

Planning Committee

Town Hall, Colchester
5 July 2012 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.

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 meetings, with the exception of Standards Committee 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

Private Sessions

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.

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Material Planning Considerations

The following are among the most common issues which the Planning Committee can take into consideration in reaching a decision:-

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, Government guidance, case law, previous decisions of the Council
- design, appearance and layout
- impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance
- impact on trees, listed buildings or a conservation area
- highway safety and traffic
- health and safety
- crime and fear of crime
- economic impact – job creation, employment market and prosperity

The following are among the most common issues that are **not** relevant planning issues and the Planning Committee cannot take these issues into account in reaching a decision:-

- land ownership issues including private property rights, boundary or access disputes
- effects on property values
- restrictive covenants
- loss of a private view
- identity of the applicant, their personality or previous history, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other legislation

Human Rights Implications

All applications are considered against a background of the Human Rights Act 1998 and in accordance with Article 22(1) of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 there is a requirement to give reasons for the grant of planning permission. Reasons always have to be given where planning permission is refused. These reasons are always set out on the decision notice. Unless any report specifically indicates otherwise all decisions of this Committee will accord with the requirements of the above Act and Order.

Community Safety Implications

All applications are considered against a background of the implications of the Crime and Disorder Act 1998 and in particular Section 17. Where necessary, consultations have taken place with the Crime Prevention Officer and any comments received are referred to in the reports under the heading Consultations.

Equality and Diversity Implications

All applications are considered against a background of the Council's 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. The legal context for this framework is for the most part set out in the Equality Act 2010.

COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
5 July 2012 at 6:00pm

Members

Chairman : Councillor Theresa Higgins.
Deputy Chairman : Councillor Helen Chuah.
Councillors Nick Barlow, Nigel Chapman, Peter Chillingworth, John Elliott, Stephen Ford, Sonia Lewis, Michael Lilley, Jackie Maclean, Jon Manning, Nigel Offen, 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 Lyn Barton, Mary Blandon, Mark Cable, Barrie Cook, Beverly Davies, Annie Feltham, Marcus Harrington, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Cyril Liddy, Sue Lissimore, Colin Mudie, Will Quince, 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 circulated at the meeting and is available on the council's website by 4.30pm on the day of 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 applications 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 on the day 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 off or to silent;

- 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

6. Minutes

1 - 6

To confirm as a correct record the minutes of the meeting held on 24 May 2012.

7. Planning Applications

In considering the planning applications listed below, the Committee may chose 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. 120973 Land opposite Sanders Drive, Lexden Road, Colchester (Lexden) **7 - 16**

Application for prior notification of proposed development by telecommunications code system operators for installation of 12.5m (to top) pole painted black and an associated electronics cabinet 1.9m x 0.8m x 1.65m.

2. 111672 Cannock Mill House, Old Heath Road, Colchester (Harbour) **17 - 51**

Mixed residential development of 23no. 2, 3 and 4 bedroom homes

with associated amenity and parking.

3. 120380 Land between Haven Road and King Edward Quay, Colchester (New Town) **52 - 83**

Demolition of existing buildings, site remediation and restoration works and mixed-use, student accommodation led development comprising of linked blocks of 4, 5, 6, 7, 8 and 9 storeys with 722 rooms that contain a total 765 bed spaces, approximately 1,288m² of shared facilities (bin stores, cycle stores, laundry, maintenance areas, lounge, reception/management area and shared open space) as well as convenience food retail store (A1), restaurant/bar (A3/A4), community space/gym (D1/D2), private and public open spaces, parking provision and a new vehicular access from Haven Road.
4. 120333 310-318 land to the rear of Ipswich Road, Colchester (Highwoods) **84 - 99**

Tow houses at the rear of 310-318 Ipswich Road. (Resubmission of application 111408).
5. 120484 Land at Meadow Green Farm, Mount Bures Road, Wakes Colne (Great Tey) **100 - 119**

Formation of a Stud Farm comprising a Change of Use of land and redundant livestock building to equestrian use, minor alterations to the building to form stabling, provision of manege, minor extension of existing access track and the siting of a temporary mobile home for a Stud Farm Manager. Diversion of Public Footpath No.34 (currently shown to pass through established building).
6. 120411 Greyfriars, High Street, Colchester (Castle) **120 - 130**

Variation of conditions 15 (use or rear terrace), 20 (amended car park layout), 26 (outdoor events) and 27 (use of outside areas) following grant of planning permission 102680.
7. 120891 15 Hawlmark End, Marks Tey (Marks Tey) **131 - 136**

First floor side extension over garage and conversion of garage.
8. 120954 24 Alan Way, Colchester (Prettygate) **137 - 141**

Two storey front and rear extensions plus single storey side

extension.

8. 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
24 MAY 2012

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
Helen Chuah* (Former Mayor) , John Elliott*,
Stephen Ford, Sonia Lewis, Michael Lilley,
Jackie Maclean, Jon Manning, Nigel Offen and
Laura Sykes*

Substitute Member :- Councillor Will Quince for Councillor Nigel Chapman

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

3. Minutes

The minutes of the meeting held on 26 April 2012 were confirmed as a correct record.

Councillor Theresa Higgins (in respect of her spouse being employed by the University of Essex) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

4. 120151 University of Essex, Wivenhoe Park, Colchester, CO4 3SQ

The Committee considered an application for the construction of a multi-deck car park above an existing surface level car park; the creation of a new access to the car park from Boundary Road to include a taxi drop-off/pick-up area; and the relocation of the existing compactor. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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.

Brad Heffer, Principal Planning Officer, attended to assist the Committee in its deliberations.

Richard Monk addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was disappointed that the parking provision exceeded the limits set out in the Local Development Framework; that a significant number of car parking permits had been issued; and that this application was contrary to the Council's planning policies. He had expected that it would be recommended for refusal. The weight given to the planning policies and the cycling strategy should be substantial. He wanted the Committee to look at a transport assessment with a sequential approach; to adopt a robust travel plan assessment PPG; to complete the Wivenhoe walking and cycling path; to control the demand; and consider new parking measures.

Andrew Nightingale addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He referred to staff that work outside office hours, or need to transport scripts or drop off children; to illustrate that there was no single solution. Planning concerns had been addressed and the scheme was now recommended for approval. He conceded that although the University had gone some way to assist cyclists there was still more that could and would be done. The car park was required to accommodate the existing demand rather than any future expansion. There had been no increase in car parking provision during the last 20 years but there had been a 20% increase in demand. The proposal would be located on an existing surface car park so there would be no additional landtake.

Councillor Julie Young attended and, with the consent of the Chairman, addressed the Committee. She was aware that there had been no additional parking provision alongside earlier applications to extend the University's facilities which had led to students parking on residential roads because there was not enough parking within the University campus. There was no parking at The Meadows and wheel clamping had made the situation worse. The University was taking this step to avoid problems. She referred to the cycle link between Wivenhoe and the University being too expensive, but it appeared that this was a way of getting that cycle link. She urged members to support the application.

Members of the Committee were able to see there was a need for the car park, however, there were issues around the access from Colchester Road into Boundary Road. The concern was that cyclists would need to cross the line of cars moving into Boundary Road. There was a suggestion that the barriers across Boundary Road should be moved to a point between the entrance ways into the two car parks which would permit more traffic to come off the A133 and down towards the campus en route to the car park enabling cyclists to have a reasonable route from Wivenhoe. The initial parking arrangements had been carried out some years ago but with an increase in staff and students there was overspill parking taking place which this proposal would address. There was a concern regarding the travel plan and how it would be reviewed and amended for the future. There were twice the numbers of parking permits as there were spaces.

The planning officer referred to there only being a standard car parking provision for new universities, not for existing universities. Under the Council's adopted parking standards, car parks per se must be considered on their own merits. In response to questions regarding the cycle path the planning officer explained that the detail of the route had been worked up and was in the Local Development Framework. The cycleway would be adjacent to the carriageway not within the carriageway. Revised Condition 6 on the Amendment Sheet stated that the Section 106 monies were to be used to fund the proposed University of Essex to Wivenhoe cycling and walking path and would be set out in a legal agreement. If that was not possible the matter would come back to the Committee. The timescale for the cycle/pedestrian path would be set by Essex County Council. If members preferred, it could be conditioned that the revised travel plan be agreed with the borough council, after consultation with the ward councillors. In respect of landscaping the overspill areas and the green wall, it was suggested an additional condition be imposed to provide details of such landscaping.

RESOLVED (UNANIMOUSLY) that –

(a) Consideration of the application be deferred for completion of a legally-binding agreement to provide for a contribution of £250,000 to be secured that would be used to help fund the proposed University of Essex to Wivenhoe cycling and walking route.

(b) Upon receipt of a satisfactory legally-binding agreement, the Head of Environmental and Protective Services be authorised to grant consent with conditions and informatives as set out in the report and on the Amendment Sheet, subject to:-

- Condition 2 being amended to require details of landscaping of the overspill car park areas and the green walling on the car park to be submitted for approval; and
- Condition 6 being amended to require the travel plan to be submitted for approval and to include consideration of the relocation of the barrier on Boundary Road, and details of parking permits to be provided.

(c) In the event that it was not possible to submit a legally-binding document, the application to come back to the Committee.

5. 120531 Stuart Pawsey Court, Stanley Road, Wivenhoe, CO7 9SS

The Committee considered an application for the construction of a timber framed shed for a mobility scooter utilising a car parking space in a private car park. The Committee had before it a report in which all information was set out.

Members of the Committee fully supported the application.

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

Councillor Helen Chuah (in respect of being acquainted with the applicant in a professional capacity) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

6. 120243 Fujita, 2 Birch Street, Birch, CO2 0NF

The Committee considered an application for a change of use of land to a garden allotment for growing vegetables, keeping chickens and bee keeping. The Committee had before it a report in which all information was set out.

Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations.

Members of the Committee queried the conditions which appeared to be overly

restrictive, specifically the personal condition as well as a temporary condition; the condition restricting the use of the plot was considered unnecessary; the restriction of planting on the boundary could be relaxed to permit indigenous species; the need to prohibit bonfires was considered unnecessary because there was health and safety legislation to govern bonfires; and the last condition to impose any conditions as may be reasonable could be considered to be unreasonable. Other views were that the growing of fruit and vegetables should be permitted and the garden should be in keeping with a rural garden.

The planning officer agreed to delete the proposed temporary condition, the proposed condition prohibiting bonfires, and the ability to impose any condition considered reasonable. However, he stressed the need to restrict the use of the extended area to what was applied for because the land was outside the village envelope.

RESOLVED (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report, with the exception of the following proposed conditions which were deleted:-

- temporary permission for five years;
- no bonfires permitted; and
- such other conditions as may be reasonable;

all other proposed conditions to be imposed.

7. 120301 Town Hall, High Street, Colchester, CO1 1PJ

The Committee considered an application for an upgrade of the existing emergency lighting system. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be endorsed in accordance with paragraph 8 of Circular 08/2009 "Arrangement for Handling Heritage Applications" and the application be referred to the Secretary of State for approval.

8. 120349 Town Hall, High Street, Colchester, CO1 1PJ

The Committee considered a listed building application for the insertion of a new kitchen extractor hood and extract vent to the kitchen adjacent to the Moot Hall in the Town Hall. The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be endorsed in accordance with paragraph 8 of Circular 08/2009 "Arrangement for Handling Heritage Applications" and the application be referred to the Secretary of State for approval.

Councillor Sonia Lewis (in respect of being acquainted with Duncan MacDiarmid through social events) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

9. 120411 Greyfriars, High Street, Colchester, CO1 1UG

The Committee considered an application for a variation of Condition 15, Use of rear terrace, Condition 20, Amended car park layout, Condition 26, Outdoor events, and Condition 27, Use of outside areas, following grant of planning permission 102680. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

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.

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

Duncan MacDiarmid addressed the Committee on behalf of Greyfriars Court pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He objected to any outdoor events because of the noise which would emanate from an area within 20 metres of Greyfriars Court. The frequency of such events would need to be defined and events monitored. The 31 car parking spaces were inadequate because there were 21 suites, dining for up to 50 people and other non-residents using the facilities and he wanted the additional car parking area to remain.

Zac Ellwood addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The applicant was seeking to vary the wording of four conditions and to restore the garden area, all of which would support the commercial viability of the scheme. The revised hours had been devised in co-operation with a consultant. Outdoor events had been withdrawn but in any case the Council would remain in control of outdoor events. In respect of car parking, there was overflow parking for eight or nine vehicles; 140 off-street spaces in the car park in the applicant's control; and a nearby pay and display car park. He was confident that the number of spaces within the site would be more than enough to meet the needs of the development.

Councillor Bill Frame attended and, with the consent of the Chairman, addressed the Committee. Ward councillors supported the building being brought back into the use but there should be a balance between the needs of the applicant and those of the neighbours. The areas which presented difficulties for the neighbours were parking and outdoor events. In terms of the latter, he wanted the criteria to be defined on whether or not an event was suitable. There was no explanation on what level of noise or what type of activity would be considered acceptable. Finally he requested clarification of the surface material used for the parking area and he wanted hotel guests only to be permitted to park in the designated areas.

Councillor Jo Hayes attended and, with the consent of the Chairman, addressed the

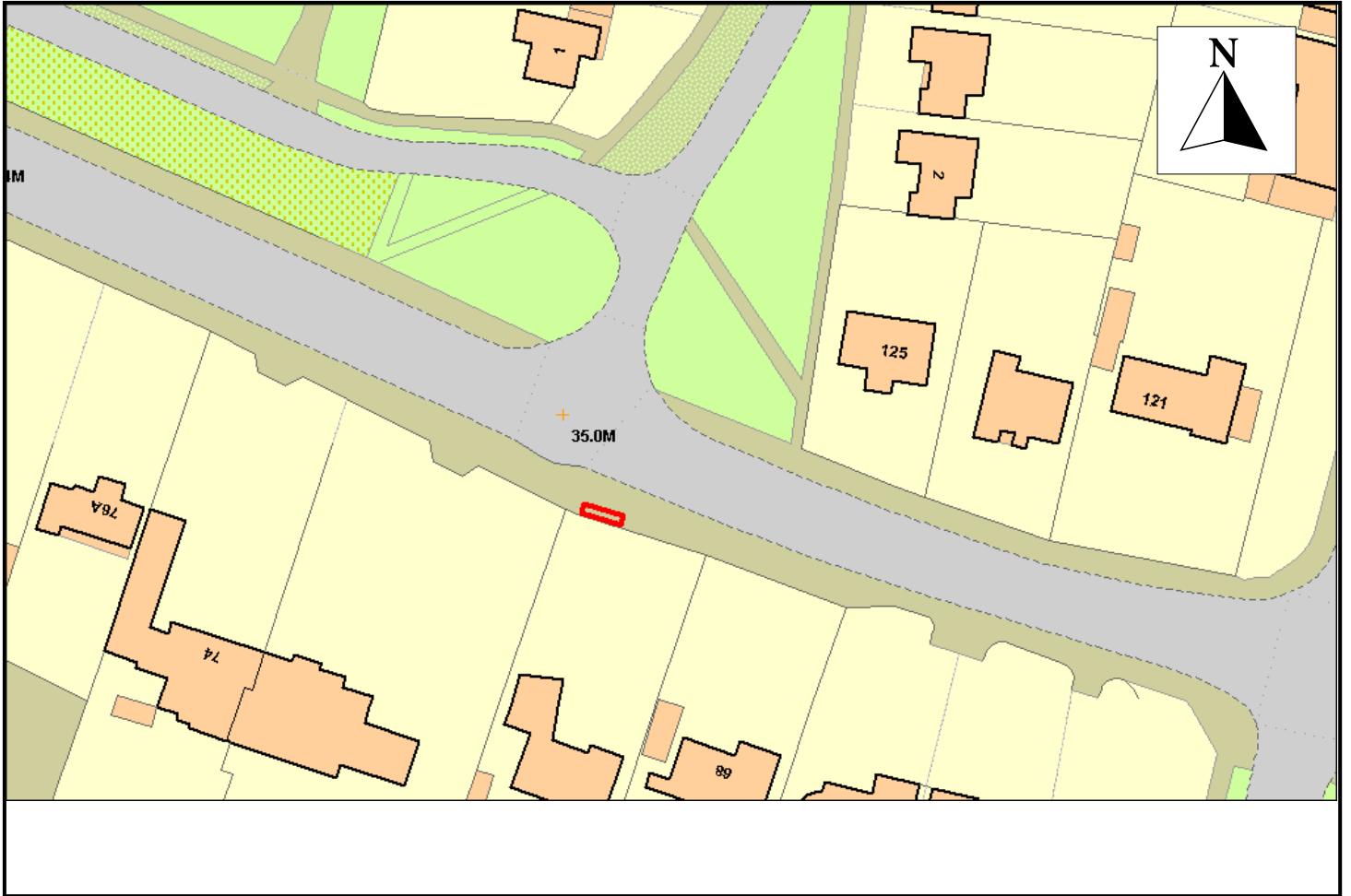
Committee. She considered this application should have been dealt with by an appeal against the conditions. A number of residents in Greyfriars Court were concerned about noise and disturbance and she would prefer that any conditions which reduced noise were retained.

Members of the committee had a number of concerns about what constituted an outdoor event, noise from events and noise leaching out through open doors; whether Environmental Control should be consulted on the need for a license and what the criteria would be. There was some concern at the prospect of the terminal hour on a Sunday being changed to 22.30pm. However, there was a public house nearby and it was not unreasonable to permit both establishments to finish at the same time. In respect of the car park, the surface should not be a source of noise. The applicants were in control of the car park to the east, and the car park could be used for overnight parking for the hotel.

The planning officer referred to the requirement for a license to serve alcohol and to regulations controlling live outdoor music. However, if the operator was to permit an event that was unauthorised Environmental Control would be able to take appropriate measures. He considered that the parking area should have a semi-permanent appearance and the surface material should be bonded or rolled gravel.

RESOLVED (UNANIMOUSLY) that –

- (a) Consideration of the application be deferred for further information from the applicant and Environmental Control in connection with Condition 26 and the type of outdoor events being proposed and whether they would be acceptable.
- (b) There were no outstanding objections to the variation of the following conditions:-
 - Condition 15, as set out on the Amendment Sheet with a terminal hour of 22:30pm on Sundays;
 - Condition 20, as set out on the Amendment Sheet, but subject to the car park surface material not being of a loose material;
 - Condition 27, as set out on the Amendment Sheet.
- (c) The application to be submitted to the Committee for determination of Condition 26.



Application No: 120973

Location: Land Opposite Sanders Drive, Lexden Road, Colchester, CO3 3SP

Scale (approx): 1:1250

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **5 July 2012**
Report of: **Head of Environmental and Protective Services**
Title: **Planning Applications**

Relevant planning policy documents and all representations at the time this report was printed are recorded as BACKGROUND PAPERS within each item. An index to the codes is provided at the end of the Schedule.

7.1 Case Officer: Peter Hill

Due Date: 18/07/2012

OTHER

Site: Land opposite Sanders Drive, Lexden Road, Colchester, CO3 3SP

Application No: 120973

Date Received: 24 May 2012

Agent: Mr Peter Hickson

Applicant: Telefonica Uk Limited

Development: Application for prior notification of proposed development by telecommunications code system operators for installation of 12.5m (to top) pole painted black and an associated electronics cabinet 1.9m x 0.8m x 1.65m.

Ward: Lexden

Summary of Recommendation: Approved without conditions

1.0 Reason for Referral to the Planning Committee

1.1 This application is before the Planning Committee having been referred by Councillor Sonia Lewis on the grounds of "strength of local opposition and in the interest of all concerned".

2.0 Synopsis

- 2.1 This is an application under the General Permitted Development Order for prior approval of siting and appearance with regard to a 12.5 metre high telecommunications mast and supporting infrastructure on Lexden Road, opposite the junction with Sanders Road and close to the conservation area. As it is not a planning application, no conditions can be imposed.
- 2.2 There is a presumption in favour of approval of such applications in the interests of sustainability and economic development. This presumption in favour is set out in government guidance and reflected in LDF policies. There also exists strong guidance from government to avoid giving weight to considerations other than the Siting and Appearance that is applied for. In particular, Local Planning Authorities should not refuse applications on grounds of health.
- 2.3 Whilst this proposal does not have a positive impact on the appearance of the area and the setting of the nearby conservation area, its harm in this regard is limited and does not outweigh the positive benefits to the economy and the interests of sustainability.
- 2.4 The applicant has demonstrated that there are no preferable sites that would 'plug the gap' in network coverage and there is no better design.

3.0 Site Description and Context

- 3.1 The site is located on the back-edge of the 5 metre wide footway on the south side off of Lexden Road, opposite the junction of Sanders Drive. The area is residential in nature. Lexden Road is one of the main routes into and out of town and is a highly trafficked road. The site is approximately 2.5 metres outside of the Colchester Area 3 Conservation Area to the west. 220 metres to the East is the Colchester Area 2 Conservation Area.
- 3.2 Within 4 metres of the site, adjacent to the road's carriageway are black metal painted railings and a black metal painted drinking trough used as a planter and forming an attractive feature in the street scene.
- 3.3 Behind the site is a 0.65 metre high brick wall marking the boundary with the front of 70 Lexden Road. Behind that is a 2.5 metre high hedge and behind that are large mature trees, the subject of Tree Preservation Orders. TPO 4/55 covers the entire frontage of 42-70 Lexden Road. TPO 01/11 relates specifically to a Lime Coppice Stool at 70 Lexden Road. The trees command a height of up to 12 metres.
- 3.4 Across Lexden Road from the site is the junction of Sanders Drive with a wide verge separating a part of Sanders Drive that runs parallel to Lexden Road from Lexden Road itself. This is planted with 16 metre high trees largely screening the houses behind it in summer.

4.0 Description of the Proposal

- 4.1 The proposal is for a 12.5 metre high mast to accommodate 6 antennas (3 from O2, 3 from Vodaphone). There is an accompanying 1.5 metre high cabinet and 0.65 metre high electrical mains cabinet. All are to be painted black to match nearby street furniture.
- 4.2 The proposal is not a planning application. The applicant has applied under the General permitted Development Order for a determination as to whether prior approval is required for the siting and appearance of the development. It has been determined by the Council that prior approval is required. This application is therefore to seek such prior approval. No conditions or legal agreements can be imposed. The application may only be approved or refused as it stands. Should no determination be reached after 56 days (18th July 2012) then the development is permitted by default.

5.0 Land Use Allocation

- 5.1 There are no allocations.

6.0 Relevant Planning History

- 6.1 Although there is no relevant planning history on this site, there is relevant planning history within the 'target area' of this mast that present previous attempts by mobile phone operators to 'plug the gap' in network coverage.
- 6.2 Application PA/COL/01/0125 sought a mast on Norman Road. This was refused on the grounds of its siting and design and that insufficient evidence had been provided that consideration has been given to the potential health risk.
- 6.3 Application 082056 sought approval for a 9 metre high mast styled as a telegraph pole at the junction of Norman Road and Lexden Road. Planning Committee resolved to refuse the application on the following grounds;
- "Public perception of health dangers having regard to proximity to schools and a large number of school children will regularly use a section of Norman Way where the beam of greatest intensity will fall.
 - Unacceptable visual impact due to cumulative clutter of street furniture and detriment to residential amenity"
- It was further noted that "the Local Planning Authority are willing to continue to negotiate to secure a suitable alternative site in the locality."
- 6.4 Unfortunately, the resolution of the Planning Committee was not translated into a decision notice within the 8 week period for determination. Consequently the proposal gained approval by default.
- 6.5 In view of these unfortunate circumstances, the applicant agreed informally not to implement the scheme but to investigate an alternative site suggested by planning officers on Council owned land at Pill Box Corner, Hilly Fields.

6.6 Application 112298 applied for a mast at Hilly Fields, however the application was withdrawn by the applicant. The applicants set out their reasons in a letter of 21/12/11. Hilly fields is a Scheduled Ancient Monument, being an Iron Age town and Royal Mint, consequently English Heritage were strongly resisting the proposal. Furthermore because of site levels, a 20 metre mast would be required in this location to provide the required coverage. When an inflatable pole of this height was erected, it became apparent that the visual impact on Endsleigh Court would be significant and unacceptable. The applicants also outlined their concerns that that the build program would result in significant disruption to the track and trees leading to the site, and that underground ducting would disturb archaeology.

6.7 Although the deemed consent for a mast at the Norman Way / Lexden Road junction is still extant, such a mast no longer appears to be what the applicant is seeking. That mast served just a single operator, meaning a relatively narrow uniform mast could be utilised. The new proposed mast is shared by two operators, resulting in its increased width at the top.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

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

SD2 – Delivering Facilities and Infrastructure

PR2 – People-friendly streets

TA1 - Accessibility and Changing Travel Behaviour

UR2 - Built Design and Character

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

DP1 - Design and Amenity

DP14 - Historic Environment Assets

8.0 Consultations

8.1 Environmental Control advise that the development should conform to the electromagnetic emission safety standards produced by the NRPB.

(The National Radiological Protection Board was disbanded in 2005. Under the terms of the Health and Social Care Act 2012, responsibility for radiation protection functions was assigned to appropriate Government authorities. OFCOM and the HSE. The International Commission on Non Ionising Radiation (ICNIRP) provide the recognised radio frequency guidelines for public exposure.)

- 8.2 The Council's Tree Officer is satisfied with the submitted arboricultural assessment and has no objection to the proposal. Although his recommendation says 'subject to condition', conditions cannot be imposed on prior approval decisions. In any case, they are not needed, as the applicant is obliged to implement the development in full compliance with the submitted details.

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 Representations

- 9.1 At the time of writing this report 308 objections had been received. Whilst some of these are on standard pro forma, the majority are individually written. These objections relate to the following issues:

- Siting and design
- Health concerns
- Obstruction in the footpath increasing risk of road accidents

- 9.2 Each of the issues raised is discussed in more detail within the subsequent sections of this report.

- 9.3 One letter of support has been received. This argues that there is no health hazard presented by the masts and in fact safety is improved.

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

10.0 Report

10.1 Economic Interests and Sustainability

- 10.1.1 The National Planning policy Framework (NPPF) states that "*The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth*". It further sets out that "*Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.*" This proposal would 'plug a gap' in the existing network. This would improve mobile phone reception including 3G capacity which provides for mobile internet connection – essential to the ongoing mobile communications technology revolution.

10.1.2 Mobile communications technology is changing the way business and leisure is undertaken. The NPPF recognises this, stating *“Smarter use of technologies can reduce the need to travel. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.”* Similar encouragement is given through LDF Core Strategy Policy – for example SD2 – Delivering Facilities and Infrastructure which states that *“The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester.”* and TA1 which states *“The Council will work with partners to improve accessibility and change travel behaviour...(by) encouraging development that reduces the need to travel...Innovative solutions will also be implemented to overcome severance that is currently inflicted by busy roads”.*

10.1.3 Such arguments of sustainability and economic benefit must therefore be given significant weight.

10.2 Siting and Appearance

10.2.1 A raft of NPPF and LDF policies require development to be well designed and in keeping with its surroundings. The attractive tree-lined character of Lexden Road and the site’s proximity to two conservation areas heighten the importance of this requirement.

10.2.2 There is little doubt that the proposed siting of this mast will have some impact upon the appearance of the site and the setting of the adjacent Conservation Area. Although design is to some extent subjective and a matter of taste, the nature and volume of neighbour comments make it clear that most people would consider the proposal’s impact on the appearance of the area to be a negative one.

10.2.3 The fact that there are so many large trees behind the site does reduce the potential visual impact of the mast, as does the presence of other street furniture in the area – lampposts, zebra crossing posts and telegraph poles that provide some context for the mast. It is also noted that street features such as these, whilst not especially attractive in themselves, over time assimilate into the background landscape as it (and other similar installations) become common and less alien features. Lexden Road is a major arterial route into/out of town and its wide carriageway, pavements, verges and front gardens mean that the mast is much more in proportion and so more readily assimilated than would be the case on a more minor residential road.

10.2.4 The Chosen design is 12.5 metres tall. Whilst a telegraph pole style design is sometimes more appropriate in residential locations, to accommodate six antennae in this style of mast would require a telegraph pole of 15 metres height. It is considered that this would look more out of place than what is proposed. Alternatively, the antennae could be accommodated within two telegraph pole style masts (a minimum 16 metres apart), each 12.5 metres high. Neither of these alternatives is considered preferable to the proposal. The chosen design could have a silver finish instead of a black finish, but in your Officer’s opinion that would also stand out more. In summary, the proposed design is the best of the available solutions for this location.

10.2.5 In the context of all of the above, it is concluded that there is some harm to the appearance of the surroundings and the setting of the conservation area. The impact would not be severe, but were the impact on the appearance of the area the only material consideration, on balance, the application should be refused. This is not the case however, so it must now be assessed how the harm to the appearance of the surroundings weighs against the afore-mentioned benefits to the economy and the interests of sustainability.

10.3 How should the visual harm be weighed against the sustainability and economic benefits?

10.3.1 How much weight should be given to each of the above material considerations is the key to determining the acceptability of the proposal.

10.3.2 The NPPF states that “Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal’s economic, social and environmental benefits).”

10.3.3 In this case, the site is not in a conservation area (where the much higher test of preserving or enhancing the conservation area would have applied). Nor is it within any other designated area. The proposal does affect the setting of the adjacent conservation area, but it is not considered that the relatively minor harm caused would be enough to justify refusal on that basis especially as for reasons previously described, the impact of the mast is mitigated by other factors in this location and the most appropriate design solution for the context has been selected.

10.3.4 Failure to have thoroughly explored all other options could be a reason for refusal if the Council consider that there could be preferable alternatives in the area of search. However, the applicant has clearly been searching for suitable sites over some considerable time and has produced evidence to show they have considered and discounted (with good grounds) all other options to ‘plug the gap’ in network coverage.

10.3.5 The NPPF states that “Local planning authorities should not impose a ban on new telecommunications development in certain areas or insist on minimum distances between new telecommunications development and existing development.” Consequently, it is not appropriate to argue that nowhere within the target area would be suitable for new telecommunications development.

