

# Planning Committee

Charter Hall, Colchester  
28 February 2013 at 6.00pm

## **This committee deals with**

planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://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](http://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.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off or switched to silent before the meeting begins and note that photography or audio recording is not permitted.

## Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

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[www.colchester.gov.uk](http://www.colchester.gov.uk)

## **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.

## REASONABLE DECISIONS AND REASONS FOR REFUSAL.

### Circular 03/2009: “Costs Awards In Appeals And Other Planning Proceedings”

Attention is drawn to the following paragraphs of Circular 03/2009:

**A3** *“the costs regime is aimed at ensuring as far as possible that... planning authorities properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason”.*

**B20** *“Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.”*

**B25** *“Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. They should consider any conditions proposed to them before refusing permission. A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.”*



**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
28 February 2013 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, Cyril Liddy, 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, Nick Cope, Beverly Davies, Annie Feltham, Marcus Harrington, Dave Harris, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Michael Lilley, Sue Lissimore, Colin Mudie, Gerard Oxford, Will Quince, Lesley Scott-Boutell, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

**Agenda - Part A**

(open to the public including the media)

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

An Amendment Sheet is available on the council's website by 4.30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the 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 two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

**Pages**

**1. Welcome and Announcements**

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

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

- action in the event of an emergency;

- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

## **2. Have Your Say!**

**1**

The Chairman has agreed to vary the arrangements for the public to Have Your Say! at this meeting in response to the amount of public interest that this application has generated. A detailed note of the arrangements is attached.

## **3. Substitutions**

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

## **4. Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

## **5. Declarations of Interest**

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

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would

reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

## **6. Minutes**

There are no minutes to be submitted for approval at this meeting

## **7. Planning Applications**

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

1. 120965 Land and other property to the North of London Road and West of the A134 including The Chantry, The Chantry Lodge, Hillside and Nursery Site, Great Horkelesley.  
(Fordham and Stour)

**2 - 336**

Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkelesley Park' comprising a country park; art and craft studios ('The Chantry'); public gardens; a central building complex to provide an indoor display ring; 'Suffolk Punch breeding centre', entrance building, shop, cafe, 'field to fork', 'farming through the ages', 'active learning', 'nature watch', and retained greenhouse as a 'demonstration nursery and gardens', and energy centre; main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision.

## **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).

## **. Amendment Sheet**

**337 - 356**

See Amendment sheet attached

## **Have Your Say arrangements**

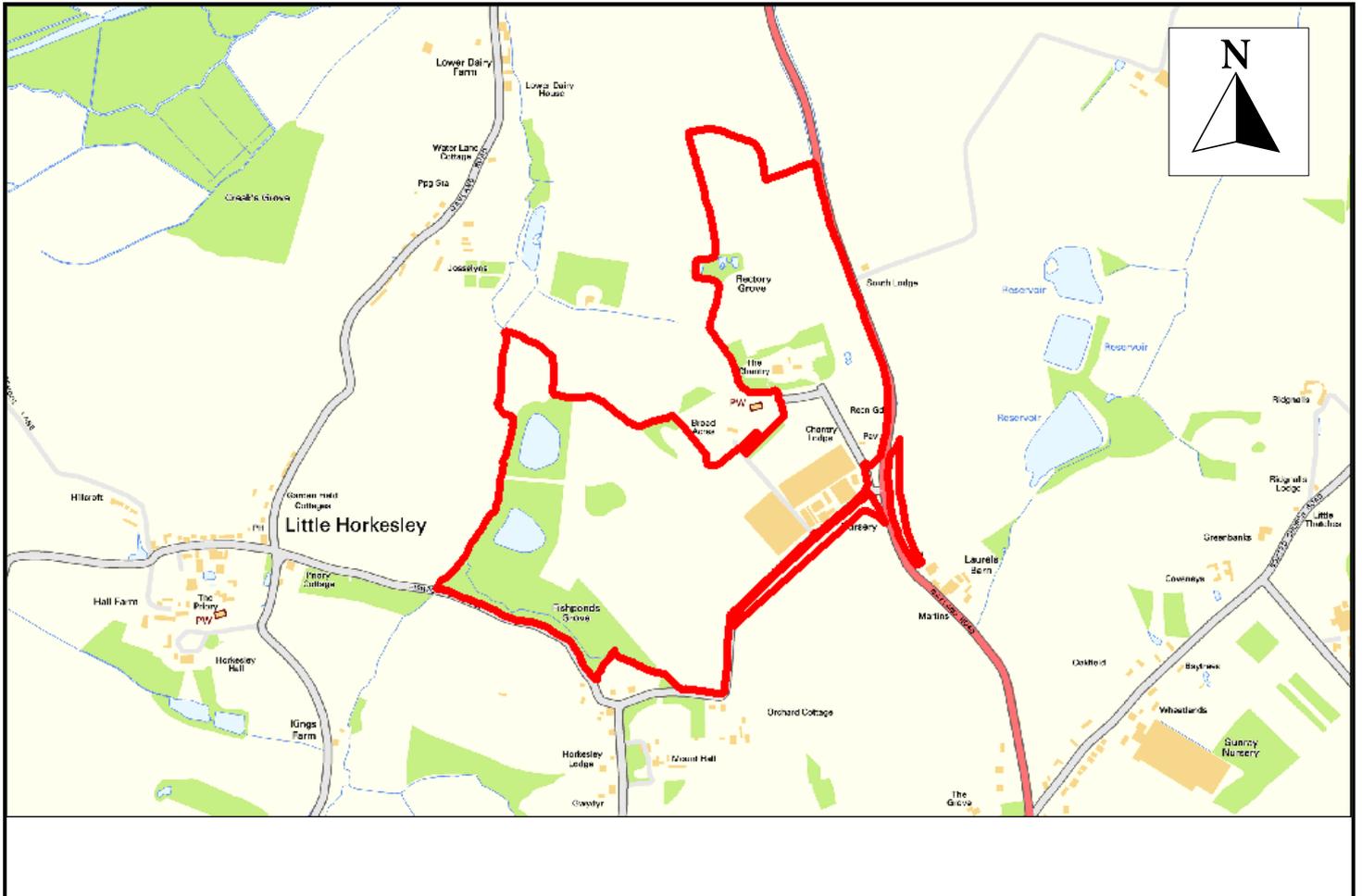
The Chairman has agreed to vary the arrangements for the public to Have Your Say! at this meeting in response to the amount of public interest that this application has generated. The arrangements are that the overall time for speakers in opposition to the application will be 36 minutes and the same length of time will be given to speakers in favour of the application. Each speaker may speak for up to a maximum of 3 minutes. Speakers will be timed and a bell will be rung when there is one minute remaining and again at the end of the 3 minutes.

In respect to speakers who wish to address the committee in opposition to the application, the Chairman will give priority to organisations who represent a significant body of the population, for example parish councils and organised groups and societies. Whilst it is not possible to pre-register speakers prior to the meeting, a number of such organisations have asked for their interest in speaking to be noted. However, the Chairman does not wish the priority given to representative groups to preclude individuals from speaking and if necessary some slots will be reserved to enable individuals who attend the meeting to address the committee.

If you wish to register to speak to the committee please tell a member of staff when you arrive at Charter Hall. They will be located inside the entrance, and they will give you instructions on how to register to speak.

For general advice on the content of your speech, please read the guidance on the Council and Democracy pages on the Council's website, [www.colchester.gov.uk](http://www.colchester.gov.uk). This can be found by following the pathway home/council and democracy/borough councillors and committees/attending meetings.

Please be aware that you will not be able to engage in a dialogue with the committee, but any questions you pose in your speech may be noted by the planning officer and he will be able to answer such questions in his response to speakers.



**Application No:** 120965

**Location:** Land & other property North of London Road & West, of the A134 Including, The Chantry, The Chantry Lodge, Hillside & Nursery Site, Hillside & Nursery Site

**Scale (approx):** 1:10000

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**Case Officer:** Sue Jackson  
Vincent Pearce

**Due Date:** 28/02/2013 subject to a PPA

**Site:** Land and other property North of London Road and West of the A134 including The Chantry, The Chantry Lodge, Hillside & Nursery Site, Great Horkesley

**Application No:** 120965

**Date Received:** 31 May 2012

**Agent:** Mr Tony Collins

**Applicant:** Bunting And Sons

**Development:** Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park' comprising a country park; art and craft studios ('The Chantry'); public gardens; a central building complex to provide an indoor display ring, 'suffolk punch breeding centre', entrance building, shop, cafe, 'field to fork', 'farming through the ages', 'active learning', 'nature watch', and retained greenhouse as a 'demonstration nursery and gardens', and energy centre; main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision. The application includes an Environmental Statement.

**Ward:** Fordham & Stour

**Parish:** Great Horkesley

## 1.0 Introduction

- 1.1 The Stour Valley Visitor Centre planning application has been brought to the Planning Committee for consideration as it is a Departure from the Development Plan and due to the large number of representations that have been received and the significant public interest generated by the development proposal. The application has not been the subject of a member call-in request.
- 1.2 As this is a detailed and lengthy report the Case Officer has divided the main report into a number of topics which will include relevant information from the application documents and a discussion of the policies and other important issues.

## 2.0 Synopsis

- 2.1 A synopsis has not been prepared for this report due to the number and complexity of issues raised by the application, and in order not to oversimplify the factors for and against the proposal. The main part of the report, discusses the key considerations under separate topic headings and an overview of the key issues and policies is provided at the end.

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Essex Chamber of Commerce	
Foxearth & District Local History Society	
Haven Gateway Partnership	

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#### **4.0 Public and Member consultation undertaken by the Planning Service with regard to this planning application**

- 4.1 Public Notice in East Anglian Daily Times June 2012
- 4.2 7524 notification letters to residents
- 4.3 11 site notices
- 4.4 Automatic ward member notification
- 4.5 On-line application web site
- 4.6 Special Horkesley Park page on Planning Service web site. (page hits in month before publication of this report 1023)
- 4.7 Early member Involvement Initiative
- 4.8 Other statutory & non-statutory consultees notified
- 4.9 Other ad hoc meetings with: representatives of the Stour Valley Action Group & representatives of the Dedham Vale & Stour Valley Joint Area Committee.
- 4.10 Two briefing sessions with representatives from parish councils in both Colchester and Babergh Districts
- 4.11 Extended Have Your Say provision at the Planning Committee meeting. The normal arrangements for the public to Have Your Say! of one speaker for and one speaker against have been varied. The arrangements for Horkesley Park are that the overall

time for speakers in opposition to the application will be 36 minutes and the same length of time will be given to speakers in favour of the application. Each speaker may speak for up to a maximum of 3 minutes.

- 4.12 Booking of large venue (Charter Hall) for meeting with a greater capacity than Moot Hall
- 4.13 Such was the level of public interest in this proposal that in December 2012 the Council's Development Services Manager added specific content to the Planning Service's special Horkesley Park web page indicating the recommendation of the Planning Service ahead of the publication of the report to Planning Committee along with the planned Committee date (14 February 2013). Following representations from a range of groups and individuals that date was cancelled to allow additional time for public consideration of consultants' reports. The aim of this advance notice was to give those interested in the scheme time to plan their diaries ahead of the Committee meeting and to alert them to the fact that the final report was about to go public. This process, insofar as it concerns an early statement of officers' recommendation in particular, does not pre-determine the decision on this application, which remains with members. The Development Services Manager has, with other officers of the Council, conscientiously considered all information, consultation responses and representations received since 21 December with an open mind; and he has concluded that his recommendation should remain and not be changed. Whether this process reduces the weight to be attached to this report or any part of it or officers' recommendation at all or to any material degree is for members' consideration.

## **5.0 Site Description and Context**

- 5.1 The application is for a proposed development known as The Stour Valley Visitor Centre at Horkesley Park; it is referred to throughout this report as Horkesley Park. It is proposed on land containing redundant glasshouses, other buildings, three dwellings Hillside, Chantry Lodge and The Chantry, and parkland, woodland and farmland. The application site covers an area of 47.4 hectares (117 acres) in total.
- 5.2 The site is bounded by the A134 to the east and by London Road to the south. The west boundary is adjacent to Fishponds Hill. The western and northern boundaries are defined by field boundaries located on the north-west facing slopes of Little Horkesley Valley. A tributary of the River Stour runs through the site. The grounds levels rise markedly from the tributary of the River Stour to an elevated upland fringe and plateau.
- 5.3 The existing site can be divided into four main areas:
- i The Nursery Site – consists of a complex of redundant glasshouses, brick agricultural buildings and hard standings which were developed in the main between 1965 and 1975. The horticultural operations ceased at the site in 2000. A number of the buildings within this site are currently being used for commercial purposes with temporary permissions. The site is enclosed by hedgerows and trees. This part of the site extends to some 4.20 hectares of the total 47.4 hectares. The buildings have a ground floor footprint of approx 20,772 square metres

- ii. The Park and Farmland - comprises a mix of arable, grassland, the village cricket ground interspersed by mature and semi mature woodlands and linear belts of trees and hedges. This part of the site comprises 40.89 hectares of the total 47.4 hectares. The 40.89 hectares is currently used for:- arable and grassland constituting (approx. 31.5 hectares); the cricket ground (approx 1.5 hectares); woodland and two reservoirs (approx.7.25 hectares). The woodland and trees are not protected by a Tree Preservation Order.
- iii. The Chantry is a fine stucco early C19 house, but is not a listed building. It is set in its own substantial grounds. The house is located some 200m to the north of the redundant glasshouses and has a separate access from London Road. Agricultural land extends to the north and east of the house. This part of the site covers approximately 2.14 hectares.
- iv. Hillside and Chantry Lodge are two existing houses set within their own private grounds that respectively date from 1980 and 1938. This part of the site covers about 0.18 hectares.

5.4 Two separate areas of land located to the south of London Road and to the east of the A134 also form part of the application site. These two parcels of land comprise farmland and some roadside vegetation and cover an area of about 1.5 hectares.

5.5 The table below shows the existing land uses and the percentage of the total site that they occupy.

Existing Land Use	% of Total Site Area
The Chantry and gardens	4.51%
Hillside and Chantry Lodge	0.38%
The Nursery Site	8.86%
Arable and grassland	66.3%
Cricket ground	3.14%
Woodland, trees, hedges and reservoirs	15.23%
Potato and onion dump	1.58%

5.6 Approximately 75% of the site (to the west and north) is located within the Dedham Vale Area of Outstanding Natural Beauty (AONB). The proposed new buildings are centred on and adjacent to the existing glasshouses and are outside the AONB. However the Chinese Garden proposed in the garden of The Chantry is within the AONB and will include a tea pavilion.

5.7 The A134 is located immediately to the east of the site and is the main road between Colchester and Sudbury. London Road, which forms the southern boundary of the site, is a country road that links Little Horkesley to the A134.

