be in use at any one time.

Reason: In the interests of the woodland ecology.

8 - Groundwater Protection

There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage in order to prevent pollution of the water environment and to protect the groundwater quality in the area in the interests of Health and Safety.

9 - Materials to be Agreed

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.

10 - *Full Landscape Proposals TBA

Prior to the commencement of development, full details of all landscape works shall 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:

- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

11 - Landscape Management Plan

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

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

12 - *Landscape Maintenance Schedule

Prior to the commencement of development, a schedule of landscape maintenance for a minimum period of 5 years shall have been submitted to and agreed, in writing, by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation and the development shall thereafter be carried out in full accordance with the approved schedule.

Reason: To ensure that there is a satisfactory schedule for the maintenance of this development in order to establish and integrate the development within its setting.

13 - Non-Standard Condition/Reason

Prior to commencement of development, a scheme showing boundary treatment at the access point shall be submitted to and approved in writing by the Local Planning Authority. Within 3 months of the commencement of development the existing palisade fencing and gates shall be removed from the site.

Reason: The existing boundary treatment that fronts the main road is unacceptable in terms of its impact on the countryside. This condition will secure its removal and will enable a replacement with boundary treatment more in keeping with the woodland setting.

14 - Non-Standard Condition/Reason

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 160 metres to the east and 2.4 metres by 160 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

15 - Non-Standard Condition/Reason

Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plans shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

16 - Non-Standard Condition/Reason

No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

17 - Non-Standard Condition/Reason

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 10 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety.

18 - Non-Standard Condition/Reason

Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

19 - Non-Standard Condition/Reason

For cars the vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

20 - Non-Standard Condition/Reason

For coaches the vehicular hardstanding shall have minimum dimensions of 12 metres x 3.5 metres for each individual parking space.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

21 - Non-Standard Condition/Reason

Prior to the commencement of development, a detailed drawing showing the size, details of construction and precise location of the improvements to the vehicular access shall be submitted to and agreed in writing by the Local Planning Authority. No works in connection with the proposed development shall take place until the works have been carried out in accordance with the plans.

Reason: To make adequate provision for turning vehicles as a result of the proposed development. It is envisaged that the access will be along the lines of proposal 'B' of the transport statement but further detail is required in order to limit the impact on important trees and landscape features.

22 - Tree and Natural Feature Protection: Protected Areas

Prior to the commencement of development, 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.

23 - Tree and Natural Feature Protection: Entire Site

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.

24 - Tree and Hedgerow Protection: General

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.

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.

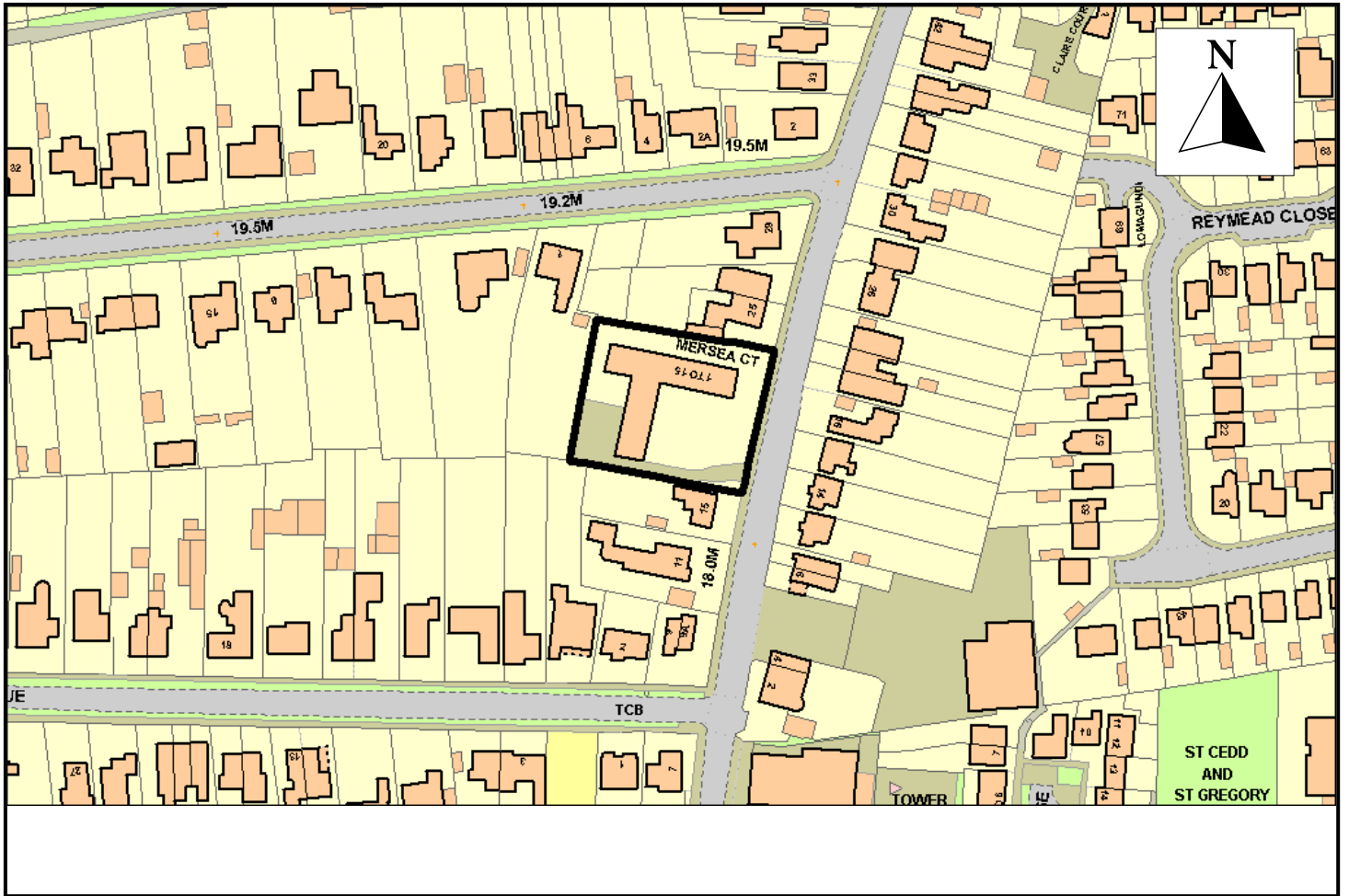
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) 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) Condition 4 requires the submission of an Ecological Management Plan that must include (amongst other provisions) a scheme of annual monitoring by a recognised, qualified, independent specialist. This should be with the Essex Wildlife Trust. Who have indicated their cooperation in this regard will be forthcoming. The EMA should outline provisions for the Essex Wildlife Trust to confirm in writing that they are satisfied with the manner in which the site is operating in ecological terms and in the best interests of the protected species on site.

21.0 Positivity Statement

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.



Application No: 130292

Location: Mersea Court, High Street North, West Mersea, Colchester, CO5 8JU

Scale (approx): 1:1250

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7.4 Case Officer: Simon Osborn

MINOR

Site: Mersea Court, High Street North, West Mersea, Colchester, CO5 8JU

Application No: 130292

Date Received: 13 February 2013

Agent: Roff Marsh Partnership

Applicant: Mersea Island Trust

Development: Erection of 6 no. flats

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This is a full application which follows upon an outline planning permission (121333) that was referred to the Planning Committee on 29.11.2012 on the basis that the proposal fell between different adopted parking standards and objections had been received to the schemes on these grounds. The current application is also brought to the Planning Committee as once again objections have been received to the scheme from local residents, partly on parking grounds.

2.0 Synopsis

2.1 The application proposes an additional 6 flats to provide sheltered accommodation for the elderly and infirm within a development where there are currently 14 flats. The report considers the proposal in the light of its adopted policies and standards and with regard to the outline planning permission reference 121333. It considers that the scale and design of the proposal are acceptable in relation to the host building, the context of the area and, in relation to residential amenity. The report goes on to consider the level of parking provision on the site, which although a more thorny issue, is considered appropriate. The report recommends approval of the application.

3.0 Site Description and Context

3.1 Mersea Court provides sheltered accommodation for elderly persons on Mersea Island. It currently contains 14 flats plus a community lounge and kitchen and surrounding garden. The building is L-shaped in form with a large frontage landscaped area that is open to view and a secondary amenity area to the north side. A small car park is provided at the rear of the site, accessed by a driveway on the south side of the site. The surrounding area is predominantly residential in character, with the shops and other services within the Mersea Rural District Centre generally being within walking distance. The site is flanked by two residential dwellings, a house at No. 15 High Street North to the south and a bungalow at 25 High Street North to the north.