10.3.6 In this context, it is concluded that whilst the proposal would cause some harm to the appearance of the area, such harm would not be so significant as to outweigh the presumption in favour of such development set out by the government together with the economic and sustainability benefits outlined.

10.4 Objector comments not already addressed

- 10.4.1 Numerous objector comments relate to perceived health risks of telecommunications masts. Government policy is extremely clear in this regard that such concerns are not a material planning consideration and must be given no weight.

In May 2000, the government commissioned Stewart Report was published. This report acknowledged that the potential long-term effects of radiation from antennae and mobile phone handsets could not conclusively be dismissed as by definition such effects would only be evident in the long-term. It therefore made various recommendations as part of a precautionary approach to dealing with such issues.

The Stewart Report itself does not comprise government policy, but its findings were used to inform subsequent government documents such as the now superseded PPG 8 – Telecommunications, published in 2001, the 2002 document ‘Code of Best Practice on Mobile Phone Network Development’ and the 2012 National Planning Policy Framework. Not all of the recommendations of the Stewart report were carried through into those documents. Those that were not carry no weight.

- 10.4.2 To provide further clarification, the Minister for Planning, wrote a letter to council leaders in June 2000, indicated the approach that should be taken in handling telecommunications applications. This is that **if a proposed development meets the ICNIRP guidelines (as recommended by the IEGMP on a precautionary basis), it should not be necessary to consider the health effects further. It is not for the local planning authority to seek to replicate through the planning system controls under the health and safety regime. Enforcement of health and safety legislation in this area is a matter for the Health and Safety Executive (HSE) and not the local planning authority.**
- 10.4.3 This application is accompanied by a declaration of conformance with ICNIRP public exposure guidelines. Documents accompanying the application in fact show that the maximum radio wave intensity in any location is 0.0046% of those ICNIRP guidelines. It is for the Office of Communications (OFCOM), the Health and Safety Executive (HSE) and the Health Protection Agency (HPA) to monitor and address any failure to comply with the guidelines.
- 10.4.4 **It is clear that the perceived health risk can not be a determining factor with this application and that to refuse this prior notification on such grounds would be unreasonable and, in the event of an appeal against such a reason for refusal, costs would likely be awarded against the Council if applied for.**
- 10.4.5 The site is approximately 200 metres or so away from the nearest school. Proximity to schools is not a reason to refuse this prior notification application. Such a reason for refusal would almost certainly be considered unreasonable. Certain objections relate to the ‘beam of greatest intensity’. This is a term seldom used in current telecommunications terminology. It refers to the area where radio wave intensity is at its greatest. The Stewart Report recommended that as a precautionary principle, this should not fall within school grounds. That recommendation was never adopted by government. The applicant has provided data on the intensity of radio waves at various locations. The data shows that as a percentage of recommended EU levels (ICNIRP), the maximum radio wave intensity in any outside location is 0.0046%. At St.

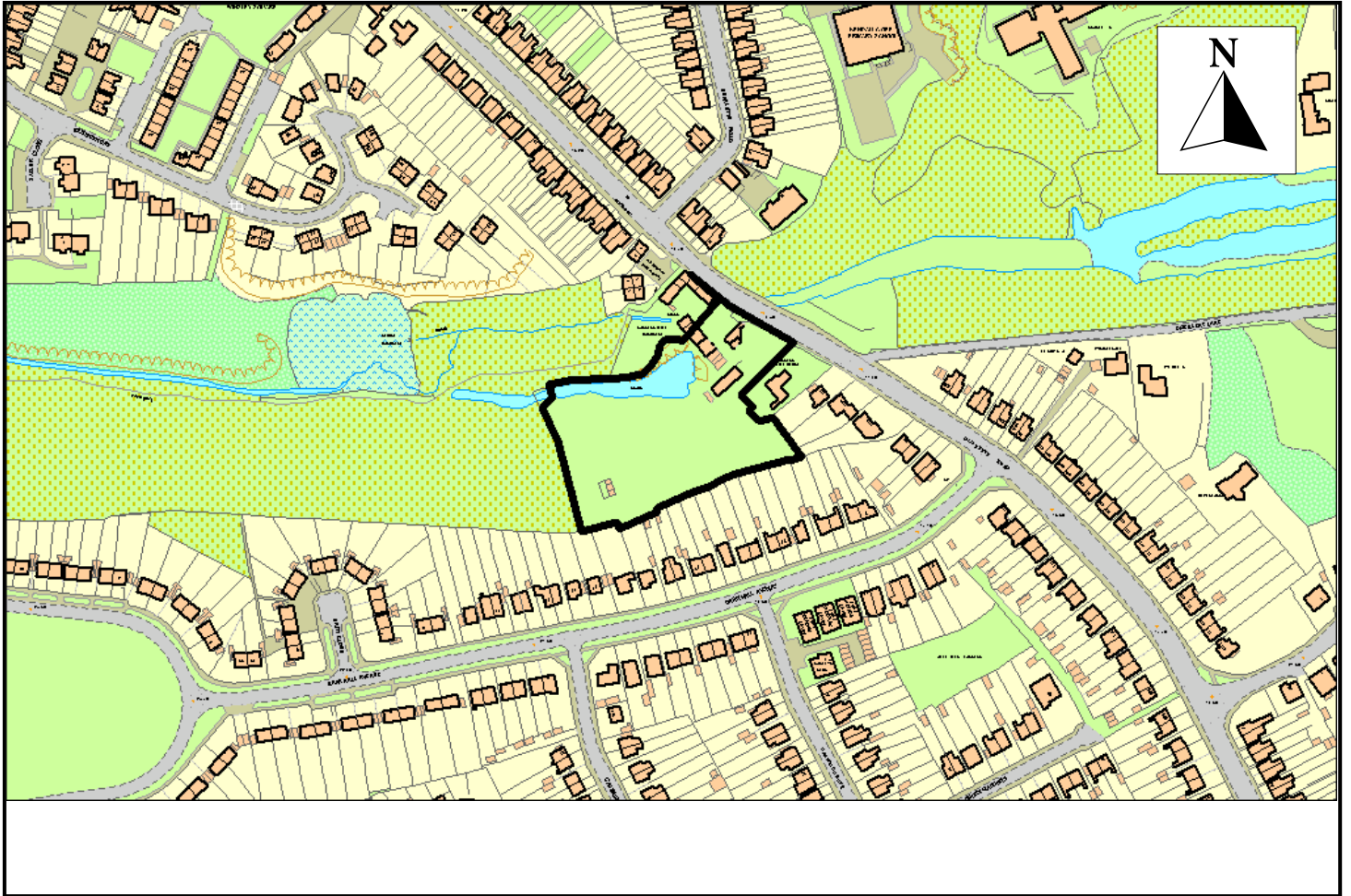
Mary's School it would be 0.0015%, at Lexden Lodge Kindergarden it would be 0.00064%, at Essex County High School for Girls it would be 0.00051% and at St. Benedicts 0.00054%. Levels inside buildings are typically reduced by a factor of 10. To put this in further perspective, levels of radio waves are higher from mobile phones than from base stations (NHS Leaflet 'Mobile Phones and Base Stations, 2011).

- 10.4.6 Numerous objections reference a superseded 2005 Department of Health leaflet called 'Mobile phone Base Stations and Health', quoting "people's wellbeing may well be adversely affected by insensitive siting of base stations". This is itself a reference to the afore-mentioned Stewart Report. The leaflet was superseded in 2011 by a new leaflet of the same name that does not include such references but does state that "research focusing on mobile telephony over the last 10 years has shown no convincing evidence that the radio signals from mobile phones and base stations cause adverse health effects".
- 10.4.7 Some objectors argue that the proposal would be a highway hazard. Even after development a 3.4 metre width would be retained for the footpath of Lexden Road – slightly wider than the 3.3 metre width of footpath that exists just 2 metres away from the site, adjacent to the railings and trough. In both cases this is a very generous width for a footway. In any case, the site is on Highway Authority controlled land. Were the Highway Authority to be concerned about highway safety, it would be in their power to refuse to allow development.

11.0 Conclusion

- 11.1 Whilst the proposal does not have a positive impact on the appearance of the area and the setting of the nearby conservation area, its harm in this regard is limited and does not outweigh the positive benefits to the economy and the interests of sustainability.
- 11.2 The applicant has demonstrated that there are no preferable sites that would 'plug the gap' in network coverage and there is no better design alternative. Health is not a material planning consideration for this type of application and must be given no weight in its determination.

12.0 Recommendation - APPROVE (no conditions)



Application No: 111672

Location: Cannock Mill House, Old Heath Road, Colchester, Essex CO2 8AA

Scale (approx): 1:2500

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7.2 Case Officer: Sue Jackson

MAJOR

Site: Cannock Mill House, Old Heath Road, Colchester Essex, CO2 8AA

Application No: 111672

Date Received: 12 September 2011

Agent: Hall Duncan Associates

Applicant: Mr Paul Lock

Development: Mixed residential development of 23no 2, 3 and 4 bedroom homes with associated amenity and parking.

Ward: Harbour

Summary of Recommendation: Conditional Approval subject to signing of legal agreement

1.0 Introduction

1.1 This planning application has been referred to the Planning Committee because:

- Councillor Blandon has called it in on the grounds of overdevelopment and the additional traffic on a busy road
- a legal agreement is required for the obligations set out in the report.

1.2 In addition to the “call- in” Councillor Blandon has also raised a number of concerns should the development go ahead these are set out in the representations section below.

2.0 Synopsis

2.1 This outline planning application proposes the erection of 23 no 2, 3 and 4 bedroom homes with associated amenity and parking on land currently forming part of the curtilage to Cannock Mill and the large garden to Cannock Mill House. A number of objections have been received these relate to highway/traffic issues, overdevelopment, overlooking, loss of green space and impact on wildlife/trees. The report explains and comments on the issues raised by the development proposal, the objectors and the consultees. The recommendation is one of approval subject to a s106 legal agreement being signed and appropriate conditions.

3.0 Site Description and Context

3.1 The site is situated in Harbour ward with a frontage to Old Heath Road. The area is predominantly residential and comprises 2 storey semi detached and linked terraced houses principally inter war, and some Edwardian properties on the opposite side of the road and adjacent to the site. There is private and former public housing along the south boundary in Barn Hall Road.

- 3.2 There are commercial properties scattered along Old Heath Road but concentrated at the junction with Cavendish Avenue, some 400 metres from the site, where there is a Co op store and post office and the junction with Wimpole Road, some 650 metres from the site, where there are doctors and dentists surgeries.
- 3.3 Old Heath Road is a classified, secondary distributor road and is a major route into Colchester from the South East. The site is some 1.5 kilometres from the town station and town centre. Old Heath Road is on a bus route with regular buses to and from the town centre.
- 3.4 The application site has an area of approximately 0.67hectares, a depth of approximately 120metres and a frontage of approximately 35 metres onto Old Heath Road. The site is at the bottom of Bourne Valley. The land rises from front to back and side to side. Whilst this provides an opportunity for innovative design it also means the site section and level details are important to enable a proper assessment of the impact of the development. Whilst the site contains established trees and hedges these are not protected by a preservation order.
- 3.5 Opposite the site is Distillery Pond a local wildlife site, open space and green link. To the rear and on the north side is the open space of Bourne Valley also a local wildlife site and green link through which runs Bourne Brook leading to Bourne Pond. The Bourne Valley path runs through the open space and continues along part of the sites north boundary to Old Heath Road. It is possible to then walk along Distillery Lane, past Distillery Pond to Haven Road although this is not a PROW. These landscaped areas of open space, water and nature conservation have good visual links to the site which also contains a number of mature trees and hedgerows and part of the overgrown pond located to the rear of Cannock Mill.
- 3.6 The larger site contains Cannock Mill, Cannock Mill House and a range of outbuildings, car ports and other small domestic structures. The outbuildings are of a mix of blockwork, timber and rendered elevations with mainly fibre cement roofs.
- 3.7 Cannock Mill is a grade 2 listed building. The following information has been provided:-
- “There has been a Mill on the adjacent site since the 14th century which was associated with St Botolphs Priory. The Mill has had several guises over time and was re built in 1835 – 1875 when it was fed from pipes from the higher mill pond. It was restored in 1973 and has subsequently been used for storage and as a shop for the sale of tropical fish. The current building is Listed Grade II and included the following listing:-
- “Picturesque weather-boarded building, rebuilt in 1835, 3 storeys and hoist loft, the roofs of slates. Old tiled outbuilding on the east.”*
- 3.8 No mention is included within the listing of the current attached cart port and outbuildings which are of a much later date and are proposed to be removed. It is understood that the Mill wheel to which water as fed to via iron pipes from the elevated mill pond stood to the southern end of the Mill building in an area now covered by a more recent open cart port construction. Cannock Mill is 3 storey weatherboard construction. Puddleducks Day Nursery occupies outbuildings on the road frontage formerly associated with the Mill.

Members should note Cannock Mill is not part of this application.

- 3.9 Cannock Mill House sitting on the slope to the south of the Mill completes the group. Cannock Mill House is included in the recently approved list of buildings of local importance. It is an attractively detailed traditionally formed brick dwelling with a slate roof. It has a raised position on the site due to the contours of the ground and is set in open grounds. **Members should note Cannock Mill House is not part of this application.**
- 3.10 The application documents include a Site Analysis Document, Design and Access Statement (and revisions), Heritage Statement, Tree Survey and Arboricultural Impact Assessment, Contaminated Land Assessment and Ecological Assessment.

4.0 Description of the Proposal

- 4.1 This outline application proposes 23 units comprising 10no 2bed, 10no 3bed and 3no 4bed in a variety of forms providing a density of 38 units per hectare. Affordable Housing of 8 units will be provided in proportion to the overall mix of units.
- 4.2 Vehicular access to the site will be in a similar location along the Old Heath Road frontage but will be upgraded to meet the requirements of the Highway Authority a layout with a Type 7 Mews combined vehicular/pedestrian access is proposed.
- 4.3 The existing outbuildings between Cannock Mill and Cannock Mill House will be demolished. **Members should note these outbuildings are classed as curtilage buildings to the listed Cannock Mill. Listed Building consent will be required for their demolition.**
- 4.4 Two buildings are proposed along the site frontage and are located between the Mill and Mill House. A 1 ½ storey car port building is proposed adjacent to the Mill replacing an existing cart port structure. To the other side of the access mews is proposed a small block of 3 units fronting Old Heath Road. These units are set back from the road.
- 4.5 Other buildings at the lower levels are 2 storey with varying roof forms and include single storey elements to break the scale and provide the gaps between buildings.
- 4.6 To the rear elevated southern boundary of the site the buildings have been arranged to reflect the existing contours and 4 buildings (a total of 16 dwellings are proposed). These buildings step with the slope of the site and have undulating roofs. The floor plate will step approximately 1.35m along their centre line. Their rear elevation is two storeys to the boundary with a ground floor level approximately 1-2m lower than the ground level at the boundary itself. The front elevations of these blocks will have stepped elevations of 2 and 3 storeys.
- 4.7 The application is for outline planning permission only and the appearance of the units will be subject to a reserved matters application however, massing, scale, typical elevations and material palettes are included to support the proposals and provide guidance upon the final design proposals. This information is provided in the form of sketch elevations, 3D views and the design and access statement.

- 4.8 This supporting information indicates a mixture of building forms, scales and massing. “Traditional materials should be used drawn from the local context including painted timber boarding, facing brickwork, colour washed render and slate roof finishes. Roof forms will reflect the mixture of pitches within the surrounding context and including steeply pitched roofs on some of the smaller scale blocks and shallower pitches used to provide undulating articulated roof forms to the larger blocks”. “The overall concept of the layout and massing suggests that the approach to the appearance of the blocks should be of a contemporary nature but reflecting the surroundings by the integration of traditional materials as described above. The typical elevations included suggest appropriate approaches to design. Positions and design of windows should reflect the location of the units and be arranged to minimize any potential overlooking of adjacent amenity areas whilst maximising views of the Mill and open space. First floor balconies / terraces should be carefully integrated to take advantage of the context and to maximise private amenity areas”.
- 4.9 To the northern edge of the site a publicly accessible open space is shown with a path linking the site to the Bourne Valley path. The supporting information indicates this open space could include a reformed mill pond and this could be used as part of a sustainable drainage proposal for the site as well as for amenity. This amenity area will be managed by an appropriate management group.
- 4.10 The trees within the site include a mixture of Silver Birch, Cherry and Walnut. There are Lime trees along the southern boundary and Sycamore trees to the northern edge adjacent to the Bourne Valley path along with some Willow in the area of the old mill pond. A Tree Survey and Arboricultural Impact Assessment has been submitted. This indicates the retention of the majority of B category trees. The application includes additional tree planting within the site and hedges to define some plot boundaries.
- 4.11 The frontage of the site will include new boundary treatment incorporating railings and hedging. The information indicates public art can be incorporated into the proposals and an entrance space created with appropriate consideration and detail to reflect the importance of the heritage assets on the site.
- 4.12 Parking provision is 2 spaces per unit plus one space for every 4 units for visitor parking. Parking will be on plot or in adjacent parking courts. Cycle parking will be provided within garages where provided alternatively external storage sheds will be provided of sufficient size to accommodate cycles along with general garden storage.

5.0 Land Use Allocation

- 5.1 The site is allocated as predominantly residential.
- 5.2 The frontage of the site was originally allocated as residential and part of the rear garden shown as private open space however through the Local Development Framework and Core Strategy examination process the site allocation has been revised.

6.0 Relevant Planning History

- 6.1 None relevant

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)
Practice Guide that accompanied Planning Policy Statement 5 Planning for the
Historic Environment Practice Guide

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
SD2 - Delivering Facilities and Infrastructure
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
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
DP4 Community Facilities
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential
Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

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

8.0 Consultations

Environmental Control

- 8.1 Environmental Control raise no objection subject to a condition regarding lighting and the standard demolition construction informative
- 8.2 The Contaminated Land Officer originally objected as the reports did not include the level of information required for a residential use. Further information has been received and no objection is now raised subject to conditions

Planning Projects Team

- 8.3 Specialist advice on the heritage issues have been sought from the Planning Projects Team (former the Design and Heritage Unit)

“The main conservation issue raised by the application is the effect that the proposed development would have on the setting of Cannock Mill (and ancillary outbuildings) and the Mill House (which is also afforded listed building protection as a curtilage structure).

The 1876 OS plan shows Cannock Mill surrounded by fields; by c 1940 residential development is shown to the north and south of the site. Today the Cannock Mill forms part of an east / west green corridor (the Cemetery, Bourne Pond, (the application site) and Distillery Pond) that creates an important landscape feature in this part of Colchester. The green backdrop to the mill and open space between the mill and the house contribute positively to the setting of these buildings.

No objection in principle but following concerns identified:

- Development between the Mill and the Mill House and the area of car parking could undermine the existing openness of the site and destroy the historic relationship between the Mill and the Mill House to the detriment of the setting of these listed building. *Officer comment in subsequent discussions it has been agreed that the contemporary design approach suggested for the site is not appropriate here and a traditional design is required. There is already an area of hard surface to front of the Mill and if sensitively treated a further area would not detract from the listed building.*

- The existing courtyard of the mill is shown retained in its present form. The indicative drawing shows two parking spaces for the mill but does not address the parking requirements of the nursery building. *The nursery have rights of access and parking facilities in front of the Mill.*
- The retention and enhancement of the former mill pool to the rear of the mill is welcome. Areas of open space occupied as pasture, to north and south of the mill pool; trees each side of the mill pool; and a tree belt along the southern boundary are also shown retained on the indicative layout drawing, which is again welcomed.
- The application is silent on the future proposal for Cannock Mill, although it is implied that this building is to be converted to residential use. In view of the fact that the mill building falls outside the current application site, it is considered prudent to ensure that the mill is provided with sufficient land to accommodate to future conversion in a satisfactory manner. *Officer comment clarification on the intended use of the mill has been submitted (and is set out later in this report) this confirms the proposed use is as a single dwelling..*
- Regarding the indicative layout, the siting of the 4 blocks (units 8-21) adjacent to the southern boundary is considered unlikely to have a significant impact on the general setting of the listed buildings.”

Urban Designer

- 8.4 An Urban Designer has been involved in discussions from preliminary enquiry through to the submission of this application.
- 8.5 The following comments were made in respect of the original application submission “I do not see any problems with the latest scheme from a design point of view. The Design and Access Statement is comprehensive and should be a useful tool for any detailed development at Reserved matters stage”. I have a couple of queries though and hope these can be resolved with some additional information.
- 8.6 Following the submission of additional information and drawings the Urban Designer confirmed no further comments as this information clarifies the issues of housing mix and height, parking, the access gateway and public art.
- 8.7 **The Landscape Officer** raises no objection subject to the attachment of appropriate conditions.
- 8.8 **The Arboricultural Officer** raises no objection subject to the attachment of appropriate conditions.

Natural History Curator

8.9 “The site was visited and a walk over indicated a number of habitats present which may be capable of supporting protected species.

- Mature trees particularly those with broken branches and rot holes that may be used by bats and also nesting birds. The tree survey does not cover the possible wildlife value of any of the trees
- Dead Wood/felled trees should be retained on site or stacked (by agreement with CBC) on adjoining land to benefit Stag Beetle and other dead wood invertebrates.
- Pond believed to be formed from remains of the old mill channel. Much choked with vegetation. Possibility of (Great Crested Newt) as well as other amphibians and Grass Snake needs surveying at the appropriate time of year (spring). Amphibians may also use other parts of the site in the terrestrial phase of their life cycle.
- Bourne Brook (and possibly other water bodies) Possibility of Water Vole (*Arvicola terrestris*) needs surveying. Adverse effects of run-off from any development should also be assessed with regard to all water bodies on or adjacent to the site. Water vole has recently been reported from Bourne pond and both otters and watervole have been recorded from relatively nearby Salary Brook recently.
- Hedges and trees around the perimeter Nesting birds and perhaps even Dormouse could be present.
- Patch of rough grassland Rather small and isolated, but should be checked for reptiles as a precautionary measure
- Outbuildings, sheds etc Nesting birds including Barn Owl, Housemartin, Swallow and Swift. Bat roosts possible
- Lawn and other areas May provide foraging areas for badgers which are known to occur in the vicinity.
- Adjacent areas The Bourne Valley, a Local Wildlife Site (CO121) lies on the opposite side of the footpath to the Mill. This wet area, together with Blythe Pond (recently restored), are known to be rich in wildlife. An area of woodland with a damp flush, also in CBC ownership, abuts the site and has considerable biodiversity potential. Across Old Heath Road the LOWS continues toward Distillery Pond, a large area of water with several species of waterfowl and other aquatic life.
- Wildlife Corridor/ Green Link From Bourne pond in the west to Distillery Pond in the east, the Bourne Valley constitutes an important wetland green link across a predominantly urban area. This is cut at Cannock Mill by Old Heath Road and existing buildings both of which cause a ‘pinch point’ in this corridor, which could be exacerbated by further development. Planting of more trees and shrubs closer to the road, around the area of a large Lombardy Poplar, for example, might facilitate, at least smaller birds, in crossing the road effectively. The Museum holds records of Common Lizard, Slow Worm, Common Toad from within 1Km of this site and bats are known to be present in the Bourne Valley. There are two records of Badger from the same 1Km square as the site. Both water vole and otter are being increasingly recorded locally from rivers streams and ponds.

For these reasons I recommend that a survey for protected species and an impact assessment on any found should be undertaken.”

Officer comment: An ecological survey has been carried and Natural England has been consulted.

Natural England

- 8.10 Natural England do not have an objection to this proposal but have made recommendations to improve the ecology value of the site

“Thank you for your consultation dated and received on 7 March 2012.

This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species.

Natural England’s advice is as follows:

The protected species survey has identified that the following European protected species may be affected by this application: bats and great crested newts.

We have not assessed the survey for badgers, barn owls and breeding birds¹, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation.

And you should use our standing advice to assess the impact on these species.

How we used our standing advice to assess this bat survey and mitigation strategy

We used the flowchart on page 10 of our Standing Advice Species Sheet: Bats beginning at box (i). Working through the flowchart we reached box (vi), which advises the authority to accept the findings, consider requesting biodiversity enhancements for bats (eg new roosting opportunities, creation of habitat linkages or species rich feeding areas)

How we used our standing advice to assess this great crested newts survey and mitigation strategy

We used the flowchart on page 8 of our Standing Advice Species Sheet: Great crested newts beginning at box (i). Working through the flowchart we reached box (vii), which advises the authority that further survey effort is required in accordance with the Great crested newt mitigation guidelines and you should request additional information from the applicant. If it is not provided, then the application should be refused.”

Highway Authority

- 8.11 The Highway Authority has raised no objection to this application, subject to conditions to cover the following:

- visibility splay with dimensions of 2.4 metres by 90 metres to the north west and 2.4 metres by 90 metres to the south east, as measured from and along the nearside edge of the carriageway
- 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on
- Provision of vehicular parking and turning facilities
- No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary

- The gradient of the proposed access be not steeper than 4% (1in 25) for the first 6 metres from the highway boundary and not steeper than 8% (1in 12.5) thereafter.
- Submission of details showing the means to prevent the discharge of surface water from the development onto the highway
- Details of the estate roads and footways to be submitted and approved in writing by the Local Planning Authority
- The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.
- All independent paths to be a minimum of 2 metres wide, with details of lighting and drainage
- Minimum dimensions for all vehicular hardstandings and garages
- Provision and implementation of a Residential Travel Information Pack for sustainable transport,
- Provision of the new footway link onto the Bourne Valley footpath.

9.0 Representations

- 9.1 22 letters of objections have been received in respect of this scheme, a 5 further letters were received after neighbours were informed additional information had been received There are no letters of support.
- 9.2 The letters of objection raise the following main areas of concern (summarised) :

Traffic /Highway Issues

- The proposed development will further exacerbate an existing parking problem in Old Heath Road and Scarletts Road. Parking is already at a premium on Old Heath Road with both sides of the road used to their capacity - an extra "estate" placed on the doorstep would just make things even worse.
- Has anyone from ECC visited the area and stood on the Old Heath Road. If they had they would have recognised that the proposed entrance to the site comes out onto a very narrow, stressed piece of highway. Massive lorries from the Whitehall Industrial Estate and at least 20 buses an hour during daytime head up and down the hill. This road is already under strain. There are frequent bottlenecks as one tries to negotiate up Old Heath Hill. This road will get even busier when the large Rowhedge development is completed.
- The road still regularly floods following heavy rain. It has a childrens nursery on the doorstep. The number of cars attached to the properties proposed, together with visitors and service vehicles will make a difficult junction much worse.

- Old Heath Road connects two schools and is used by children walking to other schools using Bourne Mill and Distillery Lane as a cut through. This footpath is very well used and an important part of the green link, cited in the masterplan for the area.
- The road towards town narrows to essentially a single lane due to residents parking their cars, this is compounded by access to Scarletts Road and the existing flats at Cannock Mill Court.
- The entrance to the proposed development seems to be the existing entrance. This is used by both Dolphin Aquatics and Puddleducks Day Nursery - the amount of extra traffic 23 properties would produce would impact on the children. The entrance is already busy, and it is very difficult to see when exiting due to the sign placed outside by the council.

Impact on Wildlife/Green Corridor

- The site together with Bourne Mill, the Distillery Pond and the River form an important green corridor in the built up area. This green corridor, which is popular with children, walkers and cyclists fulfils an important function as a green lung and has already been eroded by the development around the Distillery Pond. The site in question provides a much needed haven for wildlife. With a proven link between green spaces and health and emotional benefits in children and adults, it is vital that we safeguard green and open spaces like these, punctuating as they do the built up area and offering character to the environment as well as an important view.
- Colchester boasts some important and historical open spaces which are vital to giving Colchester its special character and setting it apart from other areas. Several of these have already been eroded, destroyed or threatened, like the Distillery Pond, floodplain Cowdray Avenue and Remembrance Way. There is evidence of wildlife using this area including badgers, deer, owls and other birds. The construction and subsequent occupation of this site will push these animals out to an ever diminishing green space to the detriment of wildlife and the local community.
- The plans and artists impressions are very much not to scale with existing trees looking huge and proposed housing looking miniature, people do not realise that a lot of the proposed housing are Townhouses which are 3 storey's high and therefore would tower out of the landscape. There is no guarantee that the row of mature Lime trees would stay but even if they did the natural screening would be lost when the trees are not in leaf which is six months of the year
- many of the sketches are not clear as to whether many of the existing trees are within or outside of the proposed development boundary, if they are within the site then they will be cut back severely or even cut down by either the developers or new tenants if a preservation order is not placed upon them
- The impact of essentially building a huge brick and concrete wall between the 2 halves of the valley could be catastrophic to the small ecosystem that exists. There are many massive and historic trees that grow on the proposed site, these will be removed, destroying what is currently a charming and stimulating view for people in the area. This whole area should be protected from development.
- Does Colchester Borough Council really want to allow developers to build on every last piece of woodland we have left in this town? To help remove every last pocket of greenery and tranquility we have left.
- Site should be taken over by the Essex Wildlife Trust.

Impact on Listed Buildings/Historic Areas

- This is one of the very few unique places in Colchester with two historic mills and ponds running down to Distillery pond and then in to the Hythe. This application is for a development on an area of land currently occupied by one listed building, one building mentioned on the listing as within the curtilage and one building on the local list why is the application not a listed building application no English Heritage consultation. Not enough consideration is given to Cannock Mill House, now accepted on the Local List by the council. Any buildings, regardless of size around this building detract from its current imposing form.