- 5.8 Vehicular access into the site (excluding several existing field entrances) is currently provided from three access points on London Road; two accessing the Nursery and one The Chantry and Hillside, the latter some 15m from the A134 junction.
- 5.9 The site is approx 6 km (driving distance) from the A12 junction 28, and about 8km (driving distance) to the north of Colchester Town Centre. Junction 28 is now operational and the link road between it and the A134 is due to be completed by early 2014.
- 5.10 There is a network of existing public footpaths within or immediately adjacent to the site. FP3 provides a link from Water Lane, crossing farmland to the east of Old Josselyns before entering the north west corner of All Saints Church churchyard and entering the site; it then crosses the land to the north of the Nursery before connecting with the A134. FP4 provides a link from London Road at Fishponds Hill extending across the site towards the A134. FP5 is located within the site and links London Road with Fishponds Hill, crossing the fields to the west of the glasshouses. FP48 links Footpath 3 and 4 via The Chantry drive from the A134.
- 5.11 The land uses surrounding the site comprise farmland, woodland and scattered buildings and settlements. The area has an established rural character.
- 5.12 The site does not fall within any designated Settlement Boundary. The nearest settlements to the application site are Great Horkesley (0.8km) to the south; Little Horkesley (0.5 km) to the west and Nayland within Babergh District (1.5 km) to the north.
- 5.13 Various residential properties are located in the immediate vicinity of the application site. Broadacres, which is owned by the applicant, is located to the north of the former nursery site and to the west of All Saints Church. Woodlands and Hillway are located on the north side of London Road and are bounded to the north and east by the west boundary of the application site. Broomfield and Sundown are located on the south side of London Road and directly over look the application site. The Rose and Crown, Laurels Barn and Martins (on east side of Nayland Road A134) are located to the south east of the application site while South Lodge (also on Nayland Road A134) is located to the east of the application site.
- 5.14 There are a number of listed buildings in close proximity to the application site, the setting of which may be affected by the development. The Church of All Saints, listed by English Heritage as Grade I, is located to the north of the former nursery buildings and is immediately bounded by the application site to the north-east, east and south. Josselyns, a grade II (Star) listed building, is located some 180m to the north-west of the application site. The Rose & Crown public house and Martins (both listed grade II) are located to the south east of the application site on the east side of Nayland Road A134. The nearest Conservation Area is centred on the village of Little Horkesley. With regard to archaeology the only listing on the Sites and Monument Records are crop marks within the field to the south-west of the nursery. Fishponds Hill is identified as a Protected Lane.

## **6.0 The Proposal**

- 6.1 The Horkesley Park development is described by the applicant in the following terms - “a celebration of the English countryside’ and interpretation of the Stour Valley incorporating the life and times of John Constable, heritage, countryside and conservation, farming and local food produce. Key elements include a Country Park, an Art Gallery and Gardens. The attraction will feature a Suffolk Punch breeding centre, animal displays, animal encounter and a nature watch. In addition there will be a celebration of local and regional food, a variety of exhibitions, educational areas, ‘learning through play’ and essential visitor facilities which complement the interpretative elements”.
- 6.2 The applicant states “The proposed Art Gallery will have the potential to function as an outstation for nationally important works and collections – including those of John Constable. The proposed Gardens will include parkland with sculpture trails and the restored Chantry Gardens will reflect the period of the great ‘Plant Collectors’ (1750-1850), spanning John Constable’s lifetime (1776-1837) and will include an authentic Chinese Garden with a tea pavilion. Ancillary retail and food and beverage provision supports the Heritage and Conservation Centre financially and will meet visitor expectations.”
- 6.3 The application documentation includes a Planning Statement, Planning Policy Statement, Justification Statement, Retail Statement, Statement of Community Involvement, Presentation and Record of the Exhibition and Public Consultations, Mitigation and Management Plan, Section 106 Agreement Information, Sustainability Assessment, Sustainable Construction Management Plans, AONB Assessment and Heritage Assessment, an Environmental Impact Assessment (EIA) and supporting technical reports and drawings. The EIA is made up of several volumes and provides an assessment of the following: Statement of Community Involvement, Landscape and Visual; Arboricultural, Ecology; Hydrology; Drainage & Flood Risk; Ground Conditions and Contamination; Tourism, Socio-Economic Aspects; Retail; Traffic, Transport & Access; Air Quality & Climate; Noise & Vibration; and Lighting.
- 6.4 The application has been treated as a Departure from the Adopted Development Plan as it constitutes a major development on white land - i.e. land that is not allocated a land use. The application has been advertised as such.
- 6.5 In the event that Members are minded to agree the officer recommendation to grant planning permission for the proposed development the application will have to be referred to the Government's National Planning Casework Unit for an adjudication as to whether it is a proposal that needs to be decided by the Secretary of State (Department for Communities and Local Government - DCLG). This referral is required under the Town & Country Planning (Consultation) (England) Direction 2009 as the proposal falls within a category of development defined by paragraph 5. (1) of that Order that requires such a referral. Namely:-
- 5.1 (a) It is to be carried out in an 'out-of-town' location; and,
  - 5.1 (b) It is not in accordance with one or more provisions of the development in force; and,
  - 5.1 (c) It consists of the provision of buildings in excess of 5000sq.m
- 6.6 The proposals are described on the planning application as Class D2 (Assembly and Leisure). The retail and restaurant uses are therefore intended to be ancillary to the main D2 use.

THE VISION AS DESCRIBED BY THE APPLICANT IS SET OUT IN THE FOLLOWING PARAGRAPHS 6.7 and 6.8

6.7 “The vision for the Stour Valley Visitor Centre at Horkesley Park is to be an outstanding regional visitor centre devoted to many facets of the English countryside, for the enjoyment and benefit of local people as well as visitors to the areas. With particular emphasis given to living heritage and East Anglian rural life ~ past, present and future ~ the vision incorporates the following key aims:

- to be a major sustainable tourist attraction and unique destination visitor centre dedicated to East Anglia’s agricultural and cultural heritage (expected to absorb throughout the year some 316,250 people living in the region or visiting the area, particularly Colchester, the Stour Valley and other parts of the Haven Gateway);

***Comment: The Planning Service and the Councils consultant do not accept these visitor numbers as will be explained later in this report.***

- to provide high quality educational, cultural, recreational and informal countryside leisure facilities to meet the needs of the region’s rapidly expanding population and the development of sustainable tourism as an important generator of employment and wealth
- The Landscape and Management Strategy will allow a level of public access to Horkesley Park that is compatible with ecological and landscape considerations
- to be an important support for existing and new businesses;
- to be an important source of ongoing rural employment, creating directly or indirectly once Horkesley Park is fully operational, at least 200 full-time and part-time jobs (equivalent to 176 full-time jobs, made up of 106.5 FTE (directly) on site and 69.5 FTE (indirectly) off site after “multiplier, leakage and displacement effects” are taken into account);

***Comment: The Planning Service and the Councils consultant do not accept these job numbers as will be explained later in this report***

- to be an important provider of apprenticeships and other training opportunities;
- to be a place for all ages and interests set in a large country park conserving and enhancing the natural beauty of the area for people to have access to and enjoy as a quality environment;
- to be an exciting and innovative leading example of sustainability with the aim for the whole scheme being as near as possible carbon neutral;
- to be a significant contributor to Colchester’s development as a prestigious local, regional, national and international centre;
- to rekindle and safeguard valued aspects of traditional English rural and artistic life;
- to make positive provision to off-set the dearth of visitor attractions in Dedham Vale and especially the limited opportunities for visiting the countryside;
- to relieve some of the harmful pressures on the main tourism locations at Dedham, East Bergholt and Flatford;
- to create a deeper appreciation of the life and times of John Constable and other artists of the region;
- to help ensure long-term social, economic and environmental benefits for the area;

- to help conserve, restore, protect and enhance natural features and other elements including biodiversity that create the historic character of the landscape;
- to provide a focal point for a deeper understanding of the Stour Valley landscape and its rural resources;
- to help conserve and celebrate local heritage, including living heritage, and raise awareness of cultural associations and activities of the area;
- to be an educational resource in many areas including conservation, heritage, food production and sustainability measures;
- to encourage more people to access, learn about, become involved in and appreciate heritage, conservation, art of the region, local crafts, gardens, traditional skills and non intensive farming;
- to aid the local rural economy not only by the creation of a range of new quality jobs but also by the promotion and marketing of local and regional rural produce;
- to help pull back the Suffolk Horse breed from near extinction by increasing the numbers of Suffolk Punches, promoting them in work and at shows, and ensuring the continuation of the necessary traditional skills and know-how; and
- to help infuse excitement and interest in, and understanding of, the English countryside and nature ~ past, present and future ~ especially among children.

6.8 The Stour Valley Visitor Centre will bring together these diverse but compatible key aims for those living locally and further afield who wish to visit the Essex countryside providing a sustainable ‘gateway’ to the Stour Valley.”

6.9 Members will recall application 090231 was considered at the Committee meeting on 3<sup>rd</sup> January 2011 when planning permission was refused. As the application being considered is a resubmission the differences between the 2009 application and the current application are described below.

6.10 The main changes to the current application are summarised below:-

- The removal of the underground nature watch building known as ‘The Warren’ this element was sited in part of the Country Park within the AONB.
- The removal of the ‘Rustic Play Area’.
- The removal of the two storey Conservation and Visitor Centre building. This building had a maximum height of 10.7m
- The removal of ‘The Farm Barn’.
- The addition of a series of smaller single storey buildings approx 6.4 metres high, located on the core development site. These buildings will contain many of the activities and displays previously proposed in the two storey Conservation and Visitor Centre building;
- The removal of the Lecture Theatre, Restoration and Reconstruction Workshop, Specialist Garden Centre and some café space.
- The removal of the second floor of the Suffolk Punch Breeding Centre Building.
- The replacement of the Specialist Garden Centre with an indoor demonstration nursery and gardens.
- The addition of an Indoor Display Ring.

## Proposed Uses and Building

- 6.11 Horkesley Park is proposed within a new Country Park extending to 41 hectares (101 acres). The main new buildings and structures are summarised in the table below:-

### **PROPOSED BUILT COMPONENTS (FLOORSPACE)**

<b>SUMMARY OF BUILDINGS (NB these figures relate to floor space and do not include covered walkways)</b>	<b>SQ METRES</b>
Main entrance and Exit Building	190
Courtyard Animal Encounter	760
Suffolk Punch Breeding Centre	960
Indoor Display Ring	2,080
'Nature Watch'	320
Demonstration Nursery and Gardens	1,500
Active Learning (this building includes a children's café of approx 150 square metres)	620
'Field to Fork' Production	320
Farming Through the Ages	930
Renewable Energy Centre	90
Café (in addition to the building an outside seated area of 75 square metres is indicated)	590
Visitor Shop	590
<b>Total Floor Area</b>	<b>8,950</b>

- 6.12 The majority of the new buildings have a common theme and reflect the scale, orientation and grain of the existing glasshouses. These buildings are single storey and comprise glass sided timber structures with raised seam zinc roofs. They are arranged as single or double elements and also in a "C" and "E" shape. The exceptions to this design are the entrance building, indoor display ring, the renewable energy centre and the demonstration nurseries and gardens. The latter comprising retained and refurbished glasshouses.

### **Section A**

**With the exception of the coach and overflow car park all the following areas and buildings are within the Core Development Area. They are all outside the AONB. (though their impact on the AONB has been taken into account below)**

### Car Parks and Other Facilities

- 6.13 London Road forms the south boundary of the site and vehicular and pedestrian access to Horkesley Park is gained from this road. Vehicle access will serve the main car park which is set back from the road behind a new landscape belt and divided into two areas; forecourt car park east and forecourt car park west. The main car park is shown as providing 220 spaces; cycle stands, motorcycle stands, bus stops and a service yard are shown adjacent to the main car park. Landscaping is indicated both within the main car park and along its boundaries.
- 6.14 The vehicle access also serves a parking area for up to 28 coaches. This area is set back from the road and is adjacent to the core development area. The vehicle access also serves an area described as overflow car park and also leads to stands for the proposed Horkesley Park branded hopper bus. These elements are outside the area of the glasshouses on land described as arable land. It is bounded on two sides by Public Rights of Way (PROW), London Road and on the fourth side by the core development area. This overflow car park is described as being within a woodland, parkland and open space and although the plans do not show individual parking spaces the documents indicate this overflow car park could accommodate up to an additional 500 cars. The overflow car park will be lain to grass and informal and is described by the applicant "as based on the approach used by the National Trust"

### Renewable Energy Centre

- 6.15 The renewable energy centre building is at the eastern end of the car park close to the dwelling Hillside. It is a round building with a diameter of approximately 11 metres and height of approximately 5.4 metres.

### Entrance Building

- 6.16 The entrance building is located between the east and west forecourt car parks. The design comprises a white canopy roof structure with stainless steel tension rods and tie downs extending over a timber building. In the building visitors will be able to purchase tickets, find visitor and tourist information, leave coats/baggage, hire headsets, book tours, hire bicycles and obtain wheelchairs.
- 6.17 To the north of the entrance building is an open paved area called Horkesley Square. To the west of the square is the courtyard animal encounter and indoor display ring

### Indoor Display Ring

- 6.18 The indoor display ring building measures approximately 38 m by 53 m it is a single span timber structure supporting a light weight roof. It will measure approximately 7 m to the highest part of the curved roof. The Indoor Display Ring includes areas and seating for visitors and will feature daily Suffolk Punch working displays. The area will be multi-purpose and alongside the Suffolk Punch demonstrations the Indoor Display ring will feature demonstrations of birds of prey, sheep shearing and seasonal events etc.

### The Courtyard Animal Enclosure

- 6.19 The courtyard animal enclosure area is adjacent to the indoor display ring. The animal enclosure building will enclose the courtyard on three sides. The area is positioned facing Horkesley Square. It will provide stabling for a Suffolk Punch mare and foal and/or for two geldings. The applicant describes the Animal Encounter “as housing animals and pets of particular interest to children” and states “it will feature domesticated farm animals including rare breeds that can be handled, fed and groomed safely”. The application indicates “there will be educational sessions that will include animal handling and feeding”. The Animal Encounter will also “feature animals in the early stages of life – a ‘nursery’ with pregnancies, newborns and young animals, which will eventually be grazing within the Parkland”.
- 6.20 The Courtyard is described by the applicant as containing “exhibition space to chronicle the role of heavy horses in farming, particularly the Suffolk Horse (known as the Suffolk Punch). There will be exhibition space dedicated to; Travellers’ traditional role in farming and farm animal rare breeds and promotion and information and an exhibition of Colchester Agricultural Engineering History. It will interlink with the Farming Through the Ages exhibition. The Courtyard will also focus on archaeology, history, heritage and conservation of the Stour Valley with exhibitions, displays and interpretations. There will be displays illustrating spheres of interest and activities of Stour Valley heritage and conservation societies, trusts and other organisations”. The area will also include the Children’s Stour Valley Awareness Club. To the north of the indoor display ring and the courtyard animal encounter is the Suffolk Punch breeding centre and outdoor training ring.

### Suffolk Punch Breeding Centre

- 6.21 The existing land use for the site of the Suffolk Punch Breeding Centre and outdoor training ring is described as soil heaps and grading area and whilst it is beyond the area of the existing glasshouses it is still outside the AONB.
- 6.22 The Suffolk Punch Breeding Centre is described by the applicant as being “of a size and capability to play a vital part in helping to pull back the Suffolk Horse breed from near extinction.”
- 6.23 The application indicates:-  
“The primary aim of the Suffolk Punch Breeding Centre is to significantly increase the population and ensure the continuation of the traditional skills and knowledge required to support these indigenous horses. Bunting & Sons have been investing heavily in building up quality stock for the Breeding Centre and training staff, including working apprentices, in the necessary skills to keep, breed, show, drive and work Suffolk Punches. Bunting & Sons currently have 14 Suffolk Punches including 5 geldings, 4 mares, 4 colts and 1 filly. The aim is to build up the stock to include 10-12 viable breeding mares.”

***Planning Services comment: This will result in 6-8 additional breeding mares.***

- 6.24 The applicant states “Further aims will be to encourage other people to keep, breed and work Suffolk Punches and to promote the Suffolk Horse Society (founded in 1877), which helps and supports all owners and breeders of Suffolk Punches.”
- 6.25 The application information indicates that Suffolk Punches will be working throughout Horkesley Park on a daily basis (weather and ground conditions permitting) and provide daily working displays in the indoor display ring. Horsepower will largely replace modern vehicles around the site and will include conveying visitors in horse drawn vehicles, heritage farming such as ploughing and site maintenance which will include grass cutting.
- 6.26 Suffolk Punch Breeding Centre is designed in a low profile traditional farm building style block containing some 20 stables, a stallion isolation box, horse stalls, harness room, stores and displays – with standing and wash down areas where cleaning and grooming can be observed – and where grooms may be assisted by visitors. A blacksmith and farriers area with a working forge will form part of the complex. As part of the Centre there will be an outside all weather Suffolk Punch display ring. The outdoor display ring has maximum dimensions of 30m by 45m. Behind this ring is Parkland pasture for Suffolk Punch mares and foals to graze.
- 6.27 This parkland pasture is shown just to the east of the display ring and to the north of the area of the new buildings.