4.0 Description of the Proposal

- 4.1 This is a full planning application for six additional flats within a new 2-storey wing in front of the existing building, which will create a central landscaped courtyard. Each flat will comprise a living space with adjoining kitchen, a bedroom, a bathroom and a hall space. Each flat is to have its own front door and be self-contained. The plans make provision for 7 parking spaces at the rear of the site.

5.0 Land Use Allocation

- 5.1 Predominantly residential

6.0 Relevant Planning History

- 6.1 75/1211 and 1211A – demolition of Coronation Cottages and erection of group flatlets for old persons, approved 1975 and 1978
- 6.2 82/1044 – erection of garage, approved 1982
- 6.3 88/1195 – lounge extension, approved 1988
- 6.4 F/COL/05/0705 – erection of conservatory, approved 2005
- 6.5 120200 – outline application for 6 additional flats, withdrawn May 2012.
- 6.6 121333 – outline planning permission was granted in 2012 (the application having been referred to the Planning Committee on 29.11.2012) for six additional flats.

7.0 Principal Policies

- 7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)
Planning Policy Statement 1: Delivering Sustainable Development

- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
TA5 - Parking

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access

DP19 Parking Standards

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

8.0 Consultations

8.1 ECC Highways – no comment further to its recommendation on 27 March 2012. This raised no objection to the proposal for 6 flats as not contrary to policies regarding safety, road hierarchy, parking standards, accessibility, efficiency/capacity: recommended a informative only.

8.2 Design and Heritage Team – The proposed amendments are acceptable.

8.3 Landscape Officer – Recommended agreement to the landscape aspect of 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 Town Council Response

9.1 West Mersea Town Council recommended consent is granted.

10.0 Representations

10.1 Objections were received from 9 properties, which raised the following issues:

1. Revised proposals are cosmetic and do not alter previous objections
(Officer Comment: Noted)
2. Loss of light and view to side lounge window of 15 High Street North; the access drive and new flats will be closer. Proposed landscaping will block view
(Officer Comment: These issues are considered in the main body of the report. The proposed landscaping can be conditioned to require low shrub planting in the vicinity of this window – see condition 9)
3. Visually overbearing on street and nearby properties; out of character as too close to road
(Officer Comment: These issues are considered in the main body of the report)
4. Loss of attractive open space
(Officer Comment: The design of the new wing is acceptable in townscape terms and the proposal provides enclosed amenity area for the occupants of the development)
5. Insufficient space for emergency vehicles to turn emergency vehicles to turn.
(Officer Comment: There is no space for emergency vehicles to turn at present, so the application does not worsen this situation)
6. Bins too close to boundary of 15 High Street North.
(Officer Comment: The position of the bin enclosure has been amended so that it is further from the boundary with No. 15 and much closer to the proposed new wing. The bin area is to be enclosed by 1.8m fencing and because it is much closer to the new wing it will be in the interests of Mersea Island Trust not to let rubbish accumulate)
7. Solar panels unsightly.
(Officer Comment: The position as proposed is on the rear and side-facing roof slopes, which will have less visual impact than on the front. Planning policy generally supports proposals for renewable energy schemes)
8. Boiler room next to Flat 7 bedroom is hazardous.
(Officer Comment: The agent has responded that any issues with ventilation/noise/fire will be covered to meet current building regulations)

10.2 Representations of support were received from 7 parties mainly on the grounds that Mersea needs additional specialist accommodation of then type proposed.

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

11.0 Parking Provision

- 11.1 Policy DP19 refers developers to the Essex Planning Officers Association Vehicle Parking Standards, adopted as SPD in 2009. The level of parking provision required will be dependent on the location, type and intensity of use. For residential uses a minimum of 1 space per dwelling should be provided for each 1-bedroom dwelling. A lower standard may be acceptable or required where it is demonstrated there is a high level of access to services. The SPD includes the following standards: for fully-self contained 1-bedroom flats at 1 space per dwelling plus 1 visitor space for every 4 units (minimum standard); for residential care homes at 1 space per fulltime staff equivalent and 1 visitor space per 3 beds (maximum standard); and for retirement developments (e.g. warden assisted independent living accommodation) 1 space per dwelling and 1 visitor space per 8 units. The actual provision proposed by this application is 7 spaces for a total of 20 flats for residents. The issue of parking provision is considered further within the main body of the report.

12.0 Open Space Provisions

- 12.1 Policy DP16 requires a minimum of 25 square metres of private amenity space to be provided for each flat as communal space. No specific provision is made for sheltered accommodation within this policy. The scheme will leave approx 500 square metres of amenity land, mainly within the central courtyard, but also within a narrow strip to the north side of the building, which would meet the standard for self-contained flats.

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

Background

- 15.1 Mersea Court is a freehold property owned by Mersea Island Trust, formed in 1960 for the specific charitable purpose of providing warden supported sheltered accommodation for the elderly and infirm of Mersea Island. It currently contains 14 flats plus a community lounge, kitchen and garden. Residents have to be over 65 and the ages of current residents range between 74 years and 95 years; the average age is 84 and the median age is 82. The majority of residents have moved from larger properties that they are no longer able to confidently manage. Nonetheless residents differ from the usual care home population in the respect that the majority are still mobile to some extent. Existing tenants have Assured Shorthold Tenancies that can be terminated by 1 month notice by either party; tenants have no lease rights.

- 15.2 The scheme put forward by the current full application is very similar to that previously put forward by the outline application, and includes proposed landscaping proposals. The footprint of the proposed new build is fractionally closer (about 0.3m) to the boundary with 15 High Street North and fractionally higher (0.2m) at its highest point. Minor changes have been made to the external appearance, including the pattern of fenestration and the addition of solar panels to the rear and side facing roofs. The same number of parking spaces is proposed, but six mobility scooter charging points have been added, which are beneath a first floor canopy. The plans also show a proposed bin storage area behind the proposed new units (the proposed position for this has been amended during the consideration of the application).

Design and Layout

- 15.3 The position of the proposed addition is essentially the same as that approved under the outline application. It is acknowledged that it will be set forward of the buildings on this and adjoining sites, so as to enclose a private landscaped courtyard area for the occupants. The site is within a predominantly 2-storey residential area and the general scale of the building is considered appropriate to the context of the area. Setting this new wing further back into the site would have resulted in a much more awkward relationship with the existing building and would have resulted in a cramped internal courtyard. The existing building has a similar shell form to the existing building but with a more contemporary, well-articulated front elevation, which includes contemporary bay windows and a gabled end. Whilst the building is prominent in relation to the frontage, the building is set approx 6m in from the side boundaries and this spacing help ensure the building does not appear cramped in terms of layout.

Neighbouring Amenity

- 15.4 The new wing is fractionally closer to 15 High Street North (by about 0.3m) than that previously approved by the outline planning application. Nonetheless, a gap of at least 6m will be retained between the new wing and the side boundaries with 15 and 25 High Street North. The former is a 2-storey house, set within about 1m of the boundary and about 6m back from the road. It includes a large window in the side elevation, which presently faces toward the existing landscaped area, but will now face the side wall of the gabled end of the proposed new wing. The latter is a rendered bungalow, with a front door facing toward the application site and a large projecting bay window on the front corner of the bungalow. This window is set about 4m from the boundary with the application site and also currently faces toward the landscaped frontage, but will face the side wall of the proposed extension. It is accepted that the proposal will have an impact on these respective windows in terms of some loss of outlook; however, there is no right to a view over a neighbouring property. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved. 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 and the 'Extending Your House' SPD. The proposed drawings show two high level first floor windows in the north side elevation and a rooflight in the south side roof slope of the proposed scheme; these ensure there is no unreasonable overlooking from first floor windows. Whilst the proposal will therefore have some impact on neighbouring residential amenity, it is considered that this is not sufficient so as to warrant refusal on these grounds.