Impact on Residential Amenity

- Invasion of residents' privacy as the design of the homes and their proximity would give them full view into gardens and direct eye line into homes.
- Although the plans state that the tree line of limes will maintain natural privacy, this will only be for half of the year, there is no guarantee that when any work starts that these trees will not be damaged to the point of making them unsafe, and in-turn them being removed. They should have a preservation order put on them to avoid this happening.
- The plans submitted all place the proposed buildings close (within 15 mtrs) of all the existing Barn Hall Avenue property boundaries, which concerns us as our garden would directly border the proposed new properties. There is land designated 'conservation area' to the north of the plot is not being utilized.
- Noise pollution that any development will create especially one built on a hill which will need serious foundations constructed. Also in an area where structural slippage has already caused concern for some residents this work may have other consequence
- The area has been a green belt of land with a line of Lime trees mixed with other species. These magnificent trees which offer so much situated along the southern boundary are the property of the residents of Barnhall Avenue and not the owners of the site. How could a tree survey be conducted without consulting the tree owners? I was under the impression that the lime trees with the other species had a preservation order on them. Although according to the report/drawings about the trees this appears not to be the case.
- The land that they wish to develop was thought to have been green belt. This appears to have been moved over a period of time
- In the tree report compiled by Hayden's it states that, "Of the trees surveyed at total of fourteen individual trees, T008 ? T016 and T027 ? T031, one group, G002 and the woodland W001 have been categorized as BS5837:2005 Category B, namely, trees of moderate quality and value in such condition as to make a significant contribution. The most notable of these trees are the line of Lime trees on the southern boundary which are a key landscape feature, being on raised ground creating a skyline feature." statement in such a way as to imply that the neighbours cannot see out at the moment is inaccurate. Trees lose their leaves at various times of the year and do not solidly block out light and views even when in full leaf. The buildings proposed will solidly and immovably block light and divert wind.

- Concerned that the three story homes will not be in keeping with the area and will also overlook and overshadow many homes. It seems they have been used to shoehorn in more homes than the land allows.

Design

- The buildings in no way in keeping with those in the area. Old Heath is a long established community with a clear and identifiable design of building, the proposed units are in no way in keeping with the current buildings, quite simply they do not match.

Drainage/Flooding

- Currently each time it rains heavily, the dip in the road opposite to Cannock Mill floods. This development is only going to add to water run off issues as more concrete is added to the area. The neighbourhood is very aware of natural springs that occur in this land and the water will have to go somewhere.
- The smell of sewage has increased since the recent development of flats opposite the proposed development in Scarletts Road. There is only a certain amount of sewage and water that Victorian sewers can take.
- Every new development in this area inevitably affects water run-off and drainage issues, these being delicately balanced. Concern that the increase in hard surfacing associated with development will further increase drainage issues.

9.3 Puddleducks Day Nursery, the property adjacent to Cannock Mill has submitted the following comments:-

“We do not have any issues with the building of the new houses. We do however have issues with the access to the properties in so far as we disagree with the boundaries throughout the submitted documentation which are adjacent to our site. The Land Registry plans clearly indicate that the entry into the current drive is owned by Puddleducks Child Care Ltd. The boundaries for Cannock Mill are the building perimeters comprising of the Mill, and the shed to be demolished to the left of the entrance into the site.

We have not been asked and would not give permission for our land to be used in this development. Should the entrance be resited closer to Cannock Mill House, wholly off our property, we would not object to the development in relation to the proposed new buildings”.

The agent has confirmed the amended plans show the revised access located close to Cannock Mill House and outside the ownership of the Nursery. The applicant benefits from a right of access over the existing access and frontage to the Mill and this will be retained.

9.4 Colchester Cycle Campaign (CCC) comments can be summarised as follows:

- The planning department to liaise with Cycle Colchester, Sustrans and Essex County Council with a view to using s106 or CIF money to connect Distillery Lane with the Garrison cycle route via this development and Bourne Mill/Dudley Close/Sandringham Drive and Pownall Crescent. Whilst land ownership and current funding may make this a long-term scheme, we have the chance to lay the foundation for a high quality direct cycling path across the south of town. This would be especially convenient for people living and working in the Hythe and at the garrison.
- At the moment we have an excellent cycle route (Distillery Lane) coming up from the Hythe, and the potential for an excellent cycle route from the estate to Bourne Pond.
- Unfortunately, the estate is in the middle, and the dog-leg (between Distillery Lane and the entrance) sends out the message: this is not a cycle route a shared used path should be paid for by the developer (NB: this path can go on either side of the road – southwestern preferred - and the road is wide enough for this if roadside car parking is removed - the path should start at the boundary of 117a and 117). A preferred cycle route through the development goes down the side of Cannock Mill House (part of the development, so the occupier is presumably flexible), and continue round to Bourne Mill footpath. Note that Cannock Mill House currently has plenty of space for a cycle route to follow this line; also No117 has adequate parking for three cars in the driveway.
- Can we please ensure that any new cycle path and all parts of the footpath on the developers' land are dedicated as shared use, and are a minimum of 3m, preferably 4m wide. They should not include steps, and asphalt should be machine laid. Finally, the developer should pay for cycle route signage as part of the scheme.

9.5 Sustrans requests that the following be taken into account in the conditions imposed or by way of a S106 agreement:-

- the independent paths and link to the Bourne Valley footpath be made at least 3.0m wide or to the Essex County Council minimum standard for shared use paths. These paths are mentioned in the ECC reply to consultation
- In addition we request that the developer be required to upgrade the footpath to Bourne Road and Barnhall to shared use standard and provide a good link to the Distillery Lane route opposite the site. The latter involves a frontage shared use foot/cycleway on the frontage and a crossing point to Distillery Lane.

9.6 Councillor Blandon has raised a number of concerns should the development go ahead.

1. Who will maintain the pond and the public open space
2. Can the refuse lorry access the site
3. The protection of the Lime trees at the rear of houses in Barn Hall Avenue which I am told are not on mill land and will provide privacy to the residents from the new development.
4. Will this have any effect on the nursery.
5. Slab levels the land rises to the rear of the site how will this be addressed.

6. The area tends to flood at times when water comes from Bourne Pond through the valley and floods the road near the mill.
7. With at least 23 extra vehicles using the site some form of traffic calming is needed at this junction traffic speeds up and down the hill in both directions there are also parked cars on both sides of the entrance
8. Who will be responsible for the affordable housing.

10.0 Parking Provision

- 10.1 The adopted parking standards require a minimum of 2 spaces for 2+ bedroom units plus 0.25 spaces per unit (rounded up) for visitor parking.
- 10.2 Two spaces have been provided for each dwelling plus visitor parking. Parking is provided in the form of integral garages or in adjacent parking courts. Cycle parking will be provided within garages where provided or external storage sheds will be provided of sufficient size to accommodate cycles along with general garden storage.
- 10.3 Parking provision meets the councils adopted standards and the size of the garages and parking spaces conditioned to meet the Council's preferred dimensions.

11.0 Open Space Provision

- 11.1 Policy DP16 sets out the Council's standards for private gardens; 4 bed houses a minimum of 100 square metres, 3 bed houses a minimum of 80 square metres and one and two bed houses a minimum of 50 square metres. The majority of the properties have rear gardens well above these minimum sizes. The exception is plot 23 an apartment adjacent to the Mill which has a small terrace overlooking the open space. The proposed open space has an area of approximately 0.14 hectares and will be located next to the existing public open space of Bourne Valley. A new path is shown through the propped open space linking the new residential development to the Bourne Valley path. The area of new open space exceeds the 10% recommended in policy DP16. A section 106 agreement will include a provision for an open space contribution to go towards enhancing facilities in the Harbour area. As the proposed open space includes an area of water Leisure Services would prefer this to be managed by a management company and the applicant has agreed to this. The provision and management of the open space will be secured in the section 106 agreement.

12.0 Air Quality

- 12.1 The application site is not located within or immediately adjacent to an Air Quality Management Area.

13.0 Report

Principle of Development

- 13.1 Colchester Borough Council has an up-to-date Development Plan comprising the Adopted Core Strategy (December 2008) and the Adopted Development Policies DPD (October 2010). The site is close to the town centre, it is on a bus route and there are local facilities nearby. This is a sustainable location within the urban area of Colchester the development of such sites is advocated by government in the recently published NPPF and supported in the LDF policies. The site is shown as predominantly residential the principle of residential is therefore acceptable.

Layout Design Scale Height Massing

- 13.2 Although this is an outline application it seeks permission for a specific number of units and layout. The layout proposes a single unit adjacent to the Mill and a group of three units next to Cannock Mill House a mews between them serves the site with units overlooking the new open space. Groups of trees are retained within the development. Some units include small terraces as well as private gardens.
- 13.3 The majority of the development is comprised within 4 buildings a total of 16 units backing onto Barn Hall Road. These properties are cut into the site contours 2 storeys at the rear and a mix of 2 and 3 storey to the front. Due to the site levels there is the potential for overlooking within the site from these units (new dwellings to new dwellings not new to existing dwellings) this will require careful fenestration at the reserved matters stage.
- 13.4 The Design and Access Statement and typical elevations, which will form part of any planning permission indicate 2-storey and one and a half storey buildings with 2/3 storeys facing into the site. Whilst the application documents indicate buildings with a contemporary style their height and massing are typical of domestic forms and reflect those of the existing residential buildings.
- 13.5 The contemporary approach has been negotiated by the Councils Urban Designer. The site will have its own character and identity using traditional materials in a contemporary form. The use of timber cladding in natural colours, slate and timber terraces could produce exciting designs appropriate to and blending into this landscaped setting.
- 13.6 As discussed earlier in the report the contemporary style is not considered appropriate for the frontage plots between the Mill and Mill House which need to take their references from and be sympathetic to these listed buildings. This will be secured by condition. Whilst the contemporary design of the frontage units is not acceptable their location set back from the road is well related to Cannock Mill and Cannock Mill House and retains their outlook and focus in the street scene. A change in level will ensure the Mill House retains its elevated position and the new houses will appear subservient to it .

- 13.7 Officers have negotiated amendment to the layout for the front of the site with the new units now set back further into the site and also set at the lower level to maintain views to and from Cannock Mill and so that Cannock Mill House retains its elevated presence. The rear blocks have also been amended to provide greater gaps between buildings.

Impact on Neighbouring Properties

- 13.8 The Council's privacy standards are set out in the Essex Design Guide (EDG). This explains that privacy can be achieved by remoteness and indicates that where rear facing houses are approximately parallel a rear "eye to eye" distance of 25 metres is required giving each garden a length of 12.5 metres. However where new properties back onto existing housing the EDG indicates the existing residents are entitled to a greater degree of privacy and recommends the new properties should have rear gardens of 15 metres even if this means the 25 metres is exceeded. The EDG also indicates that where the backs of houses are at more than 30 degrees to one another this separation may be reduced to 15 metres from the nearest corner of the houses. The layout drawing indicates the location of the new properties in relation to the site boundaries and existing residential development. Units 6 - 21 will face towards the rear boundary of houses in Barn Hall Road. Whilst some new dwellings are parallel to existing the majority are at an angle. The layout drawing indicates proposed rear gardens vary in length from 11 to 20 metres with a minimum of 15 metres where they are parallel. In addition the section drawing indicates the proposed gardens and houses are set at a lower level than ground levels in Barn Hall Road.
- 13.9 The section drawings show the houses on this part of the site are cut into the slope with a 2 –storey elevation to the rear and 2 and 3- storey to the front.
- 13.10 The majority of these properties satisfy the councils privacy standards the exception is plots 10 -13 which have gardens between 11- 15 metres which are 20 degrees to existing however the distance between building is in excess of 40 metres (the EDG suggests where the angle is 30 degrees this distance can be 15 metres).
- 13.11 It is considered acceptable levels of privacy are achieved.

Impact on the Surrounding Area and Listed Building

- 13.12 The application documents include a Design and Access Statement, Site Analysis and Heritage Statement.
- 13.13 Cannock Mill is a grade 2 listed building Cannock Mill House is included on the recently approved list of buildings of local importance. On the opposite side of the road is the edge of the Distillery Pond Conservation Area
- 13.14 The application proposes the demolition of an open garage structure attached to the south east side of the mill, a building described as a scaffold store and a garage south of the mill. It is considered the removal of these buildings will enhance the setting of the Mill and the area in general.

- 13.15 The new buildings on the frontage, 4 dwellings, are set back from the road so that views of the Mill and Cannock Mill House are retained, the Mill House will also retain its elevated position. The importance of the appearance of these units has been discussed earlier in this report. The contemporary design proposed is not considered appropriate and an appropriately worded condition will secure revisions at the reserved matter stage.
- 13.16 There are currently views into the site through to the landscaped backdrop of the Bourne Valley Open Space. Some views would be lost or changed. For example views of the Mill are currently of the building with a backdrop to the south of the garden to Mill House. However the land immediately to the rear of the Mill and Bourne Valley will remain as a landscaped area. The site layout also retains some views by providing blocks of buildings with gaps between them where the existing landscape features can either remain or be seen. This landscaping will be enhanced by the addition of new tree planting and by the provision of hedges to define some plot boundaries. To the rear elevated southern boundary of the site the blocks have been arranged to reflect the existing contours of the site and so maximise the potential for landscaping.
- 13.17 Whilst the application does not include the Mill the following information has been provided by Fenn Wright Surveyors “We have reviewed the options in relation to the future use and occupation of The Mill and have reached a conclusion that conversion to a single dwelling is likely to prove the most cost effective form of development. We confirm we will be recommending to our client conversion of the building to create a single 3-4 bed house together with perhaps the installation of a mezzanine in the second floor to take advantage of the views from the gable window/loading platform”.
- 13.18 The use of the Mill as a single dwelling will require planning permission and listed building consent. Residential use would be acceptable in principle.
- 13.19 The proposal would have limited impact on the conservation area

Impact on Trees

- 13.20 A Tree Survey and Arboricultural Impact Assessment have been submitted. The Tree Survey assesses trees in terms of their quality and value. Category A - high quality and value, Category B - moderate quality and value, Category C - low quality and value and Category R should be removed. The survey indicates there are a total of 38 trees, 4 groups, 1 hedge, 2 areas and 1 woodland on the site. There are no Category A trees. Fourteen individual trees, one group, and the woodland have been categorized Category B. The most notable of these trees are the line of Lime trees on the southern boundary which are a key landscape feature, being on raised ground creating a skyline feature. Other notable trees are along the northern boundary forming part of the adjacent public land, and the woodland on the western boundary.
- 13.21 The report recommends there is adequate space for development on the site without compromising Category B trees and features and all but one will be retained.
- 13.22 Since the submission of the ecological survey a revised Tree Survey document has been submitted showing the retention of the tree to the rear of the site which has been identified as having high bat potential.

13.23 Whilst the proposal does result in the loss of trees these are mainly ones identified as low quality. The application proposals indicate replacement planting, in particular along the site frontage.

13.24 The Council's specialist Arboricultural and Landscape Officers have considered the application information and are happy with their conclusions and have raised no objection subject to conditions.

Impact on Ecology

13.25 An ecological assessment has been submitted which includes a survey of the site and outbuildings.

The report concludes

- No part of the proposed development site has any conservation designation
- A small section to the rear of the site is included within the Habitat Inventory under The National Inventory of Trees and Woodlands. This designation has limited value in relation to the sites actual conservation value
- Most of the proposed development site is managed amenity grassland with no conservation value and very limited biodiversity. There is a small area of less frequently mown grassland; although it has a little more conservation potential than the mown areas it does not have sufficient structure/content to provide a viable reptile habitat
- There is no badger sett of any type within or adjacent to any part of the wider site
- There is no bat or bat roost of any species within any of the sites buildings. However it is probable that bats from nearby roosts will forage over the site and particularly along the tree-lined boundaries. These boundaries may also be used by bats commuting from roosts at the cemetery near Bourne Mill to the woodlands around the Distillery Pond to the east. To retain bat activity at the site, no artificial lighting should be allowed to illuminate the boundaries. If this is achieved, then the use of the site by bats would be expected to continue. The recommendation is that no lighting is allowed to illuminate the boundaries of the site during construction and occupation of the development. *Officer comment this will be secured by condition*
- There is a single tree towards the rear of the site that has been identified as having bat potential *Officer comment this tree is retained*
- A suitable amphibian presence or absence survey is only required to the area of the Mill Pond as other areas do not represent a suitable habitat. The survey is not planned to be undertaken at this time as it is outside the area for development however it should be conditioned to take place at a later appropriate time.

13.26 It is concluded the proposed development will not have an adverse impact on protected species. As this is an outline application condition can be imposed requiring the reserved matters to include an appropriate survey of the pond area. This pond is unaffected by the built development and part lies outside the application site. However there is a suggestion the pond will be cleared as part of the open space proposals and it may form part of a sustainable drainage scheme. The site it plays an important role in providing a green link between the Bourne Valley to the west and Distillery Pond to the east. The development proposal retains green areas along the north and south

boundaries. Whilst existing trees on the frontage are to be removed new tree planting is proposed which will assist as a crossing point as advised by the Natural History Curator. A condition requiring of an ecological management including stag beetles will be imposed.

Highway Issues

- 13.27 There is an existing access to the application site which provides currently access to the Mill and Puddleducks Day Nursery. Cannock Mill House has its own separate access which will be retained. There is a hard surfaced area in front of the Mill and the adjacent outbuildings.
- 13.28 Members will be aware that many of the objectors have expressed their strong objections about highway issues stating that the existing road is already busy, that parking takes place along the road and poor visibility.
- 13.29 It is accepted that the proposed scheme will generate additional traffic however the Highway Authority has recommended permission subject to conditions. These include improvements to the position of the entrance and to visibility at the site entrance. In highway terms this is a sustainable location with frequent bus services along Old Heath Road. There are shops, schools and health facilities nearby. The site is 1.5 kilometres from Colchester town centre where there is access to a wide range of transport, leisure, retail and employment opportunities.
- 13.30 The proposal meets the Councils adopted parking standards as explained in the parking section above.
- 13.31 The applicant is aware of the comments made by Puddleducks Day Nursery. These concerns are a private matter between the two parties.

Drainage/Flooding

- 13.32 Residents have raised concerns regarding flooding and drainage. The site is not within flood zone 2 or 3 and a formal flood risk assessment is therefore not required. The Highway Authority is requesting a condition to prevent the discharge of surface water from the development onto the highway. The application details also indicate “the existing dry mill pond should be reconfigured and integrated into the design as part of the sustainable surface water drainage proposals. This will act as a feature to the site but would also enhance the ecology of the area”. However no details have been submitted. A condition requiring the submission of both surface water drainage and foul drainage will be imposed on any permission together with a condition requiring hard surfaces to be of porous materials or to direct run-off water from hard surfaces to a permeable or porous surface.

Sustainability

13.33 The application refers to “the potential for minimising the environmental impact of development, through careful attention to design and construction methods. The buildings should be constructed to exceed the current requirements of the Building Regulations with regard to Conservation of Fuel and Power and will also include the provision for utilizing renewable energy by investigating the use of solar technology and heat pumps. Measures to improve water conservation should include features such as low flush toilets and rainwater harvesting for the purposes of landscape irrigation or the flushing of toilets”.

13.34 Sustainable construction will be secured by condition.

Footpath /Cyclepath

13.35 The Colchester Cycling Campaign and Sustrans have both commented on the application and request the following

- a 3 or 4 metre wide path for shared use,
- section 106 contribution or CIF money to connect Distillery Lane with the Garrison cycle route
- upgrade the footpath to Bourne Road and Barnhall.

13.36 The application includes a footpath connecting the site to the Bourne Valley path.

13.37 Condition required by the Highway Authority state all independent paths to be a minimum of 2 metres wide and a new footway link onto the Bourne Valley footpath to be provided entirely at the Developer’s expense. The proposed development has been considered by the Council’s Development Team and the Highway Authority on several occasions. However, the applicant has agreed the new path through the new open space will be 3-4 metres wide. This will be secured by condition.

13.38 The applicant has agreed to all the section 106 requirements requested by the development team including 35% affordable housing. The provision of affordable housing is a key priority for the Council.

Section 106 Agreement Contributions

13.39 The application documents state

“It is acknowledged that a Legal Agreement will be required to be entered into and our clients are willing to do so in line with the Councils Policies; the Heads of Terms to be agreed with the Clients Land Agent, Fenn Wright to include the following:-

1. Affordable Housing at 35% proportional to the overall mix
2. Open Space contribution to go towards enhancing existing facilities as per Leisure Services adopted SPD
3. Community Facilities contributions as per the adopted SPD
4. Education contributions, Primary, Early Years and Creche as ECC formula
5. Highways (transport information packs)”

13.40 The Development Team has considered the proposed development and has agreed the section 106 contributions offered by the applicant.

13.41 Other Matters

- A refuse freighter will be able to access and turn within the site.
- The affordable housing will be managed by a registered social landlord.
- A condition will require agreement to a code of construction practise.
- Further sections through and across the site will be required.

14.0 Conclusion

14.1 Whilst this is an outline application the information submitted demonstrates the site can satisfactorily accommodate 23 dwellings. The details in respect of height massing and footprint indicate building reflective of the scale of existing residential properties. The layout indicates the development, with appropriate conditions, can take place without adversely impacting on the listed buildings, trees or ecology.

15.0 Recommendation

15.1 It is recommended that this planning application is deferred and the applicant advised that the Council is minded to grant a conditional approval provided that a legal agreement is signed to cover the items set out above. On the signing of such an agreement the Head of Environmental and Protective Services be authorised under delegated powers to grant planning permission subject to the conditions set out below:

Conditions

1 - A1.1 Outl Perms (submission of reserved matters (1))

Approval of the details of the appearance and landscaping of the site (hereinafter called “the reserved matters”) shall be obtained from the local planning authority in writing before any development is commenced.

Reason: The outline application as submitted does not give particulars sufficient for consideration of these reserved matters.

2 - A1.2 Outl Perms (submission of reserved matters (2))

Plans and particulars of the reserved matters referred to in condition 1 above, relating to the appearance and landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason: The outline application as submitted does not give particulars sufficient for consideration of these reserved matters.

3 - A1.3 Outl Perms (time limit for subm of res matters)

Application for approval of the reserved matters shall be made to the Local Planning Authority before expiration of three years from the date of this permission.

Reason: In order to comply with Section 92 of the Town and Country Planning Act 1990.

4 - A1.4 Outl Perms (time limit for commencement of Development)

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: In order to comply with Section 92 of the Town and Country Planning Act 1990.

5 - A2.7 Outl Perms-Devel to be subst in accord with plans

The reserved matters hereby permitted shall be in substantial accordance with drawing numbers 2295.10C, 2295.12C, 2295.13D and 2295.SK25 and the Design and Access Statement dated June 2011 revised January 2012 except in respect of the design of plots 1,2,3 and 23 which are covered by condition 6 below.

Reason: To ensure that the proposed development has a satisfactory appearance and makes an appropriate contribution to the visual amenity of this area.

6 - Non-Standard Condition

Notwithstanding condition 5 above this consent does not approve the typical elevation drawings for plots 1, 2, 3 and 23.

Reason: Reason A contemporary design is not acceptable as it would have an adverse impact on the character and setting of the adjacent listed buildings.

7 - Non-Standard Condition

Any garage 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 [except where the local planning authority have given their written approval for a replacement car parking space and that replacement space has been constructed as approved].

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

8 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows/dormer windows/roof lights, doors or any other form of opening shall be constructed in the rear or front facing roofs or walls of plots 6 – 21 hereby approved (except those approved as part of any reserved matters application).

Reason: For the avoidance of doubt as to the scope of the permission and to protect the amenity and privacy of adjoining residents.

9 - Non-Standard Condition

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

Reason: To ensure that the materials are appropriate to the architectural character of the buildings and have due regard to the Listed Buildings, Conservation Area and the established townscape character of the area.

10 - Non-Standard Condition

The reserved matters shall include cross sections of the site and adjoining land and buildings, including details of existing ground levels around the buildings hereby approved and any changes in levels proposed, together with the proposed floor slab levels within the site. The development shall be carried out in accordance with those approved cross sections.

Reason: To ensure that the development is constructed at suitable levels in relation to its surroundings and to protect the amenity and privacy of the occupants of both the proposed development and occupiers of existing adjacent properties.

11 - Non-Standard Condition

Refuse storage facilities and facilities for the collection of recyclable materials shall be submitted as part of the reserved matters application and shall be provided and made available to serve the proposed development hereby approved before the development is occupied or becomes operational. Such facilities shall thereafter be retained to the satisfaction of the local planning authority.

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

12 - Non-Standard Condition

The development, including site clearance, shall be carried out in accordance with Ecological Assessment dated 24 February 2012 submitted with the outline application. The development shall include the mitigation measures set out in this document, unless amended by a subsequent report.

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

13 - Non-Standard Condition

All aquatic features and associated vegetation on site shall be retained unless otherwise approved in writing by the local Planning Authority, and appropriately protected from physical disturbance or pollution prior to commencement and during works on site to a standard to be submitted to and agreed in writing by the local Planning Authority.

Reason: To safeguard the continuity of amenity and nature conservation value afforded by water and to avoid damage to nearby trees by changes to the water table.

14 – Non Standard Condition

The development shall be implemented in accordance with the Haydens Tree Survey, Arboricultural Implication Assessment and Method Statement dated 16 February 2012 and Executive Summary dated 21 February 2012, unless amended/revised by a subsequent report.

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

15 - Non-Standard Condition

No development or any works whatsoever shall take place within the pond or other water areas on the site until the applicants or their agents or successors in title have secured the implementation of an investigative survey for protected species, in accordance with details that have previously been submitted to and approved by the local planning authority.

Reason: There is evidence that the site is likely to be of importance for nature conservation as a natural habitat/breeding site for amphibians and other species and it should be further investigated and protected and enhanced as advised by English Nature.

16 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features shown to be retained, including the tree identified as having potential as a bat roost, on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. 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.

17 - C10.16 Tree & 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.

18 - Non-Standard Condition

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to be retained, including the tree identified as having potential as a bat roost, 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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these 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 with 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.

19 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

Written specifications (including cultivation and other operations associated with plant and grass establishment).

Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals.

Implementation timetables.

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

20 - C11.12 Landscape Works Implementation

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

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

21 - C11.17 Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

22 - Non-Standard Condition

Prior to the commencement of development, the applicant shall commission, in consultation with the Local Planning Authority, an artist to design the proposed public art for this site. This scheme shall be carried out prior to the occupation of any of the residential units (unless otherwise agreed in writing by the Local Planning Authority) and shall thereafter be retained to the Local Planning Authority's satisfaction.

Reason: To ensure the delivery of the public art proposed by the applicant and that the design of the public art is suitable for its intended location.

23 - B8.1 Drainage Scheme Prior to Commencement of Work

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

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

24 - Non-Standard Condition

The hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surfaces within the curtilage of the development.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development.

25 - Non-Standard Condition

Prior to the commencement of any development, a scheme for the ownership and maintenance of the surface water system, including the former mill pond if appropriate, shall be submitted and agreed in writing with the Local Authority. The scheme shall be constructed and completed in accordance with the approved plans and specification and thereafter maintained in accordance with the agreed details.

Reason: To ensure a satisfactory method of surface water drainage.

26 - Non-Standard Condition

No development shall take place until details of external lighting have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and the nature conservation interests of the site.

27 - Non-Standard Condition

No artificial lighting, whatsoever, shall be installed along any of the boundaries of the site, including during the construction period.

Reason: To protect the ecological importance of the site.

28 – Non Standard Condition

No development shall take place, including any works of demolition, until a Code of Construction Practise and a Traffic Management Plan have been submitted to, and approved in writing by, the Local Planning Authority. The approved documents shall be adhered to throughout the construction period. The documents shall include but not be restricted to:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. construction vehicle and access management plan
- 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
- viii. a scheme for recycling/disposing of waste resulting from demolition and construction works.
- ix. Hours of work

Reason: In order to protect local amenity, to protect highway efficiency of movement and safety.

29 - Non-Standard Condition

No burning of refuse, waste materials or vegetation shall be undertaken on the application site in connection with the site clearance or construction of the development.

Reason: In order to protect local amenity.

30 - Non-Standard Condition

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 31, 33 & 33 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Condition 34 has been complied with in relation to that contamination.

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

31 - Non-Standard Condition

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'

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

32 - Non-Standard Condition

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.

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

33 - Non-Standard Condition

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 that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

34 - Non-Standard Condition

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 31 "Site Characterisation", and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 32 "Submission of Remediation Scheme", which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 33 "Implementation of Approved Remediation Scheme".

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

35 - Non-Standard Condition

Prior to occupation of any property hereby permitted and the provision of any services the use hereby permitted commencing, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 32 "Submission of Remediation Scheme" above.

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

36 - Non-Standard Condition

Prior to occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the north west and 2.4 metres by 90 metres to the south east, 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 to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

37 - Non-Standard Condition

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

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

38 - Non-Standard Condition

Prior to occupation of the development all 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 to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

39 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

40 - Non-Standard Condition

The gradient of the proposed access be not steeper than 4% (1in 25) for the first 6 metres from the highway boundary and not steeper than 8% (1in 12.5) thereafter.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

41 - Non-Standard Condition

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 to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

42 - Non-Standard Condition

Prior to commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety to accord with policies DM6 and DM7 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

43 - Non-Standard Condition

The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

Reason: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety to accord with policies DM6 and DM7 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

44 - Non-Standard Condition

All independent paths to be a minimum of 2 metres wide, with details of lighting and drainage to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that paths are constructed to an appropriate standard suitable for the passage of pedestrians in the interest of highway safety to accord with policies DM6 and DM7 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

45 - Non-Standard Condition

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 to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

46 - Non-Standard Condition

The vehicular hardstanding which is bounded by walls or other construction shall have minimum dimensions of 2.9 metres x 5.8 metres for each individual parking space.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

47 - Non-Standard Condition

All single garages should have a minimum internal measurement of 7m x 3m. and shall be provided with vehicular doors a minimum width of 2.3m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

48 - Non-Standard Condition

All double garages should have a minimum internal measurement of 7m x 6m. and shall be provided with vehicular doors a minimum width of 5.1m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

49 - Non-Standard Condition

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

50 - Non-Standard Condition

Prior to occupation of the proposed development the new footway link onto the Bourne Valley footpath shall be provided entirely at the Developer's expense.