#### Cafe

- 6.28 The café is located next to Horkesley Square and faces a formal garden. On the opposite side of this garden is the visitor shop.
- 6.29 The café building has a floor area of approximately 30 metres by 20 metres with approximately 60% seated area. A servery and tasting bar are indicated. An amended plan indicates an outside sitting area of approximately 75 square metres.

#### Visitor Shop

- 6.30 The visitor shop is the same size as the café building with approximately 80% used for retail space.

#### Nature Watch

- 6.31 The Nature Watch building is next to the café. It fronts a formal garden. The Nature Watch is described by the applicant as “focusing on native species and habitats found within Horkesley Park and the Stour Valley including mammals, invertebrates, insects, reptiles and water life. It will feature an interactive ‘up-close’ experience with activities and displays concentrating on eco-systems, habitats, life cycles and the environment around us. The Nature Watch will house a Dormouse breeding programme (subject to obtaining the necessary licences). The Nature Watch will have an area for rescued native animals, birds and reptiles. It is intended to work with rescue centres to act as a re-homing zone for orphans and fledglings such as hedgehogs, badgers, owls etc”.
- 6.32 Horkesley Park will re-house native reptiles and insects such as Stag Beetles and newts that need to be moved from other sites – for instance where colonies are found where new housing is due to be built.

- 6.33 This area is also described as featuring “an underwater cross-section of living displays and exhibits showcasing aquatic flora, invertebrates, eggs and larvae through to frogspawn in the spring”.
- 6.34 The application describes the Nature Watch as “including displays and exhibits and will interlink with the activity programme within the Active Learning Area and the Country Park, with outdoor activities including pond dipping, investigating habitats, ‘mini-beast’ hunting and animal identification giving visitors the opportunity to have direct contact with nature”.

#### Active Learning

- 6.35 Active Learning is described by the applicant as being “dedicated to all forms of learning from early years to lifelong learning with flexible space for workshops and exhibitions. This area is inextricably entwined with the proposals for the Stour Valley Visitor Centre – education, heritage, conservation, farming, art and sustainability – all key elements of the Visitor Centre and the programmes for the Active Learning Area. The educational focus will be supported by the Education Officer(s) School Co-ordinator(s) who will be responsible for programming cross-curricula exhibitions, events and workshops and co-ordinating programmes of educational workshops aimed at various ages, from pre-school to school children, covering many areas of the national curriculum. Although a great deal of the activities in this area will be centred around education, this will not be exclusively for children but education for all – lifelong learning. The Education Resource/Workshop Area will be versatile space with movable walls to accommodate a range of group sizes. Activities will include; educational workshops (for pre-school and school children), higher/further education workshops, space for self-led visits, workshops/master classes (primarily for adults), out of school clubs, play schemes/out of school holiday clubs, Saturday activity club etc”.
- 6.36 A Children’s Café is indicated within the Active Learning building and includes a servery/kitchen area of approx 54 square metres and a seated area shown to accommodate 6 tables each with 6 seats. The applicant indicates this will provide an area to have lunch away from other visitors.

#### Demonstration Nursery and Gardens

- 6.37 The Demonstration Nursery and Gardens is described by the applicant as “utilising part of an existing redundant glasshouse and will be laid out with walkways and paths. As it will be undercover the area will be utilised in all weather and throughout the year”.
- 6.38 The applicant describes these nurseries and gardens in the following terms” there will be a growing area demonstrating different growing/production techniques including soil, substrate and hydroponics”.
- 6.39 “The indoor nursery will produce vegetables, fruit and herbs. The produce will be used in a number of ways including; as an educational aid engaging children in food – part of Farming Through the Ages, used in the Field to Fork production kitchens and cafes with the surplus being sold through the visitor shop”.

- 6.40 “Exhibitions, displays, demonstrations and specialist technical advice will be available to cover every aspect of plant growing from soil and plant preference to pollination and pruning. The Demonstration Nursery and Gardens will be a resource for amateurs and professionals alike”.
- 6.41 “A programme of demonstrations and workshops will take place on a wide range of subjects including garden history, design, gardening, general horticulture, plant collections, Chinese gardens and their culture and gardeners’ question time”.
- 6.42 “Visitors will be able to see the gardens being created from the designing stage to the practical application”.

### Farming Through the Ages

- 6.43 This area is described by the applicant as comprising “A farming yesteryear exhibition of farming throughout the ages – comparing farming of bygone times with modern large and small-scale farming. The Area will also focus on ‘food and farming’ and aim to provide information about where food comes from, how it is produced and the implications this has for use and our world. Farming Through the Ages will also feature displays on ‘Faith in the Countryside’ and the site’s connection with the Church of all Saints. A cooks’ school and demonstration kitchen will provide the opportunity to experience ‘field to fork’ in a practical way. The area will provide flexible space for hands-on activities as well as feature chefs and a programme of talks on an array of topics. Farming Through the Ages will link with the ‘Life and Times of John Constable’ (1776-1837) exhibition. The area will interlink with not only the Farming Yesteryear Exhibition but also The Chantry Fine Art Gallery and the Parkland, with similar subject matter to some of Constable’s paintings featured in the Country Park bringing the pictures to life”
- 6.44 There will be audio-visual theatre showing films relating to Constable and the Stour Valley this area measures 8m by 9.5m. The area will contain a studio providing a centre for local dialects, country songs, tales and folklore. There will be areas for both listening and recording within an area measuring 2.5m by 4.5m.

### Field to Fork

- 6.45 Field to Fork is described by the application as containing “production kitchens which will enable visitors to watch producers make a range of products demonstrating ‘field to fork’ in a very practical manner. This will include information on how the product is farmed, grown and produced and include demonstrations and sampling. The areas will be glass fronted and allow interaction between visitors and producers. The production areas provide kitchen facilities and will be divided into a number of units including a dairy unit, bakery, smokehouse and micro-brewery. The production areas are interlinked with many other aspects of the Stour Valley Visitor Centre experience, particularly the Demonstration Nursery and Gardens, Heritage Farming Areas and Demonstration Dairy – all of which will produce raw products to be utilised in the production kitchen. There will be displays explaining the cross-linkage to these areas. The production area does not have any retail sales space, however it is intended that the products will be available in the café (to eat on site) and the visitor shop/food hub”.

## **Section B The following elements are all within the AONB**

### Chantry Fine Art Gallery and Creative Design Workshops

- 6.46 The Chantry is located some 200m to the north of the redundant glasshouses and has a separate access from London Road. The creation of an art gallery in The Chantry is to display original paintings by John Constable and other artists of the region in or near to the areas in which they were painted. The application documents indicate “The Chantry will provide a prestigious setting for a new gallery of international significance supporting the objective of Colchester becoming an outstanding centre for culture and will have its own “old kitchen tea room”. Access to The Chantry will only be via the main entrance to Horkesley Park. The coach house of The Chantry will accommodate Creative Design Workshops for specialists such as artists, sculptors, traditional crafts people and garden designers.

### Gardens and Parkland

- 6.47 Horkesley Park will also include a number of gardens.
- 6.48 Around The Chantry there are 2 hectares (5 acres) of gardens where is proposed to restore the Georgian and walled gardens and create a Chinese Garden.
- 6.49 The restored Georgian gardens will surround The Chantry.
- 6.50 The walled garden will have its south wall extended to create a completely enclosed garden laid out and planted to reflect the period of the Great Plant Collectors from 1750 to 1850.
- 6.51 Behind the high walls of the walled garden an authentic Chinese garden including a tea pavilion will be created. The tea pavilion will result in a small structure within the AONB but will be erected within existing residential curtilage which is screened by existing trees and wall.
- 6.52 The applicant states “there will be mix of formal and informal gardens with the restored Georgian gardens, the Chinese garden, wildflower meadows, woodland garden, winter garden and indoor demonstration nursery and garden alongside a series of lawns, paths, borders, clipped hedges and trees. The gardens will include scent and touch features for the visually impaired”.
- 6.53 The applicant proposes to open the gardens to visitors during the restoration phases.

### Country Park

- 6.54 The Country Park extends to almost 41 hectares (101 acres). It will include Parkland Pastures, some for Suffolk Punches to graze and some for smaller rare breeds and sheep. Other areas are shown for wildflower meadows, heritage husbandry and traditional farming with Suffolk Punches, school children’s vegetable growing areas and informal leisure. Designated areas will be provided for displays of falconry and birds of prey.

- 6.55 The existing farm irrigation reservoirs will be naturalised to provide lakes for fly-fishing supported by a gillie.
- 6.56 The Parkland will include established and new woodlands as well as cricket bat willow plantations, restored ancient ponds, swamp land and conservation projects, small animal pastures, as well as an area for archery demonstrations and tuition.
- 6.57 An aerial walkway through the trees of the wood will span the Dell to ensure level disabled access to the other side. It has been confirmed this is a wooden platform to provide level access and is not a “tree top” experience.
- 6.58 The applicant states “Following the recreation of the parkland and planting of over 50,000 indigenous trees, shrubs and hedges, the Country Park will be maintained as a natural landscape. The submission indicates the new parkland, designed to make a major contribution to the landscape quality of the area, will be managed to help with the absorption of the visitor pressures within the Dedham Vale. It will provide an outlet for low key, informal recreation”.
- 6.59 The Public Footpaths crossing the site, which the applicant states “are required to be only 1.2 metres wide”, will be contained within 6 metre wide grassed ‘green lanes’ flanked by 1 metre width indigenous hedges and stock-proof fencing which will be maintained to a height of 1.4 metres. Perimeter hedging and fencing of the Parkland Pastures and other areas will be similar to that of the green lanes.
- 6.60 The ponds which have become silted up will be reinstated.
- 6.61 The wildflower meadows will be starved of nutrients so that they become species rich. Nearby there will be a bee keeping project to enhance the fauna and flora. Grass paths will be cut through the wildflower meadows so visitor can enjoy walking through them.
- 6.62 The application documents indicate “Suffolk Punch drawn vehicles will convey visitors from the building complex around to The Chantry drive, alternatively visitors can walk. As access to the Stour Valley Visitor Centre at Horkesley Park is all ticketed, tickets will be the means by which visitors will pass through various gates to access different parts of the attraction. With modern technology, sophisticated systems are available for this unobtrusive form of visitor access control”.
- 6.63 **Further Explanation and Clarification arising from challenge by the Council’s Planning Services the black type indicates the questions/clarification sought by the Council and the normal type the applicant’s response**
- 6.64 The responses received are set out below (summarised).
- 6.65 **Special Events**  
**The application documents refer to special events. As these events have the potential to impact on the countryside and the AONB further clarification on events, their frequency and location within the site was sought. The response is set out below (summarised):**

6.66 The Stour Valley Visitor Centre at Horkesley Park intends to hold a number of Special Events annually. The events will be designed as additional attractor elements encouraging repeat visits for both season ticket holders and others. It is anticipated that some of the Special Events will be included within the general admission however for some there will be an additional charge The Special Events are in two main categories – Park-wide Special Events and Seasonal Experiences mainly held within the Indoor Display Ring.

Park-wide Special Events

6.67 The Park-wide Special Events will alter annually and are intended to be in line with the Horkesley Park ethos. Some examples of the events that will be held are: ploughing matches, gun dog trials, horse trials, flower and garden events (such as temporary exhibits of award winning show gardens, flower and plant exhibitions, etc), sheep dog trials, heavy horse events, a country fair, a historic re-creation of farming in bygone days, charitable events in conjunction with bodies such as the RSPB etc. The Park-wide events will be predominantly outside however the location will vary depending on the nature of the event. For example a sheep dog trial would be held on the grazing fields - part of the Parkland, a flower and garden event would be held within the Indoor Display Ring and Gardens and a historic re-creation of farming in bygone days event would be Park-wide ***Planning Service comment: These park-wide events will be restricted to 4 times a year. These events will incur an additional charge as well as the entrance ticket price.***

Seasonal Experiences - Special Events

6.68 “Seasonal Experiences” will mainly be held within the Indoor Display Ring. Again the events are expected to alter annually encouraging repeat visits. The events will focus on the seasons and be “A Celebration of the English Countryside” through the themes of Agriculture & Food, Art & Culture and Countryside & Conservation. The events are expected to include Christmas, Easter, Harvest and Halloween “experiences”. “The Christmas Experience for example will take place for 30 days.

Corporate / Sponsored events

6.69 It is not intended to host “Corporate Events” or “Sponsored events”. Although some Special Events maybe sponsored, for example, it is possible that a dog trial maybe sponsored by a dog food firm or a Ploughing Match maybe sponsored by a veterinary practice. Horkesley Park is a ticketed visitor attraction and one of the target markets is group business. There are no plans to hold “Corporate events” such as conferences where a company simply hires a “venue” and where charging an admission ticket would clearly be inappropriate.

Clarification on the proposed opening times

6.70 Applicants proposed pattern of opening times for Horkesley Park

Winter hours :	10:00 to 16:00 (park)	18:00 (buildings)
Spring/Autumn hours:	10:00 to 18:00 (park)	19:00 (buildings)
Summer hours:	10:00 to 20:00 (park)	21:30 (buildings)

The following table shows the Applicants proposed latest closing time as well as details of sunset and twilight.

Sunset	Twilight ends		Time Zone	Proposed Latest Closing Times	
				Park	Buildings
January	16:14	16:53	<b>GMT</b>	16:00	18:00
February	17:09	17:44	<b>GMT</b>	16:00	18:00
March	18:01	18:35	<b>GMT</b>	16:00	18:00
April	19:54	20:30	BST	18:00	19:00
May	20:44	21:26	BST	18:00	19:00
June	21:18	22:06	BST	20:00	21:30
July	21:09	21:54	BST	20:00	21:30
August	20:19	20:57	BST	20:00	21:30
September	19:10	19:44	BST	18:00	19:00
October	18:02	18:36	BST	18:00	19:00
November	16:05	16:43	<b>GMT</b>	16:00	18:00
December	15:46	16:26	<b>GMT</b>	16:00	18:00

**6.71 Will any elements of Horkesley Park be open outside the general public opening times (evening events)?**

The majority of the events and workshop programme, etc., will occur within the normal Horkesley Park opening hours. Horkesley Park will only open occasionally after normal closing times. To open after the normal opening hours will incur additional costs and is not thought to be cost effective other than in a small number of cases.

Occasional evening events that may be outside of the normal opening times:

- a programme of workshops, master classes, etc.
- guided tours for groups (such as Gardening and Rotary clubs)
- previews of new exhibitions
- cultural events – Bunting & Sons / Horkesley Park is committed to working with Colchester Borough Council and Essex County Council to promote the area both in terms of tourism and trade
- celebration of national events such as the Jubilee, Coronation etc
- wildlife walks at night focusing on nocturnal species
- nocturnal animal surveys

Details relating to hours of operation and evening use would be included in the s106 Agreement and be regulated by conditions and obligations of planning permission being granted. To allay any possible concerns about late closing the Applicants will be happy to agree that any event expected to finish after 9.30pm would be subject to prior approval by CBC and that these would not exceed more than 20 per year.

**6.72 Will some elements of Horkesley Park be open at any time to individuals/groups but not to the general public?**

Horkesley Park is a ticketed visitor attraction and the majority of the attraction will be open to the general public with the exception of service areas, stores, back of house areas, staff and coach drivers' areas etc. Much of the workshop programme will be open to the general public to book if they wish however there will be a number of private groups (one of the target markets of the visitor attraction) including schools, clubs and societies (such as gardening clubs, WI, Rotary Clubs etc) children's birthday groups, etc. Group visits are expected to be received in the Active Learning Areas

however their experience may be Park-wide depending on the group. Similarly previews of new exhibitions, cultural events etc would not necessarily be open to the general public. This would be akin to other visitor attractions nationwide.