Parking

- 15.5 One of the key considerations for the outline application was whether sufficient provision had been made for parking and this issue has been raised again for the full application. The issue of parking provision at this site was debated by Members at its meeting on 29th November 2012 for the outline planning application. Members of the Committee were of the opinion that the Trust provided a much needed facility which would be needed more in the coming years. This facility was near to shops in the town centre. It was considered that the demand for sheltered accommodation indicated a demand for independent living. Some Members considered that the car parking provision should be scaled up in proportion to the number of additional flats and others were concerned that the lack of parking provision would restrict the group who could occupy this facility because people were living longer and driving longer. In addition there was also some concern regarding appropriate provision for mobility scooters. Members recognised that this was a private facility where the Trust was able to set their own entry rules, including the age of applicants, their state of health or ability to drive, and it was acknowledged that potential occupants could choose to accept or refuse a tenancy.
- 15.6 This application, as with the outline planning permission proposes 7 parking spaces at the rear of the site for 20 flats. The applicant has sought to justify the level of parking on the basis of the standard that the Council requires for residential care homes. They make the point that most residents do not drive and the central location enables them to walk or to use mobility aids in order for them to access local shops and services. Currently only 2 residents at Mersea Court own a car. Thus their requirement for individual motor cars is virtually identical to that of the normal care home population. The full application additionally shows six new charging points/spaces (one for each new flat proposed), which are located beneath a first floor canopy at the rear of the proposed new wing.
- 15.7 If the car parking standard for a retired development were applied (as set out in the adopted SPD), the proposal would be significantly under provided in terms of parking provision, as the proposal would require 20 spaces for the flats plus an extra 3 spaces for visitors. If the car parking standard for a residential home were applied a maximum of 7 vehicle parking spaces could be provided.
- 15.8 Mersea Island Trust provides sheltered accommodation for the elderly and infirm, who value independent living. Car occupancy rates are very low at the site and the Trust has the ability to set their own entry rules for new tenants. Of the current 15 occupants only 2 have cars. The application premises are well located within Mersea with good access to the facilities that tenants are likely to require, including shops, medical facilities, church, library etc. Whilst a strict interpretation of the Parking Standards SPD could form the basis for a reason for refusal, such an interpretation would also result in a large overprovision of parking given current car occupancy rates at the site. There is a clear need for this sort of accommodation and the existing site has very good access to local facilities. Whilst the concerns of the objectors in relation to parking are noted, it is also noted the Highway Authority did not object to the application. A planning condition (no. 7) is recommended that the flats hereby permitted shall only be occupied by elderly or infirm persons over 65 years of age, and on this basis it is considered that the proposal can be accepted on parking grounds.

16.0 Conclusion

16.1 The site lies within a predominantly residential area, where new development can be accepted in principle subject to good design, meeting adopted standards and, there being no significant impact on neighbour amenity. The proposed new wing will be prominent in the street because it is set forward of the buildings to either side. Nonetheless the elevational treatment is considered to form a satisfactory form of townscape. The proposed extension is set sufficiently far from neighbouring properties not to have a significant impact on existing residential amenity. The proposed level of parking for the development is a more thorny issue, particularly as the proposal is well below the standard that would normally be applied to retirement developments in accordance with the SPD. However, having regard for the need for this sort of accommodation, the centrality of the location and the elderly nature of the clientele, most of whom do not own cars, it is considered the application should not be refused on parking grounds. In overall terms therefore the application is recommended for approval.

17.0 Recommended Reasons for the Decision

17.1 The proposal complies with the relevant policies in the Statutory Development Plan (as set out above) in terms of creating an appropriate townscape and not having a significant adverse impact on existing residential amenity. Whilst the level of parking provision falls below the adopted SPD standard for retirement homes, having regard for the need for this sort of accommodation, the location of the site and the elderly nature of the clientele, most of whom do not own cars, the level of parking provision proposed is considered acceptable.

18.0 Recommendation - APPROVE subject to the following conditions

19.0 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 - *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 MO30/01B, MO30/02 (first floor plan only), MO30/03B and MO30/04 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 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

4 - Non-Standard Condition/Reason

Prior to works commencing on the construction of the extension hereby permitted, the proposed parking area shown on drawing MO30/01B shall have been provided for vehicle parking purposes and shall thereafter be retained solely for those purposes.

Reason: To ensure an appropriate level of off-street parking is provided for the development.

5 - Non-Standard Condition/Reason

No additional windows shall be constructed in the north and south (side) elevations of the extension hereby permitted without the previous written consent of the Local Planning Authority.

Reason: To protect nearby residential amenity.

6 - Non-Standard Condition/Reason

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, in addition to any assessment provided with the planning application, must be 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,
- archeological 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'.

Where remediation is necessary 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 must be prepared, and is subject to the approval in writing of 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.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. 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 report (referred to in PPS23 as a 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 the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

7 -Non-Standard Condition/Reason

The flats hereby permitted shall only be occupied by elderly or infirm persons over 65 years of age, unless otherwise agreed in writing by the Local Planning Authority.

Reason: The level of parking provision for the site is more appropriate for residents that will be elderly or infirm and unlikely to be car owners.

8 - Non-Standard Condition/Reason

Prior to the commencement of any works, details of the articulated bays on the front elevation together with details of the eaves, cills, windows and headers shall have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of townscape, having regard to the prominent position of the proposal in relation to the street.

9 - Non-Standard Condition/Reason

Prior to the commencement of development, there shall have been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the publicly visible parts of the site, which 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. The details to be submitted shall include shrubs with low growth heights adjacent to the side window at No. 15 High Street North.

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.

10 - Non-Standard Condition/Reason

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.

11 - Non-Standard Condition/Reason

Prior to the commencement of any works, details of a privacy screen for the new external staircase shall have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: To protect neighbouring residential amenity from overlooking.

12 - Non-Standard Condition/Reason

Prior to the first occupation of the development hereby approved the mobility scooter parking locations with electric charge points shall have been provided as shown on drawing number MO30/01B and these shall thereafter be retained.

Reason: To ensure an appropriate level of provision for new residents and because the Council has granted approval for the scheme on the basis that residents are less likely to drive a car and are more likely to require provision for mobility scooters.

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.

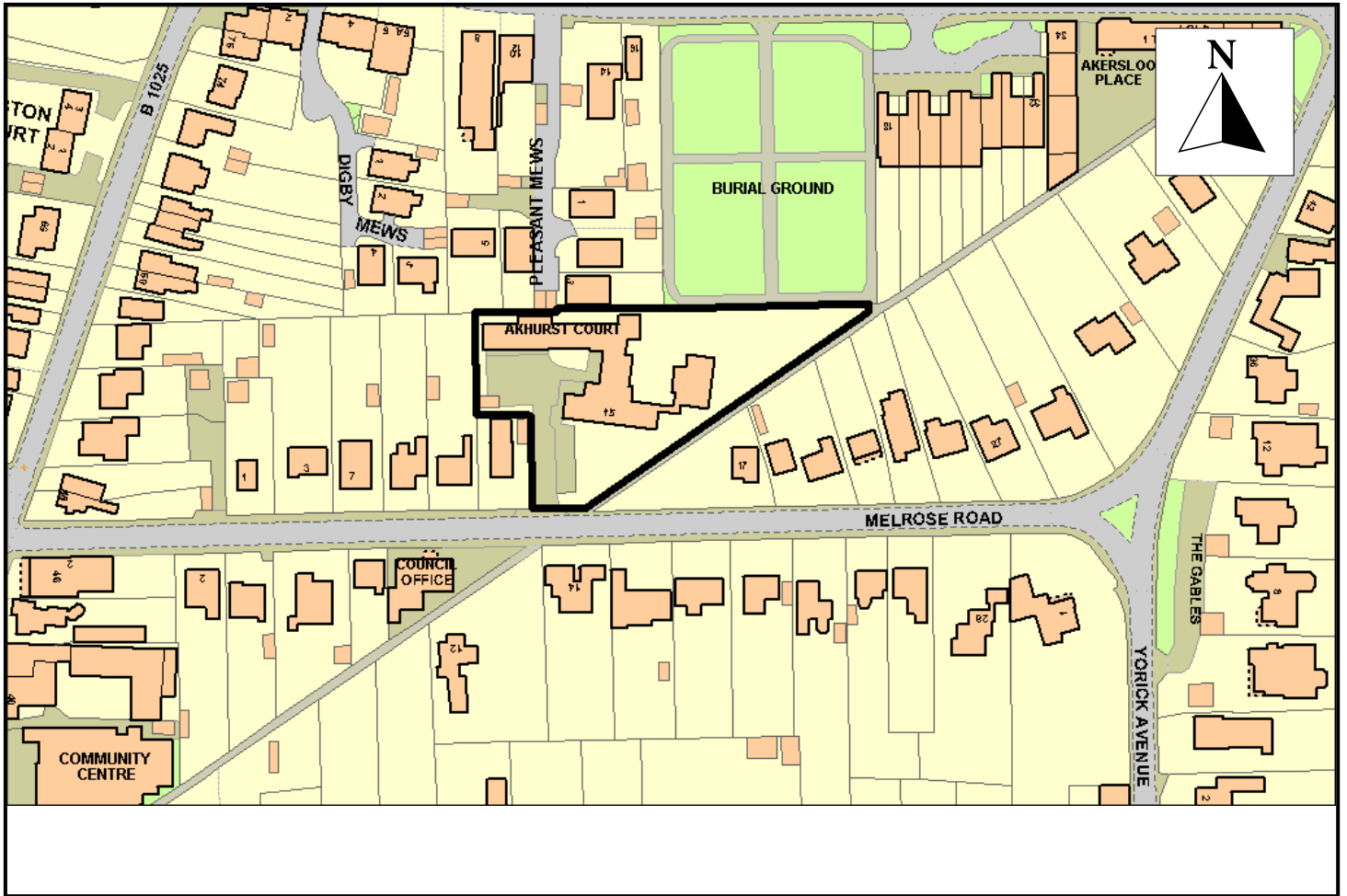
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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.