Reason: To ensure adequate accessibility onto the existing highway network for the additional pedestrian traffic generated within the highway as a result of the proposed development and to accord with policy DM17 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

51 - A7.2A (p Plan-rem of PD rights-fences/walls front)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed within the curtilage of any dwelling forward of any front wall of the dwelling without express planning permission from the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and to prevent the piecemeal erection of walls and/or fences to front gardens.

52 – Non Standard Condition

Prior to the commencement of development details, including an implementation timetable of the retention/relocation of dead felled trees shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To benefit stag beetles and other dead wood invertebrates on the site.

53 - Non-Standard Condition

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: For the avoidance of doubt as to the effect of this permission.

54 – Non Standard Condition

Prior to the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that 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.

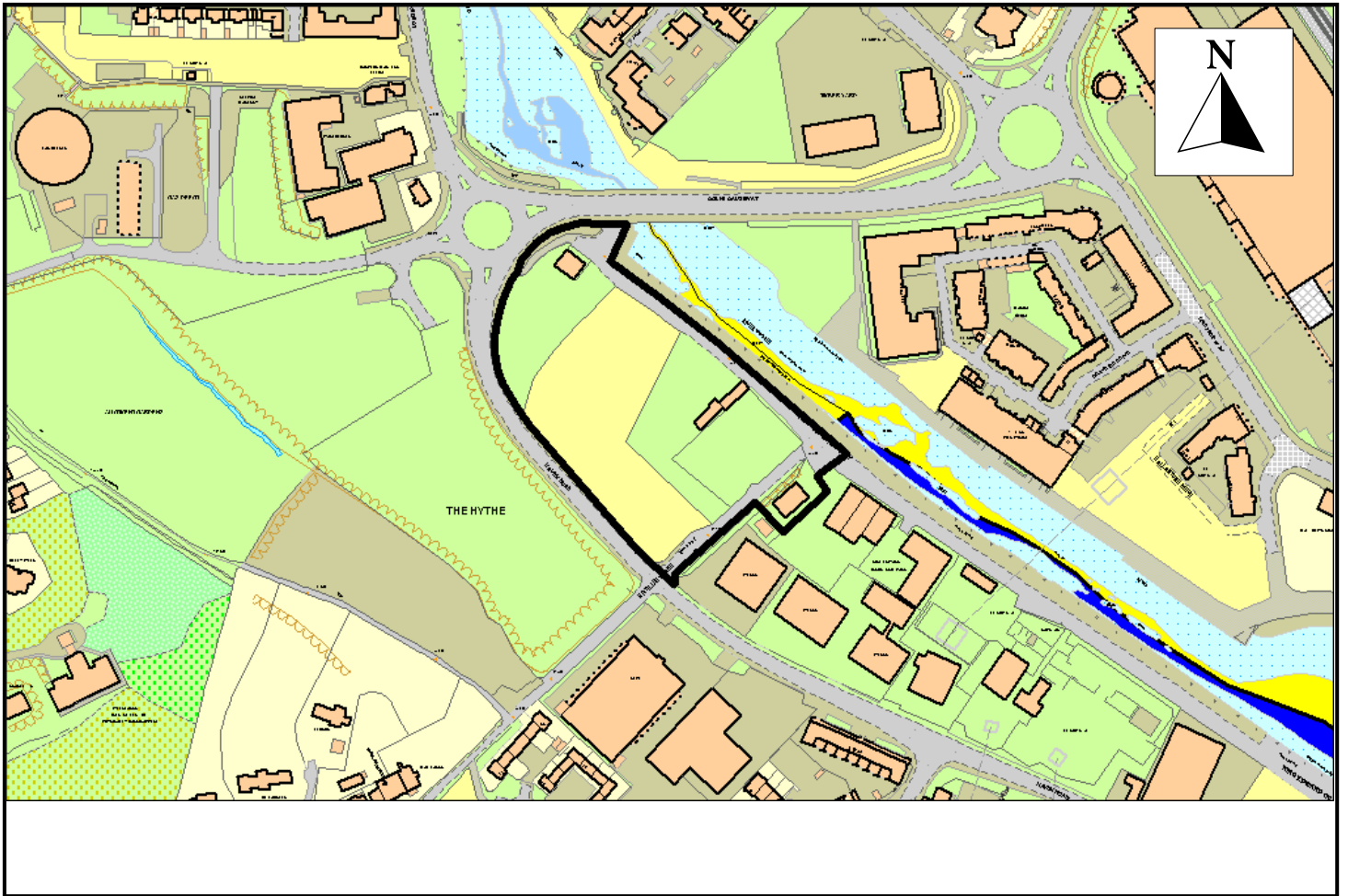
Informatives

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

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 03763

(3) Listed Building Consent is required prior to the demolition of any outbuildings.

(4) All housing 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 the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.



Application No: 120380

Location: Land Between Haven Road and King Edward Quay, Colchester

Scale (approx): 1:2500

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7.3 Case Officer: Bradly Heffer

MAJOR

Site: Land between Haven Road and King Edward Quay, Colchester

Application No: 120380

Date Received: 28 February 2012

Agent: Lawson Planning Partnership

Applicant: Mr Lester Broome

Development: Demolition of existing buildings, site remediation and restoration works and mixed-use, student accommodation led development comprising of linked blocks of 4, 5, 6, 7, 8 and 9 storeys with 722 rooms that contain a total 765 bed spaces, approximately 1,288m² of shared facilities (bin stores, cycle stores, laundry, maintenance areas, lounge, reception/management area and shared open space) as well as convenience food retail store (A1), restaurant/bar (A3/A4), community space/gym (D1/D2), private and public open spaces, parking provision and a new vehicular access from Haven Road.

Ward: Harbour

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

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because a call-in request has been received from Councillor Teresa Higgins as follows:

‘Design appearance and layout impact on visual or residential amenity. 722 rooms and only 158 car parking spaces.’

1.2 Members are also advised that this application would have to be reported to Committee in any event as the proposal includes a recommendation that a s.106 agreement is entered into by the Council. Under the scheme of delegation Council officers cannot commit the Council to an agreement without the authorisation of Members.

2.0 Synopsis

2.1 The report will describe the site and its surroundings and the proposed development. The responses of consultees will be included. The report will discuss the various elements of the proposal in detail and in conclusion will recommend that a conditional planning permission is granted for the development, following the completion of a s.106 agreement as described.

3.0 Site Description and Context

- 3.1 The site for this proposal is an area of land that is located within the Hythe area of the town. Specifically, it is located between Haven Road and King Edward Quay. The land in question has an approximate area of 1.39 hectares, is irregularly-shaped and generally level, although with an incline from east to west. It is unkempt and overgrown – with mainly grassed areas interspersed by hardstandings and areas of overgrown vegetation. An empty building is located in northern corner of the site adjacent to the Colne Causeway roundabout. The boundaries of the site are defined for the most part by galvanised railings and chain link fencing – although the boundary of the site with Distillery Lane is more eclectic in appearance utilising a variety of make-shift materials. The planning application also includes a small area of land that is located on the opposite (south-eastern) side of Distillery Lane. This piece of land is currently occupied by a storage building.
- 3.2 To the north-east of the site is King Edward Quay, while to the south-east is Distillery Lane, which links the quay with Haven Road. The south-western boundary is defined by Haven Road which links to the Colne Causeway roundabout, located adjacent to the north-western end of the site. A mix of established commercial developments and newer residential development is located in the vicinity of the application site. Specifically the commercial development extends south-eastwards along King Edward Quay while an established vehicle breaking use is located on elevated land on the opposite side of Haven Road. The nearest residential development is located on the opposite side of the River Colne, on land formerly occupied by the Moler brickworks site. The majority of this site has been developed for residential purposes – taking the form of apartment blocks. A further extensive residential development is continuing on land formerly occupied by the Spottiswoode Ballantyne print works to the north west of the site on the opposite side of the river. Relatively new residential development has also taken place on the former Distillery Pond site located to the south-east of the application site, further along Haven Road.

4.0 Description of the Proposal

- 4.1 Under the submitted planning application, full permission is sought for the following development:
- Provision of student accommodation consisting of 722 rooms of various sizes creating a total of 765 bed spaces, together with ancillary facilities including bin and cycle stores, laundry, maintenance areas, lounge, reception/management area and shared open space for residents
 - A convenience retail food store with a gross floor space of 531 square metres
 - Restaurant/Bar having a gross floor space of 250 square metres
 - Community Use/Gym with a gross floor space of 165 square metres
 - Publically-accessible open space adjacent to King Edward Quay of approximately 0.168 hectares (0.4 acres) in area
 - Additional publicly accessible open space, together with private open space, at podium level (first floor)
 - Provision of a new vehicular access to Haven Road

- Parking provision for 231 cars, comprising covered parking for 203 vehicles (134 spaces for student residents and 69 shared spaces connected with the commercial units), a further 19 spaces for students in a proposed open air car park off Distillery Lane, and the provision of 9 shared spaces along the Quayside. The submission also proposes the 12 disabled driver spaces and secure parking for 271 cycles and 9 powered two-wheel vehicles
- Hard and soft landscaping areas
- Toilet facilities for public use adjacent to the public open space, directly accessible from the quayside
- Associated drainage and other infrastructure works.

4.2 The building to house the proposed accommodation and commercial uses would range in height from 4 to 9 storeys, with the majority of the structure set at 6 storeys. The arrangement of the proposed development would provide a new vehicular access off Haven Road, which would lead to an extensive covered car park and servicing area. This level of the development would also contain secure cycle parking provision, bin stores, plant rooms and other functional facilities. The proposed laundries to serve the development, public toilet facilities and the lower floor of the proposed restaurant would also be at this level, together with stair access to the upper levels of the development. The proposed additional car park off the south eastern side of Distillery Lane would also be at ground level.

4.3 The arrangement of development is such that the first floor (or podium level) would be the main pedestrian experience of the scheme. At this level would be the main building accesses (including the retail use, community facility/gym and the restaurant/bar) as well as the podium and courtyard amenity spaces, which would link to a terraced open space between the development and King Edward Quay. Subsequent upper storeys of the development would consist of the proposed student accommodation. In terms of the external appearance of the proposed development the design would incorporate a simple palette of materials (brick and through-colour render panels, in combination with a membrane material on the flat roofed sections of the building and coloured zinc on the pitched roof element) arranged to create a visually cohesive group of buildings. The way in which materials would be used also emphasises various individual elements of the buildings as part of the overall design approach. The area between the buildings, and the open space that connects the development with the quay would be treated as hard and soft landscaped areas.

4.4 The following extract is taken from the planning statement submitted as part of the planning application:

‘The proposed development is intended to provide much needed accommodation for students principally based at the UoE (University of Essex), along with facilities that can be shared with the wider community. The proposed development would also support the Council’s acknowledged regeneration objectives for King Edward Quay and the Hythe area as a whole.’

4.5 As would be expected with a development proposal of this scale, the submission is accompanied by a series of supporting documents that deal with the following issues:

- land contamination and remediation
- design and access
- landscaping and visual impact
- transport assessments
- flood risk assessments
- archaeology
- ecology
- statement of community involvement
- health impact assessment
- sustainability
- ventilation and extraction
- site waste management plan
- utilities assessment

The full text of the identified documents may be viewed on the Council's website.

4.6 Members should also note that the development proposed under this application does not require an Environmental Impact Assessment. This has been determined by the Secretary of State.

5.0 Land Use Allocation

5.1 The site for this proposal has the following allocations in the Local Development Framework:

- Within the East Colchester Growth Area
- Regeneration Area
- East Colchester Special Policy Area (2)
- Environment Agency National flood zone

5.2 The site is also abutted by defined green links and a riverside walk.

6.0 Relevant Planning History

6.1 This site has a long history of use, having been utilised originally for a grain malting factory during the 19th century, up until the late 1970's. Subsequently the central part of the site was utilised as a travellers site (accommodating 17 pitches) from the 1980's until the use ceased sometime after 2006. Evidence of the pitches is still visible. Areas within the overall site have also been used for waste storage and as a scrap yard (located in the south-east corner). As will be appreciated the application site has been subject to a number of applications over time but none of these are specifically relevant to the current application.

6.2 Members are advised that this current application was accompanied by a separate application to decontaminate and remediate the application site. Members will appreciate that if the site is to be used for an alternative 'sensitive' use such as residential it is necessary to ensure that it is fit for purpose. This application (ref 120379) was approved under delegated powers via notice dated 1st May 2012, although the approved works had not commenced at the time this report was prepared.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
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
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP10 Tourism, Leisure and Culture
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access

DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
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 EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC4 Area 2: King Edward Quay
SA EC8 Transportation in East Colchester

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

Colne Harbour Masterplan (January 2008)
The Maltings King Edward Quay Development Brief (February 2011)
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 Essex Wildlife Trust has confirmed that it has no objections to the proposal.
- 8.2 The Highway Authority has no objection to the proposal, subject to the imposition of conditions/inclusion of elements within a s106 agreement as necessary.
- 8.3 The Council's Environmental Control team and Contaminated Land officer have requested that various conditions and informatives be imposed on a grant of planning permission.
- 8.4 Natural England has no objection to the proposal but would recommend the inclusion of elements to improve the ecological value of the site, including bird and bee boxes, native planting and SUDS drainage for example.
- 8.5 The Council's Landscape Officer has advised that subject to some variations in the submitted scheme, the proposal is acceptable subject to the imposition of conditions.

8.6 The response of the Spatial Policy Team makes the following summarised comments:

- Mixed use development is acceptable in principle as set out in LDF policy statements
- Spatial Policy has no objection to the delivery of student accommodation on this site, or the proposed commercial uses
- The propose scheme includes greater storey heights than those identified in the Council's Development Brief, and the density of development is at 520 dwelling units per hectare. Development Control should be satisfied that the height, scale, massing and density of the proposed scheme is appropriate in this location
- The site is located in Flood Zone 3 (apart from a small area in Flood Zone 1). To this end vulnerable uses should be located on upper floors. The scheme complies with this requirement. A safe exit route and evacuation strategy will be needed.
- The use of sustainable urban drainage systems (SUDS) is encouraged on the site
- The proposed development satisfies the current parking standards, although the use of spaces needs to be managed. The cycle parking provision may not be user-friendly.
- Travel information and Marketing Packs need to focus on travel planning to and from the University, access to the town centre, railway stations etc.
- The provision of a contribution to a bridge link across the River Colne is supported
- The usability of the proposed open space is queried
- The ecological survey work is supported and the sustainability credentials of the building are considered to satisfy policy requirements
- It is not clear whether the uses housed in the buildings to be demolished will be relocated elsewhere.

Officer comment: The comment regarding storey heights is noted but the scale and massing of the development and its likely impact in this location is considered to be acceptable. The cycle parking provision for the student population is provided in secure rooms within the overall parking and servicing area. It should also be noted that the site will have 24 hour facilities management and will be covered by extensive CCTV coverage monitored within the main site management offices. The open space that is provided with the development will be fully publicly-accessible. The terms of the access to the space would be agreed as part of any s.106 agreement attached to a grant of planning permission. At the time this report was drafted it was evident that the occupiers of the building to be demolished on the site (in the north-western corner) had vacated the premises. A sign attached to the building advised of the relocation address of one business.

8.7 The Environment Agency has confirmed that it has no objection to the proposal subject to the imposition of conditions and informatives on a grant of planning permission.

8.8 The Council's Development Team has considered and noted the proposal. The range of elements deemed necessary to mitigate the impact of the development will be discussed further on in this report.

8.9 The following detailed comments on the proposal have been received from the Urban Design Officer:

'The site is located within the East Colchester Growth Area and East Colchester Regeneration Area, as defined in the CBC Core Strategy (2008). Within the CBC Site Allocations DPD (2010), the site is allocated for a mix of leisure, business, community, small scale retail and service uses with residential development considered appropriate on upper floors (Policy SA EC4: King Edward Quay, Area 2). The site is within Flood Zone 3 where less vulnerable uses such as retail, civic or office uses, parks and public spaces should be located at ground floor level, and more vulnerable residential uses at upper floor level. A Development Framework for the KEQ Maltings site was adopted as a technical guidance (2011), providing more detail on the Council's expectations for future development in the area.

The client has identified a need for private student accommodation within close proximity to the Essex University campus. This site offers a good opportunity to meet this demand in terms of proximity and in terms of the Council's general policy aims for regeneration. The Council has considered that a mixed use development based broadly on the provision of high quality accommodation for students would be an appropriate approach. A high quality development on this key site will provide the catalyst for further development and regeneration of the wider Colne quayside area.

Relationship to site context – Brownfield site in Flood Zone 3

- The scheme has been designed as a series of linked blocks set around a raised podium which provides amenity space, circulation and access to commercial use at first floor level and residential accommodation above, and links to a public open space at ground floor level. The urban open space, an integral part of the development, faces the quayside to the east, is contained by built form to the west, north and south, and provides a water compatible use. This approach has been taken to provide the most effective way of dealing with risk from flooding and is in compliance with Policies SAEC2 and SAEC4. The proposal relates well to the riverside/flood zone context and provides the means for adaptation to climate change / flood risk environment over time. The redevelopment of this derelict industrial site in an extensive area of development and transition will make a positive contribution to the character and appearance of the locality, in line with the spatial strategy and UR2.

Sense of place and character

- The surrounding area is characterised by higher density apartment block developments mainly along the opposite side of the river. There is a mix of residential buildings and student accommodation and facilities at University Quays. The student accommodation complex is distinct, with a simple built form and material palette, larger elements treated in a single material making them appear bolder and giving the area a distinct and recognisable character. The proposed building complex on the Maltings site takes reference from University Quays in terms of built form appearance and materials treatment. The proposal features distinct variations in material to define large elements of the building, e.g. the corner blocks, curved section, projecting sections etc. in a material palette not

dissimilar to University Quays. This approach can work well to strengthen the context of an emerging 'University quarter' in this part of East Colchester.

Townscape and wider impact

- The built form is designed in a curve around a central open space, providing active frontages to Haven Road, Distillery Lane and the quayside, and offering activity, containment and definition to the public open space. The proposed building layout responds broadly to the guidance in the KEQ Maltings Framework and is acceptable.
- The layout is permeable and allows movement through the site from the Colne roundabout towards the quayside (a direct desire line), and strengthens the existing pedestrian/cycle route along Distillery Lane. It is important to retain optimum public permeability through the building, and the proposed gates at the north side of the podium level should not be a hinder to public pedestrian flow.
- Impact on townscape - The proposed development is within Townscape Character Area 10 - The Hythe (20th Century Retail, Commerce and Industrial TCA) noted as having high visual sensitivity, with views along the river corridor and to neighbouring urban landmarks. There is predicted to be a direct, positive impact on the townscape character of The Hythe TCA – the development will improve the legibility by providing prominent local views along the River Colne terminating on a distinct focal point at the Colne Causeway roundabout, and will increase permeability and visual and physical connections to the river corridor in this part of The Hythe. The townscape quality of the quayside will be improved by adding a vibrant public space which can be used for relaxation, sports, open air events and social gatherings, as part of a sequence of public spaces along the KEQ Quay.
- The site is adjacent to LCAs D3 - Colne Drained Estuarine Marsh and B8 - Wivenhoe Farmland Plateau which effectively separates the urban area along the river from the University of Essex complex. The proposed development is not predicted to have any significant impact on the key landscape characteristics of LCAs D3 and B8.
- The new development is set against the backdrop of remnant mature woodland, part of the Bourne Pond/Salary Brook site of importance for nature conservation, and the Grant's Meadows allotments, on a gradual slope to the west. This continues the characteristic band of buildings along the west bank of the River Colne, although with a more intensive development and building heights stepping up and culminating at 9 storey at a focal point. The proposed built form configuration provides a varied roofscape against the woodland backdrop, stepping down from north to south. Overall, the development will not have a negative impact on the local townscape.

Built form scale and mass

- The built form responds well to important corners and provides a taller, 9 storey landmark structure at the corner to the Colne Causeway roundabout, signalling the primary gateway to the wider KEQ area. While the height of the landmark structure exceeds the acceptable 7 storey height, it is limited to two tower features marking a gateway and thus improving legibility in the area. The building footprint decreases in size on the top two levels, this visually results in a lighter structure and bulk that does not appear excessive. The plant enclosures terminating the towers need to have the quality of architectural features, and their careful detailing and material

choice will be imperative, to ensure the towers have a visual landmark point quality. The overall impact of the taller building at this focal point is positive and the landmark structure will be acceptable provided that outstanding architectural quality detailing and high quality materials are demonstrated throughout.

- The buildings step down from the taller focal buildings to the north, with the majority of the development six storeys in height, and down to 5 storey to the south-west and east. The stepping down in height provides a better interface to the smaller, human scale Distillery Lane and the quayside public open space, while two taller corner elements frame the open space. The shadow studies demonstrate that the built form is modelled to step down in height to provide sunlight and daylight to the internal podium space and quayside open space, and no undue overshadowing of neighbouring sites occurs. The built form broadly adheres to the Development Framework for the KEQ Maltings site and Policy UR2. The average height of 6 storey is considered appropriate for the area in planning policy terms (SAEC2), and compliments the historic industrial townscape and the emerging urban character of the area on the east side of the river. The scale, mass and height of the proposal will be acceptable, provided that outstanding architectural quality detailing and materials are demonstrated throughout.

Quality of the Public Realm

These areas are Distillery Lane, Quayside park, Haven Road frontage including access from Colne Causeway, and the podium area. The proposals for each area will be evaluated against the relevant policy and guidance documents.

Distillery Lane

- The design of this area is poor, with a car-based layout, unimaginative soft landscaping and hard surfaced area, and a poor relation to the new building. The design needs to demonstrate a more organic soft landscaped space with a riverside reed beds and soft grasses, to continue the general character of the public realm, and to soften the car park area. It should draw on the 'green lane' character of Distillery Lane west of Haven Road to help develop a seamless link of high landscape, visual and ecological value, in accordance with PR2
Officer comment: the final details of landscaped areas can be controlled by the imposition of conditions.
- Distillery Lane is identified as an important 'green link' connecting Distillery Pond and KEQ and strengthening the network of green corridors in the area, to make significant improvements to walking and cycling in the regeneration area and along the river corridor (in accordance with TA2 and PR2). Distillery Lane should be developed as a strategic pedestrian / cycle route and therefore should be treated with the same surface material to the junction with KEQ. A simple, single surface should be used in the space to emphasise pedestrian/cycle movement and strengthen the people focussed character. Black tarmac will not be acceptable, and a surface material complementary to the soft landscape should be used instead. The entry from Haven Road should be redesigned to read as a pedestrian access only, e.g. a continuous kerb along Haven Road and a narrow hard surfaced pedestrian route will signal 'no vehicular access', that would preclude the need for bollards.

- Soft landscape features should be designed to function as stormwater attenuation to comply with requirements for SUDs in DP20. A wetland/reedbed feature should be included near the KEQ to provide for tidal flooding attenuation
- As an integral part of the development, improvements to local cycle/pedestrian links should include a pedestrian crossing on Distillery Lane over Haven Road and closure of the Distillery Lane for vehicles from Haven road to the site through imaginative design. Further improvements should include a bridge link across the Colne river to provide direct connection with the University campus.

Quayside park

- A public open space of approximately 0.168 hectares and facing the quayside is provided as a focal point to the development. While the space is well below the 1HA as identified in SAEC2 and SAEC4, the area is of a good-size and provides a useable open space that is flexible enough to be used for a variety of activities – a terraced amphitheatre section for recreation and relaxation, and a stage section for open air events and gatherings. An active edge to the public space is provided by a café/restaurant, a community space/gym and communal uses associated with the student residences, in line with PR1, the Regeneration area agenda in the Site Allocations and the design guidance for the KEQ Maltings site.
- The design provides a sense of place, with an organic terraced form which reflects the curve of the buildings and the power of the river to erode and shape the floodplain terraces; and a central public space set against the backdrop of the river and connected seamlessly to the quayside. The materials used within the events space should match those already used on the recently refurbished quayside so the spaces feel connected and unified.
- The central space is located to take advantage of the sun, and is a simple and robust shape level with the quayside, to allow for different activities and events to take place on the riverfront. To provide a flexible and multi-functional space, street furniture within the ‘events space’ should be kept to a minimum and should not be permanently fixed in place, to prevent fragmentation of the space. Seating which defines the edge of the space should be movable to allow for space flexibility, a design requirement which should be secured in detailed design for discharge of conditions.
- There is good permeability from KEQ through the space up to the higher podium level through a series of grassed terraces. The layout broadly reflects anticipated patterns of pedestrian flow, with opportunities for informal viewing from the adjacent café terrace and the curved seating on the grassed terraces. Disabled access is included via ramps. The permeable design adheres to PR1 and PR2 and the guidance in KEQ Maltings.
- The quayside park provides an accessible public amenity space for the student residence development, in line with DP16.

Haven Road Frontage and entrance from Colne Roundabout

- The design of this strip needs to provide an effective edge to Haven Road and a green buffer to soften the dominant and featureless plinth screening the undercroft parking, to ensure an attractive pedestrian environment (PR2). Raised land forms with broad swathes of reed/tall grass planting would be complementary to the scale of the built form and will help soften this frontage, while mirroring the green edge to

the opposite side of Haven Road. Emergency accesses should be inconspicuous, in simple grass-crete that would read with the soft landscape.

- The access to the undercroft parking should be landscaped along the edges to soften its impact. Green wall treatment should be considered
- The pedestrian entry from the Colne Causeway is a space that has a function to signal the primary gateway not only to the development but the whole KEQ area, and provide a setting for and a good relation to the landmark building frontage. The disabled ramp wall and the plaza retaining wall create a dead impermeable space against pedestrian flow, and pedestrian access is confined to a set of narrow and awkwardly aligned flight of steps. Overall, the space has poor permeability, it does not effectively acknowledge pedestrian desire lines and fails to provide an inviting and more striking entrance and a focal point when approached from the roundabout. This is contrary to PR1, PR2 and not in accordance with the design guidelines identified in the KEQ Maltings Framework.
- An imaginative and more organic design should be considered to negotiate level changes while providing a focal point viewed from the roundabout. A series of steps and terraces would provide gradual stepping in levels and would avoid an unwelcoming high retaining wall. The radial pattern and soft grasses theme of the quayside park could be interpreted in a more formal manner here, ensuring a strong formal setting and clear relation to the landmark building. The soft landscaping should not screen but carefully frame and emphasise this focal area.

Podium Area

- The podium has a function to provide access to and circulation for the public and students alike between the food store, café/restaurant, gym and the quayside park. The focus of the podium is the 'public plaza' overlooking Colne roundabout and providing the primary gateway to KEQ. The space also provides access to student accommodation and the shared student facilities, and a private courtyard in the southern part of the podium for the use of students only. The podium has been designed to encourage people to use the external space and to provide direct access to the quayside, to help promote a good public environment, greater use and more visitors to the quayside. This is in accordance with SAEC2, SAEC4, the brief guidelines and PR1 and PR2.
- Security measures should not deter from this connectivity through the building and a people focussed, pedestrian friendly environment should be ensured through design. The design need to acknowledge that the link through the development, from the public plaza overlooking Haven Road to the riverside open space on King Edward Quay is part of a route that connects Colchester town with the Rowhedge trail and beyond, and will be well used.
- Features such as railings, guardrails and knee rails should be rationalised and minimised to the most necessary only, to prevent clutter and the designs should reflect the established reedbed character to create a memorable environment and a sense of place, in accordance with PR2.
- Parking provision is made within the site for a total of 231 cars, mostly in undercroft parking. The undercroft parking area is not immediately visible as it is well screened behind a solid building plinth, and does not have a negative visual impact on the public realm. The vehicular access to the parking should be carefully designed and landscaped to reduce a negative impact on the public realm on Haven Road.

- Some short term surface parking is provided along KEQ and along Distillery Lane. These parking spaces, together with the vehicular access should be visually integrated into the quayside park design and appear as part of a shared space, to comply with PR2 and design guidelines in the KEQ Maltings brief. The car park at the junction with KEQ is a very unimaginative and utilitarian space, a hard space completely lacking in soft landscaping, disconnected from the quayside public space and detrimental to the townscape and its character. The surface parking design does not comply with PR2 and the technical guidance.
- Considering the location is an accessible urban area with good links to public transport (Bus Route 61 from the Albany Gardens bus stop, Hythe Station 10-15 min walk), with convenient walking and cycling distances to the University campus (approx. 15-20 mins. walk), the town centre and local services, the scheme is expected to promote alternative more sustainable travel behaviour and modes of travel, in line with policies TA1 and TA2.
- Halls of Residence are not specifically referred to in the adopted Parking Standards and no maximum or minimum standard is given for this particular use. The scheme incorporates 153 spaces for student residents (1 per 5 students), secure parking for 271 cycles (1 per 2.7 students) and 9 powered two-wheel vehicles. There is a general recognition in the Parking Standards document that a relaxation of private vehicle standards can be made in more accessible locations, with adequate provision for more sustainable modes, e.g. cycles, to promote a shift to a more sustainable travel behaviour. In this context, I consider the overall parking provision in the scheme to be in line with policies TA1 and TA2. In terms compliance with Parking standards ECC Highways should be consulted.
- 78 shared spaces are provided to serve the proposed retail and leisure uses, including short-term parking spaces for visitors along the quayside. The Adopted Parking Standards encourages the shared use of parking in a mixed use development which is likely to create parking demands at different times of the day *...provided this works without conflict and that car parking is within the standard that requires the most number of spaces applicable. Conflict should not occur so long as the shared use developments operate at differing times of day or days of the week.* ECC Highways should be consulted for compliance with the Council's adopted maximum parking standards .