**6.73 Will Horkesley Park be licensed for weddings/private hire?**

The Stour Valley Centre at Horkesley Park will not host weddings or be available for private hire.

**6.74 Further clarification on the workshops and educational sessions is required**

The regularly changing workshop and educational programmes will encourage repeat visits from both individuals and group bookings. All entrance to Horkesley Park is via the ticketed entrance and the workshop programme is no exception with attendees purchasing a ticket in addition to the workshop fee. It is intended that some mini-workshops would not be charged for in addition but as an attractor element in quiet months and as taster sessions.

**1. Educational workshops (for pre-school and school children)**

The Education Officer(s) / School Co-ordinator(s) will co-ordinate programmes of educational workshops aimed at various ages, from pre-school to school children, covering many areas of the national curriculum. There will be a range of workshops available covering a wide variety of topics such as History, Geography, PSHE and Citizenship, Food and Farming; in fact any topic that is connected with the ethos of the Stour Valley Visitor Centre. The workshops will be designed to have a “hands-on” feel and it is intended to combine these with visits to other areas of Horkesley Park.

It is intended there would be a wide range of workshops available covering many topics fitting in with school requirements and to encourage repeat visits. The Education Officer(s) / School Co-ordinator(s) will provide information packs with detailed timetables, work sheets and help with risk assessments to support the schools visits.

**2. Higher/further education Workshops**

The intention is to provide a workshop programme aimed at higher and further education students covering topics such as: biodiversity/conservation, botany, ecology, environmental issues, horticulture, geography, land management - restoration/use, sustainable construction/architecture, tourism and leisure business studies

**3. Space for self-led visits**

As well as the workshop programme there will be space for self-led visits / workshops sessions to allow teachers to utilise the Visitor Centre and its collections to best fit their lesson according to their needs.

**4. Workshops/Master classes (primarily for adults)**

In addition to the programme focused on schools and further education students it is proposed there will be many practical hands-on workshops and master classes for everyone to enjoy covering traditional crafts, seasonal occasions, art, floristry and photography, to name but a few.

Again, it is intended to combine these with visits to other areas of Horkesley Park for example:

*Landscape Painting Workshops and Environmental /Conservation Workshops*

5. **Out of School Clubs**  
It is intended to host a number of “Out of School Clubs” and will include a mix of talks, hands on learning and demonstrations.
6. **Play Schemes / Out of School Holiday Clubs**  
It is planned to hold play schemes / out of school holiday clubs suitable for children aged 7-13 with a mixture of themed “Celebration of the English Countryside” week long activities and one day sessions.
7. **Saturday Activity Club**  
A Saturday Activity Club is planned with a wide variety of sessions relating to the Stour Valley Visitor Centre elements including art and craft, animal care, vegetable growing and nurturing, nature trails and Nature Watch, etc.
8. **Behind the scenes tours**  
It is planned to host guided “behind the scene tours” for groups. The tours will begin with a talk about the ethos of The Stour Valley Visitor Centre at Horkesley Park and facts and figures involved in the Park.
9. **Team building activities/workshops**  
Horkesley Park will hold a number of team building activities with programmes of challenging outdoor physical and mental team activities. These team building activities will have “green themes” and will focus on the parkland, woodland, wildlife, farming and sustainability.
10. **Cooks’ School workshops/master classes**  
Cooks’ School will hold workshop and master classes with different themes aimed at different skill and knowledge levels, providing the opportunity to follow the journey from field to fork underpinning the very essence of Horkesley Park as the workshops will frequently feature ingredients grown or produced on the site.  
The workshops are expected to go hand in hand with specific visits to parts of the Visitor Centre, for example, The “Food from the Hedgerows” workshop would commence with a discussion on identification and preparation methods and then lead into a visit to the Park and woodland for some appropriate foraging under instruction.
11. **General – Workshop**

The specific details relating to the workshop programme will be finalised at the business development stage should planning permission has been granted. The Horkesley Park Education Officer(s)/School Co-ordinator(s) will be appointed in the early development stages alongside the marketing team. A key responsibility of the role will be to develop appropriate, interesting, fun and informative educational programmes in liaison with schools, colleges, other training providers, health agencies, artistic bodies, and cultural organisations where appropriate.

### Educational Elements

- 6.75 Bunting & Sons has been in discussion with a number of education providers including schools, colleges and universities in regard to delivering training programmes and work experience at Horkesley Park. Bunting & Sons has experience in this regard, currently providing a number of work experience and apprenticeships opportunities.
- 6.76 Horkesley Park will not be a school or a college in its own right but will support colleges, schools and other training providers. Agreements are in place with Writtle College, The Equestrian Learning Academy and Easton College (which is merging with Otley) to be an affiliate / partner supporting some of their education programmes and delivering training in a practical manner. Two of Bunting & Sons team have been trained to be level 2 and 3 assessors (teaching standard) for this purpose. Horkesley Park will also have a programme of short courses and experience days such as “Hawk Walks”, “Groom for a day” etc.
- 6.77 The Horkesley Park Education Officer(s)/School Co-ordinator(s) will be appointed in the early development stages alongside the marketing team. A key responsibility of the role will be to develop the educational programmes in liaison with schools, colleges, other training providers, health agencies, artistic bodies, and cultural organisations where appropriate.

### Clarification regarding the proposed use of the Indoor Display Ring and how many people it will seat

- 6.78 The Indoor Display Ring will feature daily Suffolk Punch working displays (except, perhaps in good weather when the horse displays and visitors would wish to be outside). The Indoor Display Ring will be an all-weather building enabling activities throughout the year. The area will be multi-purpose and alongside the Suffolk Punch demonstrations the Indoor Display Ring will feature demonstrations of birds of prey, sheep shearing and seasonal events, and other rural/countryside activities. It is intended that the “Seasonal Experiences” will mainly be held within the Indoor Display Ring. The Indoor Display Ring will host a Farmer’s style market on a monthly basis as well as providing space for sharing traditional skills that require a large space.
- 6.79 The Display Ring will have a free-draining chalk floor and a safety barrier to separate visitors from the demonstration taking place in the ring. The space has been designed to be very flexible with seating around the ring which is moveable and with the ability to sub divide the space. There will be stacker chairs which are not intended to be fixed so they can be altered to fit in with requirements. The chairs would provide seating for approx 250 (with a maximum seated capacity of 350), however it is expected to be more like a country show with some seating around the ring and space for visitors to stand. The Indoor Display Ring will feature daily Suffolk Punch working displays and

this would be an additional attraction to a Special Event for example a garden show would see demonstrations of Suffolk Punches at work pulling equipment such as water bowsers etc.

- 6.80 The Stour Valley Visitor Centre at Horkesley Park will not host weddings, concerts or be available for private hire. The Indoor Display Ring will host events which will be designed as additional attractor elements encouraging repeat visits for both season card holders and others. Entry to the whole of the Stour Valley Visitor Centre (including the Indoor Display Ring) is ticketed.

#### **Clarification on the use of amplified PA or music systems?**

- 6.81 It is not planned to have any park-wide announcements and there will therefore not be a park-wide PA system.

6.82 Outside Areas within the Core Development Area

Small outside PA systems will be necessary to provide commentary on activities taking place at various times, such as the working horses and falconry displays etc. A number of small directional speakers will be used in appropriate display areas with the cabling buried underground. These are expected to be confined to the “core development area”.

6.83 Internal Areas

PA systems will also be necessary within some of the buildings that make up the key elements of the visitor centre, again to inform and enhance the visitor experience. Some displays may also have interactive sound elements and the volume of these will be low enough to contain the sound within the immediate vicinity of the displays. The choice of equipment and installation will be made in conjunction with specialist noise/sound consultants.

#### **Clarification on the proposed ticketing regime**

- 6.84 Ticket prices will vary depending on the time of year and day of the week with lower price entry at off-peak times to help even out visitor flows. There will be discounts for children, groups and concessions. Annual season tickets will be available and additional fees will be charged for special activities such as workshops and master classes. Once the Stour Valley Visitor Centre at Horkesley Park has been built and closer to opening, prices will be reviewed in the light of market conditions at that time and seasonal variations applied. For business planning purposes an average admission fee per head has been used. There will be some fluctuations in season ticket prices for children and concessions. The admission price of £12.41 (including VAT) is intended to show an average price. Horkesley Park is a ticketed visitor attraction with admission a key revenue stream. There are no plans to offer below market rate ticketing or to have tickets refundable against purchases that may be made on the site either in the café or in the small visitor shop. The Business Plan allows for a number of complimentary tickets for marketing such as press tickets prior to the launch of a new exhibition and charitable purposes such as raffle prize requests from local groups/charities.

6.85 **Will the Suffolk Punch / Tractor Rides visit the Country Park?**

Clarification was sought on this issue to allow proper assessment of the impact on the AONB the following explanation has been received.

6.86 When Horkesley Park is operational, visitors will be offered rides on interchangeable horse drawn or tractor drawn vehicles. The rides will take place entirely within the site and will take account of ground conditions. The proposed circular route is between the Stables and The Chantry and largely utilises existing tracks and roadways.

**6.87 What will the areas between buildings be used for?**

The case officer sought clarification on the use of the spaces between the buildings to ensure these areas were not proposed to be used for retail or display purposes.

6.88 The applicant has confirmed that the courtyard will be used to showcase a programme of different farm animals. To the east of Horkesley Square is a collection of nine separate buildings. The spaces between the nine buildings will be interspersed with formal gardens and walkways. A small area alongside the cafe will be used to provide an area for an alfresco eating area.

Clarification on the areas to be used for falconry and other displays in the Country Park

6.89 The falconry displays will be held in the Outdoor Display Ring (and in the Indoor Display Ring during inclement weather). As well as the displays it is intended to provide “animal/bird experiences” where visitors can book an experience such as “A Hawk Walk” this would be a walking experience with a bird handler and is expected to be on an individual or small group basis. In the Country Park there will be a number of traditional activities - heavy horses at work, conservation areas, children’s vegetable growing areas, fly fishing, etc.

**6.90 How will the Cooks’ School and Demonstration Kitchen operate?**

6.91 The Cooks’ School and Demonstration Kitchen areas will provide flexible, multipurpose space for hands-on activities as well as featuring chefs, demonstrations and a programme of talks on an array of topics from butchery to baking, targeting both adults and children. They will interlink with many other aspects of the Stour Valley Visitor Centre, particularly the Demonstration Nursery and Gardens, Heritage Farming Areas, Demonstration Dairy and Field to Fork Production Areas.

6.92 All entrance to Horkesley Park is via the ticketed entrance and the Cooks’ School and Demonstration Kitchen is no exception. It is intended that the demonstrations and some of the taster mini-workshops are not charged for in addition as they are included in the admission ticket as they will be attractor elements delivering an excellent visitor experience. There will be an attendance fee for a number of specialised courses / workshops in addition to the admission ticket.

Cooks’ School

6.93 The Cooks’ School provides the opportunity to follow the journey from field to fork as the workshops will frequently feature ingredients grown or produced on the site and locally. The regularly changing Cooks’ School programme will offer a range of fun mini- workshops as taster sessions alongside workshops for small pre-booked groups.

## Demonstration Kitchen

- 6.94 The Demonstrations will be presentations offering instructions on every aspect of the growing, preparation and cooking of produce. There will be a full programme with events scheduled as a piece of continuous theatre which is the essence of the attraction. It is intended to hold a number of cooking demonstrations per day however this will alter according to the season and demand. A typical demonstration would last up to 30-45 minutes each with additional preparation and tidying up time. The demonstrations will be compared/conducted by a host and projected onto “big screens” so the audience can see close up what is being presented. The demonstration will end with a question and answer session and tastings.
- 6.95 The producers demonstration area / display area. Will visitors be able to order products in the demonstration areas and pay for them later in the shop? Will these areas include displays of goods for sale? Clarification was sought on these matters as the Case Officer was concerned whether any sales or ordering of goods would take place within these buildings. The applicant has submitted the following clarification.**
- 6.96 It is not intended to “rent” the production units to local producers rather that the producers will agree that in taking a unit they will be part of the attractor element of Horkesley Park and will commit to being part of “the theatre” - manning the area, providing displays, demonstrations etc. The production areas will benefit local business/producers on a number of levels - collective marketing and buying power, marketing to a broad audience, ability to get direct customer feedback, etc. The production area will not be for the sale and retail of goods however the products will be available in the café (to eat on site) and in the visitor shop with the excess sold off site”.

## **7.0 Land Use Allocation**

- 7.1 The majority of the site is allocated as white land - i.e. land that has not been allocated a land use.
- 7.2 Dedham Vale AONB (north and west parts)
- 7.3 Fishponds Hill, located to the west of the site is identified as a Protected Lane

## **8.0 Relevant Planning History**

- 8.1 LEX/63/62- glasshouse nursery, boiler house and packing shed- Approved 9.4.62
- 8.2 LEX/222/69 Extension of glasshouse, packing shed and boiler house and erection of dutch barn. Approved 01-07-1969
- 8.3 LEX/388/70- extension to existing greenhouse to provide cover for storage tanks- Approved 3.11.70
- 8.4 LEX/489/71- extension of existing greenhouse at the nurseries- Approved 6.10.1971.
- 8.5 LEX/117/74 Extension of existing horticultural nursery including erection of new glasshouses Approved 25-07-74

- 8.6 O/COL/01/0553- Outline application for redevelopment and creation of the John Constable Countryside and Heritage Centre at Horkesley Park - Withdrawn 11 June 2001.
- 8.7 C/COL/01/1259 – Change of use of two former horticultural and industrial units to Unit 1- Distributor of fitness equipment to gyms, hotel and leisure centres and Unit 2- Maker of quality kitchens and luxury bedroom furniture. Temporary approval 11 October 2001.
- 8.8 F/COL/03/0784 – extension for a further 18 months of Units 1 and 2 granted planning permission under C/COL/01/1259- Approved 27 June 2003.
- 8.9 An application submitted in September 2003 for a Heritage Park on the site was not registered as the Local Planning Authority requested that it should be accompanied by an Environmental Statement.
- 8.10 F/COL/05/1558- Proposed redevelopment and change of use of land at Buntings Nursery Site and adjoining land to create a heritage and conservation centre, incorporating main centre building, Suffolk Punch horse breeding centre, farm barn, nature watch (underground) building and rustic adventure playground, and ancillary specialist garden centre with ancillary catering and parking facilities. Change of use of The Chantry main house to art gallery, out buildings to craft studios and part of private gardens to public gardens. Change of use of 27 hectares of land to form a country park with informal recreation and visitor facilities. Withdrawn – 5 April 2006
- 8.11 071084 Change of use from agricultural building to mixed use agricultural/brewery temporary permission 07-11-2007
- 8.12 090231 The application being considered by the Planning Committee is a resubmission of this application and the proposal and reason for refusal are considered in detail in the report section below.
- 8.13 121013 Temporary storage of waste skips for a period of three years on two areas of open land adjacent to existing glass houses. Refused 17-07-2012

## **9.0 Principal Policies**

### 9.1 Core Strategy Adopted December 2008

#### SD1 – Sustainable Development Locations

Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.

Throughout the Borough, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy below and the Key Diagrams. Development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land (PDL). Proposals should seek to promote sustainability by minimising and/or mitigating pressure on the natural, built and historic environment, utilities and infrastructure, and areas at risk of flooding.

In support of Colchester's aim to be a prestigious regional centre, the Borough Council will promote high quality design and will focus on enhancing the character and quality of the Town Centre, the Regeneration Areas and key Gateways to Colchester. Development in Colchester Town will be primarily focused on the following broad locations (see Key Diagrams):

- Town Centre
- North Growth Area
- East Growth Area
- South Growth Area
- Stanway Growth Area

The Council will also seek to sustain the character and vitality of small towns, villages and the countryside, and development will be expected to achieve a high standard of design, sustainability and compatibility with local character.