21.0 Positivity Statement

- 21.1 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.



Application No: 130296

Location: Akhurst Court, Melrose Road, West Mersea, CO5 8JB

Scale (approx): 1:1250

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7.5 Case Officer: Simon Osborn

MINOR

Site: Akhurst Court, Melrose Road, West Mersea, CO5 8JB

Application No: 130296

Date Received: 14 February 2013

Agent: Roff Marsh Partnership Ltd

Applicant: Mersea Island Trust

Development: Detailed application for extension to provide 5 no. additional flats following outline approval 121334.

Ward: West Mersea

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This is a full application which follows upon an outline planning permission (121334) that was referred to the Planning Committee on 29.11.2012 on the basis that the proposal fell between different adopted parking standards and objections had been received to the schemes on these grounds. The current application is also brought to the Planning Committee as once again objections have been received to the scheme from local residents, partly on parking grounds.

2.0 Synopsis

2.1 The application proposes an additional 5 flats to provide sheltered accommodation for the elderly and infirm within a development where there are currently 18 flats, plus a warden's flat. The report considers the proposal in the light of its adopted policies and standards and with regard to the outline planning permission reference 121334. It considers that the scale and design of the proposal are acceptable in relation to the host building, the context of the area and, in relation to residential amenity. The report goes on to consider the level of parking provision on the site, which although a more thorny issue, is considered appropriate. The report recommends approval of the application.

3.0 Site Description and Context

3.1 Akhurst Court provides sheltered accommodation for elderly persons on Mersea Island. It currently contains 18 flats plus a community lounge, kitchen, laundry facilities and extensive garden. The building is 2-storied and includes various previous additions. The surrounding area is predominantly residential in character, with the shops and other services within the Mersea Rural District Centre generally being within walking distance. The proposed extension is situated immediately to the east of the rear garden of No. 11 Melrose Road, a private 2-storey dwelling, and immediately to the north of a St John Ambulance Hall building.

4.0 Description of the Proposal

4.1 This is a full planning application for five additional flats within a part single storey and part two-storey extension (three additional flats on the ground floor and two on the first floor). Each flat will comprise a lounge with adjoining kitchen, a bedroom, and a bathroom. Each flat is to have its own front door and be self-contained. The proposal extends an existing frontage wing across the site and creates a new landscaped courtyard between the proposal and the north wing. This results in the loss of an existing parking area. The plans make provision for 9 parking spaces on the site frontage.

5.0 Land Use Allocation

5.1 Predominantly residential

6.0 Relevant Planning History

6.1 77/1592 – toilet facilities, approved 1977

6.2 84/0045 – erection of garage for use by warden, approved 1984

6.3 97/1310 – proposed lift, kitchen and flat and relocation of office, approved 1997

6.4 99/0431 – erection of new flats and conversion of existing flat into 2 flats, new buggy-park and glazed link, approved 1999

6.5 120198 – extension to provide 6 additional flats, withdrawn May 2012.

6.6 121333 – outline planning permission was granted in 2012 (the application having been referred to the Planning Committee on 29.11.2012) for five additional flats.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)
Planning Policy Statement 1: Delivering Sustainable Development

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
TA5 - Parking

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

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

8.0 Consultations

8.1 ECC Highways – no comment further to its recommendation on 23 March 2012. This raised no objection to the proposal for 6 flats as not contrary to policies regarding safety, road hierarchy, parking standards, accessibility, efficiency/capacity: recommended a informative only.

8.2 Environmental Control – made no comment, but previously recommended a planning condition should land contamination issues arise.

8.3 Design and Heritage Team – The proposed amendments are acceptable.

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 Town Council Response

9.1 West Mersea Town Council recommended consent is granted.

10.0 Representations

10.1 An objection was received from 11 Melrose Road, which raised the following issues:

1. Insufficient car parking for this development and the number of occupants
(Officer Comment: This issue is considered within the main body of the report)
2. Insufficient turning space for refuse lorries and emergency vehicles; this will be a hazard for pedestrians
(Officer Comment: No objection has been received from the Highway Authority in this regard)

3. Occupants of the new flats will have a poor outlook
(Officer Comment: This issue is considered within the main body of the report)
4. Overshadowing and visual intrusion of 11 Melrose Road
(Officer Comment: This issue is considered within the main body of the report)

10.2 Representations of support were received from mainly on the grounds that Mersea needs additional specialist accommodation of the type proposed.

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

11.0 Parking Provision

11.1 Policy DP19 refers developers to the Essex Planning Officers Association Vehicle Parking Standards, adopted as SPD in 2009. The level of parking provision required will be dependent on the location, type and intensity of use. For residential uses a minimum of 1 space per dwelling should be provided for each 1-bedroom dwelling. A lower standard may be acceptable or required where it is demonstrated there is a high level of access to services. The SPD includes the following standards: for fully-self contained 1-bedroom flats at 1 space per dwelling plus 1 visitor space for every 4 units (minimum standard); for residential care homes at 1 space per fulltime staff equivalent and 1 visitor space per 3 beds (maximum standard); and for retirement developments (e.g. warden assisted independent living accommodation) 1 space per dwelling and 1 visitor space per 8 units. The actual provision proposed by this application is 9 spaces for a total of 23 flats for residents and one flat for the warden. The issue of parking provision is considered further within the main body of the report.

12.0 Open Space Provisions

12.1 Policy DP16 requires a minimum of 25 square metres of private amenity space to be provided for each flat as communal space. No specific provision is made for sheltered accommodation within this policy. The scheme will leave at least 1200 square metres of garden amenity land, which exceeds minimum standards for self-contained flats.

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

Background

- 15.1 Akhurst Court is a freehold property owned by Mersea Island Trust, formed in 1960 for the specific charitable purpose of providing warden supported sheltered accommodation for the elderly and infirm of Mersea Island. It currently contains 18 flats (2 of which can accommodate 2 people) plus a community lounge, kitchen, laundry facilities and extensive garden. The ages of current residents range between 70 years and 97 years; the average age is 84 and the median age is 87. The majority of residents have moved from larger properties that they are no longer able to confidently manage. Nonetheless residents differ from the usual care home population in the respect that the majority are still mobile to some extent. Existing tenants have Assured Shorthold Tenancies that can be terminated by 1 month notice by either party; tenants have no lease rights.
- 15.2 The scheme put forward by the current full application (as amended) is very similar to that previously put forward by the outline application. Minor changes have been made to the external appearance, including the addition of solar panels on the front facing roof. The same number of parking spaces is proposed, but five mobility scooter charging points/ spaces have been added. The plans also show a proposed bin storage area adjacent to the proposed parking area.

Layout and Design

- 15.3 The position of the proposed addition is essentially the same as that approved under the outline application. It is noted that the kitchen and bedroom of flats 1 and 2 on the ground floor face toward the St. John Ambulance Hall building and therefore these rooms have a relatively poor outlook; however, the lounge areas for these flats face towards a landscaped central courtyard. The plans have been amended during the course of the application to ensure that the roof height of the 2-storey element ties in with the height of the existing wing. The proposed wing will run behind the St. John Ambulance Hall toward the rear garden of 11 Melrose Road. The 2-storey element to the proposal is terminated by a parapet to match that on the existing end at a distance of about 6.5m from the side boundary with No. 11. A single-storey element is proposed within this space to within about 1m of this property. The site is within a predominantly 2-storey residential area and the general scale of the proposed extension is considered appropriate to the context of the area. Details of the design have been amended during the course of negotiations to provide a rhythm of brick and window/boarded columns, which is a more sympathetic pastiche of the host dwelling.