Detailing and Materials

- The development utilises a simple and limited palette of materials taking reference from the local vernacular and other newer buildings within the vicinity. The external materials are predominantly buff-coloured facing brickwork, plinth in grey facing brick and through coloured renders in stone and terracotta colours. The palette provides some continuity with the student accommodation at University Quays, and helps unify the area as a 'family of buildings' related to the University.
- The building is treated as one complex, but with distinct variations in larger sections to define different elements of the building, e.g. the corner blocks, curved section, retail elements, which help break the bulk visually. This variation in material also adds to the articulation of the building as a whole.
- Detailing of the plinth is of high importance, and good articulation and interest will be required as these are the parts of the building perceived at close range. The featureless plinth to Haven Road and Distillery Lane needs to be carefully detailed and further screened with landscaped raised land form (where possible and it does not obstruct sight lines), to provide a better interface to the public realm and adhere

to UR2 and PR2. The treatment of the ground floor on the north elevation frontage (adjoining the footway to KEQ and accesses to deck level) appears blank and the area is not overlooked – the materials need to be carefully considered to ensure surveillance and prevent anti-social behaviour, and a choice of materials that would deter graffiti etc.

- Where there are changes in level architectural and hard landscape elements, e.g retaining walls, steps, should be integrated and of complimentary palette,

Recommendation

- It is important to retain optimum public permeability through the building, and the proposed gates at the north side of the podium level should not be a hinder to public pedestrian flow.
- The design of the public realm needs to be improved...Detailed design of each public area should be subject to conditions discharge.
- The overall impact of the taller building at this focal point is positive and the landmark structure will be acceptable provided that outstanding architectural quality detailing and high quality materials are demonstrated throughout.
- The scale, mass and height of the proposal will be acceptable, provided that outstanding architectural quality detailing and materials are demonstrated throughout.'

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 Ward Council Response

9.1 Not applicable as the site falls within a Town Ward

10.0 Representations

10.1 Following an extensive consultation exercise three representations have been received. A neighbouring resident queries whether the amount of car parking is sufficient to deal with the number of residents. It is also queried whether there is sufficient demand for this type of accommodation and also whether the applicant has experience in running this type of scheme.

10.2 A representation from the developers of the first phase of the student accommodation to be constructed on the Knowledge Gateway site expresses concerns about the potential oversupply of student accommodation that would result from the approval of this scheme. Additionally, it is feared that this development could jeopardise the provision of the second phase of student accommodation at the Knowledge Gateway.

10.3 The Wivenhoe Society has advised that the proposal could lead to sewerage problems in the area and Anglian Water should take account of all planned developments in the area.

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

11.0 Parking Provision

11.1 Members should note that there is no specific category within the adopted Car Parking standards that deals with off-campus student accommodation. The nearest applicable standard is for residential education establishments – further/higher education where a maximum vehicle parking standard is as follows:

- 1 space per full time equivalent staff + 1 space per five students.

11.2 The submitted scheme proposes the provision of 153 spaces for students (134 spaces under the podium and another 19 spaces off Distillery Lane) which accords with the identified standard (i.e. 765 student bed spaces divided by 5).

The required cycle parking standard is:-

- 1 space per 5 staff and 1 space per 3 students.

The standard requires the provision of 255 spaces for students at 1 space per three students. The submitted scheme proposes the provision of 251 cycle spaces – a shortfall of 4no. spaces.

11.3 The commercial element of the scheme would be provided with parking that would be utilised on a shared basis. Section 2.6 of the adopted standards advises as follows in relation to shared parking space provision:

‘Shared use of parking areas is highly desirable, provided this works without conflict and that car parking is within the standard that requires the most number of spaces applicable. Conflict should not occur so long as the shared use developments operate at differing times of day or days of the week...Shared use may result in a reduction in the number of parking spaces which a developer is required to provide.’

11.4 In the case of this development it is of relevance that the mix of commercial uses is likely to give rise to parking demand at differing times of day. For example, visits to the retail use are likely to be higher during the day whereas the use of the restaurant is likely to be greater in the evening. It should be noted that the proposed parking provision on the quayside would also provide short-stay parking opportunities. The submitted scheme proposes the provision of 69 shared spaces to serve the commercial development on the site, with a further 9 spaces to be located on the quayside. The plans also indicate the provision of 20 cycle spaces at podium level for public use. In terms of parking for disabled drivers Members should also note that the scheme proposes the provision of 12 disabled spaces (calculated at 5% of the total space provision overall) and 9 powered two-wheeler spaces for motorcycles etc.

12.0 Open Space Provisions

12.1 Policy DP16 of the Adopted Development Policies document of the LDF requires that residential development will be expected to provide publicly-accessible areas of open space and as guideline at least 10% of the gross site area should be utilised for this purpose. However, Members are advised that there is no specific policy standard that relates to the provision of student accommodation.

12.2 Notwithstanding the above the submitted scheme does propose areas of publicly-accessible open space as follows:

- Park adjacent to the quay - 1893 sq m
- Area within the podium – 2613 sq m
- Informal landscaped area adjacent to Distillery Lane – 528 sq m

In total the areas calculate at 5034 sq m. The given overall gross site area for this proposal is 13 861 sq m and the policy guideline of 10% gross area being used for open space would require the provision of 1386sq m of space to be provided. Members will note that the submitted proposal includes a provision that is well in excess of this requirement.

12.3 It should be noted that while the identified areas of open space would be accessible by members of the public they would not be transferred to the Council for future maintenance. Rather, the developer would manage these areas along with the area of student-only open space that is proposed within the podium area of the development.

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 Report

14.1 The scheme submitted for formal consideration by Members follows on from a series of pre- and post-application submission meetings held between the Developer and your officers, through a Planning Performance Agreement process.

14.2 In consideration of the principle of this scheme taking place on this site it is important to note that one of the core planning principles contained in the National Planning Policy Framework encourages ‘...the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value...’ The application site has clearly been developed in the past and does not have a specific high environmental value. It is considered that the application site matches this requirement. Following on from this the land does fall within a defined regeneration area within Colchester. The Council’s Core Strategy document does recognise this part of the town as a sustainable development location and Members will be aware that the Strategy recognises East Colchester as an area where new development opportunities exist. Specifically, the Adopted Site Allocations document includes Policy SA EC4 Area 2: King Edward Quay which states:

‘Within Area 2, development will be required to provide for a mix of leisure, business and community uses. Residential uses will also be appropriate on upper floors and small-scale retail and service uses can also be provided. Contributions to infrastructure provision and environmental enhancements will be sought from new developments. In addition to generic Borough wide requirements, contributions will also be sought towards the following local infrastructure;

- *Public urban park*
- *Improved green links and pedestrian/cycle routes.*

- 14.3 Whilst it is fully appreciated that the submission has to be considered in the light of all relevant policy statements it is your officer's opinion that the submitted scheme follows the principles as set out in the Allocations policy that is specifically relevant to this development site. For example, the scheme incorporates a mix of uses including retail, leisure and community uses as required by the policy. Furthermore the residential use is set at above ground level (at podium level and on the upper floors of the development), in acknowledgement of the fact that the site is within a recognised flood zone. The scheme also includes the provision of an urban park connecting with King Edward Quay.

Design and Layout

- 14.4 The scheme put forward for Members consideration is arranged to utilise the topography of the site and also deal with the significant constraint that is imposed by the fact that this area of the Hythe falls within a defined flood zone (zone 3). To this end the proposed development at ground level consists of service and parking areas etc. that area accessible from a new vehicular access off Haven Road. This arrangement ensures that there are no vulnerable uses proposed at this level such as residential accommodation. The design of the scheme would locate the main development on a podium above the car park area. The surface level of the podium would be set at approximately 4 metres above the level of the car park. It should be noted that the landscaped areas fronting on to King Edward Quay would be at ground level albeit that the urban park would incorporate terracing and steps in order that the podium was conveniently accessible from the quayside.
- 14.5 The layout of the development is such that the buildings themselves incorporate curved elements that are considered to give the development a more organic and less formalised appearance. It is noted that other visually-successful developments in the area, such as the University Quays, also have main elements that are curved and the submitted scheme reflects this approach. Of particular note as a design feature is the arrangement of development in order to create a feature of the urban park – the proposed development arranged in a 'crescent' around what will be an important local space. In your officer's view the creation of useable space in this form is wholly appropriate to this quayside location and reflects the Council's own development brief for the site. Indeed the arrangement of this key space has acted as a main influence on how the overall site is arranged.
- 14.6 The nature of the site is such that development located here will have significant impact in the street scene in this part of the Hythe and in this particular case the site has key public boundaries which must all be successfully addressed. The submitted scheme includes the aforementioned quayside urban park but a fundamental consideration is how the proposal would be 'experienced' from other viewpoints such as the surrounding road network, and even longer distance views into the Hythe area from elevated positions such as Clingoe Hill to the east. Bearing this in mind it is considered that the design reflects the contemporary nature of the architecture found in newer developments in the Hythe area, but has an individual character that would add to visual quality in this location. Furthermore the arrangement of built form would mean that all site boundaries are properly addressed. Clearly the most 'active' frontage would be where the development meets the quayside but the development also relates well to the Haven Road and Distillery Lane frontages are also addressed.

It should also be noted that the design ensures that although the development would consist of car parking at ground floor level under the podium the impact of this arrangement is controlled through the design whereby this area is screened by a brick 'plinth' detail. This element also gives the building a structural integrity in visual terms which is considered to add significantly to the overall success of the design.

- 14.7 There are other areas within the development where the public experience of the development will be important. For example, the area around the proposed retail unit will be an area of public focus. To this end the retail unit has been designed to address both the external space (facing Haven Road and the roundabout) and the 'internal' space of this section of the publicly-accessible podium area. As well as the retail unit this northern area of the site would include the commercial elements of the proposed development such as the restaurant/bar, community/gym facility. Again, the design of these elements of the development has addressed their relationship with the wider area. Importantly, they would also add an important element of vitality to this part of King Edward Quay – both during the day and in the evening.
- 14.8 As an adjunct to the built form on the site the spaces between have been designed in order to create a pleasant and, importantly, useable environment. The open space within the podium itself would incorporate hard and soft landscape features and seating areas. Members should note that the design of the development requires that the covered car park area is adequately ventilated. Therefore as design feature of the scheme is the provision of venting areas within the podium open space. Notwithstanding the requirement for these elements it is considered that the design of the scheme screens them from wider view in a visually sensitive way. Turning to the urban park area this is designed in order to be a visually interesting, and useable open space. As this feature is intended to become a focal point not just for this development but also for the wider Hythe community it is intended that the space would be used for organised events and the design of the space reflects this. For example, areas of seating would be provided in front of the grassed terraces and adjacent to the quayside. Additionally, the surface treatment found on King Edward Quay would extend within the park itself thereby providing a visual link with the quayside area.

Scale Height and Massing

- 14.9 Members will note that the development does propose a range of storey heights ranging from 4 to 9 storeys. The majority of the built form is set at 6 storeys. In considering the appropriateness of the heights of the development it is important to consider this in the context of the surroundings. Members will be aware that various redevelopment schemes in the area (including the Moler works and Spottiswood Ballantyne developments) are apartment schemes set at a range of storey heights – predominantly these are 5 and 6 storeys but elements of these developments do go up to 8 storeys (in the case of the apartment building to the north of the application site on the opposite side of the river). The submitted scheme does include a higher element, at 9 storeys, but this highest element of the building consists of a plant room that accommodates a lift overrun facility. The highest level for residential accommodation is located at the 8th floor and this is one cluster unit of six apartments. Other smaller elements of accommodation are located on the 7th and 6th floors but the majority of accommodation does not begin until the 5th floor, continuing down to the 1st floor. Although the bulk of the built form would be significant on this site it is considered that the design and arrangement of the development ensures that it would not appear as monolithic within this setting. The curved nature of elements of the

buildings and the judicious use of a simple palette of materials would help to break up the mass of individual elements. Furthermore the higher elements of the development would read as a series of smaller scale projections that would add visual interest to the roofline of the building.

Impact on the Surrounding Area

- 14.10 As described previously in this report the site is located within an area with a strong commercial context, with more recent residential infill development having taken place. In the vicinity of the application site is established commercial development to the south-east and a vehicle breakers yard on the opposite side of Haven Road to the south-west. The nearest residential development would be located to the north-east on the opposite side of the river, on the former Moler works site. Generally, the overall character of this part of King Edward Quay is in need of improvement and it is noted that elements such as the recent works to King Edward Quay itself and the demolition of the Coldock buildings to the south-east of the site have certainly improved the situation. Although this proposal is clearly a substantial and comprehensive new development in this location it is considered that it would further assist in considerably improving visual amenity in this regeneration area and may also act as a catalyst for further development proposals – thereby allowing the Council to realise its regeneration aims for the area.

Impacts on neighbouring properties

- 14.11 As has been noted above the site is not immediately adjacent to residential development – the nearest being on the opposite side of the river to the north-east. Members will be aware that there is also residential development on the former Distillery Lane site but this is some 100+ metres distant from this application site. On this basis it is not considered that the amenity of the occupiers of these dwellings would be adversely impacted by the development as proposed due their relative remoteness. Indeed, the main impacts of the development for the occupiers of residential development are likely to be experienced during the remediation and construction phases of the development. Members are advised that both the remediation and construction phases of the development have been considered as projects that may require the submission of an Environmental Impact Assessment. The applicant sought a direction from the Secretary of State on the issue. This resulted in a direction that EIA was not required in this case. Notwithstanding this situation the control of remediation and construction impacts is available to the Council under Environmental Control legislation. As regards the impact of the development on the established commercial developments in the vicinity it is considered that this would not be unacceptable and again while privacy is not an issue the land remediation and construction phases of the development are likely to be most noticeable.

Amenity Provisions

14.12 The submitted scheme does propose the provision of the following amenities that would be accessible by the public:

- Fully accessible areas of open space including an urban park
- Provision of a mixed use development that would incorporate a retail use, community use and gymnasium and restaurant and bar
- Public toilet facility
- Car parking facilities

14.13 In terms of the open space provision on this site the amount provided is comfortably in excess of the Council's policy guideline of 10% of the gross site area. Also the provision of the urban park accords with the Council's aspirations for this area as set out in relevant policy and SPD documents.

Highway Issues

14.14 The consultation response received from the Highway Authority in relation to this development did not raise an objection to the proposals but did raise a number of points which can be summarised as follows:

- The Authority requires the provision of works that would prevent vehicles being able to access Distillery Lane from Haven Road.
- A priority junction off Haven Road to provide access to the proposal site.
- The agreed proposed amendments/improvements within existing and proposed highway in Distillery Lane and King Edward Quay
- A contribution to cover the cost of any amendments to existing or proposed waiting and/or loading restrictions required as a result of the proposal
- Upgrading of the existing Haven Road (proposal side) footway between the Colne Causeway Roundabout and Distillery Lane/the toucan crossing mentioned below to a minimum 3 metre wide foot/cycleway
- A toucan crossing in Haven Road in the vicinity of Distillery Lane
- Upgrading of the two nearest bus stops to current Highway Authority specification including but may not be limited to real time passenger information
- For the residential elements of the proposal, Residential Travel Information Packs
- For the non-residential elements of the proposal, a Travel Plan to include but shall not be limited to a £3,000 contribution to cover the Highway Authority's costs to approve, review and monitor the Travel Plan

14.15 Members are advised that the submitted scheme includes a scheme of works to prevent access to Distillery Lane from Haven Road, as well as the improvement of Distillery Lane and part of King Edward Quay. Furthermore the plans show the provision of a new access into the site, and the required improvement to the Haven Road footway to a minimum 3 metre width footway/cycleway. The developer has also agreed to the request for a toucan crossing and the upgrade of the two nearest bus stops. The remainder of the elements are discussed in the section of the report that deals with s.106 issues.

Other matters

14.16 As will be appreciated by Members the scale of the development has required that the Developer enters into a s.106 agreement in order to secure a mitigation package to reflect the impact of the development. The proposal has been presented to the Development Team for consideration and following on from that meeting, and subsequent negotiations (authorised by the Development Team) the following elements have been agreed:

- As mentioned previously the Developer would provide and maintain the publicly-accessible open space. In addition it has been agreed that the Developer would pay a £180 000 contribution to off-site sport and recreation facilities (this sum split into two £90 000 amounts to be paid at identified trigger points)
- An £85 000 contribution to events to be held on the on-site open space – again this sum to be paid in two amounts of £42 500 at identified trigger points
- Provision of student discount cards enabling a £100 credit for students to be spent within the site facilities (excluding the retail store) or towards a bus pass. It is proposed that the amount of cards issued would be 3000 – acknowledging that the population of the residential accommodation will ‘churn’ over time with new students replacing leavers. This represents a cost to the Developer of £300 000.
- A contribution of £250 000 towards a new bridge across the river. This money to be paid when an agreed scheme is in place and implementable.
- Other elements of the agreement would include ensuring public access to the designated open space, agreement on the use of the community facility on the site, and travel information packs.

14.17 Members should note that when the application was originally considered by the Development Team it was confirmed that the proposal did not give rise to a need for a contribution to educational facilities as Essex County Council as education authority confirmed that there are enough school places in the area. Additionally a request for CCTV provision was subsequently withdrawn as the development will be covered by its own CCTV provision.

15.0 Conclusion

15.1 The proposed development of this site represents an important phase in the overall redevelopment of the Hythe area of the town. While other sites within the former port area are virtually complete, or in the throes of redevelopment, the land adjacent to King Edward Quay has remained undeveloped for a significant period. This proposal would secure a redevelopment of part of this area and would hopefully act as a catalyst for further redevelopment on this side of the river.

15.2 Notwithstanding the above, it is essential that redevelopment proposals are of high quality and, hence, raise the character and appearance of the area. It is your officer’s view that the scheme put forward for Members’ consideration achieves this aim. The design of the building is considered to be of high quality in itself and the creation of spaces resulting from the development would enhance the area. Importantly, the scheme would also introduce further activity and vitality into the quayside area in particular and also the wider Hythe area – thereby addressing an established regeneration aim in the Council’s adopted Local Development Framework.

15.3 Another key consideration in the evolution of the proposed scheme is the important issue of car parking provision. Members will be aware that parking in the redeveloped areas of the Hythe has been problematic. However it is your officer's view that the submission includes a level of parking commensurate with the Council's adopted standards.

15.4 In summary it is considered that a conditional planning permission for the proposed development may be granted in this case, subject to the prior completion of a s.106 agreement as described above in order that the impacts of the development may be properly mitigated.

16.0 Recommendation

1. APPROVE subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to provide the following:

- A £180 000 contribution to off-site sport and recreation facilities (this sum split into two £90 000 amounts to be paid at identified trigger points)
- An £85 000 contribution to events to be held on the on-site open space – again this sum to be paid in two amounts of £42 500 at identified trigger points
- Provision of student discount cards enabling a £100 credit for students to be spent within the site facilities (excluding the retail store) or towards a bus pass. It is proposed that the amount of cards issued would be 3000 – acknowledging that the population of the residential accommodation will 'churn' over time with new students replacing leavers. This represents a cost to the Developer of £300 000.
- A contribution of £250 000 towards a new bridge across the river. This money to be paid when an agreed scheme is in place and implementable.
- A contribution to cover the cost of any amendments to existing and/or proposed waiting and/or loading restrictions required as a result of the proposal.
- For the non-residential elements of the proposal, a Travel Plan to include but shall not be limited to a £3000 contribution to cover the Highway Authority's costs to approve, review and monitor the Travel Plan.
- Other elements of the agreement would include ensuring public access to the designated open space, agreement on the use of the community facility on the site, and travel information packs.

2. On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

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

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition

2. The development hereby approved shall be carried out in accordance with the plans submitted with the planning application, together with all supporting documentation, unless otherwise agreed in writing with the Local Planning Authority. The identified plans (drawing nos) are as follows:

- D136856 ST-111 Rev P2
- D136856 ST-112 Rev P2
- D136856 ST-113 Rev P2
- 1203_BA_A_PL02 Rev N
- 1203_BA_A_PL03 Rev L
- 1203_BA_A_PL04 Rev H
- 1203_BA_A_PL05 Rev H
- 1203_BA_A_PL06 Rev H
- 1203_BA_A_PL07 Rev H
- 1203_BA_A_PL08 Rev H
- 1203_BA_A_PL09 Rev G
- 1203_BA_A_PL10 Rev G
- 1203_BA_A_PL11 Rev B
- 1203_BA_A_PL12 Rev D
- 1203_BA_A_PL13 Rev C
- 1203_BA_A_PL14 Rev C
- 1203_BA_A_PL15 Rev C
- 1203_BA_A_PL16 Rev B
- 1203_BA_A_PL17 Rev B
- 1203_BA_A_PL18 Rev A
- 1203_BA_A_PL19
- 1203_BA_A_PL00 Rev B

Reason: For the avoidance of doubt as to the scope of the permission hereby granted and in order to ensure a satisfactory form of development in the interests of visual amenity.

3 - Non-Standard Condition

Prior to the commencement of development samples of the external materials and finishes to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory form of development in the interests of visual amenity.

4 - Non-Standard Condition

Prior to the commencement of the approved development detailed drawings shall be submitted to and approved in writing by the Local Planning Authority which give details of how the rendered paneling features on the building are to be applied to the building, including the proposed panel arrangements and positions. The development shall be erected in accordance with the agreed drawings to the satisfaction of the Local Planning Authority.

Reason: The Council is keen to ensure that the panel features on the building are applied in a visually satisfactory arrangement in order that they make a positive contribution to the overall appearance and character of the development in the interests of amenity.

5 - Non-Standard Condition

The residential accommodation hereby approved shall only be occupied by students attending educational courses at the University of Essex during term times or persons attending courses, seminars or events at the University campus outside of term times, and for no other purpose.

Reason: The development has been approved on the basis of the link between its use and the nearby University of Essex campus. The Council has considered the proposal on this basis and wishes to control the occupancy of the residential units in order to avoid any doubt that the building may not be utilised for general (C3) occupancy.

6 - Non-Standard Condition

Prior to the development hereby approved being brought into use, refuse storage and recycling facilities shall be provided in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. In the case of communal storage areas, a management company shall be made responsible for the maintenance of such areas. Such detail as shall have been installed shall be retained and maintained in good working order. The developer shall notify the Local Planning Authority of the management company contact details as soon as these are known.

Reason: To ensure that adequate facilities exist on site for refuse storage and recycling facilities.

7 -Non-Standard Condition

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

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

8 - Non-Standard Condition

A competent person shall ensure that the rating level of noise emitted from the site [plant, equipment, machinery] shall not exceed 0dBA above the background prior to the development hereby approved coming into beneficial use. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority prior to the development hereby approved coming into beneficial use.

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

9 - Non-Standard Condition

The building hereby permitted shall not come into beneficial use until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to the building hereby permitted coming into beneficial use and thereafter be retained and maintained to the agreed specification and working order.

Reason: In order to ensure a satisfactory form of development and in order to control the potential for fume and odour nuisance.

10 – Non-Standard Condition

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light'. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to [the building hereby permitted coming into beneficial use/the use hereby permitted commencing] a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

Reason: In order to safeguard the amenity of neighbouring properties by controlling the undesirable, disruptive and disturbing effects of light pollution.

11 – Non-Standard Condition

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1) floor levels shall be set as follows:

- a) ground floor units will be set at 2.75 mAOD;
- b) minimum floor levels for accommodation units will be set at 5.275mAOD;
- c) podium level will be set at 6.4mAOD.

2) prior to the commencement of development identification and provision of safe route(s) into and out of the site to an appropriate safe haven shall be submitted to and agreed, in writing with the Local Planning Authority:

3) Prior to the commencement of development a flood evacuation plan shall be submitted to and agreed, in writing with the Local Planning Authority, in consultation with the Environment Agency before occupancy of any part of the proposed development.

Reason: 1) To reduce the impact of flooding on the proposed development and future occupants.

2) To ensure safe access and egress from and to the site.

3) To provide safe access/ egress during flood events and reduce reliance on emergency services.

12 - Non-Standard Condition

Prior to the commencement of the development approved by this planning permission (or such other date or stage in the development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified; all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

13 - Non-Standard Condition

Prior to commencement of development/occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with the adopted Local Development Framework.

14 - Non-Standard Condition

Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction, in accordance with the adopted Local Development Framework.

15 - Non-Standard Condition

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters.

16 - Non-Standard Condition

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from lorry parks and/or parking areas for fifty car park spaces or more and hardstandings should be passed through an oil interceptor designed compatible with the site being drained. Roof water shall not pass through the interceptor. Vehicle loading or unloading bays and storage areas involving chemicals, refuse or other polluting matter shall not be connected to the surface water drainage system.

Reason: In order to avoid pollution of the water system.

17 - Non-Standard Condition

Prior to the commencement of development a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and occupational phases of the development shall be submitted to and agreed, in writing, with the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetables as may be agreed.

Reason: To enhance the sustainability of the development through better use of water, energy and materials.

18 - Non-Standard Condition

Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the local planning authority. The wheel cleaning facility shall be provided prior to commencement and during construction of the development.

Reason: Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

19 - Non-Standard Condition

Prior to commencement of the development details of the following be submitted to and approved in writing by the local planning authority:

- Works to prohibit vehicles from using the Haven Road/Distillery Lane junction
- Any proposed amendments/improvements within existing and proposed highway in Distillery Lane and King Edward Quay.

The development shall be implemented in accordance with the agreed details

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1 and DM9 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

20 - Non-Standard Condition

No occupation of the development shall take place until such time as the following have been provided or completed:

- A priority junction off Haven Road to provide access to the proposal site. Junction to include 2no. footways with dropped kerbs and tactile paving and a minimum 90 x 2.4 x 90 metre visibility splay maintained clear to the ground at all times
- The agreed works to prohibit vehicles from using the Haven Road/Distillery Lane junction
- The agreed proposed amendments/improvements within existing and proposed highway in Distillery Lane and King Edward Quay
- Upgrading of the existing Haven Road (proposal side) footway between the Colne Causeway Roundabout and Distillery Lane/the toucan crossing mentioned below to a minimum 3 metre wide foot/cycleway
- A toucan crossing in Haven Road in the vicinity of Distillery Lane
- Upgrading of the two nearest bus stops to current Highway Authority specification including but may not be limited to real time passenger information
- For the residential elements of the proposal, Residential Travel Information Packs.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

21 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signage, lighting).

Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc. indicating lines, manholes, supports etc.).

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

Written specifications (including cultivation and other operations associated with plant and grass establishment).

Schedules of plants, noting species, plant size and proposed numbers/densities.

Planting area protection or decompaction proposals.

Implementation timetables.

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

22 - C11.12 Landscape Works Implementation

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

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

23 - C11.17 Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

24 - Non-Standard Condition

No occupation of the development hereby permitted shall take place until a scheme of nature conservation work has been submitted to and approved by the Local Planning Authority in consultation with Natural England. The approved scheme shall be carried out to the satisfaction of the Local Planning Authority in accordance with a previously agreed timescale.

Reason: In order to enhance the nature conservation value of the site in accordance with adopted Local Development Framework policy.

Informatives

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

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

(3) Any externally illuminated sign shall comply with the guidelines in the current 'Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements'

(4) Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of the main river. Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures either affecting or within 9 metres of the tidal or fluvial flood defence.

(5) For development involving piling or other penetrative ground improvement methods on a site potentially affected by contamination a suitable Foundation Works Risk Assessment based on the results of the site investigation and any remediation should be undertaken. This assessment should underpin the choice of founding technique and any mitigation measures employed, to ensure the process does not cause, or create preferential pathways for, the movement of contamination into the underlying aquifer, or impacting surface water quality.

(6) If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility.

(7) The Duty of Care regulations for dealing with waste materials are applicable for any off-site movements of wastes. The developer as waste producer therefore has a duty of care to ensure all materials removed go to an appropriate licensed disposal site and all relevant documentation is completed and kept in line with regulations. If any waste is to be used on site, the applicant will be required to obtain the appropriate exemption or authorisation from the Environment Agency.

(8) If the applicant wishes more specific advice they will need to contact Jamie Fairfull in the Environment Agency's South Essex Environment Management Team at its Kelvedon office or look at available guidance on our website using the following link: <http://www.environment-agency.gov.uk/subjects/waste>. In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that a SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at: <http://www.netregs-swmp.co.uk>

(9) Prior to any works taking place in the highway the developer should 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 should be agreed with the Highway Authority
- The number of spaces and how these are laid out should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009. This applies to all vehicular parking spaces including disabled as well as cycle and motorcycle parking
- Steps should be taken to ensure the applicant provides sufficient turning and off loading facilities for delivery vehicles and an adequate parking area for those employed in developing the proposal site within the limits of the site.



Application No: 120333

Location: 310-318 Land to the rear of Ipswich Road, Colchester, CO4 0ET

Scale (approx): 1:2500

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7.4 Case Officer: Simon Osborn

MINOR

Site: 310-318 Land to the rear of Ipswich Road, Colchester, CO4 0ET

Application No: 120333

Date Received: 30 April 2012

Agent: Mr Russell Goodacre

Applicant: Mr Colin & Sheila Brodie

Development: Two houses at the rear of 310-318 Ipswich Road. (Resubmission of application 111408)

Ward: Highwoods

Summary of Recommendation: The Head of Environmental and Protective Services be authorised under delegated powers to grant planning permission subject to: (a) an amended plan being received to show landscaping to the western boundary of the site, (b) an updated tree report being received to include proposed means of protection of retained trees, (c) confirmation from the Landscape Officer and Arboricultural Officer that the additional information is acceptable

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in by Cllr. Gerard Oxford on the grounds that it is out of character with the area, loss of trees, potential long-term harm to Highwoods Country Park, and impact on neighbouring properties.

2.0 Synopsis

2.1 The application is of a backland nature for two new houses, on a site that has a chequered planning history. The report considers the proposal in the light of its adopted policies and guidance (including the Backland and Infill Development SPD). The report notes that the proposal makes use of an existing access and provides a spacious layout and design that is considered to generally respect the character of the area and not unreasonably harm the amenity of neighbouring properties. It is recognised that the proximity of the site to Highwoods Country Park make this a more sensitive site, but there is an opportunity to require additional landscaping to help safeguard the setting of this. The report concludes that the proposal is generally acceptable subject to amended landscaping proposals being received and agreed.

3.0 Site Description and Context

3.1 The application site is a rectangular parcel of land to the rear of nos. 310 to 318 Ipswich Road, on land that generally drops down toward Highwoods Country Park. There are a number of mature trees on or adjacent to the site. The proposed means of access to the site is the same access as serves the dental practice at 316-318 Ipswich Road, for which there is a large car park between the practice and the application site.