***Planning Services comment: This policy is relevant to the consideration of Horkesley Park application as it sets out the overarching spatial policy for the Borough. It seeks to ensure that new development is located in sustainable locations to minimise the need to travel and to avoid negative environmental impacts. The policy sets out a settlement hierarchy and spatial policy for development in the borough. The policy requires development proposals to follow a sequential approach that gives priority to accessible and sustainable locations. This is a key policy and the report discusses whether or not the development is proposed in a sustainable location. Reference is also made to the Councils consultants Nathaniel Lichfield Partners who advised on whether or not the sequential approach had been satisfied.***

#### SD2 – Delivering Facilities and Infrastructure

The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.

New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.

The Council will seek to employ standard charges where appropriate to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. The tariff approach will be based on a comprehensive review of the need, timing and scale of investment viability of developments will also be considered when determining the extent and priority of development contributions.

***Planning Services comment: This policy is relevant as Horkesley Park is providing a new tourist attraction. The policy also refers to new facilities being accessible and compatible with the needs and character of the local community which are all key issues addressed in the report.***

#### SD3 – Community Facilities

The Borough Council will work with partners to deliver key community facilities (see Table SD3) to support the Sustainable Community Strategy and to develop Colchester as a prestigious regional centre.

The Council will also provide facilities for the local communities, based upon an analysis of needs, with particular regard to disadvantaged groups. New development will be required to contribute towards the provision of community facilities to meet the needs of new communities and mitigate impacts on existing communities. Safe, direct routes for walking and cycling and appropriate bus services will be established to serve existing and new pre-school, primary, and secondary school communities.

Community facilities should be located in centres or other accessible locations to maximise community access and build a sense of local community identity. The Council supports the retention and enhancement of existing community facilities and encourages multi-purpose community facilities that can provide a range of services and facilities to the community at one accessible location. Where existing facilities can be enhanced to serve new development, the Council will work with developers and local partners to audit existing facilities and assess the requirement for additional facilities to deliver comprehensive provision of services to serve these extended communities. The Council will work with local partners, such as Parish Councils or Community Associations, to plan and manage community facilities.

***Planning Services comment: This policy indicates that facilities should be located in accessible locations and also mitigate impacts on existing communities again these are key issues which are discussed in detail in the report***

CE1 – Centres and Employment Classification and Hierarchy

The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021. The Council will promote employment generating developments through the regeneration and intensification of previously developed land, and through the allocation of land necessary to support employment growth at sustainable locations.

The Council will promote and maintain a Centres and Employment Classification and Hierarchy (Tables CE1a & CE1b) to coordinate the use and scale of developments with the accessibility and role of the various mixed use Centres and Employment Zones in Colchester. Mixed-use centres will support a wide range of compatible uses, whilst Employment Zones will accommodate other business developments as identified in Table CE1b. Development scales will need to be consistent with the Hierarchy and larger scale development should be focused on the Town Centre, Urban Gateways and Strategic Employment Sites.

Employment developments that conflict with the Centres and Employment Classification and Hierarchy will not normally be supported. Small scale developments may be acceptable in residential or countryside locations if they have low travel needs and low impacts, such as:

- Small shops and facilities providing for the daily needs of a local residential catchment
- Rural businesses, recreation and tourist developments to meet local needs and support rural economies

The Council will seek to protect and enhance employment throughout the Borough. Development that will increase employment capacity will be encouraged, whilst development that will result in a loss of employment capacity will not normally be supported.

The Council will also encourage economic diversity and business development to facilitate small and medium enterprises. A mix of business types and premises will be sought in

employment developments to provide opportunities for all businesses and create diverse and successful economic environments.

***Planning Services comment: This policy sets out a hierarchy for employment uses in Colchester promoting sustainable locations and directing larger scales of development towards the town centre and urban areas. This policy is relevant because whilst Horkesley Park is a large scale development it is located in a rural area outside any designated employment zone or centre.***

#### CE2 – Mixed Use Centres

The Borough Council will promote a mix of development types and scales in accordance with the Centres and Employment Classification and Hierarchy (Table CE1a & CE1b) and the role of each Centre, as outlined below.

New development in Centres should make efficient use of land, optimise employment delivery and be sympathetic to local character. Centre developments should also present active human-scale frontages and provide adaptable spaces to ensure they can accommodate different uses over time.

The Borough Council will seek to enhance the public realm and sustainable transport in Centres and minimise the impact of traffic and parking.

***Planning Services comment: This policy also refers to the hierarchy for employment uses in Colchester again promoting sustainable locations. This policy is relevant because Horkesley Park is located in a rural area outside any designated employment zone or centre.***

#### CE2a – Town Centre

To promote Colchester as a prestigious Regional Centre, the Borough Council will encourage economic development and regeneration in the Town Centre. Main Town Centre uses, including retail, offices, leisure and cultural facilities, should take a sequential approach that gives priority to the regeneration of the Town Centre, followed by the Urban Gateways and the Town Centre Fringe. Accordingly, the Council will seek to deliver over 67,000sqm of net retail floor space and 40,000sqm of gross office floor space in the Town Centre, Urban Gateways and Town Centre Fringe from 2006 to 2021.

To support Colchester's role as a prestigious regional centre the Council will seek to deliver more attractive public spaces and streetscapes in the Town Centre. The Town Centre Core contains important historic character which must be protected and enhanced by all development. Retail and cultural developments will be focused on the Town Centre Core. The Council will also encourage developments that create safe and attractive public spaces and a more balanced night time economy.

The Urban Gateways in Colchester (North Station, Hythe Station and Town Station) will provide a focal point for developments that will enhance the role of the Town Centre. High density, mixed-use developments will be encouraged to promote regeneration within walking distance of the railway stations.

The Town Centre Fringe will accommodate the growth of the Town Centre beyond the historic core. The Council will encourage a mix of developments that revitalise and make efficient use of land within walking distance to the Town Centre.

***Planning Services comment: The Council has appointed consultants Nathaniel Lichfield Partners to advise whether or not the retail element and other uses within the Horkesley Park proposal would have an adverse impact on the town centre, this issue is discussed in detail in the report.***

### CE3 – Employment Zones

Employment Zones will accommodate business developments that are not suited to Mixed Use Centres, including industry and warehousing (see Table CE1b).

Strategic Employment Zones (SEZ) are identified at North Colchester, Stanway and the University of Essex, which provide ample capacity to accommodate projected business growth during the plan period. The Borough Council will seek to focus business development at these Strategic Employment Zones, and will improve the supporting transport infrastructure.

The Council will seek to deliver approximately 45,100sqm (gross) of industry and warehousing floor space, primarily within the North Colchester and Stanway Strategic Employment Zones. The Council will also support the delivery of existing office commitments in all the Strategic Employment Zones, however further office development will be directed towards the Town Centre in accordance with the sequential approach set out in policy CE2a.

The Council will encourage the provision of incubator units and grow-on space to support the development of small and medium enterprises. Local Employment Zones will be defined in the Site Allocations DPD based on existing and proposed concentrations of rural and local employment in order to support and promote rural enterprise and local employment.

Retail developments will not normally be supported in Employment Zones, except for small scale developments that provide for the needs of the local workforce or are ancillary to an industrial use.

***Planning Services comment: This policy directs employment uses to employment zones and is relevant in so far as Horkesley Park will create new employment***

### UR1 – Regeneration Areas

To enhance Colchester as a prestigious regional centre, the Borough Council is committed to regeneration in rundown areas, deprived communities and key centres, with the purpose of building successful and sustainable communities. Regeneration will also enhance Colchester's attractiveness as a visitor destination. The Council and its public and private partners will focus on five main areas of regeneration activity in Colchester Borough during the life of the plan:

- North Station
- St Botolphs
- East Colchester
- North Colchester
- The Garrison

The Council will also pursue a broader urban renaissance agenda to revitalise communities throughout the Borough, with a particular emphasis on Centres and Gateways. This urban renaissance will be advanced through redevelopments that promote sustainable urban living, enhance the public realm, improve accessibility, and address social deprivation

New developments in Regeneration Areas will be encouraged within walking distance of Centres and Transit Corridors. The design and scale of development will need to be

sympathetic to the character of the area and enhance historic buildings and features. Developments also need to address local constraints, including flooding and contaminated land. Regeneration developments should contribute toward improvements of the local public realm, infrastructure and community facilities, although the Council will consider the viability of developments in determining these contributions.

***Planning Services comment: The Core Strategy identifies five Regeneration Areas to serve as a focus for new development, and in particular, to ‘enhance Colchester’s attractiveness as a visitor destination’. The proposed development is not located in or near to any of these Regeneration Areas, nor is it within or adjoining the urban area of the town.***

#### UR 2 – Built Design and Character

The Borough Council will promote and secure high quality and inclusive design in all developments to make better places for both residents and visitors. The design of development should be informed by context appraisals and should create places that are locally distinctive, people-friendly, provide natural surveillance to design out crime, and which enhance the built character and public realm of the area. High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable. Creative design will be encouraged to inject fresh visual interest into the public realm and to showcase innovative sustainable construction methods. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported.

The Council is committed to enhancing Colchester’s unique historic character which is highly valued by residents and an important tourist attraction. Buildings, Conservation Areas, archaeological sites, parklands, views, the river and other features that contribute positively to the character of the built environment shall be protected from demolition or inappropriate development. Archaeological assessments will be required on development sites that possess known archaeological deposits, or where it is considered that there is good reason for such remains to exist. Important archaeological sites and their settings will be preserved in situ.

***Planning Services comment: Design is a key issue as the site is within or adjacent to the AONB and significant new built form is proposed close to the AONB.***

#### TA1 - Accessibility and Changing Travel Behaviour

The Council will work with partners to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester.

The Council will improve accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Sustainable transport will be improved to provide better connections between the community and their needs. In congested areas, the Council will seek to prioritise the movement of sustainable transport. Innovative solutions will also be implemented to overcome severance that is currently inflicted by busy roads.

Future development in the Borough will be focused on highly accessible locations, such as centres, to reduce the need to travel. Developments that are car-dependent or promote unsustainable travel behaviour will not be supported.

Travel behaviour change towards sustainable modes will be encouraged through travel plans, improvements to gateways, and by managing travel demand. Major developments,

employers and institutions should develop travel plans to promote sustainable travel behaviour. The quality of gateways will be enhanced, whilst traffic and car parking will be carefully managed, to encourage sustainable travel within Colchester.

***Planning Services comment: This policy directs new development to highly accessible locations, to reduce the need to travel. It states developments that are car-dependent or promote unsustainable travel behaviour will not be supported'. This is a key policy and the report describes in detail the location of the site, the number of visitors predicted to travel by car and the availability of other modes of transport. The report also sets out the travel plan put forward by the applicant.***

#### TA2 – Walking and Cycling

The Council will work with partners to promote walking and cycling as an integral and highly sustainable means of transport. Regional and rural links, including national cycle routes, will be improved and better connected with local destinations. The design and construction of facilities and infrastructure will be improved to make walking and cycling more attractive, direct and safe. Quality and convenient pedestrian crossings will be promoted to facilitate safe and direct movement across busy roads.

Walking and cycling improvements will be focused on centres, schools, workplaces, and public transport interchanges. In particular, the Council will seek to provide excellent walking and cycling connections into and through the Town Centre. Development shall contribute towards these connections and quality cycle parking where appropriate.

***Planning Services comment: this policy is relevant and the report explains the opportunities for walking and cycling taking into account the location of the site. The applicant's proposals to promote walking and cycling are also explained.***

#### TA3 – Public Transport

The Council will work with partners to further improve public transport and increase modal shift towards sustainable modes. Colchester's role as a Regional Transport Node will be promoted by optimising connections with the regional network and improving the frequency, speed, reliability and promotion of public transport services. Demand responsive services will also be promoted to help rural communities access their needs.

Gateways to Colchester will be enhanced to provide attractive entry points, a sense of place and excellent onward connections. The Urban Gateways at Colchester North Rail Station, Hythe Rail Station and Colchester Town Rail and Bus Stations at St Botolphs will be improved to facilitate regeneration in the surrounding areas. Improvements to rail stations and bus interchanges will be sought to assist interchange between modes and promote sustainable travel behaviour.

Within Colchester Town, a comprehensive public transport network, including Quality Bus Partnerships will connect communities with growth areas, centres, employment and community facilities. The Council will work with partners to deliver the North and East Transit Corridors to facilitate rapid public transport services and avoid congestion. Park and Ride facilities will also provide visitors with sustainable access to the Town Centre and other major destinations.

***Planning Services comment: this policy is relevant and the report again explains the opportunities for using public transport taking into account the location of the site. The applicant's proposals to promote the use of public transport are also explained.***

#### TA4 – Roads and Traffic

The Borough Council will work with partners to accommodate necessary car travel making the best use of the existing network and manage demand for road traffic. Facilities for road/rail freight interchanges and servicing will be accommodated.

The Council will support improvements to the strategic road network (see Table TA4) to facilitate regional travel needs, particularly freight movements in the Haven Gateway, whilst minimising the impacts of traffic on the rural area network. In urban areas, the Council seeks to manage demand for car travel and make the best use of the existing network. Improvements will be made to the urban road network to support sustainable development and to reduce the negative impacts of congestion.

The demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character. Streets and junctions should be designed to provide people-friendly street environments and to give priority to sustainable transport. Within the Town Centre, through-traffic will be reduced to encourage trips to be undertaken via more sustainable modes, and servicing will be facilitated in a manner that is sensitive to the streetscape.

Development will need to contribute towards transport infrastructure improvements to support the development itself, and to enhance the broader network to mitigate impacts on existing communities.

***Planning Services comment: this policy is relevant as Horkesley Park will result in significant additional demand for car travel. The impact of these trips and the capacity of the road infrastructure to accommodate them will be assessed in the report***

#### TA5 – Parking

The Council will work with partners to ensure that car parking is managed to support the economy and sustainable communities. Facilities for freight and servicing will be accommodated.

Within the Town Centre, long stay car parking will be reduced to discourage car trips that could easily be made by more sustainable modes. Short stay parking will be provided where necessary to facilitate the economic and social wellbeing of the Town Centre. Park and Ride will be provided to offer a more sustainable alternative to town centre car parking. Disabled, cycle and motorcycle parking will continue to be provided where appropriate.

Development should manage parking to accord with the accessibility of the location and to ensure people-friendly street environments. Within Centres and other accessible locations, car parking should be minimised and located underground, under deck and behind buildings. Redevelopment of existing surface car parking will also be encouraged to make efficient use of land and improve the townscape.

Business parking for staff, visitors and operational uses will be managed as part of company Travel Plans. Car free and low car development will be encouraged in the Town Centre. Residents parking schemes will be supported in areas where there is a high demand for on-street parking. In areas where there is limited parking supply and good access to alternative transport, the introduction of a 'Car club' will be encouraged

***Planning Services comment: The parking provision is discussed in the report.***

ENV1 – Environment

The Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The Council will safeguard the Borough's biodiversity, geology, history and archaeology through the protection and enhancement of sites of international, national, regional and local importance. In particular, developments that have an adverse impact on Natura 2000 sites or the Dedham Vale Area of Outstanding Natural Beauty will not be supported.

Within the Coastal Protection Belt development will not be permitted that would adversely affect the open and rural character of the undeveloped coastline, and its historic features, sites of nature conservation importance and wildlife habitats.

The network of strategic green links between the rural hinterland, river corridors, and key green spaces and areas of accessible open space that contribute to the green infrastructure across the Borough will be protected and enhanced.

Development will be supported at appropriate locations to improve public access, visual amenity and rehabilitate the natural environment. Development will need to minimise and mitigate adverse impacts on river, coastal and ground water quality

The Council will seek to direct development away from land at risk of fluvial or coastal flooding in accordance with PPS25, including areas where the risk of flooding is likely to increase as a result of climate change.