Neighbouring Amenity

- 15.4 The proposed extension infills a space which is currently used for parking purposes. The new built form will therefore have an impact upon the closest residential property, No. 11 Melrose Road. This is a 2-storey dwelling with a single storey rear projection built close to the boundary with the St John Ambulance Hall. The single storey element has no window facing directly down the garden, but has fenestration facing onto the patio area to the rear of the main house. The rear garden for the property extends beyond the St John Ambulance Hall to the boundary with the Akhurst Court development. There is an element of overlooking from first floor windows of the existing northern wing of this development.
- 15.5 The proposal as submitted has been designed to minimize potential impacts on the neighbouring property. The 2-storey element to the proposal is set a minimum of 6.5m from the boundary fence of the neighbour and there are no windows on the end elevations facing directly towards the neighbour. There are first floor windows but these will only offer an obscure angle of overlooking toward the neighbouring garden. The proposed new wing lies to the NE of the rear of the dwelling of No. 11 and generally to the east of the garden. It is accepted there will be an element of overshadowing to part of the garden during morning hours, but this will only be for a small part of the day. The new development will also be visible from the garden; however, the nearest part of the proposal is single-storey only with a roof line that hips away from the neighbour. It is accepted that the proposal will have an impact upon the neighbour, but it is considered that the design of the proposal will not result in significant harm. Council policy includes SPD that sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved; the combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.

Parking

- 15.6 One of the key considerations for the outline application was whether sufficient provision had been made for parking and this issue has been raised again for the full application. Members discussed this issue in respect of a similar application for Mersea Court (121333) on 29th November 2012, which is also operated by the Mersea Island Trust for elderly and infirm persons. Members of the Committee were of the opinion that the Trust provided a much needed facility which would be needed more in the coming years. This facility was near to shops in the town centre. It was considered that the demand for sheltered accommodation indicated a demand for independent living. Some Members considered that the car parking provision should be scaled up in proportion to the number of additional flats and others were concerned that the lack of parking provision would restrict the group who could occupy this facility because people were living longer and driving longer. In addition there was also some concern regarding appropriate provision for mobility scooters. Members recognised that this was a private facility where the Trust was able to set their own entry rules, including the age of applicants, their state of health or ability to drive, and it was acknowledged that potential occupants could chose to accept or refuse a tenancy.

- 15.7 In response to a query regarding the total occupancy rate in Akhurst Court, the following response was received from the Chair of the Mersea Island Trust: *“all of our flats have only one bedroom, but some are considered large enough for two residents. In order to offer all local residents, couples or singles, the opportunity to move into our Sheltered Accommodation we have decided that the 5 flats in the proposed extension should be large enough for a couple. However, if a single person is much higher on our waiting list they would be offered accommodation in a “double” flat.*
- I am not certain how many of our existing flats at Akhurst Court are designated suitable as doubles: the sizes vary and I know of two flats which could have two residents but have had only one for a few years: we try not to make a widow / widower move when her / his partner dies.*
- The 18 flats at Akhurst Court at present have 17 occupants in 16 flats with 3 more residents moving in at the end of the month into the remaining 2 flats: Thus the total in May will be 18 flats, 20 residents. Of the current 17 occupants only 3 have cars. The warden (in nineteenth flat) also has a car. There are also 2 electric buggies and 2 shopping-bag ‘trolleys’.*
- I am rather confused about the continuing issue of cars and parking since I believed that the full discussions before applying for OPP and the discussion at the Council’s Planning meeting resolved any perceived problems.*
- Many of our residents will have previously held driving licences, but most have ceased to drive before they move into one of our flats. The very central location enables them to walk to shops, doctor, library, church/chapel, etc and to the bus stops for visits off the island. None are ever “2-car families”. The requirement for individual cars is virtually identical to that of the normal Care Home population, it is certainly nothing like a building of flats for younger families. We have requested that the parking standard applied by the Planning Authority should be the same parking standard that is used to determine the number of off road parking places for a Residential Care Home.*
- Our residents do differ from the usual Care Home population, the majority are still mobile to some extent and we have encouraged the use of electric buggies since being mobile helps enormously in maintaining their quality of life.”*
- 15.8 It is acknowledged the proposed new flats will lead to a reduction in the amount of car parking space available on site. The proposal includes 9 vehicle parking spaces (and five new mobility scooter charging points). The proposal will result in 23 flats for residents and 1 warden flat. If the car parking standard for a retired development were applied (as set out in the adopted SPD), the proposal would be significantly under provided in terms of parking provision, as the proposal would require 24 spaces for the flats plus an extra 3 spaces for visitors. If the car parking standard for a residential home were applied and each flat was occupied by one person, a maximum of 9 vehicle parking spaces could be provided; if each of the 5 new flats were occupied by a couple, a maximum of 11 vehicle parking spaces could be provided.
- 15.9 Mersea Island Trust provides sheltered accommodation for the elderly and infirm, who value independent living. Car occupancy rates are very low at the site and the Trust has the ability to set their own entry rules for new tenants. Of the current 17 occupants only 3 have cars. The application premises are centrally located within Mersea with good access to the facilities that tenants are likely to require, including shops, medical facilities, church etc. Whilst a strict interpretation of the Parking Standards SPD could form the basis for a reason for refusal, such an interpretation would also result in a large overprovision of parking given current car occupancy rates

at the site. There is a clear need for this sort of accommodation and the existing site has very good access to local facilities. Whilst the concerns of the objector in relation to parking are noted, it is also noted the Highway Authority did not object to the application. A planning condition (no. 7) is recommended that the flats hereby permitted shall only be occupied by elderly or infirm persons over 65 years of age, and on this basis it is considered that the proposal can be accepted on parking grounds.

16.0 Conclusion

16.1 The site lies within a predominantly residential area, where extensions to existing buildings can be accepted in principle subject to good design, meeting adopted standards and, there being no significant impact on residential amenity. The proposed design is faithful to the pastiche of the host dwelling and has been designed so as to help minimize impact on existing residential amenity. The proposed level of parking for the development is a more thorny issue, particularly as the proposal is well below the standard that would normally be applied to retirement developments in accordance with the SPD. However, having regard for the need for this sort of accommodation, the centrality of the location and the elderly nature of the clientele, most of whom do not own cars, it is considered the application should not be refused on parking grounds. In overall terms therefore the application is recommended for approval.

17.0 Recommended Reasons for the Decision

17.1 The proposal complies with the relevant policies in the Statutory Development Plan (as set out above) in terms of creating an appropriate townscape and not having a significant adverse impact on existing residential amenity. Whilst the level of parking provision falls below the adopted SPD standard for retirement homes, having regard for the need for this sort of accommodation, the location of the site and the elderly nature of the clientele, most of whom do not own cars, the level of parking provision proposed is considered acceptable.

18.0 Recommendation - APPROVE subject to the following conditions

19.0 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 - *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 MO20/01B, MO20/02 and MO20/03A 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 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

4 - Non-Standard Condition/Reason

Prior to works commencing on the construction of the extension hereby permitted, the proposed parking area shown on drawing MO20/01B shall have been provided for vehicle parking purposes and shall thereafter be retained solely for those purposes.

Reason: To ensure an appropriate level of off-street parking is provided for the development.

5 - Non-Standard Condition/Reason

No additional windows shall be constructed in the west (side) elevation of the extension hereby permitted without the previous written consent of the Local Planning Authority.

Reason: To protect nearby residential amenity.

6 - Non-Standard Condition/Reason

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, in addition to any assessment provided with the planning application, must be 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,
- archeological 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'.

Where remediation is necessary 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 must be prepared, and is subject to the approval in writing of 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.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. 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 report (referred to in PPS23 as a 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 the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

7 -Non-Standard Condition/Reason

The flats hereby permitted shall only be occupied by elderly or infirm persons over 65 years of age, unless otherwise agreed in writing by the Local Planning Authority.

Reason: The level of parking provision for the site is more appropriate for residents that will be elderly or infirm and unlikely to be car owners.

8 - Non-Standard Condition/Reason

Prior to the commencement of development, there shall have been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the publicly visible parts of the site, which 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.

9 - Non-Standard Condition/Reason

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.

10 - Non-Standard Condition/Reason

Prior to the first occupation of the development hereby approved the mobility scooter parking locations with electric charge points shall have been provided as shown on drawing number MO20/01B and these shall thereafter be retained.

Reason: To ensure an appropriate level of provision for new residents and because the Council has granted approval for the scheme on the basis that residents are less likely to drive a car and are more likely to require provision for mobility scooters.

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.