4.0 Description of the Proposal

4.1 The application seeks planning permission for 2 nos. 4-bedroom houses.

5.0 Land Use Allocation

5.1 Predominantly residential

6.0 Relevant Planning History

6.1 There is an extensive planning history for both the application site for residential development and, for the adjoining dental practice at 316-318 Ipswich Road. With regard to the latter business, the following applications are of particular relevance: 090307 (the change of use to of 318 to dental practice in association with 316, approved with parking area to rear) and 110082 (extension to dental practice, including change of use of 318, approved subject to provision of car parking in accordance with approved layout).

6.2 Previous applications for residential development on the application site include the following:

94/1288 – Outline application for five 3-bedroom bungalows and garages, refused 1994 and dismissed on appeal 1995;

F/COL/04/1752 – Full application for three 1.5 storey houses and garages, approved 2004;

101141 – Outline application for five 4-bedroom houses, withdrawn 2010;

111408 – Full application for three detached houses, refused 2011. The reason for refusal was: *“Policy UR2 in the Core Strategy, adopted December 2008, promotes high quality design in all developments, which creates places that are locally distinctive and enhance the built character and public realm of the area. Policy DP1 in the Development Policies, adopted October 2010 requires proposals to demonstrate that they respect and enhance the character of the site, its context and surroundings, and protects existing residential amenity. The SPD Backland and Infill Development has also been adopted by the Council (September 2009). This encourages comprehensive development, which reflects the character of the area, and promotes safe, attractive and locally distinctive layouts. In this instance, the application site is set behind existing frontage development along the Ipswich Road, the defining character of which is of individual buildings set back from a wide verged carriageway and with large rear gardens backing onto and toward Highwoods Country Park. The proposed residential*

development, in contrast, is to be served by a long private drive that lacks either a pavement connection to the Ipswich Road, or an attractive landscaped approach. The proposal as such fails to integrate itself with existing development in a satisfactory manner. Furthermore, it is also part of a larger parcel of land to the rear of Nos. 310-326 Ipswich Road, and the application fails to consider the potential development of this wider area in a comprehensive manner. The proposed development is for 3 houses and double garages, which are tightly spaced together and in close proximity to the rear garden boundaries of Nos. 314 and 320 Ipswich Road. The proposed houses are each of substantial form and height, which are generally in excess of the more modest building heights fronting this part of the Ipswich Road. The proposed development thus appears cramped and out of character with the defining frontage development and will adversely affect the amenity of the nearest residential neighbours including an increase in vehicular movements close to the rear garden of 314 Ipswich Road. The proposed houses furthermore back onto Highwoods Country Park and the proposal fails to consider how the impact of the development on the Park might be softened. The proposal as such is considered to be contrary to the objectives of the aforementioned adopted policies and the SPD guidance”.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

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
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
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 The Highway Authority would not wish to raise an objection to the above subject to the following conditions and informatives:

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 90 metres to the north and 2.4 metres by 90 metres to the south, 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 to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011)

Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access at its junction with Ipswich Road. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011)

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 to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

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 to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

All single garages should have a minimum internal measurement of 7m x 3m and shall be provided with vehicular doors a minimum width of 2.3m

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

All double garages should have a minimum internal measurement of 7m x 6m and shall be provided with vehicular doors a minimum width of 5.1m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and to accord with policy DM8 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative: All works affecting the highway to 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 to the Area Highways Office (08456 037631)

- 8.2 Environment Agency – no comments received. (It is noted they did not object to the previous application 111408)
- 8.3 Environmental Control stated they are not aware of any contamination matters that may affect this site. They recommended a standard condition for reporting any unexpected contamination found.
- 8.4 Landscape Officer – satisfied with the landscape content, subject to an amendment that the boundary to the Country Park is planted out with a native hedge to the boundary line and a dark stain 1.8m high hit-and-miss fence 1m inside the hedge line on the plots side. This is to protect the amenity value and complement the Park through the hedge and the privacy of the plots with the fence. The hit-and-miss fence allows free flow of air that helps with hedgerow establishment, the dark stain helps the fence complement its surroundings and it needs to be set a minimum 1m from the hedge in order to give room to the hedge to satisfactorily establish.

- 8.5 Tree Officer – the Tree report is dated May 2011 so is a little on the old side and should be updated to reflect the current situation. This should show how any retained trees will be protected during the construction process.

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 Not applicable

10.0 Representations

- 10.1 Four letters were received, which raised the following issues:

- 1, Landscaping is crucial – a hedgerow should be planted on the west boundary
(Officer Comment: Agreed see paragraph 14.7 in main body of report);
2. Owner acted prematurely by destroying many trees on site in anticipation of getting planning permission
(Officer Comment: noted, however, the trees were not protected);
3. Tree Groups G5 and G6 identified in the AIA adjacent to the south boundary should be retained
(Officer Comment: The AIA assesses these would benefit from reduction/removal – it is noted they contribute to the landscape setting of the site – recommend they are kept subject to any proposed reduction works or replacement planting, to be agreed by condition);
4. Plans do not show separate annexe to 314 Ipswich Road, nor that garden of 9 Friars Close adjoins the site
(Officer Comment: Noted – impact on neighbours considered under paragraphs 14.4 and 14.6 in particular in main body of report);
5. 308 Ipswich Road is on the local list and the plans disrupt the rural and historic nature of the setting and wildlife
(Officer Comment: This is considered in paragraph 14.4 of the main body of the report);
6. House plot 2 spoils the view of 314 Ipswich Road and the window on the SE elevation results in overlooking
(Officer Comment: This is considered in paragraph 14.6 of the main body of the report);
7. Concerned at vehicular, pedestrian and cyclist safety in the vicinity of the access
(Officer Comment: This is considered in paragraph 14.8 of the main body of the report);
8. Inconsiderate parking in surrounding streets – occupants of new dwellings should be allowed to park in the dental practice car park
(Officer Comment: The dwellings are provided with parking in excess of minimum standards, see paragraph 14.6 of the main body of the report);
9. Watercourse runs through the site and the Country Park – should be retained and surface water drained from the new properties to here as alternative to soakaways – risk of flooding from Country Park to new properties as land at higher level.
(Officer Comment: The potential for use of a watercourse for drainage would normally be considered under other legislation – i.e. Building Regulations)

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

11.0 Parking Provision

- 11.1 A double garage is provided for each of the two properties plus at least two additional parking spaces for each dwelling. Although the size of the double garages at 5.5 metres square falls below the recommended standard of 7m by 6m, the provision of the requisite number of off-street parking spaces elsewhere on the application site means the proposal is compliant with Policy DP19.

12.0 Open Space Provisions

- 12.1 The site is not large enough to necessitate a requirement for public open space to be provided on site. A unilateral undertaking has been submitted in accordance with your adopted guidance with regard to a contribution to provision elsewhere.

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 Report

Principle of Development

- 14.1 The site lies within Colchester settlement limits, within a predominantly residential area, adjacent to Highwoods Country Park. As a backland site, material weight can be given to the provisions of the adopted SPD, Backland and Infill Development as well as to adopted policies. An application for 3 dwellings on land to the rear of 310-318 (111408) was refused because it did not comply with this SPD. This encourages comprehensive development that does not exclude adjacent land parcels, that provides an appropriate sense of place, is in character with the surrounding area and is not harmful to neighbour amenities. The layout submitted with the previous planning application was considered to be cramped and out of character, having an adverse impact upon the amenities of the neighbouring properties, by virtue of the proximity of the new built form to adjacent rear gardens.
- 14.2 An analysis of the wider area shows that other backland development has been approved on the west side of the Ipswich Road, including Friars Close and individual dwellings to the rear of 328 and 330 Ipswich Road. Stone Cottage at 308 Ipswich Road is a well established dwelling (on the local list) is also set behind the line of newer frontage properties. Other properties such as at Spring Close and The Brackens in the Highwoods estate also back onto this part of the Country Park. The planning history for the application site is chequered; although an application for five bungalows was dismissed on appeal in 1995, an application for 3 houses was approved in 2004 (although this was not implemented and has expired).

- 14.3 Whilst the proposal is not a comprehensive form of development, in that it excludes parcels of land in other ownerships from possibly inclusion within a wider scheme, the site does not require a new access road to be punched into the street scene as there is an existing access to serve the dental practice. As indicated in paragraph 14.2 above, a backland form of development is not wholly contrary to the character of the surrounding area.
- 14.4 I have previously indicated on an informal basis, that if the applicants' are not prepared to put forward a comprehensive scheme with adjacent land outside their ownership, that the Council might be prepared to accept a maximum of two dwellings behind 310-318, on the basis that there is an existing access (albeit not adoptable) linking the dentist car park to the Ipswich Road.

Layout

- 14.5 The proposed layout is for two 4-bedroomed properties, set on substantial plots, each dwelling set well away from the rear garden boundaries of neighbouring properties. In this respect, the current application proposes a layout that is more spacious than the previous scheme (which showed 3 houses in close proximity to one another and to neighbouring gardens). In this respect your Officer considers this looser setting to have greater regard for the backland setting of the proposal. Consideration has also been given to the importance of 308 Ipswich Road as a building on the local list, and the house on plot 2 is 32m from the southern boundary of the site with this property, which is considered to adequately safeguard the setting of the latter.

Design

- 14.6 Whilst there are many house types within the Ipswich Road, there is quite a strong theme of predominantly 2-storey detached and semi-detached houses, some with wider frontages and shallow depth, others with narrower frontages extending deeper to the rear, with roof pitches of between 30 and 38 degrees, which give a modest scale and appearance. Many of these buildings have bays or canopied single storey features to the front. It is considered that the design of the two dwellings proposed pick up on this theme and hence help to provide a sense of unity with development elsewhere on the Ipswich Road.

Impact on Neighbour Amenity

- 14.7 The reduction from the previous proposal of 3 dwellings to 2 dwellings has increased the sense of spaciousness of the development and means that the dwellings are sited further from neighbouring properties. The house on plot 1 is set 7.5m from the rear garden of 320 Ipswich Road with no first floor windows in the side gable elevation. The house on plot 2 is just under 10m from the rear boundary of 314 Ipswich Road. The house is angled at approx 45 degrees to the end of their rear garden; there is a first floor window in the SE elevation of this property, but it is an ensuite window and can be obscure glazed. The proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of neighbouring properties, including their protected sitting out areas as identified in the relevant adopted SPD. It is noted that the proposal will change the view from the rear of 314 Ipswich Road; however, there is no right to a view and the proposed dwelling is sufficiently far away not to have an overbearing impact. The planning officer has also

taken note of the position of the annexe to 314 and is satisfied that the proposal does not unreasonably affect the residential amenity of this.

Landscaping

- 14.8 The proximity of the proposed development to Highwoods Country Park is an important consideration. The Landscape Officer has stated an amendment is required so that the boundary to the Country Park is planted out with a native hedge to the boundary line and a dark stain 1.8m high hit-and-miss fence 1m inside the hedge line on the plots side. This is to protect the amenity value and complement the Park through the hedge and the privacy of the plots with the fence. The hit-and-miss fence allows free flow of air that helps with hedgerow establishment, the dark stain helps the fence complement its surroundings and it needs to be set a minimum 1m from the hedge in order to give room to the hedge to satisfactorily establish. The Council's Arboricultural Officer accepts the position of the proposed dwellings is acceptable, but requires the method of protection of existing trees to be included within an updated report. It is understood that a number of mature trees have previously been removed from the site; however, these were not protected. The proposed application offers a means to secure existing remaining vegetation and provide new landscape planting adjacent to the Country Park boundary.

Access/ Highway Issues

- 14.9 There is an existing access from the Ipswich Road to the dental practice car park, which is also within the ownership of the applicant. The proposed access to the site will continue beyond this as a private drive with a turning area to the new dwellings. A space for refuse to be left on collection days is to be provided to the front of the dental practice. The proposal will result in an intensification of the access, but ECC Highways has no objection to the proposal, subject to conditions. Each dwelling will have a double garage at least 2 other additional parking spaces. The adopted standards recommend double garages to have a minimum size of 7m x 6m to count as 2 parking spaces, in recognition that most households also seek storage space integral to the dwelling. Although the size of the double garages at 5.5 metres square falls below the recommended standard, the provision of the requisite number of off-street parking spaces elsewhere on the application site means the proposal is compliant with Policy DP19.

Other Matters

- 14.10 A S106 unilateral undertaking has been submitted in accordance with adopted SPD with a contribution toward public open space and community facilities.

15.0 Conclusion

- 15.1 The proposed scheme, although of a backland nature, makes use of an existing access and provides two dwellings within a spacious layout, which is considered to generally respect the character of the area and not unreasonably harm the amenity of neighbouring properties, in accordance with the Council's adopted policies and SPD guidance. It is recognised that the proximity of the site to Highwoods Country Park make this a more sensitive site, but there is an opportunity to require additional landscaping to help safeguard the setting of this. The proposal as such is considered to be generally acceptable and is recommended for approval.

16.0 Recommendation

- 16.1 The Head of Environmental and Protective Services be authorised under delegated powers to grant planning permission subject to:
- (a) an amended plan being received to show landscaping to the western boundary of the site,
 - (b) an updated tree report being received to include proposed means of protection of retained trees,
 - (c) confirmation from the Landscape Officer and Arboricultural Officer that the additional information is acceptable, and
 - (d) the following conditions.

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

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

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition

The development hereby permitted shall be constructed in strict accordance with the approved drawings, unless otherwise agreed in writing by the Local Planning Authority. The approved drawing numbers are 114:12:1 to 6 dated Feb 2012.

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

3 - C3.4 Samples of Traditional Materials

Samples of all materials to be used in the external construction and finishes of all parts of the proposed development, shall be selected from the local range of traditional vernacular building and finishing materials and shall be submitted to and agreed in writing by the Local Planning Authority before the development commences. The development shall be implemented in accordance with agreed details.

Reason: To harmonise with the character of existing development in the area.

4 - Non-Standard Condition

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: For the avoidance of doubt as to the effect of this permission.

5 - Non-Standard Condition

Prior to the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that 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.

6 - B4.6 Slab Levels (1)

No development of the site shall take place until cross sections of the site and adjoining land and buildings, including details of existing ground levels around the buildings hereby approved and any changes in levels proposed, together with the proposed floor slab levels within that part of the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved cross sections.

Reason: To enable the Local Planning Authority to exercise proper and considered control over the development as whole and to protect the amenity of occupiers of adjacent properties.

7 -Non-Standard Condition

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 90 metres to the north and 2.4 metres by 90 metres to the south, 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.

8 - Non-Standard Condition

Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access at it's junction with Ipswich Road. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

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

9 - Non-Standard Condition

Prior to occupation of the development the vehicular parking and turning facilities, including the garages, 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 and that satisfactory provision is made for off-street parking.

10 - Non-Standard Condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

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

11 - Non-Standard Condition

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

12 - Non-Standard Condition

Prior to the occupation of any dwelling hereby permitted a refuse collection point shall be provided to the front of the dental practice as shown on drawing 114:12:1 where refuse shall be left on collection days only.

Reason: To ensure an appropriate collection point is provided within 25m of the highway.

13 - B6.11 Reporting of Unexpected Contamination (Cond. 1-4 Not Used)

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.

14 - Non-Standard Condition

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of the Schedule of the Order (i.e. any extension, outbuilding, garage or enclosure) shall take place without the prior written permission of the local planning authority.

Reason: Having regard to the sensitivity of the site immediately adjacent to Highwoods Country Park and to the proximity of the dwellings to mature trees and to neighbouring rear gardens.

15 - C11.14 Tree / Shrub Planting

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

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

16 - C10.15 Tree & Natural Feature Protection: Protected

No work shall commence on site until all trees, shrubs and other natural features shown to be retained on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. 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.

17 - C10.16 Tree & 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.

18 - C10.18 Tree and Hedgerow Protection: General

All trees and hedgerows on and immediately adjoining the site shown on the approved plans to be retained 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 to be retained shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that these 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 with 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.

19 - Non-Standard Condition

Notwithstanding any indications to the contrary in the Arboricultural Implications Assessment submitted with the application, tree groups G5 and G6 shall be retained, unless proposed reduction works (or provision for appropriate replacements with an implementation timetable) are submitted to and agreed in writing by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: This planting helps to secure a landscape setting that is appropriate for the site.

20 - Non-Standard Condition

A scheme of environmental works including construction of walls/fences/railings/ planting of hedges etc and other structures on or adjacent to the boundary of the site shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The approved scheme shall be completed prior to the development being brought into use and shall be retained and maintained thereafter. The details to be submitted shall include provision of a hit-and-miss fence along the western boundary of the site.

21 - Any other conditions required by either the Landscape Officer or the Arboricultural Officer following the submission of the additional details.

Informatives

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

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



Application No: 120484

Location: Land at, Meadow Green Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP

Scale (approx): 1:1250

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7.5 Case Officer: Mark Russell

MINOR

Site: Land at Meadow Green Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP

Application No: 120484

Date Received: 15 March 2012

Agent: Edward Gittins Associates

Applicant: Mr Michel Abusubul

Development: Formation of a Stud Farm comprising a Change of Use of land and redundant livestock building to equestrian use, minor alterations to the building to form stabling, provision of manege, minor extension of existing access track and the siting of a temporary mobile home for a Stud Farm Manager. Diversion of Public Footpath No 34 (currently shown to pass through established building).

Ward: Great Tey

Summary of Recommendation: Refusal

This item was deferred from the last Committee meeting as some very late comments by the agent were not reported on the amendment sheet.

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because of a call-in by Councillor Chillingworth on the following lines:

“The application is likely to lead to a new permanent dwelling in the open country side contrary to policy DP24. Also the application should be considered in the light of the national planning policy framework.”

1.2 When asked whether the item should still come to Committee if the recommendation were for refusal, Cllr Chillingworth has replied:

“I had hoped the application would come to committee anyway, mainly because I am interested to know how you will handle a case such as this under the NPPF. There is an obvious reason for recommending refusal because of DP24, however this is the first such case since PPS7 was cancelled.”

2.0 Synopsis

- 2.1 The following report describes a proposal for the formation of a stud farm in a countryside location, involving the modification and use of existing buildings and the provision of a temporary mobile home. The proposal is considered in some depth in relation to policy issues, especially in the light of the new National Planning Policy Framework. The complicated history of the site is also explained. Objections to the principle of the development from locals and the Parish Council are then discussed and the lengthy planning history is explained. Finally, refusal is recommended.

3.0 Site Description and Context

- 3.1 The site, although mostly within Wakes Colne, straddles the Wakes Colne/Mount Bures Boundary and was previously part of Hammonds Farm. The landholding now known as Meadow Green Farm is 13.8 ha. (34 acres) and contains a disused livestock building measuring 32.8m x 13.8m x 3.1m which used to be part of Hammonds Farm.

4.0 Description of the Proposal

- 4.1 The proposal is to utilise the above mentioned disused livestock building for six stables and two foaling boxes with storage, staff facilities and a laboratory and equine service area. This will require some external finishing works required (described as additional block work panels with Yorkshire boarding).
- 4.2 A manege of 50m x 25m with all weather surfacing, enclosed by post and rail fencing, just to the south of the existing buildings, is also proposed.
- 4.3 Paddock fencing is also tabled to divide the land into six paddocks.
- 4.4 The application documents also make it clear that the applicants intend to complete the erection of the hay-barn which has been commenced (having been granted prior approval for agricultural purposes in 2007. This is an extant permission.
- 4.5 Finally, the proposal is for a temporary/mobile home, with a view to making this permanent.
- 4.6 As a consequence, it is also necessary to divert a footpath (number 34) which apparently runs through an existing building. The applicants have chosen to do this via the Town & Country Planning route, rather than under the Highways Act.

5.0 Land Use Allocation

- 5.1 No notation/Countryside

6.0 Relevant Planning History

- 6.1 F/COL/06/0622 - Retrospective application for creation of access road. REFUSED. Appeal withdrawn.
- 6.2 AG/COL/06/0631 - Agricultural Determination application to determine whether prior approval is required for access road (retrospective). REFUSED. Appeal withdrawn.

- 6.3 F/COL/06/1878 - Retrospective application for proposed access road. Resubmission of F/COL/06/0622. REFUSED. Appeal withdrawn.
- 6.4 *C/COL/06/1664 - Change of use of barn and adjacent sheds to domestic horse use and change of use of land from agricultural to domestic grazing. Approved 4th December 2006.
- 6.5 071677 - Proposed hay barn and hardstanding. Approved 1st August 2007.
- 6.6 080562 - Retrospective application for provision of access road. Approved 21st May 2008.
- 6.7 081569 - Change of use of agricultural building into stables to include opening up of footpath route and provision of hardstanding. Withdrawn 23rd October 2008.
- 6.8 090546 - Change of use of agricultural building into stables to include opening up of footpath route and provision of hardstanding. REFUSED. 16th June 2009. APPEAL DISMISSED. Claim for costs DISMISSED.
- 6.9 *090756 - Use of land for grazing horses, erection of building containing 4 loose boxes and construction of hardstanding and new driveway. REFUSED 6th October 2009. APPEAL DISMISSED.

*These are all on land adjacent to the application site, which was formerly part of the site.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

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
 UR2 - Built Design and Character
 ENV1 - Environment
 ENV2 - Rural Communities

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

DP1 Design and Amenity
 DP8 Agricultural Development and Diversification
 DP9 Employment Uses in the Countryside
 DP21 Nature Conservation and Protected Lanes
 DP24 Equestrian Activities

8.0 Consultations

8.1 Planning Policy has responded as follows:

'The site is located in a countryside location outside of defined settlement boundaries. Core Strategy Policy ENV1 and Development Policy DP24 are therefore particularly relevant. Access to the site appears to be taken from a Protected Lane as shown on the LDF Proposals Map and Development Policy DP21 is therefore also relevant.

The National Planning Policy Framework was published on the 27 March 2012 and has immediate effect. Although the supporting information correctly refers to the national planning policy guidance in place at the time of application, the policy contained in the National Planning Policy Framework is now a relevant material consideration.

As made clear in the NPPF, however, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The planning policies in Colchester's Adopted LDF are therefore the primary consideration for this application.

Policy DP24 sets out the criteria that the application must be assessed against. The scale and level of activity proposed will need to be assessed as part of the application, including the amount of proposed equestrian related development, and this considered against the criteria in Development Policy DP24. The proposals should not lead to overdevelopment in the countryside or create conflict with other rural uses if they are to accord with this policy. Criteria (iv) of Policy DP24 requires equestrian development to be related to an existing dwelling or not lead to pressure for a new dwelling. The application proposes that a new dwelling would be provided on the site. In this respect therefore the proposals conflict with the adopted policy.

The supporting statement argues that there is a conflict between DP24 and PPS4. The inspector's report into the Development Policies DPD finding the policy sound was published on 27 September 2010. PPS4 was published on 29 December 2009 prior to this. As part of the examination the inspector therefore had opportunity to consider the conformity of the plan with PPS4 and found the plan was sound and consistent with national policy. The Development Policies DPD is formally adopted and forms part of the development plan against which applications must be assessed.

It should be noted, however, that both PPS4 and PPS7 which are referred to in the statement have now been superseded by the NPPF. The most relevant section is now paragraph 55 of the NPPF which sets out that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. The special circumstances in which isolated new homes in the countryside can be supported remain limited and include the essential need for a rural worker to live permanently at or near their place of work in the countryside. As the publication of NPPF has resulted in the revocation of annex A of PPS7 on sustainable development in rural areas there is currently no further guidance given on this subject at national level.

The application is required to be determined in accordance with the development plan unless material considerations indicate otherwise. As set out above national planning policy, which is a material consideration, no longer provides a detailed level of guidance on this issue. Whilst the material considerations surrounding the business use will therefore be relevant, they are not considered to justify a departure from adopted local planning policy to allow a new dwelling in this countryside location.'

8.2 The agent then offered a rebuttal to this as follows:

'We consider the response of Planning Policy is fundamentally flawed in its approach which seeks to resist the proposal on grounds of conflict with Development Policy DP24.

Planning Policy considers that application of DP24 is sound by reference to the Inspector's examination of the policy in 2010. However, any conclusions drawn at that time (especially those relying on PPS guidance) are now irrelevant. The key consideration is whether DP24 is in conformity with new Government policy contained in the National Planning Policy Framework (NPPF) which superseded all PPG and PPS guidance on 27th March 2012 and is a material planning consideration.

We draw particular attention to Annex 1 of the NPPF which provides that where there is more than a 'limited degree' of conflict between relevant local policies and policies contained within the NPPF, due weight should be given to those policies according to their degree of consistency with the NPPF. It goes without saying, therefore, that where the level of conflict is severe, the policy can carry only limited weight. In this case, Planning Policy have correctly identified the most relevant section of the NPPF as being paragraph 55 which states, inter alia:

Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

The essential need for a rural worker to live permanently at or near their place of work in the countryside.

There can be no skewing or misinterpretation of this policy which provides that the essential need for a rural worker (where a 'rural worker' is anyone whose work requires a countryside location with no exclusions) to live permanently at or near their place of work represents an exception to normal policy constraints which seek to resist new isolated homes in the countryside.

Planning Policy have also identified that more detailed guidance on this issue – formerly contained within PPS7 Annex A – is no longer provided at national level.

However, the absence of such detailed guidance does not undermine the weight to be afforded to the NPPF which is a material planning consideration. In similar vein, the loss of PPS7 Annex A does not add credence to out-of-date policies which are seen to be in conflict with the NPPF.

We maintain that there is clear and unmitigated conflict between NPPF paragraph 55 and Policy DP24 which specifically precludes - and hence discriminates against - proposals for new equestrian workers' dwellings even where there is an essential need for such workers to live at the site. Accordingly, we consider that DP24 can now carry only limited weight and that the correct policy approach should be the same as that for determining all other types of rural workers' dwellings including agricultural workers.

The NPPF is also clear that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. Paragraph 28 states, inter alia, that local plans should (with our emphasis):

Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;

Promote the development and diversification of agricultural and other land-based rural businesses;

In this context, we consider the formation of a stud farm is a legitimate land-based rural business and hence, is supported in principle, by the above national policy.

Furthermore, the proposal includes the conversion and re-use of an existing rural building and would create 3 FTE jobs. Indeed, the Application is supported by a comprehensive Business Plan and Technical Assessment prepared by a Chartered Surveyor and Land Management Consultant which demonstrates the Applicant's long-term commitment to the creation of a viable land-based business.

In view of the above crucial matters relating to the application of policy and the highly material employment aspects, we would be grateful if these considerations could be referred back to Planning Policy to enable a fair and balanced response to be obtained prior to the determination of our Client's Application.'

8.3 Your Policy team then responded as follows:

'Additional comments from planning policy are shown below. These comments should be read in conjunction with the earlier comments dated 03/05/12.

It is noted that the response from the planning agent has now been updated to refer to the publication of the NPPF and correctly identify that this is now the relevant national policy consideration.

It is considered that Development Policy DP24 had full weight prior to the publication of the NPPF notwithstanding the argument put forward in the applicant's earlier supporting statement that it was in conflict with PPS4. As stated in the earlier planning policy response this could not have been the case as this issue was considered by Inspector at examination in 2010 and the plan was found to be consistent with national policy.

The NPPF was published on 27 March 2012. Annex 1 (Implementation) makes clear at paragraph 211 policies in a Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this Framework. Development Policy DP24 should therefore not be considered 'out-of-date'.

At paragraph 214 it is stated that for 12 months from the date of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. Provided there is no more than a limited degree of conflict with the framework Development Policy DP24 should therefore continue to be afforded full weight.

Paragraph 215 states that in other cases and following the 12 month period, due weight should be given to relevant policies according to the policies' degree of consistency with the framework.

As stated in the earlier response from planning policy the detailed guidance on this issue previously found in PPS7 Annex A is no longer in force and has not been replaced. Paragraph 55 of the NPPF provides general guidance on this issue and does not go into detail. The wording of NPPF paragraph 55 refers to rural workers, although no definition of rural worker is provided, which therefore could potentially be wide ranging. Given the lack of additional national guidance (previously contained in PPS7 Annex A) this is an issue where local policies will be able to provide more clarity. Paragraph 214 of the NPPF gives a 12 month period in which issues such as this can be addressed.

It is considered that the approach of Colchester's Adopted LDF to rural dwellings remains in general conformity with the NPPF. The wording of the NPPF may give scope to allow more flexibility on rural dwellings in a limited range of circumstances, however, the LDF remains in general conformity and there is limited conflict. Full weight should therefore continue to be afforded to local policies as set out by paragraph 214.

As set out in the earlier policy response the application should be determined in accordance with the development plan giving due weight to any other material considerations such as the NPPF. The application fails to accord with Development Policy DP24 and therefore there is a policy objection to this proposal.'

8.4 The agent gave a further response, below:

"Further to our letter dated 8th May relating to policy matters, we have now read the additional comments submitted by Planning Policy dated 9th May and respond as follows:

We maintain that any conclusions drawn by the Examination Inspector in 2010 are now irrelevant as all national policy at the time the DPD was examined has now been superseded by the NPPF. We are therefore unsure why Planning Policy continues to refer to the Inspector's conclusions which no longer have any bearing on the application of policy in this case.

Similarly, the question of whether Policy DP24 is now out-of-date is undisputed. The current debate is centred on whether there is more than a *'limited degree'* of conflict between Policy DP24 and policies contained within the NPPF. If the level of conflict is only limited - as Planning Policy claims - then the policy may continue to be afforded full weight for a period of 12 months. If, however, the level of conflict is deemed to be more than *'limited'* – as we maintain - the weight of the policy will decrease accordingly.