Unallocated greenfield land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough. Where new development needs, or is compatible with, a rural location, it should demonstrably:

- i. be in accord with national, regional and local policies for development within rural areas, including those for European and nationally designated areas; and
- ii. be appropriate in terms of its scale, siting, and design; and
- iii. protect, conserve or enhance landscape and townscape character, including maintaining settlement separation; and
- iv. protect, conserve or enhance the interests of natural and historic assets; and
- v. apply a sequential approach to land at risk of fluvial or coastal flooding in line with the guidance of PPS25; and
- vi. protect habitats and species and conserve and enhance the biodiversity of the Borough; and
- vii. provide for any necessary mitigating or compensatory measures.

***Planning Services comment: The development proposed could potentially have an adverse impact on many of the natural features referred to in this policy. Whether or not the development satisfies this policy is therefore an important consideration which is discussed in detail in the report.***

ENV2 – Rural Communities

The Borough Council will enhance the vitality of rural communities by supporting appropriate development of infill sites and previously developed land (PDL) within the settlement development boundaries of villages. The design and construction of new village development must be high quality in all respects, including design, sustainability and compatibility with the distinctive character of the locality. Development should also contribute to the local community through the provision of relevant community needs such as affordable housing, open space, local employment, and community facilities.

Outside village boundaries, the Council will favourably consider small-scale rural business, leisure and tourism schemes that are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment. Development outside but contiguous to village settlement boundaries may be supported where it constitutes an exception to meet identified local affordable housing needs.

Towns and villages are encouraged to plan for the specific needs of their communities by developing Parish Plans and Village Design Statements for adoption as guidance.

***Planning Services comment: The application is not small scale and its impact has to be carefully assessed.***

ER1 Energy, Resources, Waste, Water and Recycling

The Council's commitment to carbon reduction includes the promotion of efficient use of energy and resources, alongside waste minimisation and recycling.

The Council will encourage the delivery of renewable energy projects, including micro-generation, in the Borough to reduce Colchester's carbon footprint. New developments will be encouraged to provide over 15% of energy demand through local renewable and low carbon technology (LCT) sources.

Sustainable construction techniques will also need to be employed in tandem with high quality design and materials to reduce energy demand, waste and the use of natural resources, including the sustainable management of the Borough's water resources. Residential dwellings will be encouraged to achieve a minimum 3 star rating in accordance with the Code for Sustainable Homes. Non-residential developments will be encouraged to achieve a minimum BREEAM rating of 'Very Good'.

The Council will support housing developments that reduce carbon emissions by 25% from 2010, 44% from 2013 and zero carbon homes from 2016 in accordance with national building regulations.

The Council is seeking to minimise waste and improve reuse and recycling rates through better recycling services and public awareness programs. To assist this aim, new developments will be expected to provide facilities and employ best practice technology to optimise the opportunities for recycling and minimising waste.

***Planning Services comment: The application includes a Sustainability Assessment and Sustainable Construction Management Plan and proposes a BREEAM rating of very good***

9.2 Development Policies Adopted December 2010

#### Policy DP1: Design and Amenity

All development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Development proposals must demonstrate that they, and any ancillary activities associated with them, will:

(i) Respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features. Wherever possible development should remove existing unsightly features as part of the overall development proposal;

(ii) Provide a design and layout that takes into account the potential users of the site including giving priority to pedestrian, cycling and public transport access, and the provision of satisfactory access provision for disabled people and those with restricted mobility;

(iii) Protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight;

(iv) Create a safe and secure environment;

(v) Respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area; and

(vi) Incorporate any necessary infrastructure and services including recycling and waste facilities and, where appropriate, Sustainable Drainage Systems (SuDS), and undertake appropriate remediation of contaminated land.

For the purpose of this policy ancillary activities associated with development will be considered to include vehicle movement.

***Planning Services comment: This overarching policy is relevant because it sets out the requirement for high quality design and for all development to respect and enhance the character of the site. It also sets out a list of criteria against which all new development should be assessed including impacts on residential and public amenity. Horkesley Park involves substantial new built form close to the AONB and a significant number of representations have been received in respect of adverse impacts. The application will be assessed against the criteria in this policy.***

#### Policy DP2: Health Assessments

All development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health.

Health Impact Assessments (HIA) will be required for all residential development in excess of 50 units and non-residential development in excess of 1,000 square metres. The purpose of the HIA will be to identify the potential health consequences of a proposal on a given population, maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal's environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities. Where significant impacts are identified, planning obligations will be required to meet the health service impacts of the development. Any HIA must be prepared in accordance with the advice and best practice for such assessments.

***Planning Services comment: A Health Impact Assessment has not been submitted but this policy is relevant because Horkesley Park will provide a new tourist attraction in the countryside. It will promote healthy activities such as walking and cycling and will not have an adverse impact upon existing health services and facilities. It is considered Horkesley Park will have positive health benefits.***

### Policy DP3: Planning Obligations and the Community Infrastructure Levy

The Council intends to develop proposals to implement a Community Infrastructure Levy (CIL), further to the enabling provisions in the 2008 Planning Act. The CIL will be a charge used to fund necessary local and sub-regional infrastructure which supports the objectives of the Core Strategy and the development of the area. It will involve an agreed charging schedule which will allocate the proposed amount to be raised from CIL to each main class of development. The charge will be related to the scale and type of development proposals. The Council will work with partners to deliver key infrastructure projects, as identified in the Core Strategy. Where appropriate, planning obligations through Section 106 agreements will continue alongside or in place of CIL and standard charges will be implemented with details set out in Supplementary Planning Documents.

***Planning Services comment: The report sets out the section 106 agreement which includes financial contributions.***

### Policy DP8: Agricultural Development and Diversification

General support for existing agricultural uses will include particular encouragement to sustainable forms of agriculture which include environmentally sensitive, organic, and locally distinctive food production, together with its processing, packing, marketing and retailing. New agricultural buildings requiring planning permission will be guided to farm locations which are sensitive to their environment.

Appropriate farm diversification proposals will be encouraged where they are compatible with the rural environment and help to sustain the existing agricultural enterprise without the need for subdivision of the holding or separate enterprises unrelated to the existing agricultural use. All proposals must be accompanied by a satisfactory diversification plan according to the scale of proposals, which describes how it will assist in retaining the viability of the farm and how it links with any other short or long term business plans for the farm. Proposals for farm shops as part of a farm diversification scheme must identify the products produced on site or locally and demonstrate that the location of farm-based retailing is necessary to assure farm income where their needs cannot be met within nearby Town or District Centres.

Proposals for farm diversification schemes will be supported if they are considered to form part of an otherwise acceptable comprehensive scheme and:

- (i) Existing buildings are re-used wherever possible. Schemes involving the re-use of historic farm buildings shall maintain and enhance the historic environment; including the character of the built heritage;
- (ii) The development is well-related to existing buildings if no suitable buildings are available for re-use;
- (iii) The development is secondary to the main agricultural use of the farm; and
- (iv) The proposal will not be likely to require new dwellings within the rural area to support the enterprise either at the time of first submission or at any future date.

***Planning Services comment: As part of the application site is in agricultural use this policy is relevant to some degree.***

### Policy DP9: Employment Uses in the Countryside

Employment development proposals within the countryside outside of designated local employment zones must contribute to the local rural economy and help sustain rural

communities. The proposed use should be of a small scale that does not harm the rural character of the area either by the nature and level of activity (including the amount of additional traffic generation on rural roads) or, any other detrimental effects such as noise and pollution.

The following additional considerations shall also be taken into account where relevant:

(a) Conversion and re-use of existing rural buildings:

Proposals will only be supported where the building is structurally sound and capable of re-use without fundamental rebuilding, and the buildings are deemed to be desirable for retention. In the case of former agricultural or forestry buildings of recent construction (less than 10 years), it will also need to be demonstrated that the original need for the building was genuine and that it is no longer required for agricultural or forestry purposes.

(b) Extension of existing rural employment buildings:

Proposals will only be supported where these are limited to expansion plans which are essential to the operation of the established business. All extensions shall be accommodated satisfactorily in terms of design, scale and appearance within the existing employment site boundary.

(c) Replacement rural employment buildings:

Replacement buildings will only be supported where the existing development is visually intrusive or otherwise inappropriate in its context and a substantial improvement in the landscape and surroundings will be secured through replacement. Replacement buildings should not significantly increase the scale, height and built-form of the original building.

(d) New rural employment buildings:

Proposals will only be supported in exceptional cases where there are no appropriate existing buildings and the need has been adequately demonstrated.

(e) Expansion of an existing business:

Proposals to expand an existing employment use into the countryside will only be supported in exceptional cases where there is no space for the required use on the existing site, the need has been adequately demonstrated, and the proposals are essential to the operation of an established business on the site. Consideration must be given to the relocation of the business to available land within strategic or local employment zones.

***Planning Services comment: Horkesley Park will create new employment in the countryside but it is not small scale. Its impact on the countryside and rural character will require careful assessment***

Policy DP10: Tourism, Leisure and Culture

Development for new and extended visitor attractions, leisure and cultural facilities, along with visitor accommodation (including hotels, bed & breakfast accommodation, self-catering accommodation, holiday lodges, static and touring caravans and tenting fields) will be supported in suitable locations. Proposals for tourism, leisure and culture development should promote accessibility by a choice of means of transport and must not cause significant harm to the amenity of people living and working nearby.

In rural areas, locations suitable for tourism, leisure and culture development should help to support existing local community services and facilities. The proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites. It is recognised that not all rural locations are readily accessible by public transport. Where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation. In locations where residential uses would be inappropriate,

developments of visitor accommodation will be limited to holiday use only and/or certain periods of the year in order to prevent permanent or long-term occupation.

Urban areas of Colchester will be the focus for larger scale tourist, leisure and culture facilities and accommodation in line with the need to concentrate development at the most sustainable and accessible locations. The Council will also support proposals for a youth hostel, the preferred location being within Colchester Town Centre in line with the sequential approach, although proposals elsewhere will also be supported where appropriate.

***Planning Services comment: This is the key policy in the Council's Development Plan relating to tourism development. The report explains in detail the relevance of this policy and whether or not Horkesley Park complies with it.***

#### Policy DP14: Historic Environment Assets

Development will not be permitted that will adversely affect a listed building, a conservation area, historic park or garden or important archaeological remains. Development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest. In all cases there will be an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available. In instances where existing features have a negative impact on the historic environment, as identified through character appraisals, the Local Planning Authority will request the removal of the features that undermine the historic environment as part of any proposed development. Support will be given to the provision of creative and accessible interpretations of heritage assets.

Conservation of the historic environment will also be ensured by:

- (i) Identifying, characterising, protecting and enhancing Conservation Areas;
- (ii) Protection and enhancement of existing buildings and built areas which do not have Listed Building or Conservation Area status but have a particular local importance or character which it is desirable to keep. Such buildings or groups of buildings will be identified through a Local List which will be adopted by the Council;
- (iii) Preserving or enhancing Listed Buildings, Scheduled Monuments, Historic Parks and Gardens, including their respective settings, and other features which contribute to the heritage of the Borough; and
- (iv) Known sites of archaeological importance will be clearly identified and protected, and sites that become known, whether through formal evaluation as part of a Planning Application or otherwise, will similarly be protected according to their importance. Heritage Statements and/or Archaeological Evaluations will be required for proposals related to or impacting on the setting of heritage assets and/or known or possible archaeological sites, so that sufficient information is provided to assess the impacts of development on historic environment assets together with any proposed mitigation measures.

***Planning Services comment: The application documentation includes a Heritage Assessment as Horkesley Park is adjacent to a Grade 1 listed church. There are also other listed buildings close to the site boundaries. The Environmental Impact Assessment also considers archaeology implications.***

#### Policy DP17: Accessibility and Access

All developments should seek to enhance accessibility for sustainable modes of transport, by giving priority to pedestrian, cycling and public transport access to ensure they are safe, convenient and attractive, and linked to existing networks. Proposals for development shall incorporate satisfactory and appropriate provision for:

- (i) Pedestrians, including disabled persons and those with impaired mobility;
- (ii) Cyclists, including routes, secure cycle parking and changing facilities where appropriate;
- (iii) Public transport and measures that reduce dependency on private vehicles;
- (iv) Linkages to networks as appropriate including the development of new pedestrian and cycle paths and the development of transit corridors in north and east Colchester;
- (v) Servicing and emergency vehicles.

Access to all development should be created in a manner which maintains the right and safe passage of all highway users. Development will only be allowed where there is physical and environmental capacity to accommodate the type and amount of traffic generated in a safe manner. The access and any traffic generated shall not unreasonably harm the surroundings, including the amenity of neighbouring properties and/or the public rights of way network.

Proposals will need to be accompanied by a Transport Assessment or Statement as well as a Travel Plan or Residential Travel Pack as considered appropriate by the local planning authority. The Essex County Council Transportation Development Management Policies Guidance Note provides further detail on requirements relating to accessibility and access including Transport Assessment and Statement thresholds for each land use category.

***Planning Services comment: Accessibility and sustainable modes of transport are key issues which are discussed in detail in the report.***

#### Policy DP19: Parking Standards

The Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009. The SPD sets design standards and provision levels for a comprehensive range of uses and transport modes. The level of parking provision required will depend on the location, type and intensity of use. For residential uses, specifically, a minimum of 1 car parking space should be provided for each 1-bedroom dwelling or 2 car parking spaces for each dwelling of 2 or more bedrooms, in addition to 0.25 spaces per dwelling for visitors. A lower standard may be acceptable or required where it can be clearly demonstrated that there is a high level of access to services, such as a town centre location. Cycle parking will be required for all developments. Provision must also be made for disabled and motorcycle parking.

***Planning Services comment: The proposed parking provision is discussed in detail in the report***

#### Policy DP20: Flood Risk and Management of Surface Water Drainage

Development will only be supported where it can be demonstrated that the proposal meets requirements in PPS25 (Development and Flood Risk), recommendations in Colchester's Strategic Flood Risk Assessment, and includes satisfactory flood defence measures or flood mitigation measures such as Sustainable Drainage Systems (SuDS) to minimise the risk of increased flooding both within the development boundary and off site in Flood Zones 2 and 3. Proposals that include measures to enhance the flood resilience of new or renovated buildings will be encouraged.

All development proposals shall incorporate measures for the conservation and sustainable use of water. These measures shall include appropriate SuDS for managing surface water

runoff within the overall design and layout of the site and measures to conserve water within individual building designs. The use of SuDS will be particularly important as part of green field developments to manage surface water run-off rates, and in areas close to underground aquifers and landfill sites to reduce the risk of pollution.

***Planning Services comment: The application documentation includes Hydrology, Drainage & Flood Risk assessments***

Policy DP21: Nature Conservation and Protected Lanes

Development proposals where the principal objective is to conserve or enhance biodiversity and geodiversity interests will be supported in principle. For all proposals, development will only be supported where it:

- (i) Is supported with acceptable ecological surveys where appropriate. Where there is reason to suspect the presence of protected species, applications should be accompanied by a survey assessing their presence and, if present, the proposal must be sensitive to, and make provision for, their needs;
- (ii) Will conserve or enhance the biodiversity value of greenfield and brownfield sites and minimise fragmentation of habitats;
- (iii) Maximises opportunities for the restoration, enhancement and connection of natural habitats in accordance with the Essex Biodiversity Action Plan; and
- (iv) Incorporates beneficial biodiversity conservation features and habitat creation where appropriate.

Additionally, proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas or protected species will not be permitted unless:

- (a) They cannot be located on alternative sites that would cause less harm;
- (b) The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and
- (c) Satisfactory prevention, mitigation and compensation measures are provided.

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 significance of other historic landscape features should be considered and, where appropriate, assimilated in new development.