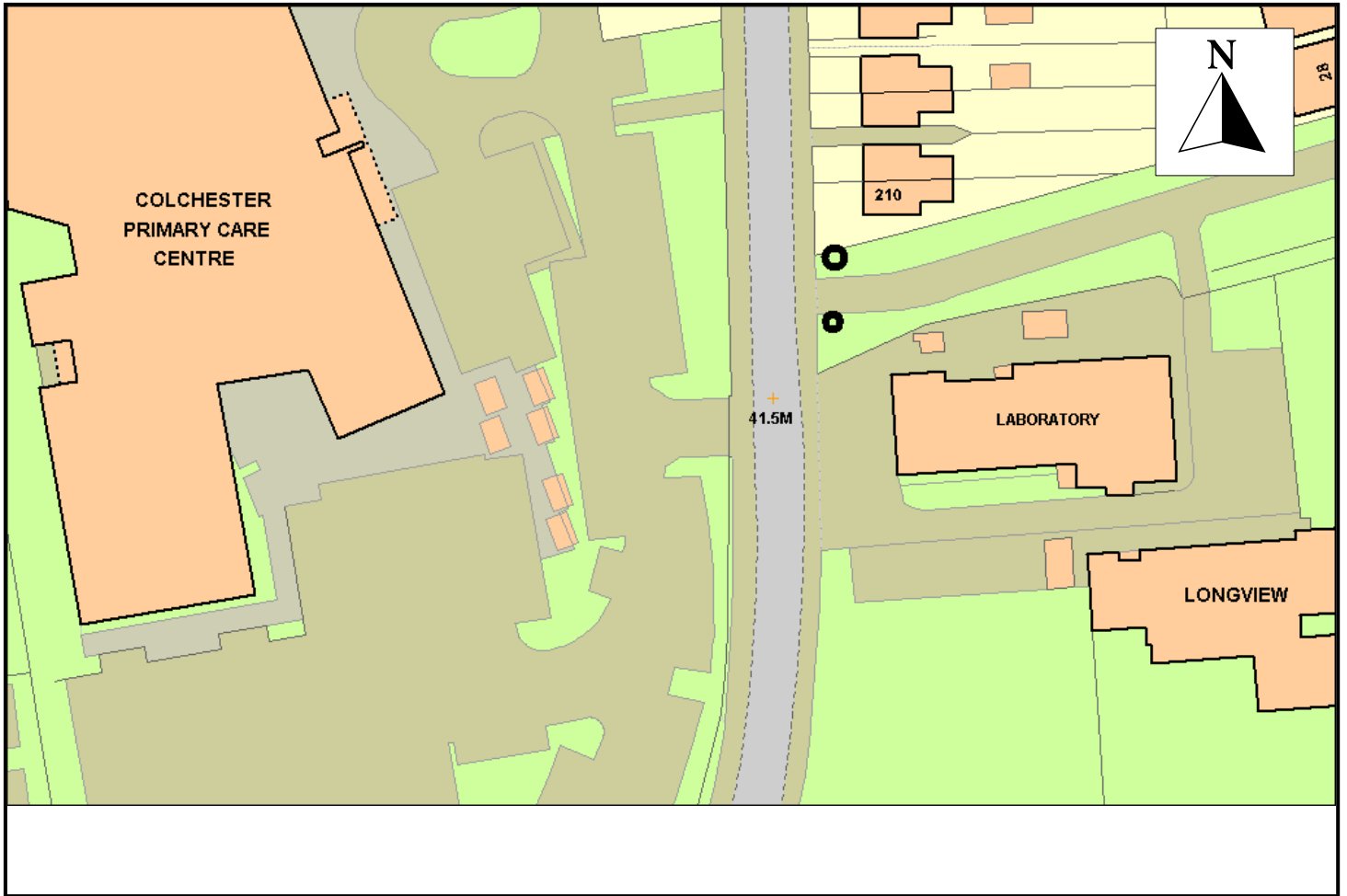
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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.

21.0 Positivity Statement

21.1 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.



Application No: 130631

Location: High Woods Country Park, Visitors Centre, Turner Road, Colchester, CO4 5JR

Scale (approx): NOT TO SCALE

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7.6 Case Officer: Peter Hill

OTHER

Site: Visitors Centre, Turner Road, Colchester, CO4 5JR

Application No: 130631

Date Received: 27 March 2013

Agent: Parks And Recreation Life Opportunities

Applicant: Highwoods Country Park

Development: Free standing entrance signage at the driveway to Highwoods Country Park.

Ward: Mile End

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;

- Amenity
- Public safety

2.2 Unlike planning applications, applications for Advertisement Consent can only be considered in relation to these two issues.

2.3 It is concluded that this application results in no material harm in relation to either of those two issues, but results in benefits to both.

3.0 Site Description and Context

3.1 The application site is the vehicular access to High Woods Country Park visitor centre and car park from Turner Road. Either side of this access is a grass verge. An existing entrance sign for the country park stands on the southern grass verge. To the north is the residential property of 210 Turner Road. To the south is an NHS laboratory.

4.0 Description of the Proposal

4.1 This is an application for Advertisement Consent for two identical signs – one either side of the access on the afore-mentioned grass verges, angled towards Turner Road in a northerly and southerly direction respectively.

4.2 Each sign measures 1.2 metres wide and 1.8 metres in height and would be supported on wooden posts. The advertisements are slightly larger than that which can be erected by a Local Authority without the need for express consent, hence this formal application.

5.0 Relevant Planning History

5.1 None

6.0 Principal Policies

6.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for advertisement consent must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Government's primary objective that there be "a presumption in favour of sustainable development". There are three dimensions to sustainable development, which are an economic role, a social role and an environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

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

- UR2 - Built Design and Character

6.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):

- DP1 Design and Amenity
- DP17 Accessibility and Access

6.5 Regard should also be given to the following adopted Supplementary Planning

- Shopfront Design Guide

7.0 Consultations

7.1 Environmental Services – No objection

8.0 Parish Council Response

8.1 Myland Community Council – No objection

9.0 Representations

9.1 No representations received.

10.0 Report

Amenity

- 10.1 The proposed advertisements will not be materially higher than boundary fences and so will have no material impact on residential amenity. They will not result in what is sometimes termed 'advertisement clutter' as only two signs are proposed and there are no other advertisements in the immediate location. They are proportionate to the purpose that they serve which is to provide a clear and high profile entrance to High Woods Country Park.

Public Safety

- 10.2 The highway authority has not been consulted on this application due to its minor nature and because it does not include illumination that can sometimes distract drivers. In providing clear directional signage to traffic coming from both directions on Turner Road, it is reasonable to suppose that these signs will reduce confusion and distraction in the public highway where drivers are seeking to find the vehicular access to the visitor centre.

11.0 Conclusion

- 11.1 In conclusion, the proposal presents benefits to public safety and an attractive entrance to the country park, with no corresponding material harm to either public safety or to amenity. As such, it is recommended that Advertisement Consent be granted subject to the standard conditions.

12.0 Recommendation - APPROVE subject to the following conditions;

(ZQA – Standard Advert Condition)

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

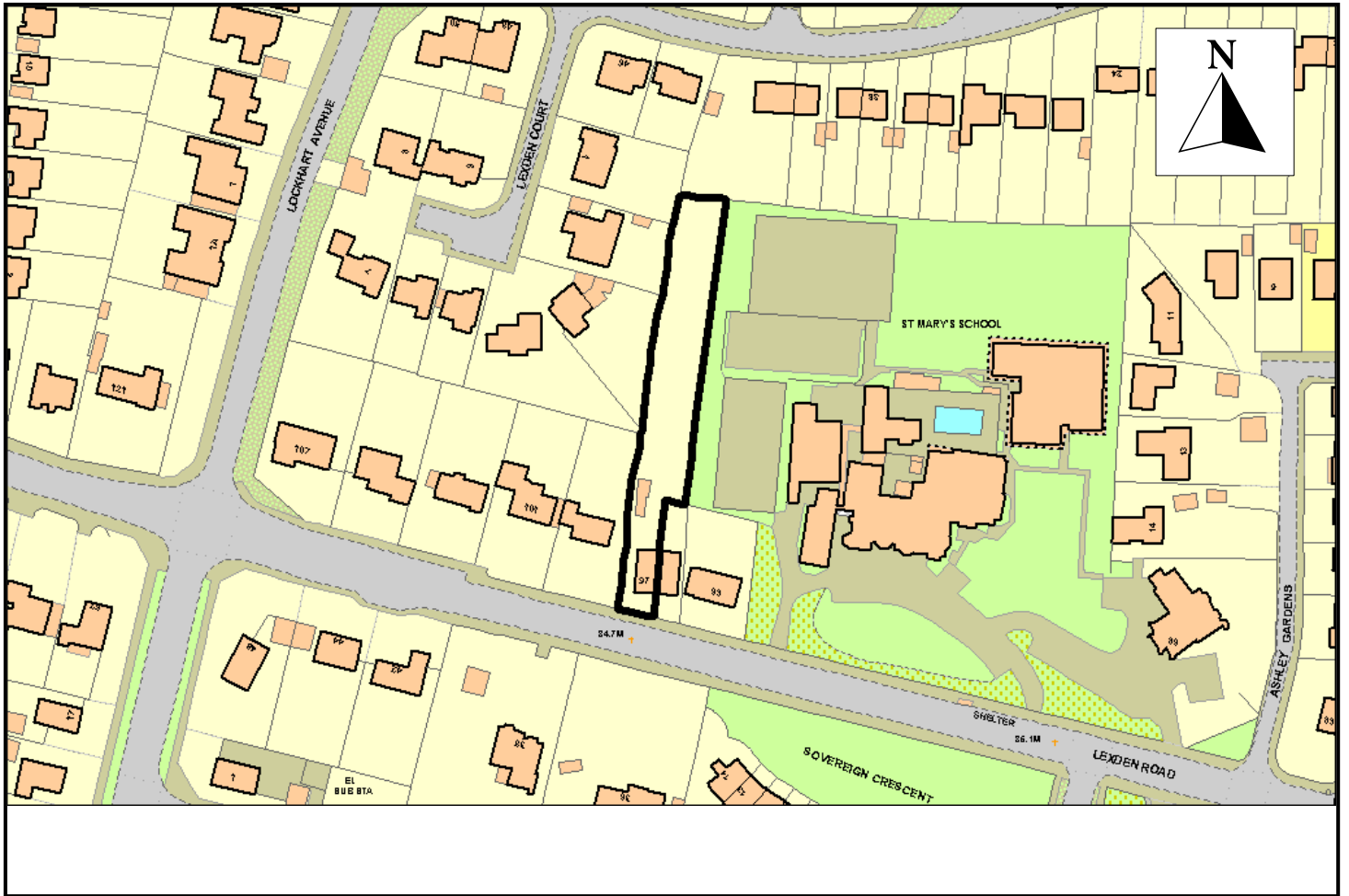
Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