To this end, we reject any suggestion by Planning Policy that Policy DP24 remains in *"general conformity"* with the NPPF for the following reasons:-

1. The first bullet point of NPPF paragraph 28 supports the growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings. However, this impartial support for new rural businesses is actively frustrated by limb (iv) of Policy DP24 which seeks to resist equestrian businesses where they are not related to an existing dwelling. We maintain that the policy is economically counterproductive as it provides that a new equestrian business cannot be established without a large initial investment to purchase both a rural property and associated land and buildings that are suitable for conversion. Limb (iii) of DP24 also prevents the expansion of existing equestrian businesses as it seeks to resist any intensification of buildings in the countryside.
2. The first bullet point of NPPF paragraph 55 states that the essential need for a rural worker to live permanently at or near their place of work represents one of several special circumstances that may support the development of a new dwelling. This special provision is effectively denied by Policy DP24 which requires that an equestrian business can only be developed where there is an existing dwelling. The conflict is further highlighted by supporting paragraph 9.31 which states:-

"An equestrian use will not be considered to justify the erection of a dwelling in a location where permission would normally be refused."
3. Whilst we accept that an equestrian use in itself may not be sufficient to justify a new dwelling, the NPPF is clear that the essential need for a rural worker – in this case a Stud Farm Manager – to live at his place of work does represent a special circumstance in which a dwelling may be supported. If the Council accepts that the proposed Stud Farm creates an essential need for a Stud Manager to live at his place of work, there is hence clear and significant conflict between the NPPF and Policy DP24.

In summary, therefore, we maintain that there is severe conflict between Policy DP24 and the NPPF such that the policy can carry only limited weight in the determination of the current Planning Application. In the event that Planning Policy maintains its objection to the proposal, we therefore respectfully request that you refer this Application to Members of the Planning Committee for determination as it raises important policy matters which will no doubt have significant implications for the Council in the event of a Planning Appeal.

At this point your Officer requested that the exchange should cease, as there is clearly a fundamental disagreement in principle which is unlikely to be overcome.

8.5 On the day before the last Planning Committee (14th June) the agent, however, sent a further reply as follows:

‘We attach a Barrister’s Advice to the effect that Policy DP24 is non-compliant with the NPPF - as we have firmly asserted. It follows, applying para. 215 of the NPPF, that, with immediate effect, Policy DP24 can be afforded only limited or possibly no weight.’

8.6 The Barrister’s comments are as follow:

‘I am asked by my Instructing Town Planner to consider and comment on the terms of the NPPF in relation to housing for rural workers and Policy DP24, Equestrian Activities, in particular criterion (iv). The latter policy states that planning permission will be supported for equestrian related development if it can be demonstrated that the proposal satisfies four criteria. The first three seek to minimise impact of equestrian related development on the countryside and urban fringe, encouraging reuse of existing buildings, restraining activity in relation to the context and avoiding intensification / detrimental impact. The fourth is particularly restrictive: (the proposal) “Is related to an existing dwelling within the countryside or will not lead to pressure for the development of a new dwelling.”

I note that the policy deals generally with equestrian activity and does not distinguish between the different types of horse-related development. Private / domestic recreational proposals are not distinguished from those which are business based. The effect of criterion (iv) on equestrian businesses is clear. The establishment of new commercial studs, riding establishments, liveryies etc. and the expansion of existing business will be subject to a restriction which is not applied to other rural enterprise, notably agriculture. So far as new businesses are concerned, if a resident proprietor or employee is necessary, the proposal must indicate the availability of an existing dwelling on site or very closely adjacent. A new dwelling will not be permitted to accommodate an essential worker. The policy makes no allowance for temporary accommodation while a need is proven nor does it allow for conversion of existing buildings to dwellings.

The NPPF, paragraph 55, maintains the long standing national planning policy position that new dwellings within the countryside require special justification: “Local planning authorities should avoid new isolated new homes in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting;

The NPPF does not incorporate detailed guidance on the approach to “essential need” for a new dwelling (compare the now cancelled PPS 7). In my view the opinion of an appropriately qualified and experienced expert will be required. For all rural businesses the need must be justified on planning grounds. In all livestock enterprises, agricultural and equestrian, it will involve examination of the requirement for proximity

to the animals in connection with health, welfare, safety and security. For there to be a sound case for a resident proprietor or employee the business must have reasonable profitability or the prospect of it – else it is difficult to see how the need, in planning terms, could be “essential” for “a rural worker”.

It is plain from the text of paragraph 55 that the NPPF makes no distinction between different categories of “rural worker”. The NPPF has been drafted as a single statement, covering a wide range of planning policy concerns but it has some leading and consistent themes, among these the building of a strong, competitive economy and within that supporting a prosperous rural economy (paragraph 28): “Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should :

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;
- promote the development and diversification of agricultural and other land-based rural businesses;.....”

In my view the provisions of paragraph 55 should be read in the context of paragraph 28 where no distinction is drawn between agriculture and other land based rural businesses.

In my opinion it follows from the above that there is a very significant difference between the approach set out in Colchester’s policy DP24 and that of the recent NPPF. Potential and existing equestrian businesses are subject to a particular constraint in Colchester which could operate decisively against new enterprise. It has no support on the face of the National Framework. I can see no basis in principle for this difference. It seems to me to be in serious conflict with the encouragement to and support of enterprise which are important features of the Framework. By paragraph 214 of the Framework “For 12 months from (March 27th 2012) decision makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework”. In my opinion, for the reasons given above, the degree of conflict here is considerable. Accordingly, paragraph 215 of the Framework should apply and the provisions of policy DP24 can now be outweighed in properly evidenced cases by paragraph 55 of the Framework.’

8.7 Our Planning Policy team responded to these further points as follows:

‘These additional comments have been prepared in response to the information supplied by the applicant’s agent on the 13 June 2012 and should be read in conjunction with the earlier planning policy comments.

Development Policy DP24 is an adopted policy which has been through the full process of public consultation and was found to be sound and the most appropriate in all circumstances for Colchester following recent examination in public in 2010.

The NPPF is now a material consideration and also needs to be considered in the determination of this application. As set out in the previous planning policy comments paragraph 55 of the NPPF is considered to be relevant in this case. The NPPF does not provide any guidance on the interpretation of 'essential need' or 'rural worker'. The use of this more general terminology in the NPPF is likely to provide more local flexibility when setting development plan policies. The NPPF also requires essential need to be demonstrated on which there is again no further guidance due to the revocation of the annex to PPS7.

It is considered that Colchester's approach to rural dwellings remains in general conformity with the NPPF. The use of more general terminology in the NPPF provides greater local flexibility. It is not, however, considered to justify the setting aside of Colchester's locally adopted development plan policy.

Given the general terminology used it is entirely appropriate for this issue to be addressed by local planning policies. The more general terminology used does not expressly mention equestrian uses or any other types of rural businesses.

The NPPF is positive towards rural enterprise, as referred to by the applicant's barrister, and this should be a material consideration in the determination of the application. The NPPF, however, also seeks to protect the intrinsic character and beauty of the countryside which should also be taken into account along with the Council's locally adopted policies on this issue. The support for rural enterprise contained in the NPPF is therefore not considered to outweigh the potential for harm or to justify a departure from adopted development plan policies.'

- 8.8 Our Planning Policy team has also taken verbal advice from a Barrister who has indicated that whilst NPPF does support business in the countryside in general terms, and the Local Plan policies do carry less weight than before, these policies do reflect local circumstances regarding dwellings in the countryside.

He adds that the applicant needs to show essential need (in accordance with NPPF) and Members will need to balance the requirements of NPPF with those of local policy. Is the dwelling essential?

It is also pointed out that the requirements of sustainable development need to be looked at, and in this case the proposal can be held to be unsustainable.

- 8.9 The Highway Authority did not object, but requested several conditions relating to parking provision, surface materials and unobstructed access to footpaths.

- 8.10 Environmental Control did not object, but requested that the proposed packaged treatment plant should comply with current regulations and have a consent to discharge provided by the Environment Agency. Also, a scheme to store and dispose of manure was requested, and a condition limiting lighting.

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 Mount Bures Parish Council has responded as follows:

“Whilst the Council realises that the application relates mainly to land in Wakes Colne we would like to make the following observations;

1. *The applicant proposes to significantly alter the existing footpath regime, diverting Footpath 34 to the north of the development to meet Footpath 31 which also continues through the site to then continue along Footpath 33. Council does not consider this situation to be a safe site for walking and also not conducive to animal husbandry. It is unlikely that existing walkers will wish to continue using the footpaths. The proposed alterations are most unwelcome and the Council strongly objects to this section of the application.*
2. *With regard to the Change of Use and alteration of buildings, Council believes that this constitutes an overdevelopment of equine business in the area. There are already established equestrian facilities next door at Hammonds Farm, and many others nearby. The siting of the new facilities will be extremely close to the horses, which could be of both sexes, at Hammonds Farm, and Council can foresee problems with the siting of stallions so close, without proper segregation.*
3. *There are already plenty of established studs in the wider area. There is a concern that saturation of the market will affect the financial viability of this new venture.*
4. *Mobile Home. Council is very aware from previous decisions that approval of a mobile home is a prerequisite to approval of a permanent property. In view of this the Council strongly objects to this section of the application.*

Council is unconvinced that the information regarding Bed & Breakfast and the references supplied have any relevance to the case.

We confirm that Council objects to this application as whole.’

10.0 Representations

10.1 Ten letters of objection were received, covering the following points:

- The principle of the development
- Setting of a precedent
- Increased traffic
- Other properties nearby have been for sale
- Visual impact
- Too close to other equine uses
- Inadequate/pressure on water supplies
- More footpaths will be affected than is being claimed
- Light pollution
- The area already experiences pressure from too much equine activity

- This is a protected lane
- The stable and the site are of insufficient size to accommodate the proposed use
- The business model presented does not stack up
- Insufficient parking
- Insufficient information about manure storage/removal
- The access road is not strong enough to accommodate the vehicles

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

11.0 Parking Provision

- 11.1 Two car parking spaces are proposed, plus one for a horse-box. This complies with a residential standard, but is deficient for staff parking. There is, however, enough room on the site for such provision.

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 Report

History

- 14.1 The planning history for this site shows a gradual movement away from agriculture, to repeated attempts for equine and associated use. At the same time, the application site, along with neighbouring parcels of land, have been severed from the main site which includes the Hammonds Farm house.
- 14.2 The history above shows several refusals for a road access, followed by public inquiries from which the appellants then withdrew.
- 14.3 The only hope the applicant may pin to any permissive stance is application 071677, which granted prior approval (under agricultural permitted development) for a hay barn and hardstanding. This was in connection with the agricultural use which was claimed to be ongoing at that time. It is worth noting that the barn has not been built (although the footings are in place).
- 14.4 By the time of applications 081569 and 090546, the buildings which are now shown to be at the north eastern corner of the site had been incorporated into the site (they had been part of the neighbouring landholding next to Hammonds farmhouse itself at the time of C/COL/06/1664).
- 14.5 To clarify – the only permission ever granted for anything on this site (apart from the access, which also serves other parcels of land) was for the as yet un-built hay barn and hardstanding, which was granted prior approval in connection with agriculture.

14.6 At the time of the dismissal of the appeal against refusal of 090546, the appellants claimed that the development being sought (stabling) was for grazing horses, and as such fell under agricultural use, and also indicated a low-key usage, which is different to what is now being claimed.

14.7 At the time of the appeal, the appellant also stated that he did not intend to seek a residential presence on the site. The Inspector, in her closing statement recognised that to allow the appeal would be to lay the ground for such an application, concluding:

‘I therefore find that the scale of the proposals and the isolated location of the appeal site, unconnected with any residential property, would be likely to result in increasing pressure for development in the countryside, including potentially a dwelling. As such, it would be likely to harm the character and appearance of the countryside.’

14.8 It is worth noting that notwithstanding the existence of farm buildings to the north eastern corner of the site, the Inspector still had grave concerns about any dwelling harming the countryside.

14.9 The proposal before Members includes more than that dismissed at appeal two years ago, as it also seeks a mobile home.

Principle

14.10 The protection of the countryside for its own sake, sustainability and restriction of dwellings in the countryside have long been central tenets in the Planning system, both nationally and locally. The uncategorical dismissal of the appeal against the refusal of 090546 was just two short years ago. The only change since then is the introduction of NPPF.

14.11 It is understandable that a party which has lost an appeal under the previous regime of PPG/PPS may point to NPPF as offering a new raft of considerations (indeed, an appeal in the Borough where the appellant claimed that a landscape gardening company was a ‘rural use’ has just been dismissed, and another application has recently been lodged for a roofing and building repair and maintenance business). In fact, the central tenets listed above hold fast in the new NPPF, and our Policy team has given a very strong message that our policies are compliant with NPPF.

14.12 Your Policy Officers have given a steer on this proposal, and have now repeated this view on several occasions during this application. Clearly, given the various missives from the agent, there is a fundamental policy-related disagreement on these issues which will ultimately need to be decided by appeal.

Functional Justification/Viability

14.13 Evidence has been submitted by the applicants, and has been accompanied by a business plan and technical assessment from Tatersalls. There has been correspondence from objectors who have disputed its claims, this has then been countermanded by Tatersalls. Colchester Borough Council has not employed its own consultant due to the cost to the public purse. However, it will have to do employ a consultant if the applicant appeals against any refusal.

- 14.14 With the removal of PPS7, and its associated annexes, there is no official guidance which can be used as a toolkit to analyse the functional and financial justification for a proposal such as this.
- 14.15 In the absence of any successor to Annex A of PPS7, a leading lawyer has recently contended that 'the methodology explained in Annex A to PPS7, whilst it no longer forms part of ministerial policy as such, is nevertheless the appropriate way in which this issue should be approached. It is well-established and well understood, and I would expect LPAs and planning inspectors to continue to apply this approach, even though PPS7 can no longer be called in aid as the authority for doing so'
- 14.16 Annex A to PPS7 is, therefore, a useful reference point in analysing the proposal at hand.
- 14.17 With this in mind, the proposal has been looked at internally, and our response is as follows:

Figures given for costs appear unrealistically low. Water rates of £400 per year, for example, would cover the mobile home alone, but would in no way represent the large water consumption of a stud farm. As another example, an annual vet bill of £100 per horse would appear to be optimistically low.

In contrast, figures provided for income appear unrealistically high. No evidence is provided that such figures are in any way achievable. It is unclear why foals sell for £8000 each but can be bought in for £900 each. On the face of it, this would appear to suggest poor quality foals brought in to breed and produce a high quality foal. No justification of these figures are provided, nor explanation of the apparent anomalies.

Of greatest concern however, is the notional financing cost of major works. I appreciate that the applicant already owns property and stock, but it is the business that must justify the dwelling, not the person, otherwise it is a lifestyle choice that is being considered rather than a business. The consequence could otherwise be that, should the applicant lose interest in the site and move on, a dwelling could remain with no viable rural business attached. For the business to justify a dwelling, it should therefore be possible for it to be sold as a going concern. The full costs of the sale of such a business should therefore include the notional financing of the stock and the cost of the land and existing buildings / infrastructure. No such details are included. Although a small figure is given for repairs and maintenance, no depreciation figures are given for buildings or equipment. Similarly, no financing of vehicles or other essential equipment is included in figures.

No details of working hours in order to achieve projected income figures are provided. This is especially concerning as Paragraph 5.8 states that once established the premises will need at least two full-time workers. No wages for such workers are shown in the calculations. No details are provided of how sickness and leave cover for the owner will be paid for.

No details of how the building of a new house at the end of the three-year period will be financed.

It is disappointing that, despite having supposedly already established the business, no accounts are provided relating to how that business has performed to-date. It is also disappointing that no evidence has been submitted in support of the applicant's claims of projected income, for example to demonstrate that 30 doses of semen per stallion, per annum is a reasonable expectation and that £400 per dose is a reasonable expectation of income.

No evidence is submitted to demonstrate that sites on existing equestrian or farm units with associated dwellings have been investigated and discounted. Consequently there is no apparent justification for eroding additional existing countryside by this proposal. No investigation of alternative potential security and supervision provision appears to have been undertaken – cameras, security guards etc. Paragraph 3.3 states that "To save on livery costs and move the business forward, 7 horses were moved into the site in 2001". One would therefore expect an explanation as to how security has been addressed since 2001 and why that is no longer adequate.

- 14.18 It is also worth noting that the applicant's business (Studdery Limited) is based in Wembley, and claims to have its stock in several places. It is unclear why, amongst all of these locations, it has chosen the Borough of Colchester to locate the stud farm.
- 14.19 In conclusion to this section, Members are advised that the functional and business cases have clearly not been proven. At appeal, we will have to employ a consultant to counter any claims made by Tatersalls.

Rural Amenity

- 14.20 It is noted that an attempt has been made to locate the manege and mobile home/hardstanding near to the existing group of buildings (including the yet to be built hay barn). However, the users of the to be diverted footpath 34, as well as other footpaths, would be met with a new visual intrusion which would also be detectable from some parts of Mount Bures Road.
- 14.21 In addition, the sub-division of the field into paddocks would also fragment the countryside, and lead to visual disappointment for its users.
- 14.22 Extra light intrusion is also a very real danger. Whilst this can be offset to a degree (with shrouding and so on) it cannot completely eliminate the extra light which would ensue.
- 14.23 The narrow Mount Bures Road, a protected lane, would also be undermined and eroded by the increasing amount of large vehicles and vehicular activity. The extra traffic would also undermine the tranquillity of the area. Whilst it is acknowledged that the previous use was agricultural which would have included large vehicles, this used a different access onto Hemps Green to the south.

Economic Benefits

- 14.24 It is incumbent upon the Local Planning Authority to have regard to economic benefits. Section 3 of NPPF 'Supporting a prosperous Rural Economy' states that Local Authorities should 'support the sustainable growth and expansion of all types of business and enterprise in rural areas' and 'promote the development and diversification of agricultural and other land-based rural businesses.'
- 14.25 The application does offer the promise of employment, with the potential for two full time employees should the business prove a success.

Parking

- 14.26 As already discussed at paragraph 11, the provision is deficient, but there is sufficient space on site to accommodate staff in addition to residential parking.

Sufficient Space/Size of Buildings

- 14.27 Tatersalls and a neighbouring objector, both with equine knowledge, have disagreed about this matter. Members are advised to not involve themselves in the dispute unless they have some specialist knowledge which may be of use should the applicant appeal a refusal. Members may, instead, wish to refer to the intensity of the proposed use and its effect on the site and the wider countryside.

Footpaths

- 14.28 It has been stated that footpaths other than those mentioned would be affected. If this is the case it would be for the applicant to deal with this matter should any permission be granted for this application.

Other Matters

- 14.29 Lack of facilities for manure disposal and water have been cited as concerns. On the former, our Environmental Control section has stated a way forward. On the latter, it would be for the applicant to make arrangement. It is not felt that these issues can be carried forward as reasons for refusal, but this additional activity does add to the picture of intensive use in this sensitive rural location.

15.0 Conclusion

- 15.1 Given all of the above considerations, Members are requested to refuse this application in terms of its principle, and its effect on the site and the wider countryside as a result of its physical presence and activities, and the fact that no business case has been proven.

16.0 Recommendation - REFUSE planning permission for the following reasons:

16.1 National Planning Policy Framework states, at paragraph 55: 'Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside;
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting....'

In this instance, the applicants have failed to demonstrate any functional or financial justification for the proposed stud farm and dwelling in this remote location and the proposal would also fail to enhance the immediate setting of the site.

NPPF, at paragraph 17, states that 'recognising the intrinsic character and beauty of the countryside' is a core Planning principle.

Under that consideration, Colchester Borough Council's Core Strategy policy ENV1 states, inter alia: 'The Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline.....

....green spaces and areas of accessible open space that contribute to the green infrastructure across the Borough will be protected and enhanced.....

..... Where new development needs, or is compatible with, a rural location, it should demonstrably:

iii. protect, conserve or enhance landscape.....

vii. provide for any necessary mitigating or compensatory measures.'

This informs Policy DP1 of the Development Policies, which states, inter alia, that any proposal should 'respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area.'

The proposal, for a proposed temporary, and ultimately potentially a new permanent, dwelling and for sundry other structures and accoutrements such as a manege, lighting fixtures and paddock fencing would severely undermine and fragment the open nature of this site, visible from Mount Bures Road and from several nearby footpaths, undermining its intrinsic character and beauty, contrary to the aims of NPPF paragraph 17 and the above mentioned policies.

Policy DP24 of the Development Policies states that:

‘Planning permission will be supported for equestrian related development if it can be demonstrated that the proposal:

- (i) Cannot be located within existing buildings on the site through the re-use or conversion of buildings for any related equestrian use before new or replacement buildings are considered;
- (ii) Is satisfactory in scale and level of activity, and in keeping with its location and surroundings;
- (iii) Will not result in development leading to an intensification of buildings in the countryside
- (iv) Is related to an existing dwelling within the countryside or will not lead to pressure for the development of a new dwelling.’

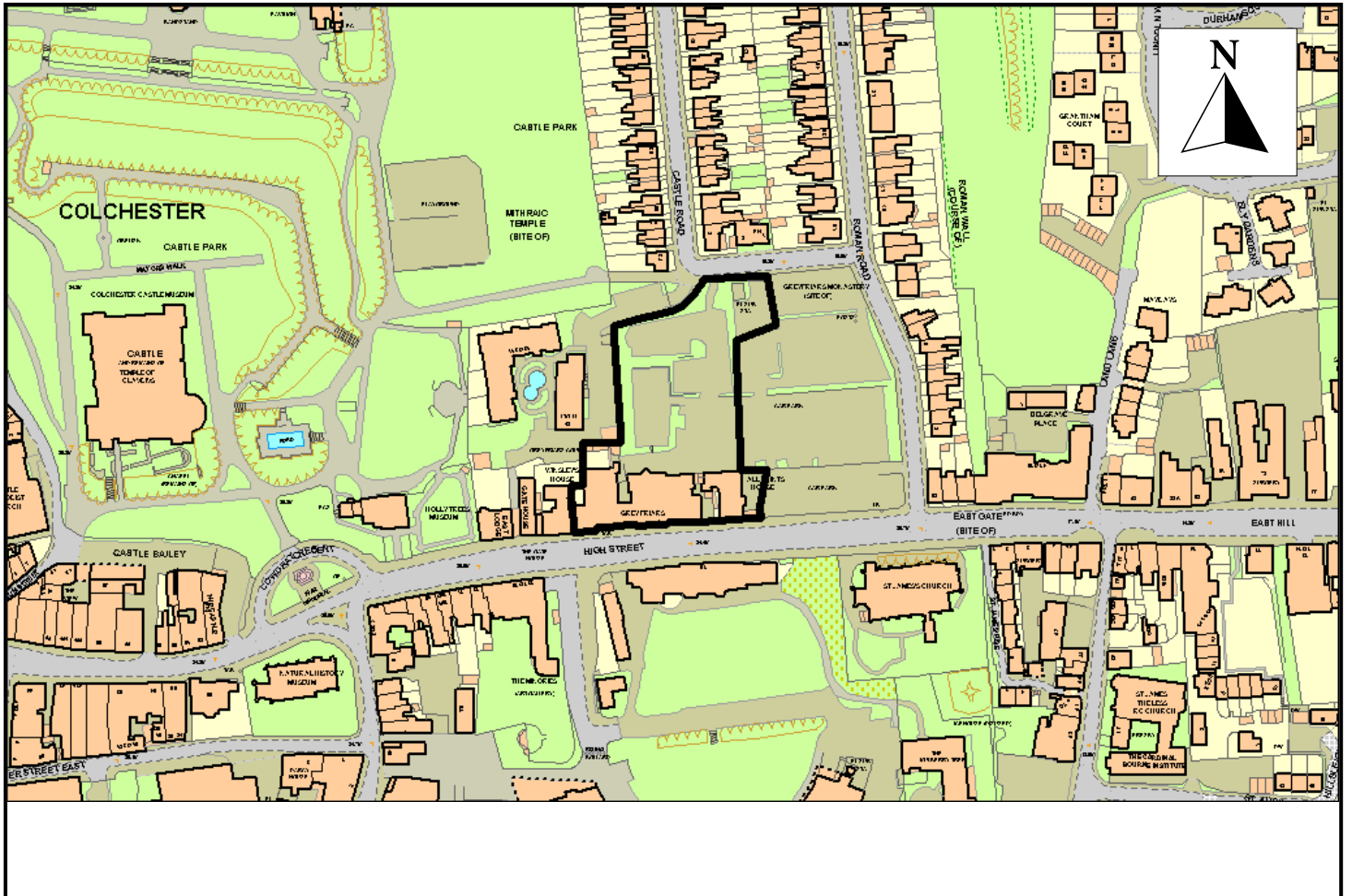
The supporting text clearly states:

‘An equestrian use will not be considered to justify the erection of a dwelling in a location where permission would normally be refused.’

In this instance, the application proposes that a new dwelling would be provided on the site. This, combined with the likely intensification of use, means that the proposals conflict with the above adopted policy.

Policy DP21 of the Development Policies states, inter alia: ‘Protected Lanes of historic and/or landscape value shown on the Proposals Map will be protected from development that would adversely affect their physical appearance or would give rise to a material increase in the amount of traffic using them.’

The proposal for this more intensive use of Mount Bures Road would lead to added pressure on the vergeways, producing erosion and rutting which would diminish its historic, rural character as a protected lane and is therefore contrary to the above policy.



Application No: 120411

Location: Adult Community College, Greyfriars, High Street, Colchester, CO1 1UG

Scale (approx): 1:1250

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7.6 Case Officers: Mr Mark Russell/Mr John More

OTHER

Site: Greyfriars, High Street, Colchester, CO1 1UG

Application No: 120411

Date Received: 7 March 2012

Agent: Lawson Planning Partnership Ltd

Development: Variation of conditions 15 (use of rear terrace), 20 (amended car park layout), 26 (outdoor events) & 27 (use of outside areas) following grant of planning permission 102680

Ward: Castle

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 the then Councillor Henry Spyvee for the following reason:

“This Application seeks to reverse decisions made by the Planning Committee under Application 102680 and would cause noise nuisance to the 24 occupants of the apartments at Greyfriars Court who have objected. Any revisions, other than those accepted by the tenants should be made by the Planning Committee.”

2.0 Synopsis

2.1 This application was discussed at Committee in May, and all variations of condition were agreed to by Members with the exception of condition 26 which relates to outdoor events.

2.2 The report below sets out the applicants' proposal to vary four conditions relating to hours of use/use of the outdoors and also the layout of the car park. Objections are listed and analysed and the issues are addressed in the report section which concludes that the proposals, including outdoor usage with strict limitations and controls, are acceptable.

3.0 Site Description and Context

3.1 The application site comprises three buildings; Greyfriars, Hillcrest and All Saints House and their respective grounds. Greyfriars and Hillcrest previously formed part of the community college operated by Essex County; it is understood that All Saints House was acquired following its part conversion to a restaurant. The buildings on site are currently vacant apart from the live in caretaker/security in Greyfriars.

- 3.2 The site occupies an important position within Colchester town centre, falling within the Roman walls and on the area of land occupied by a Franciscan monastery (founded in the C14 and dissolved in the mid C16).
- 3.3 Greyfriars is one of the town's finest Georgian houses. The original part of the house dates from circa C18 and consists of the central front range with its two canted bays framing an Ionic door case, above which is a Venetian window beneath a pediment; fine panelling, rich cornices and chimney pieces survive within this part of the building. To this was added the garden range, with its double height bay flanked by sets of Venetian windows; again interior fixtures and fittings survive. Further alterations were made between 1904 and 1908, which included the addition of the red brick wings in C18 style. The house is listed at grade II* for its special architectural or historic interest.
- 3.4 Hillcrest is a C18 red brick fronted brick house that was linked to Greyfriars as a part of the Edwardian extension works. It is three storeys in height and has an asymmetrical façade with a panel door with a fanlight and sash windows. Internally the house has a typical domestic layout. The ground floor plan remains largely unchanged; the first and second floors were altered in the early C20 to allow access between this property and Greyfriars
- 3.5 All Saints House is described as dating from the C18 and is of a polite stripped classical design. The front façade has a two window range of double hung sashes and pediment head door case with Ionic columns. North and east side has modillioned eaves cornice, upper oriel window with double hung sashes. Internally the building has suffered from recent insensitive (unauthorised) alteration works (damage to main stair case, opening inserted into walls etc).
- 3.6 To the rear of the listed buildings is a large open area that is currently used for car parking and contains a Holm Oak tree of significant amenity value.
- 3.7 The site is opposite East Hill House, a Grade I listed building and the entrance to the former bus station which is currently being redeveloped as an art gallery. To the east of the site is the former garden to All Saints House (now used as a car park and in separate ownership) and is enclosed by a high boundary wall that is listed grade II in its own right.
- 3.8 To the rear and side of the site are the residential streets of Roman Road and Castle Road, containing a range of mostly two and three storey Victorian terraced houses with a public house. Castle Road runs across the northern boundary of the site and provides pedestrian links to the upper section of Castle Park to the west and the lower section via a gateway in the Roman wall to the north.
- 3.9 Vehicular access to the site is from Castle Road while pedestrian access is from both the High Street and Castle Road.
- 3.10 The site is located within the designated Colchester Town Centre Conservation Area. The site contains three listed buildings - Grey Friars - listed Grade II*, and Hillcrest and All Saints House - both listed Grade II. The boundary wall of Grey Friars fronting Roman Road is also listed (Grade II), and the boundary wall of All Saints House to High Street and Roman Road (in separate ownership) is also listed Grade II.

4.0 Description of the Proposal

- 4.1 The original application which was approved by the Planning Committee proposed the change of use and reconfiguration of the site to provide a hotel containing 21 bedrooms, with associated bar, restaurant, staff facilities, access and car parking. A number of conditions were attached to the permission to make the development acceptable in planning terms. This application seeks to vary conditions 15, 20, 26 and 27 of planning permission ref: 102680. The original condition and reason and the proposed variations to the conditions are set out in turn below. The original condition and reason in italics for ease of reference.

Original condition 15

No hotel guests or any customers shall be permitted on the rear terrace outside the following times, unless otherwise agreed in writing by the local planning authority: 0800hrs – 2330hrs, Mondays - Fridays 0800hrs – 2330hrs, Saturdays 0800hrs – 2200hrs, Sundays.

Reason: To prevent undue noise and disturbance to nearby residential properties.