***Planning Services comment: The application documents include an Environmental Impact Assessment which includes a Landscape and Visual Assessment an Arboricultural Report and Ecology Report other documents include an AONB Assessment and a Mitigation and Management Plan. The impact of the development on nature conservation and protected lanes is discussed in the report***

Policy DP22: Dedham Vale Area of Outstanding Natural Beauty

Development will only be supported in or near to the Dedham Vale Area of Outstanding Natural Beauty (AONB) that:

- (i) Makes a positive contribution to the special landscape character and qualities of the AONB;
- (ii) Does not adversely affect the character, quality views and distinctiveness of the AONB or threaten public enjoyment of these areas, including by increased vehicle movement; and,

(iii) Supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB & Stour Valley Management Plan.

Where exceptionally development is essential, landscape enhancements, mitigation or compensation measures must be provided to the Local Planning Authority's satisfaction. Any existing development that adversely affects the landscape qualities of the AONB will be expected to satisfactorily mitigate this impact as part of any new development proposals

***Planning Services comment: This is a key policy as the whole site is either within or adjacent to the AONB, the report will assess the proposal against the criteria in this policy.***

#### Policy DP24: Equestrian Activities

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 and urban fringe or have a detrimental impact on the townscape setting or local landscape character;
- (iv) Is related to an existing dwelling within the countryside or will not lead to pressure for the development of a new dwelling.

***Planning Services comment: This policy is of limited relevance but the application does include equestrian related development (a Suffolk punch breeding centre and working area)***

#### DP25: Renewable Energy

The local planning authority will support proposals for renewable energy schemes including community level renewable projects, offshore wind farm proposals along with their ancillary land based infrastructure and micro-generation schemes. Applicants will be encouraged to incorporate renewable energy technologies into all development where viable.

Within internationally and nationally designated areas renewable energy schemes will be supported in exceptional circumstances where it can be demonstrated that the designation objectives for the area will not be compromised and any adverse impacts are clearly outweighed by the social and economic benefits provided by the energy proposal.

Schemes should be located and designed in such a way to minimise increases in ambient noise levels and visual impacts should be mitigated through siting, design, layout and landscaping measures.

Transport Assessments covering the construction, operation and decommissioning of any wind farm proposals will be required and should preferably be produced at the pre-application stage so acceptability can be determined and mitigation measures identified. A condition will be attached to planning consents for wind turbines to ensure that the site is restored when the turbines are taken out of service.

***Planning Services comment: This policy is of limited relevance but Horkesley Park does include a renewable energy centre***

### 9.3 Site Allocations Proposals Map

Part of the site is identified as falling within the AONB; the remainder of the site has no allocation.

**9.4** Regard should also be given to the following Supplementary Planning Guidance/Documents which are material consideration

Community Facilities  
Vehicle Parking Standards  
Sustainable Construction  
External Materials in New Developments

### 9.5 Other relevant documents

Department of Culture & Local Government Good Practice Guide on Planning for Tourism (2006)  
Dedham Vale AONB Management Plan 2010 -2015  
Haven Gateway Green Infrastructure Study  
Colchester's Landscape Character Assessment (2005)

9.6 The National Planning Policy Framework (NPPF) published in March 2012, sets out the Government's planning policies for England and how these are expected to be applied. This document supersedes the Planning Policy Statements which formed Central Government's advice to Local Planning Authorities when the 2009 application was determined.

At the heart of the NPPF is a **presumption in favour of sustainable** development which should be seen as a golden thread running through both plan-making and decision-taking.

The NPPF states:-

"The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- **an economic role** – contributing to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure;
- **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use

natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

The following elements of the NPPF are considered relevant.

### **1. Building a strong, competitive economy**

18. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

***Planning Service comment:***

***This is relevant and the Council shares this objective and has itself set an ambitious target for growth of new job opportunities within the borough. This is primarily encapsulated in Policy CE1 (Core Strategy) as described above where it is stated that between 2001 and 2021 the Council is looking to encourage the delivery of 14200 jobs. The proposal will deliver new jobs as opposed to the recycling of existing jobs and will itself help to support maintenance and job expansion in related sectors. The level of job creation is disputed.***

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

***Planning Service comment:***

***This is relevant because the proposal represents a significant financial investment (including inward investment from abroad) within the town to create a major new visitor attraction which should in turn help to improve the economic prospects of the town and increase jobs. The site the subject of the application is not allocated for development in the Council's Adopted Development Plan and therefore consideration of the economic benefits will need to be carefully weighed against other Adopted Local Planning Policies and other NPPF policies. Members will have to decide for themselves whether in "doing everything it can" the Council would if it approved the proposal be going too far in terms of supporting the scheme to secure economic benefits to the serious detriment of achieving other important outcomes. Your officers will conclude that will not be the case in that a careful assessment of the planning harm likely to arise from the development is such as to outweigh the benefits.***

20. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

***Planning Service comment:***

***It may be argued that this policy is relevant to objection to the proposal in that neither the Development Policies Document nor the Site Allocations Document identify a specific need for or a site for a major tourist attraction such as this. However local plans cannot predict the totality of development proposals likely to arise and so an application such as this which is a Departure from the land allocation map must be judged against the broad suite of planning policies and set against an analysis of likely harm, mitigation and benefits. The Planning Services through the employment of a PPA approach has tried to proactively plan to meet the development needs of business in this case.***

21. Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing. In drawing up Local Plans, local planning authorities should:

- set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth;

**Planning Service comment:**

***This the Council has done particularly at a strategic level in its Core Strategy at Policy CE1 and so there is relevance here.***

- set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;

**Planning Service comment:**

***Whilst the Council has made strategic land allocations for regeneration and employment growth (Core Strategy CE1a – CE1c incl& DP5 Development Policies Document) the application site is not one of these and so it may be argued that the proposal is deficient in this respect were it not for the argument set out immediately above.***

- support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances;

**Planning Service comment:**

***This is relevant because the application is made by an existing long established Colchester business that wishes to expand by diversifying its business interests in the town whilst expanding certain aspects of their established business. It is true to say that the tourist industry is an emerging sector in Colchester and then Council is promoting the Town having recently helped to encourage a significant growth in the hotel sector which should in turn support a n expansion in the short-stay market where the town is underperforming compared to some other leading English Historic Towns. Whilst this development was not anticipated in the Plan the Adopted Development Plan (such as DP9 & DP10 of the Development Policies Document) and the NPPF do contain supportive policies which need to be set against some that may appear on the face of it less so.***

- plan positively for the location, promotion and expansion of clusters or networks of knowledge driven, creative or high technology industries;

**Planning Service comment:**

***Not relevant as the proposal does not involve ‘knowledge/technology’ driven development***

- identify priority areas for economic regeneration, infrastructure provision and environmental enhancement; and

**Planning Service comment:**

**Relevant in that this area is not one that has been identified as a priority for regeneration nor has it been identified as a priority for environmental enhancement. As a result the point should be raised that as it is not such a priority area justification for an exception to policy cannot be made on such grounds.**

- facilitate flexible working practices such as the integration of residential and commercial uses within the same unit.

**Planning Service comment:**

**Not relevant as the proposal does not involve residential development although Bunting family members currently occupy residential units on the holding.**

22. Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

**Planning Service comment:**

**Not relevant in that this is not an allocated employment site**

## **2. Ensuring the vitality of town centres**

23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- define a network and hierarchy of centres that is resilient to anticipated future economic changes;
- define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;
- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;
- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;

**Planning Service comment:**

**Relevant in that the proposed attraction is not considered one that could be accommodated in the town centre or elsewhere in the edge of centre because of the specific locational features of the proposal: adjacency to the AONB (and inclusion within the AONB of the country park element) and the fact that the Bunting family breed Suffolk Punches and already own the land and other business ventures nearby and no alternative and viable site has been identified.**

- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;

**Planning Service comment: Relevant in that the proposed attraction is not considered one that could be accommodated in the town centre as will be discussed in the report.**

- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and

**Planning Service comment: Not relevant as the proposal does not involve residential development**

- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

**Planning Service comment:**

**Not relevant in that Colchester town centre is not in decline.**

**Generally paragraph 23 is relevant (except where indicated above) to the discussion of the merits of the current Horkesley Park proposal in that Members must satisfy themselves that the proposal were it to be approved will not prejudice the Council's long standing commitment to protect the viability and vitality of Colchester Town Centre.**

24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

**Planning Service comment:**

**This is relevant in that the Council's consultants Nathaniel Litchfield and Partners have advised the Council that in terms of the sequential approach no other site has been identified or has come forward for such a use and therefore there is no sequentially preferable site. They have also indicated there would be no adverse impact on the town centre**

25. This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.

**Planning Service comment:**

### ***Not relevant as the proposal is not small scale***

26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

#### ***Planning Service comment:***

***Relevant. The site is an out of town location where land has not been allocated in the Adopted Development Plan for development purposes. The total proposed floorspace exceeds the default threshold of 2500sq.m. (proposed 8950sq.m.). Members will have noted that the retail element within the scheme in terms of the visitor shop is modest at only 590sq.m. In view of the overall size of the proposal an impact assessment was submitted and the Council's consultants Nathaniel Lichfield & Partners have confirmed that the proposal will not have an adverse impact on the town centre or its viability and vitality.***

27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

#### ***Planning Service comment:***

***Relevant in that it is the appropriate test. However the proposal satisfies the sequential approach there being no sequentially preferable site available and that the proposal is unlikely to harm the vitality and viability of the town centre.***

### **3. Supporting a prosperous rural economy**

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;

#### ***Planning Service comment:***

***Relevant in that the proposed new buildings are considered to be well designed and will expand business and enterprise in the rural area hereabouts***

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

#### ***Planning Service comment:***

***Relevant in that the proposal can be said to be diversifying agricultural and other land based rural businesses.***

- support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and

***Planning Services comment:***

***Relevant. Officers argue that the proposal will result in a significant increase in tourist trips into the borough and this is an outcome that the Council as local planning authority is seeking to encourage. There will be local benefit from the creation of new job opportunity. Clearly Members will realise from the nature of many of the objections that there is considerable local concern about the possible/likely? impacts perceived as flowing from the proposal. Officers will however argue that the proposal will respect the character of the countryside as a result of sensitive and sympathetic design layout and landscaping and will result in the expansion of rural bus services via the proposed hopper bus.***

- promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.

***Planning Service comment:***

***Relevant in that the attraction of tourists and visitors to the site is likely to result in increased use of All Saints Church which could in turn support it and continued worship. Not relevant in that no community facilities are specifically included but increased local spend from tourism may help support local pubs and shop and the provision of a hopper bus service will benefit the local community.***

#### **4. Promoting sustainable transport**

29. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

***Planning Service comment:***

***Relevant in that whilst the proposal will generate car dominant travel behaviour (82% of visitors) it is expected to stimulate 18% of travel movements by sustainable methods. (coach, bus and cycle). Members must therefore consider to what extent sustainable modes of transport are possible; are being encouraged within the proposal and how this is being achieved (if indeed it is?). It is noted however that the Government draws a distinction between opportunities to maximise sustainable transport solutions available in the rural area when compared to the urban area. The implication being that public transport and pedestrian cycle facilities are already better established in the latter because of the concentrated demand and captive population and therefore enhance commerciality for operators. (public transport). The application***

**site is clearly in a rural location albeit well served and easily accessible via the A134. Therefore officers argue the site is readily accessible compared to some of the more remote parts of the borough.**

30. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport.

**Planning Service comment:  
Relevant and supported by Council policy.**

31. Local authorities should work with neighbouring authorities and transport providers to develop strategies for the provision of viable infrastructure necessary to support sustainable development, including large scale facilities such as rail freight interchanges, roadside facilities for motorists or transport investment necessary to support strategies for the growth of ports, airports or other major generators of travel demand in their areas. The primary function of roadside facilities for motorists should be to support the safety and welfare of the road user.

**Planning Service comment:  
Not relevant as this is not a roadside facility**

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

**Planning Service comment:  
Relevant. The application is supported by such documents and these have been reviewed by all three relevant highway authorities – Essex County Council, Suffolk County Council and the Highway Agency. All three raise no objection. The Council has also sought independent advice from a highway consultant ‘Vectos’ appointed by it.**

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;

**Planning Service comment:  
Relevant in that the proposal does include public transport benefits. Members must decide as to whether these are sufficient to result in a satisfactory increase in modal choice in the particular circumstances of the application and its location.**

- safe and suitable access to the site can be achieved for all people; and

**Planning Service comment:  
Relevant and is reinforced within the Councils Core Strategy and Development Policies Document. Both County Councils as highway authorities must also consider the highway safety implications of any proposal and this is what they have done along with highway capacity issues. The proposal does include highway works to facilitate safe movements in and out of the site at the site entrance and at the London Road/A134 junction. Footpath and bus shelter improvements are also proposed.**

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

**Planning Services comment:**

**Relevant in that the proposal does include specific improvements at the junction of the A134 London Road and at the proposed entrance to the site in London Road.**

33. When planning for ports, airports and airfields that are not subject to a separate national policy statement, plans should take account of their growth and role in serving business, leisure, training and emergency service needs. Plans should take account of this Framework as well as the principles set out in the relevant national policy statements and the Government Framework for UK Aviation.

**Planning Service comment:**

**Not relevant as proposal type falls outside the scope of this section**

34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.

**Planning Services comment:**

**Relevant. The proposal will generate significant movement and the site is located away from established travel nodes and established hubs of sustainable travel. Public transport services in this wider area are currently relatively poor. Members must therefore balance the objective of maximising sustainable travel with the fact that the site is in the rural area. The implication being that what may represent maximisation of sustainable travel in the urban area may not be the same as in the rural area. As with 32 above regard must be had to the package of non-car based travel opportunities included in the proposal and how effective these may be in the circumstances. The site will be located such as to benefit from proximity to the planned North Colchester park & ride facility.**

35. Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- accommodate the efficient delivery of goods and supplies;

**Planning Service comment:**

**Relevant. The site is adjacent to the A134 with good links to A12. A14 and A120**

- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;

**Planning Service comment:**

**Relevant as the scheme includes new footways and cycle routes as well as a hopper bus service.**

- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;

**Planning Service comment:**  
**Relevant although the home zone reference is not relevant**

- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and

**Planning Service comment:**  
**Relevant. These can be secured by condition**

- consider the needs of people with disabilities by all modes of transport.

**Planning Service comment:**  
**Relevant. The scheme does include disabled parking, bus & coach parking and easy access around the site.**

36. A key tool to facilitate this will be a Travel Plan. All developments which generate significant amounts of movement should be required to provide a Travel Plan.

**Planning Service comment**  
**Relevant. A travel plan is proposed**

37. Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.

**Planning Service comment:**  
**Relevant. As a new freestanding leisure facility likely to draw visitors not just from Colchester but from considerably further afield what journeys are Members reasonably expecting to be minimised? This is a difficult question to answer although the opportunity or not for linked trips is a consideration. (linked trips help to minimise journeys). Here because of the rural location linked trips will result in additional travel.**

38. For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties.

**Planning Service comment:**  
**Not relevant as the proposal does not include larger scale residential development**

39. If setting local parking standards for residential and non-residential development, local planning authorities should take into account:

- the accessibility of the development;
- the type, mix and use of development;
- the availability of and opportunities for public transport;
- local car ownership levels; and
- an overall need to reduce the use of high-emission vehicles.

**Planning Service comment:**  
**The Council has its established adopted parking standards**

40. Local authorities should seek to improve the quality of parking in town centres so that it is convenient, safe and secure, including appropriate provision for motorcycles. They should set appropriate parking charges that do not undermine the vitality of town centres. Parking enforcement should be proportionate.

**Planning Service comment:**

**Not relevant as this is not a town centre location**

41. Local planning authorities should identify and protect where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice. Relevant in that the proposal is likely to result in the additional generation of traffic using junction 28 of the A12 in North Colchester and parts of the Northern Approaches Road system which are themselves key to opening up large parts of Northern Colchester to additional planned development.