13.0 Recommended Reasons for the Decision

- 13.1 The proposal accords with the relevant policies in the Statutory Development Plan (as set out above). Having also had regard to all material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged planning importance.

14.0 Positivity Statement

- 14.1 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 advertisement consent in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 130665
Location: 97 Lexion Road, Colchester, CO3 3RB
Scale (approx): 1:1250

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7.7 Case Officer: James Ryan

Due Date: 29/05/2013

HOUSEHOLDER

Site: 97 Lexden Road, Colchester, CO3 3RB

Application No: 130665

Date Received: 3 April 2013

Agent: Mr Anna Borkowska

Applicant: Mr Chris Reeve

Development: Erection of single storey timber clad garden room to be used as a hobby room.

Ward: Lexden

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 Sonia Lewis. It was called in due to concerns regarding neighbouring amenity.

2.0 Synopsis

2.1 The key issues explored below are the impact the scheme will have on the setting of the listed building and on neighbouring amenities.

2.2 It is considered that these are acceptable and approval is recommended.

3.0 Site Description and Context

3.1 The site contains a very attractive semi detached period dwelling that fronts the Lexden Road. The dwelling is Grade II listed and enjoys a long garden that contains a number of mature trees. The Northern end of the garden is bounded by the dwellings in Lexden Court to the West and Endsleigh Court to the North. St Mary's School is located to the East. The dwellings in Lexden Court sit at a higher level than the application site.

4.0 Description of the Proposal

4.1 A flat roofed garden room is proposed.

5.0 Land Use Allocation

5.1 The site sits within the defined settlement limits where development of this nature is acceptable in principle. Part of the wider site is adjacent to Colchester Conservation Area 2.

6.0 Relevant Planning History

6.1 There is no planning history that is particularly relevant to this scheme.

7.0 Principal Policies

7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) 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 (October 2010):

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets

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

Extending Your House?
External Materials in New Developments

8.0 Consultations

8.1 Arboricultural Planning Officer – No objections subject to conditions.

8.2 Environmental Protection – No objections subject to a noise condition.

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 Three representations have been received. These raised concerns about loss of view, the proximity to the boundary and the possibility of noise from the use of the building.

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

11.0 Parking Provision

- 11.1 As this scheme is for a domestic garden room it will not generate additional parking need.

12.0 Open Space Provisions

- 12.1 As this scheme is for a domestic garden room it will not generate any open space contribution requirements.

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

- *Design and Layout*
- *Scale, Height and Massing*
- *Impact on the Surrounding Area*
- *Impacts on Neighbouring Properties*

Design and Layout

- 15.1 The garden room proposed would be 6 metres long, 4.2 metres deep and 2.4 metres wide. It will be flat roofed. It will be clad in Western Red Cedar cladding, with a grey waterproof membrane for the roof and grey aluminium fascias. The elevation facing the garden would be largely glazed.
- 15.2 The contemporary approach proposed is acceptable in design terms. The building is some 45 metres from the main listed building. This distance, along with the significant intervening tree planting and landscaping, ensures that this scheme will not have a harmful impact on the setting of the listed building.

Scale, Height and Massing

- 15.3 The modest size and limited height of the scheme results in a proposal that is acceptable in terms of scale, height and massing.

Impact on the Surrounding Area

- 15.4 The modest size and limited height of the scheme results in a proposal that will not have a demonstrably harmful impact on the surrounding area or adjacent Conservation Area.

Impacts on Neighbouring Properties

- 15.5 The modest size and limited height of the scheme results in a proposal that will have very limited impact on neighbouring amenity. In particular, the height of the building, at only 2.4 metres, will not result in significant overshadowing, oppressiveness or loss of outlook to neighbouring properties. Representations have noted a possible loss of view, however Planning does not seek to protect views.
- 15.6 The garden room has been positioned within 50cm of the common boundary with the neighbours in Lexden Court. This is to pull the development away from the root protection areas of the important trees that are located in the vicinity. For the reasons noted above, the proximity to the boundary does not cause material harm to the neighbours.
- 15.7 Other representations have raised concerns about the noise from the use of the building. As the scheme is relatively remote from the main dwelling a condition will be imposed to prevent any noise above background levels being emitted from the building. This will prevent uses of the garden room that are noisy and would therefore cause material harm to neighbouring amenity.
- 15.8 Therefore this scheme is not materially harmful to neighbouring amenity.

16.0 Conclusion

- 16.1 This scheme is acceptable in design terms, would not cause harm to the setting of the listed building and would not cause harm to neighbouring amenity. Therefore an approval is warranted.

- 17.0 Recommendation** - APPROVE subject to the following conditions:

18.0 Recommended Reasons for the Decision

YOP - *Reason for Approval (Objection(s) Received - Committee)

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan. In particular Members were of the opinion that the proposal warranted approval because it is well designed, would not harm the setting of the listed building and would not cause material harm to neighbouring amenity. Thus, having had regard to all material planning considerations, the Council is of the opinion that the proposal would not cause any harm to interests of acknowledged importance that would warrant the refusal of this

application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely concerns about loss of view, the proximity to the boundary and the possibility of noise from the use of the building.

19.0 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 - *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 C974-1, C974-2, C974-3, C974-4, C974-PO02, C974-PO01 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 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

4 - Non-Standard Condition/Reason

Noise levels emanating from the building hereby approved shall not exceed a level of 0dBA above the background levels determined at all boundaries near to noise-sensitive premises.

Reason: To ensure that the shed 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.

5 - Tree and Natural Feature Protection: Protected Areas

Prior to the commencement of development, 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.

6 - Tree and Natural Feature Protection: Entire Site

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.

7 -Tree and Hedgerow Protection: General

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.

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.

21.0 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.



Planning Committee

Item

23 May 2013

Report of	Head of Commercial Services	Author	Alistair Day ☎ 01206 282479
Title	Endorsement of proposed amendment to the 299a garrison legal agreement in respect of the provision of affordable housing on Area H and Area S2North		
Wards affected	Berechurch & Christ Church		

Report seeking Members' endorsement for a Deed of Variation to the 299a garrison legal agreement in respect of the provision of affordable housing on Area H and Area S2North

1.0 Decision Required

- 1.1 Members are asked to endorse the proposal to provide a reduced provision of affordable housing on the part of the Garrison Urban Village Development known as Area H (to east of Butt Road) and Area S2North (to the north of Berechurch Hall Road).

2.0 Reasons for Decision(s)

- 2.1 Members' endorsement is required for Deed of Variations to legal agreements that would result in a change in the provisions of the obligations secured under the original agreement.

3.0 Alternative Option

- 3.1 Members can decide not to endorse the reduced affordable housing offer. This would leave Taylor Wimpey with two options:
- to build-up to the trigger point that requires the delivery of the affordable housing and then mothball the sites; or
 - to appeal against the Council's decision not to support the reduced provision of affordable housing. It should be noted that in considering an appeal, the viability of the scheme is such that Taylor Wimpey could legitimately propose no affordable housing.