Proposed Condition 15

No hotel guests or other customers shall be permitted on the rear terrace outside the following times, unless otherwise agreed in writing with the local planning authority: 0700hrs - 2330hrs, Mondays to Saturdays and 0700hrs – 2230hrs, Sundays.

Original condition 20

Notwithstanding the details submitted, no development shall commence until an amended parking layout has been submitted to and approved in writing by the local planning authority. The amended parking layout shall incorporate the following:

- Switching the location of the powered two wheeler and cycle parking*
- Additional car parking to be provided in the area to the north of the formal garden area and Holm Oak tree (the layout and construction of which to be informed by the Arboricultural Impact Assessment and Method Statement). The use hereby permitted shall not commence until the approved details have been surfaced, laid out and made available for use. That area shall not thereafter be used for any purpose other than the parking of vehicles and cycles in association with the use hereby permitted.*

Reason: To ensure that vehicles visiting the site can park off the highway to ensure the convenience and safety of pedestrians and other road users is not prejudiced and to protect the amenity of nearby residents.

Proposed Condition 20

Notwithstanding the details submitted, no development shall commence until an amended parking layout has been submitted to and approved in writing by the local planning authority. The amended parking layout shall incorporate the following:

- Switching the location of the powered two wheeler and cycle parking
- Suitable provision for overflow car parking to be made in the area to the north of the formal garden area (the layout and construction of which to be informed by the Arboricultural Impact Assessment and Method Statement).

The use hereby permitted shall not commence until the approved areas have been surfaced and made available for use and shall not be used for any purpose other than the parking of vehicles and cycles in association with the use hereby permitted, except for the overflow car parking which will perform a dual function as an amenity area in connection with the hotel.

Original condition 26

No outdoor events of any kind shall be held within the site as outlined in red on the submitted plans.

Reason: To prevent undue noise and disturbance to nearby residential properties from outdoor events.

Proposed Condition 26

No more than ten outdoor events in any calendar year shall be held within the site as outlined in red on the submitted plans, and none of these outdoor events shall include amplified music. For the purposes of this condition, an 'outdoor event' means a previously organised and arranged gathering, event or function held outside of the building(s) [e.g. Weddings]. The applicant shall inform the Local Planning Authority and neighbouring premises no less than ten days before each outdoor event. Prior to the use permitted coming in to force the applicant shall agree, in writing, the extent of 'neighbouring premises' to be notified and the scheme shall be complied with at all times thereafter.

Original condition 27

No outside area within the site as outlined in red on the submitted plans (excluding the bar terrace which is covered by condition 15) shall be used by hotel guests or any customers and staff other than between the hours of 0730hrs - 2000hrs, other than for the purpose of parking and access to the parking areas.

Reason: To prevent undue noise and disturbance to nearby residential properties.

Proposed Condition 27

No outside area within the site as outlined in red on the submitted plans (excluding the bar terrace which is covered by condition 15 and the designated smoking area as shown on the approved drawings) shall be used by hotel guests or any customers and staff other than between the hours of 0700hrs-2200hrs, other than for the purpose of parking and access to the parking areas."

The application is supported by a Noise Assessment report and various drawings including a draft landscape plan.

OFFICER'S NOTE – Conditions 15, 20 and 27 were agreed by Members at the Committee of 24th May 2012.

5.0 Land Use Allocation

5.1 The site is currently allocated for mixed use in the Local Development Framework Proposals Maps, Oct 2010 and is located within Colchester Conservation Area No.1.

6.0 Relevant Planning History

6.1 Planning permission was granted for the *“Change of use of the site and premises from their existing use within Use Class D1 (Grey Friars/Hillcrest) and Class B1 (last known use of All Saints House) to hotel, with bar, restaurant, function room, ancillary offices and staff flat (primarily within Use Class C1). Partial demolition of outbuildings and boundary walls; and internal and external alterations to existing buildings to form the proposed hotel accommodation. Erection of new three-storey height lift enclosure; single storey extensions to form glazed entrance foyer, office and corridor space; and roofed enclosure for external freezer units. External works including: hard and soft landscaping”* under application ref:102680. At this time listed building consent was granted for the works associated with the aforementioned planning permission under application ref: 102681.

6.2 Subsequent to this a s.73 application, ref: 112428, was submitted for *“Variation of conditions 15 (use of rear terrace) and 20 (amended car park layout) and removal of conditions 26 (outdoor events) and 27 (use of outside area) attached to planning permission 102680.”* This application was withdrawn.

7.0 Principal Policies

7.1 The following national policies are relevant to this application:
The National Planning Policy Framework (NPPF)

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
CE1 – Centres and Employment Classification and Hierarchy
CE2 – Mixed Use Centres
CE2a - Town Centre
UR1 - Regeneration Areas
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA5 - Parking

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

DP1 - Design and Amenity
DP4 - Community Facilities
DP6 - Colchester Town Centre Uses
DP10 - Tourism, Leisure and Culture
DP14 - Historic Environment Assets
DP17 - Accessibility and Access

DP19 - Parking Standards
DP20 - Flood Risk and Management of Surface Water Drainage
DP25 – Renewable Energy

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

8.0 Consultations

- 8.1 Environmental Control
Environmental Control accepts the changes to this planning application regarding conditions 15, 26 and 27.
- 8.2 Conservation Officer
'No significant conservation issues appear to be raised by this application and, as such, I do not intend to make any observation in respect of this proposal unless otherwise requested to do so by the case officer.'
- 8.3 English Heritage
'The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.'
- 8.4 Highway Authority
'The Highway Authority would not wish to raise an objection to the above application.'

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 The consultation exercise has resulted in three letters of objection. The comments are summarised below.
- 10.2 Greyfriars Court is a peaceful place with bedrooms facing the hotel site. The conditions originally imposed will prevent disturbance of this peaceful existence.
- 10.3 One letter of objection suggests that the current suggested amendments are broadly satisfactory subject to a restriction being placed on amplified music in the garden area within condition 27. They make reference to the applicant's noise report, page 10 paragraph 4.3 which states "As there will be no amplified music in the garden area the main impact on the amenity of existing local residents will be from the occasional small group of people in high spirits who will communicate with raised voices in the garden area."

OFFICER'S NOTE: The reference to amplified music has now been appended to condition 27.

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

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 N/A

14.0 Report

- 14.1 Section 73 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original conditions should continue. The original planning permission will continue to exist whatever the outcome of the application under section 73.
- 14.2 Paragraph 206 of the NPPF states that "Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. This repeats the tests set in Circular 11/95 – Use of conditions in Planning Permission.
- 14.3 Regarding Condition 15, your Officers agree that the rear terrace can be used from 0700hrs to bring it in line with the service area. Members accepted this at the Committee of 24th May 2012.
- 14.4 Regarding condition 20, your Officers agree to the switching of the powered two wheeler and cycle parking and support the idea of a temporary, as opposed to a permanent parking area. Members accepted this at the Committee of 24th May 2012.
- 14.5 Regarding condition 27, 2200hrs rather than 2000hrs is acceptable as the revised evening time limit for guests and customers to access the outside areas outlined in red on the submitted plan (excluding the bar terrace and smoking area covered by condition 15). Whilst noting that allowing outdoor events, however well controlled, will impose adverse noise impacts on residents of Greyfriars Court, 2200 is earlier than the anti-social hour of 2300 which our Environmental Control colleagues deem to be 'night-time.'
- 14.5 Regarding condition 26, the holding of any outdoor events would be close to the living and sleeping accommodation of flats in Greyfriars Court. The land on the Greyfriars side of the wall is slightly higher than that in Greyfriars Court which does not help the situation. With noise in mind, the frequency and type of outdoor events that may be held needs to be defined at the outset as well as seeking the prior written approval from the local planning authority. Clarification has been sought from the applicants about this, and the following response has been received:

We have spoken with our client (OMCI Ltd.) regarding your question about the frequency and type of outdoor events that may be held. As the hotel is not yet operational you will appreciate that it is difficult to predict, with any degree of certainty, the likely number of such events. However, as set out in paragraphs 33 to 39 of the supporting statement accompanying the current S73 application, this is intended to be a small boutique hotel with a limited-sized bar and function room, catering predominantly for the business market, and the size of the hotel and its grounds would also not readily lend itself to the holding of large formal gatherings. Accordingly, it is not envisaged that such events would be a regular occurrence. Nevertheless, the wording of condition 26, as proposed to be varied, requires advanced written consent to be sought from the LPA for any formal outdoor events. The Council would therefore still retain full control over both the nature and frequency of any outdoor events to be held at the premises and could veto any requests that were considered unacceptable, for instance if it were concerned that such events were becoming too frequent. It should also be noted that suitable safeguards will exist to protect the amenities of the occupiers of nearby residences from undue noise disturbance through the restrictions on the permitted hours of use of the outdoor areas (e.g. conditions 15 and 27) and through other legislation, such as the provisions of the Environmental Protection Act 1990 and Licensing Act 2003.

In terms of the nature/type of outdoor events, we would respectfully point out that it was the Council who imposed the original condition restricting 'outdoor events' and it would really be a matter for the LPA to identify exactly what they are seeking to control, the existing wording of condition 26 being imprecise and potentially open to interpretation. Ideally, our client would have preferred for the condition to be removed in its entirety to avoid any confusion, but having sought advice from John More and from the Council's Environmental Protection Officers, we appreciate that the Council would like to retain some control and that the removal of the condition would be unlikely to be acceptable to Members. We have therefore sought to assist matters by suggesting a suitable definition of an 'outdoor event' in our requested varied wording for condition 26, as being "a previously organised and arranged gathering, event or function held outside of the buildings".

- 14.6 At Committee on 24th May, Members were concerned that the wording of the condition would still leave too much too chance, and sought further clarifications. Your Officers have been discussing matters with the applicants and held a meeting on 19th June to formulate a satisfactory outcome.
- 14.7 It was noted that usage of the outside garden area (until 22:00) was already allowed, as was the placing of a marquee (at our discretion). A numerical limit of ten events per year was proposed, along with an embargo on amplified music. Your Environmental Control team has agreed this as acceptable.
- 14.8 Also to be included in the lengthy condition 26 is prior notification of events to Colchester Borough Council and neighbouring properties. 'Neighbouring properties' will include the Greyfriars Court development and nearby properties at Roman Road and Castle Road.

14.9 It is not felt that the holding of outdoor events will affect residential amenity negatively, given the other restrictions in place (i.e. limitation of events, terminal hours which are not anti-social and no amplified music). However, the proposed notification procedure is a courtesy and rounds off a thorough approach to the issue of amenity.

15.0 Conclusion

15.1 The application to vary conditions is supported, with a thoroughly worded condition 26.

16.0 Recommendation

16.1 Vary conditions 15, 20, 26 and 27 as described below

Conditions

All relevant conditions from the previous application to be restated (and re-worded where they have already been discharged, etc. with the following amendments:

Condition 15 re-worded as follows:

No hotel guests or other customers shall be permitted on the rear terrace outside the following times, unless otherwise agreed in writing with the local planning authority: 0700hrs - 2330hrs, Mondays to Saturdays and 0700hrs – 2230hrs, Sundays.

Condition 20 re-worded as follows:

Notwithstanding the details submitted, no development shall commence until an amended parking layout has been submitted to and approved in writing by the local planning authority. The amended parking layout shall incorporate the following:

- Switching the location of the powered two wheeler and cycle parking
- Suitable provision for overflow car parking to be made in the area to the north of the formal garden area (the layout and construction of which to be informed by the Arboricultural Impact Assessment and Method Statement).

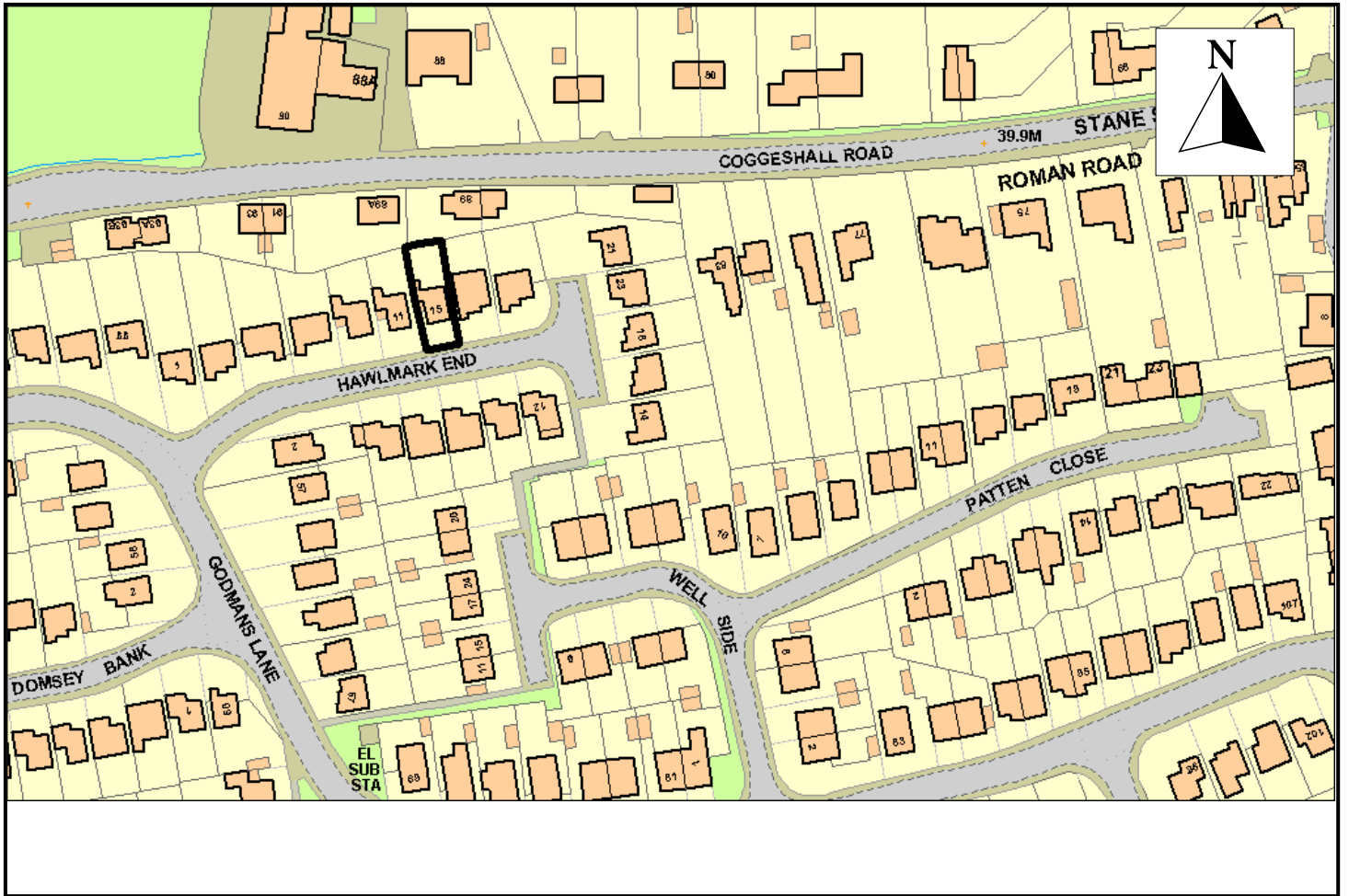
The use hereby permitted shall not commence until the approved areas have been surfaced and made available for use and shall not be used for any purpose other than the parking of vehicles and cycles in association with the use hereby permitted, except for the overflow car parking which will perform a dual function as an amenity area in connection with the hotel.

Condition 26 re-worded as follows:

No more than ten outdoor events in any calendar year shall be held within the site as outlined in red on the submitted plans, and none of these outdoor events shall include amplified music. For the purposes of this condition, an 'outdoor event' means a previously organised and arranged gathering, event or function held outside of the building(s) [e.g. Weddings]. The applicant shall inform the Local Planning Authority and neighbouring premises no less than ten days before each outdoor event. Prior to the use permitted coming in to force the applicant shall agree, in writing, the extent of 'neighbouring premises' to be notified and the scheme shall be complied with at all times thereafter.

Condition 27 re-worded as follows:

No outside area within the site as outlined in red on the submitted plans (excluding the bar terrace which is covered by condition 15 and the designated smoking area as shown on the approved drawings) shall be used by hotel guests or any customers and staff other than between the hours of 0700hrs-2200hrs, other than for the purpose of parking and access to the parking areas. No amplified music shall take place at any time in any of the abovementioned outside areas.”



Application No: 120891

Location: 15 Hawlmark End, Marks Tey, Colchester CO6 1NF

Scale (approx): 1:1250

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7.7 Case Officer: Mark Russell Due Date: 09/07/2012

HOUSEHOLDER

Site: 15 Hawlmark End, Marks Tey, Colchester, Colchester, CO6 1NF

Application No: 120891

Date Received: 14 May 2012

Agent: Wright Ruffell Cameron

Applicant: Mr & Mrs M Booty

Development: First floor side extension over garage and conversion of garage.

Ward: Marks Tey

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 has been called in by Councillor Blundell on the grounds of loss of privacy, and being overbearing and out of keeping.

2.0 Synopsis

2.1 The following report details a proposal for a garage conversion and first floor extension above it. Objections from a neighbouring property, and from a local Councillor, relating to issues of privacy and being overbearing. These issues are considered and it is found that the scheme is acceptable. Approval is then recommended.

3.0 Site Description and Context

3.1 15 Hawlmark End is a three-bedroomed detached property on a 1970s housing development off Coggeshall Road, Marks Tey.

4.0 Description of the Proposal

4.1 The proposal is to convert the current garage (substandard at approximately, 5 metres x 2.5 metres) into an additional lounge and staircase. This would lead to a fourth bedroom with en-suite facilities.

4.2 The first floor element would be hard against the boundary of the neighbouring property, following the existing building line of the garage.

4.3 Proposed materials are brick to match existing at ground floor level, painted render at first floor and concrete interlocking tiles to match the existing.

5.0 Land Use Allocation

5.1 Residential.

6.0 Relevant Planning History

6.1 None

7.0 Principal Policies

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

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

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

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

Extending your House

The Essex Design Guide

External Materials in New Developments

8.0 Consultations

8.1 None

9.0 Parish Council Response

9.1 At the time of writing the Parish Council had not commented.

10.0 Representations

10.1 Two letters of objection were received, one from the neighbouring property and one from Cllr Blundell.

10.2 The Neighbour's comments are set out below:

'The first floor windows at the front of the house would look straight into our landing window. Whilst this isn't a living room, it is on the main route to and from the bathroom for two of our bedrooms so feel it would create a great loss of privacy at first floor level. At ground floor level there is a window in a main living room that would also be grossly overlooked by the first floor window. Although there is a house in the street with a similar type extension the neighbouring house has no windows along its boundary that would be compromised in this way.

The rear window at first floor level will presumably have obscure glazing but any opening windows will then look directly into our garden.

The houses in Hawlmark End are tightly spaced but currently the gaps between them, at first floor level above garages, provide visual relief within the street scene. We feel the layout with the building at first floor level would largely close off this view and in addition would create a terracing effect.

We are also concerned regarding the finish of the first floor extension and its need for regular maintenance to prevent it becoming an eyesore and feel, for maintenance purposes, would be better if in brick.'

10.3 Councillor Blundell echoed these concerns, and with the following additional comment:

'If permission is granted for the requested extension at first floor level, the resulting overall shape of the house at no 15 will present a large, bulky and overbearing building which would be out of place when considered in relation to the general outline of the majority of houses in Hawlmark End and this, together with the proposed external finish to the extension being applied for, will add to the sombre and gloomy effect of the requested alterations, if allowed.'

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

11.0 Parking Provision

11.1 Currently space exists for two parking spaces (compliant with current standards) at the front of the property (the garage and the space in front of it being deficient). This situation would be unchanged.

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 Report

Amenity

- 14.1 This is a key consideration and breaks down into privacy and loss of light/outlook.
- 14.2 It is noted that the proposed first floor windows are causing concern. In the case of the rear window, this is offset by obscuration and can be further assisted by a limited opening condition. To the front, the overlooking would be to a secondary living room window and a landing window. Both of these would be at 45 degree angles, at approximately three metres. The angle of this is held to be acceptable.
- 14.3 Whilst the proposal appears to infringe a 45 degree line at two storey level from the main rear corner of the neighbouring house on the block plan, this does not show the two-storey addition to the neighbouring property given permission in 2006. The proposal is, therefore, acceptable in this context.

Design

- 14.4 A two storey extension to the side, albeit that it is set back to sit on the footprint of the existing garage, is not unacceptable in principle.
- 14.5 The issue of a terracing effect has been raised, however because a small gap would remain (on the neighbouring property), which is unlikely to be filled in, then the risk of a terracing effect is remote.
- 14.6 Two other close by examples on Hawlmark End show that this gap has been preserved, and thus the risk of terracing has been avoided.
- 14.7 The issue of materials has been raised, however the rendering of the first floor is an acceptable solution and would have the added advantage of giving more light to the neighbouring property.

Other Matters

- 14.8 Parking is unaffected, the issue of possible future maintenance is not a reason for denying Planning permission.

15.0 Conclusion

- 15.1 With all of the above, the application is held to be acceptable.

16.0 Recommendation - APPROVE subject to the following conditions

Conditions

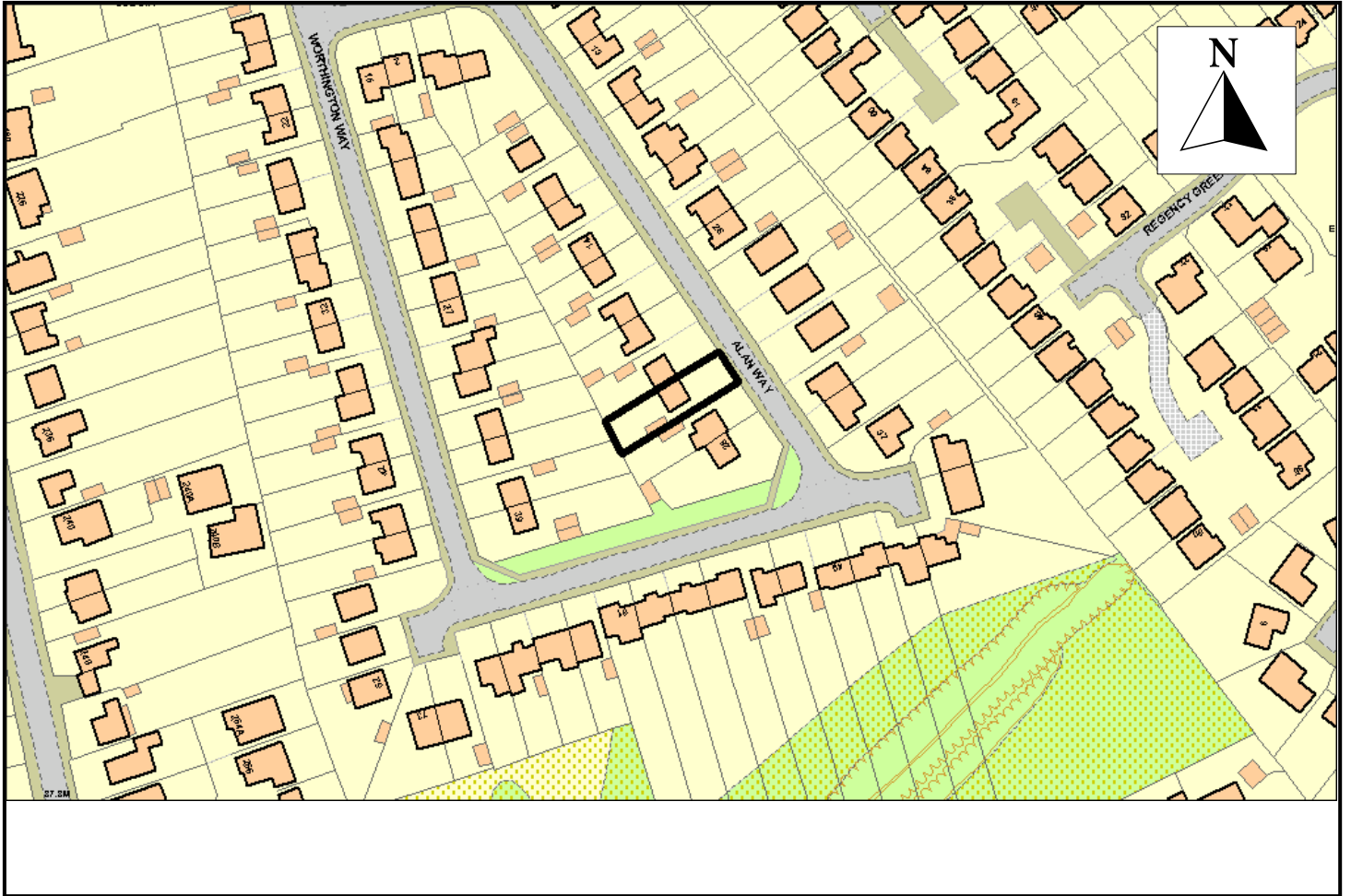
- (1) Time Limit (choose relevant model condition).
- (2) Development to accord with plans.
- (3) Obscuration/limited opening of en-suite window.

- (4) Materials (bricks and roof tiles) to match existing.
- (5) Render colour to be agreed

Informatives

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

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



Application No: 120954

Location: 24 Alan Way, Colchester, CO3 4LG

Scale (approx): 1:1250

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7.8 Case Officer: Carl Allen Due Date: 18/07/2012

HOUSEHOLDER

Site: 24 Alan Way, Colchester, CO3 4LG

Application No: 120954

Date Received: 23 May 2012

Agent: Mr P Tyler

Applicant: Mr & Mrs A De Kock

Development: Two storey front and rear extensions plus single storey side extension.

Ward: Prettygate

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 planning agent is a former employee of the Council and is working as a consultant to the Council.

2.0 Synopsis

2.1 The proposal for two-storey front and rear extensions, along with a single-storey side extension are considered acceptable and would not result in any detrimental amenity impacts to neighbours or the wider street scene.

3.0 Site Description and Context

3.1 24 Alan Way is a semi-detached dwelling with the attached neighbour – no.22 – to the north. There is a side access approximately 2.5m wide to the south with the neighbour of no. 26 beyond. To the rear/west of the site there is a single-storey conservatory. Number 22 has two-storey front gable that extends towards Alan Way from the main dwelling and this is a feature that is found elsewhere along Alan Way.

4.0 Description of the Proposal

4.1 A two-storey front extension approximately 3m wide, 3m long and 6.5m high. A single-storey side extension approximately 2.3m wide, 7.8m long and 3.5m high. A two-storey extension (3.5m long, 3m wide and 6.5m high) with a single-storey element partially wrapping around it (existing conservatory to be demolished). Materials would be bricks and tiles to match the existing and weatherboarding to the rear first floor.

5.0 Land Use Allocation

5.1 Existing residential area.

6.0 Relevant Planning History

6.1 None.

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
Planning Policy Statement 3: Housing.

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

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

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

Extending your House
The Essex Design Guide

8.0 Consultations

8.1 N/A

9.0 Parish Council Response

9.1 N/A.

10.0 Representations

10.1 One letter of objection from the neighbour at number 26. The neighbour does not object to the front or rear extensions, but objects to the single-storey side extension and its close proximity to the boundary fence. The objection is based on:-

- the existing fencing and posts would need to be removed for scaffolding
- access to their property would be needed
- would not be able to access their garages front wall for maintenance
- an extension up to the boundary line would be out of character for the street and their house would feel 'boxed in'
- any future potential for a side extension to their dwelling would be impossible.

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

11.0 Parking Provision

11.1 Two off-road parking places would be provided/retained.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Report

14.1 Design-wise the two-storey front extension is a feature that is found on some of the dwellings along Alan Way and would be in line with, and the same height as the two-storey front element of number 22. Therefore it is considered that the most visible part of the scheme would be in character with the immediate area. The remaining extensions would have no impact on the overall character of the dwelling and would have no impact on the wider area. Although the application would result in several extensions to the dwelling, it would not result in the dwelling appearing cramped on its plot, given the extent of the gardens to the front and rear. The proposal would result in an additional bedroom (making a three bed house a four bed) and would enlarge other accommodation in the dwelling and would not overdevelop the plot. The proposal is considered to comply with UR2.

14.2 Given the orientation of the proposals and the distance to neighbours, the proposal would not result in any overshadowing of neighbouring dwellings. The roof lights that are proposed in the single-storey side element are all above eye level and the first floor south side elevation window would serve a bathroom and would be high level (and conditioned to be obscured glazed). The rear first floor window would bring forward an existing bedroom window and would not increase any overlooking. With these considerations the proposal would not have any negative impact upon the local amenity and the proposal accords with Policies DP1 and DP13.

14.3 The matter of how the single-storey side extension would impact upon any future development proposals at the neighbouring number 26 has been raised. However, this is not a reason that could justify a refusal of the current application. Any future application for development at number 26 would be judged on its own merits and the approval of the current application would not automatically stop any development at number 26.

14.4 The issue of the boundary fence being removed to aid construction and the builders needing to access the neighbours property are not a planning consideration, and it is noted that if planning permission were granted it would not give the applicant or their builders any right to access the neighbours private property.

15.0 Conclusion

15.1 The design and materials are considered acceptable and there would be no detrimental impact on the local amenity with regards to overlooking, overshadowing and the impact upon the street scene. The proposal is considered to comply with the Council's policies and SPD.

16.0 Recommendation – Conditional Approval

Conditions

1 - A1.5 Full Perms (time limit for commencement of Development)

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

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition

The development shall be implemented in all respects strictly in accordance with the submitted drawing numbers TS001/1, TS001/2, TS001/6, TS001/7 and TS001/8 received 23/5/12 and hereby approved, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

3 - B4.3 Windows to be Obscure Glazed (2)

The window/s to be provided above ground floor level in the south facing elevation shall be glazed in obscure glass of a type agreed in writing by the Local Planning Authority and shall be retained as such at all times thereafter.

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.

18.0 Informatives

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

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



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.