4.0 Supporting Information

- 4.1 Outline planning permission (ref: O/COL/01/0009) was granted for the Garrison Urban Village Development in June 2003 and remains extant. The Master Layout Plan approved pursuant to condition 1 of this permission identifies the relevant development areas and dwelling numbers for each area. The permission is accompanied by a s299A agreement, which has been subject to a number of variations (the 'Agreement'). The agreement provides for the payment of financial contributions on a phased basis and also, the mechanism for the provision of affordable housing.
- 4.2 A Reserved matters planning applications (ref:080914 and 091641) were submitted by Taylor Wimpey in 2008 and 2009 respectively for the redevelopment of Area H and Area S2North of the Colchester Garrison Urban Village Development. It is proposed to erect 45 dwellings on Area H (which includes 8 units is the listed Sergeants' Mess) and 163 residential dwellings on Area S2North.
- 4.3 Under the terms of the s299a Agreement the developer is required to provide 13 and 46 affordable dwellings on Area H and Area S2North respectively. The developer is able to complete and sell a specified number of private dwellings before the requirement to provide affordable housing is triggered.
- 4.4 Since the completion of the Agreement, the residential development market has been subject to substantial adjustment (decline). In addition, the Government has introduced new policies in relation to the funding and tenure definition of affordable housing. These factors have had a significant bearing on the financial viability of the Garrison development and, as such, Taylor Wimpey, is no longer in a position to comply with requirement to provide all of the affordable housing on this site. In view of this, Taylor Wimpey has sought through negotiation to reduce the required level of affordable housing.
- 4.5 Taylor Wimpey and the Council have appointed consultants (Upside London and BPS Chartered Surveyors respectively) to review the viability of Area H and Area S2(North). The viability assessment is based on the same methodology as that used to determine the revised affordable housing provision on Area L & N and Area A1 of the Garrison site. (The Planning Committee accepted the reduction in affordable housing on these sites). The Council's appointed advisor has scrutinised the viability assessment for Area H and Area S2North and has advised the Council that, on viability grounds, there is no scope for affordable housing.
- 4.6 On the basis of the financial assessment work - which includes a significant write-down in land value and 14 per cent profit on Goss Development Value (which is lower than the accepted industry standard (20 per cent)) - Taylor Wimpey has made a revised (reduced) affordable housing offer comprising:

Area H

- Two affordable rented units; it is proposed that these units will be delivered by Chelmer Housing Association along with the agreed affordable housing on Area A1.

Area S2North

- 8 affordable houses are to be delivered comprising 2 x two bed flats, 3 x three bed houses and 3 x four bed houses.

4.7 In addition to the above, Taylor Wimpey has also agreed to offer the following assisted purchase schemes:-

- 5% to be offered on the basis of the Government's First Buy or New Initiative (or other such scheme that is prevailing at the time) enabling first time buyers to access mortgage finance.
- 5% to be offered on the basis of Taylor Wimpey's retained equity scheme, which is aimed at first time buyer.

4.8 The First Buy Scheme is subject to Government support and alternative arrangements will need to be drafted into the Section 106 Agreements for these sites in the event that support is withdrawn

4.9 The Council's consultant has confirmed that the above represents a reasonable offer.

4.10 It is proposed that the viability of the scheme is reassessed during the course of the development, with the final review taking place no later than one year from the completion of this development. In the event that there is a substantial improvement in the market and the developer's profit, it is proposed that a further financial contribution is paid to the Council for additional affordable housing. A cascade mechanism is also proposed to cover the event that the affordable housing is not transferred to a Registered Provider.

4.11 National Planning Policy Framework (2012) provides guidance on ensuring the viability and deliverability of development proposals. Paragraph 173 of the Framework states that:

"Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. 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".

4.12 With specific regard to existing planning obligations, the Framework (at paragraph 205) states that:

"Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled".

- 4.13 The Growth and Infrastructure Act 2013 inserts new sections 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduce a new application and appeal procedure for the review of planning obligations on planning permissions that relate to the provision of affordable housing. Section 106BA enables a developer to make an application to a local planning authority for a revised affordable housing provision. This application should contain a revised affordable housing proposal, based on the prevailing viability and supported by relevant viability evidence. Section 106BC provides the right of appeal to the Secretary of State where the Local Planning Authority does not agree with the viability assessment or on the grounds of non-determination.
- 4.14 In April 2013 the government published further guidance on reviewing s106 agreements where sites had become economically unviable due to the provision of affordable housing. The purpose of the guidance is to provide an overview of the evidence that may be required to support applications and appeals under 106BA and 106BC. The guidance document states that the Government encourages a positive approach to planning to enable appropriate sustainable development to come forward wherever possible. Unrealistic S106 agreements negotiated in differing economic conditions can be an obstacle to house building. The guidance states that “reviewing such agreements will result in more housing and more affordable housing than would otherwise be the case”. The guidance document also notes that the new procedures do not replace existing powers to renegotiate Section 106 agreements on a voluntary basis.
- 4.15 In the case of Area H and Area S2North, the developer has submitted a viability assessment for these sites and the Council’s consultant is in agreement with the conclusions of the submitted reports. Given this, it is considered highly unlikely that a Planning Inspector would come to a different conclusion in respect of the viability of this development. Indeed, the viability of the Garrison development is such that the developer could legitimately argue against the provision of any affordable housing.
- 4.16 While it is accepted that the current proposal involves a reduction in affordable housing, it will enable the continuation of the Garrison development and ensures the provision of 10 affordable houses. The alternative is for Taylor Wimpey to either; a) build up to the trigger point that requires the delivery of the affordable housing and then mothball the site; or b) submit an application for the variation of the s106 agreement and appeal against the Council’s decision not to support the reduced provision of affordable housing.
- 4.17 It is considered that the proposed affordable housing offer represents a pragmatic approach to the redevelopment of these areas of the Garrison site and it is recommended that Members accept this offer.

5.0 Consultations

5.1 Planning Policy

The Spatial Policy Manager has been consulted on this proposal and has drawn attention the Framework’s guidance on the viability and deliverability of development proposals (particularly paragraphs 173 and 205). In light of this guidance, the Spatial Policy Manager has advised that it will be hard for the Council to refuse this proposal

- 5.2 Housing Officer has accepted the revised affordable housing offer given the conclusion and advice of the Council’s consultant.

5.3 Portfolio Holder of Planning

Councillor Tim Young has been advised of the proposed reduction of affordable houses on Area H and Area S2(North).

6.0 Strategic Plan References

6.1 The redevelopment of the Garrison site is an important corporate objective within the Strategic Plan. The delivery of affordable housing is also an important corporate objective

7.0 Financial Implications

7.1 Financial implications for this Council only arise if a housing association does not become involved with the provision of the affordable houses. These implications are: (i) the Council having the option to purchase the affordable units; and (ii) if the Council declines this offer the provision of a commuted sum in lieu of the affordable housing.

8.0 Standard References

8.1 The proposal set out in this report does not directly raise any implications in respect of publicity considerations or Equality, Diversity and Human Rights, Community Safety, Health and Safety or Risk Management Implications.

AMENDMENT SHEET

Planning Committee
23 May 2013

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.3 112176 – Layer Wood, Maldon Road, Layer Marney

7 further representations have been received. They all supported the scheme.

7.4 130292 – Mersea Court, High Street North, West Mersea

Additional comments received, in particular from 15 High Street North that their lounge window will face the side wall of the extension and the bin area.

Officer Response: The proposed extension and bin store will be set 6m from the boundary with the neighbour. The impact of the proposal on neighbour amenity is considered in paragraph 15.4 of the report. The bin area will be much closer to one of the new bedrooms than to No. 15 and it will therefore be in the interests of the management not to let rubbish accumulate.

7.5 130296 – Akhurst Court, Melrose Road, West Mersea

Additional comments have been received that there is no control over the number of residents with cars and this may well increase in the future with an additional potential for 10 occupants in the 5 new flats proposed. Using the care home standard would require 13 car parking spaces to satisfy these requirements. This is not a care home – as set out on the Trust website it is expected those living in the accommodation will receive assistance from friends and family to enable them to live independently – all the residents may therefore have regular visitors using cars.

Officer Response: These issues are explored within paragraphs 15.8 and 15.9 of the report.

7.6 130361 – Visitors Centre, Turner Road, Colchester

Withdrawn from agenda at the request of the Head of Professional Services.

7.7 130665 – 97 Lexden Road, Colchester

A letter has been received from the applicant in response to the concerns from neighbours. This set out how the garden room will be used for home working and for peaceful reading and writing.



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

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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