## **7. Requiring good design**

56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

**Planning Service comment:**

**Relevant. Good design is essential in such a prestigious and sensitive location. Good design in such a setting, adjacent to an AONB means that new buildings must be sympathetic to that setting and not impose themselves unacceptably into key views and so layout, scale, massing, height and appearance all assume even greater significance. Will the buildings introduce alien and inappropriate features into the landscape? Quality also needs to embrace appropriate use of materials and landscaping that preserves character and if possible enhances it. Members will need to satisfy themselves that design in its widest sense achieves the highest standard and that the impact on the AONB and surrounding countryside is not harmful and that any potentially adverse impacts are appropriately mitigated because the test Members need to apply is the same as should be applied in conservation areas. i.e. will the proposed development preserve and enhance the character of the AONB. Then and only then will members have given sufficient regard to the importance of the landscape and the need to safeguard it for future generations.**

57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

**Planning Service comment:**

**Relevant. The Core Strategy and Development Policies Document has specific policies to achieve such an outcome**

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping.

The site does not currently lie within that covered by an adopted neighbourhood plan.

59. Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

***Planning Service comment:***

***Relevant. The development will be the subject of a specific design code which will form part of any associated S106 Agreement if planning permission is granted. This will help to ensure the delivery of high quality and pre-agree a delivery mechanism for the translation of design vision into reality.***

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

***Planning Service comment:***

***Relevant. The Planning Service has not sought to dictate style but has worked with the project architect to produce what it believes is a sensitive design solution that includes elements of traditional and modern design within a sympathetic overall design approach.***

61. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

***Planning Service comment:***

***Relevant. The Planning Service has worked with the applicants and their architect using a range of its own in-house professionals including qualified urban design, conservation, landscape and arboricultural specialists. The Service understands and appreciates that creating a successful place is a multi-dimensional pursuit and so has equipped itself accordingly and used those resources in this case.***

62. Local planning authorities should have local design review arrangements in place to provide assessment and support to ensure high standards of design. They should also when appropriate refer major projects for a national design review. In general, early engagement on design produces the greatest benefits. In assessing applications, local planning authorities should have regard to the recommendations from the design review panel.

**Planning Service comment:**

**The Council does not currently have a local design review arrangements in place but did approach the Design Council for advice. Unfortunately they responded saying they did not have the capacity to review the design Previously the Council had consulted Shape East but they were no longer operating at the time of asking for advice on this the latest proposal. It should however be noted that the applicants have employed the services of the internationally renowned architect Sir Michael Hopkins who has led the architectural project team's design meeting discussions with the Council**

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

Relevant in that the design incorporates energy efficiency solutions into the design.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

**Planning Service comment:**

**Relevant in that this is an appropriate response to poor design. However your officers will argue that the proposed design is not poor and therefore this section does not apply.**

65. 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).

**Planning Service comment:**

**Relevant. Officers will argue that the scheme does result in undue harm to heritage interests that cannot be suitably mitigated and that the level of sustainability delivered whilst very good in some areas but not consistently so and less so in terms of travel behaviour is outweighed by the economic, social and environmental benefits of the proposal.**

66. Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.

**Planning Service comment:**

**The proposed s106 Agreement, if Members are minded to grant planning permission, does include the setting up and operation of a number of liaison group meetings with a range of interested parties into the future. This is expected to provide the arena for feedback and collaboration around the working of the attraction and resolution of local issues that arise in the light of experience of the operation of the use. These will include affected Parish Councils.**

67. Poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an

appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

**Planning Service comment:**

**Relevant. This is most certainly pertinent particularly in and around the AONB. With that in mind it is intended within any associated S106 Agreement, if Members are minded to grant planning permission, require the prior agreement of an advertisement strategy that will agree the nature and extent of signage on the site.**

68. Where an area justifies a degree of special protection on the grounds of amenity, an Area of Special Control Order may be approved. Before formally proposing an Area of Special Control, the local planning authority is expected to consult local trade and amenity organisations about the proposal. Before a direction to remove deemed planning consent is made for specific advertisements, local planning authorities will be expected to demonstrate that the direction would improve visual amenity and there is no other way of effectively controlling the display of that particular class of advertisement. The comments of organisations, and individuals, whose interests would be affected by the direction, should be sought as part of the process.

**Planning Service comment:**

**Not relevant as there is currently no Area of Special Control designated within the AONB but should the need arise this could be pursued at any time in the future.**

## **8. Promoting healthy communities**

69. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see. To support this, local planning authorities should aim to involve all sections of the community in the development of Local Plans and in planning decisions, and should facilitate neighbourhood planning. Planning policies and decisions, in turn, should aim to achieve places which promote:

- opportunities for meetings between members of the community who might not otherwise come into contact with each other, including through mixed-use developments, strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity;

**Planning Service comment:**

**Not relevant**

- safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and

**Planning Service comment:**

**Not relevant in that the proposal does not include any new residential community although relevant in that the use needs to be considered against any impact it may have on those limited number of properties that exist relatively close by.**

- safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.

***Planning Service comment:  
Relevant.***

70. To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

***Planning Service comment:  
Not relevant***

- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

***Planning Service comment:  
Not relevant***

- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and

***Planning Service comment:  
Not relevant***

- ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

***Planning Service comment:  
Relevant. The proposal because of specific locational factors is not immediately integrated into a wider network of local uses***

71. Local planning authorities should take a positive and collaborative approach to enable development to be brought forward under a Community Right to Build Order, including working with communities to identify and resolve key issues before applications are submitted.

***Planning Service comment:  
Not relevant***

72. The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and
- work with schools promoters to identify and resolve key planning issues before applications are submitted.

***Planning Service comment:  
Not relevant***

73. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

**Planning Service comment:**

**Not relevant in that this is a leisure facility rather than a sports or recreational facility and is not an open space in the sense of being available for any informal recreational/sport pursuit. Whilst paying visitors will be able to enjoy the countryside within the country park and will no doubt benefit from this outdoor activity this is not open space in the sense of meeting the needs of a particular community.**

74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

**Planning Service comment:**

**Not relevant as this is currently not open space, does not result in a loss of such facilities but is agricultural land/use**

75. Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

**Planning Service comment:**

**Relevant. The proposal will not infringe the public's right to pass and repass designated public footpaths but may improve public accessibility with the creation of a new prescriptive footpath adjacent to the A134.**

76. Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.

**Planning Service comment:**

**Not relevant in this particular case**

77. The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.

**Planning Service comment:**  
**Not relevant to this particular application**

78. Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.

**Planning Service comment:**  
**Not relevant to this particular application**

## **10. Meeting the challenge of climate change, flooding and coastal change**

93. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

**Planning Service comment::**  
**Relevant. The proposal seeks to secure BREEAM ‘very good’**

94. Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations.

**Planning Service comment:**  
**Relevant. A flood risk assessment has been submitted and the Environment Agency has confirmed that it has no objection to the proposal. Not relevant are coastal change considerations because the site is not in the coastal protection belt as defined by the Council. As a former agricultural holding used for the growing of tomatoes under glass water provision is not expected to be an issue but would in any event be subject to supply by the relevant water provider.**

95. To support the move to a low carbon future, local planning authorities should:

- plan for new development in locations and ways which reduce greenhouse gas emissions;
- actively support energy efficiency improvements to existing buildings; and
- when setting any local requirement for a building’s sustainability, do so in a way consistent with the Government’s zero carbon buildings policy and adopt nationally described standards.

**Planning Service comment: Relevant. The proposal is designed to meet BREEAM ‘very good’ although this policy is not generally relevant in respect of the section on improvements to existing buildings as the majority of floorspace is to be provided in the form of new build.**

96. In determining planning applications, local planning authorities should expect new development to:

- comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

**Officer comment: Relevant in that the proposal is being designed to meet BREEAM ‘very good’ and to have a biomass boiler heat supply**

- take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

**Planning Service comment: The majority of the new build within the main development area is aligned on an east-west axis to take advantage of south facing orientation**

97. To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- have a positive strategy to promote energy from renewable and low carbon sources;
- design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;
- consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and in line with the objectives and provisions of the Climate Change Act 2008. In assessing the likely impacts of potential wind energy development when identifying suitable areas, and in determining planning applications for such development, planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (read with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure, including that on aviation impacts). Where plans identify areas as suitable for renewable and low-carbon energy development, they should make clear what criteria have determined their selection, including for what size of development the areas are considered suitable.
- identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

**Planning Service comment:**

**Relevant. The applicants have recognised the need to respond positively to the challenges and have incorporated desirable and extensive green features into the design.**

98. When determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

**Planning Service comment : Relevant. Members must consider the extent to which the applicants have incorporated desirable green features and whether these meet the requirements of not just the Councils own policies but also those of the NPPF which relate to developers rather than the Council itself in setting planning policies in this area.**

99. Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

**Planning Service comment:**

**Relevant for reasons discussed in preceding sections although this is not a vulnerable location in the sense of specific flood risk and coastal change**

100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
- if necessary, applying the Exception Test;
- safeguarding land from development that is required for current and future flood management;
- using opportunities offered by new development to reduce the causes and impacts of flooding; and
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.

**Planning Service comment:**

**Not relevant as satisfactory flood risk assessment produced submitted to and agreed by the Environment Agency.**

101. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.

**Planning Service comment:**

**Not relevant as there are no sequentially preferable sites are currently available and the proposal site does not pose a flood risk**

102. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the test will have to be passed for development to be allocated or permitted.

***Planning Service comment:  
Not relevant in the circumstances of the proposal***

103. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

***Planning Service comment:  
Relevant however the FRA indicates that flood risk is not an issue***

104. For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test. Applications for minor development and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site-specific flood risk assessments.

***Planning Service comment:  
Not relevant as this is not an allocated site nor is it a minor development***

105. In coastal areas, local planning authorities should take account of the UK Marine Policy Statement and marine plans and apply Integrated Coastal Zone Management across local authority and land/sea boundaries, ensuring integration of the terrestrial and marine planning regimes.

***Planning Service comment:  
Not relevant as UK marine policy does not apply to this inland site.***

106. Local planning authorities should reduce risk from coastal change by avoiding inappropriate development in vulnerable areas or adding to the impacts of physical changes to the coast. They should identify as a Coastal Change Management Area any area likely to be affected by physical changes to the coast, and:

- be clear as to what development will be appropriate in such areas and in what circumstances; and
- make provision for development and infrastructure that needs to be relocated away from Coastal Change Management Areas.

**Planning Service comment:**

**Not relevant as the site does not lie within a Coastal change area**

107. When assessing applications, authorities should consider development in a Coastal Change Management Area appropriate where it is demonstrated that:

- it will be safe over its planned lifetime and will not have an unacceptable impact on coastal change;
- the character of the coast including designations is not compromised;
  - the development provides wider sustainability benefits; and
  - the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast.

**Planning Service comment:**

**Not relevant as the site does not lie within a Coastal change area**

108. Local planning authorities should also ensure appropriate development in a Coastal Change Management Area is not impacted by coastal change by limiting the planned lifetime of the proposed development through temporary permission and restoration conditions where necessary to reduce the risk to people and the development.

**Planning Service comment:**

**Not relevant as the site does not lie within a Coastal change area**

## **11. Conserving and enhancing the natural environment**

109. The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;

**Planning Service comment:**

**Relevant as the proposal lies both part within and part adjacent to the Dedham Vale & Stour Valley AONB.**

- recognising the wider benefits of ecosystem services;

**Planning Service comment:**

**The Planning Service does recognise the wider benefits of the ecosystem and has required the applicants to demonstrate impact on ecology. It will be argued by officers that the proposal does not adversely threaten protected species (as acknowledged by Natural England in their consultation response) and will in a number of instances increase habitat viability. (restoration work to ponds and extensive new tree planting).**

- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

**Planning Service comment:**

**The Planning Service will argue that the proposal does not adversely threaten protected species (as acknowledged by Natural England in their consultation response) and will in a number of instances increase habitat viability and biodiversity. (restoration work to ponds (invertebrates), planting of wild flower meadow (butterflies and insects) and extensive new tree planting (birds). These improvements will be to the overall benefit of wildlife (both flora and fauna)**

- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and

**Planning Service comment:**

**Relevant. Members must take care to ensure that they have fully considered the possible adverse impacts on tranquility and pollution (whether noise from visitors, tannoys etc vehicles. Plant and equipment or fumes from vehicles and plant). It should be noted however that the Environmental Control team has not raised an objection. The report will explore the question of impact on tranquility in greater detail. Certainly this is a significant local concern of those wishing to protect the character of the AONB. What is tranquility and where does it exist? are relevant questions to consider.**

- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

**Planning Service comment:**

**Relevant. The proposal if approved would carry conditions requiring contamination surveys and appropriate mitigation. The proposal does involve the removal of some existing long established ugly mounds of potato and onion crop waste.**

110. In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment. Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this Framework.

**Planning Service comment:**

**Relevant in that the site is not allocated for development in an Adopted Development Plan. The site does have high amenity value because of its landscape quality. That said the Government is encouraging the expanded use of and improved access to National Parks and AONB's as a leisure resource.**

111. Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.

**Planning Service comment:**

**Relevant and the proposal does not comprise previously –developed land as defined in the glossary of the NPPF. It does on the other hand, involve the re-use and re-development of land and buildings previously in agricultural use.**

112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

**Planning Service comment:**

**Relevant Agricultural land classification 2/3**

113. Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, 24 so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.

**Planning Service comment:**

**Not Relevant**

114. Local planning authorities should:

- set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure; and

**Planning Service comment:**

**Relevant in so far as the Core Strategy does this**

- maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.

**Planning Service comment:**

**Not relevant as this is not a coastal location**

115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

**Planning Service comment:**

**Relevant as the site includes land within and adjacent to a designated AONB. In determining the application before them Members need to indicate the weight they have given this aspect and how they have set that in relation to other considerations. It may be overriding and Members may therefore feel that this is the most important consideration but they must consider real impact and whether any harm can be suitably mitigated and whether any residual harm is offset by other benefits**

116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

***Planning Service comment:***

***Relevant. The report will go on to consider paragraph 116 in considerable detail***

117. To minimise impacts on biodiversity and geodiversity, planning policies should:

- plan for biodiversity at a landscape-scale across local authority boundaries;
- identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation;
- promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan;
- aim to prevent harm to geological conservation interests; and
- where Nature Improvement Areas are identified in Local Plans, consider specifying the types of development that may be appropriate in these Areas.

***Planning Service comment:***

***Relevant: The proposal will in the opinion of the Planning Service promote restoration and enhancement of habitats.***

118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

***Planning Service comment:***

***Relevant consideration but the proposal is not considered to result in the level of significant harm identified such as to warrant refusal on such grounds.***

- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;

***Planning Service comment:***

***Not relevant in this case***

- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;

***Planning Service comment:***

***Not relevant***

- opportunities to incorporate biodiversity in and around developments should be encouraged;

***Planning Service comment:***

***Relevant. The proposal does it will be argued take advantage of that opportunity and does and will, if approved, include incorporate biodiversity in some of the ways described earlier***

- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; and

***Planning Service comment:***

***Not relevant as the proposal will not result in the loss of irreplaceable habitats or woodland***

- the following wildlife sites should be given the same protection as European sites: – potential Special Protection Areas and possible Special Areas of Conservation; – listed or proposed Ramsar sites; and – sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

***Planning Service comment:***

***Not relevant as the proposal will not impact such areas***

119. The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.

***Planning Service comment:***

***Not relevant as the proposal will not impact such areas***

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

***Planning Service comment:***

***Relevant. Appropriate conditions will be applied, if permission is granted, to require contamination surveys and appropriate mitigation and restrictions on noise generating processes***

121. Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from

previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- adequate site investigation information, prepared by a competent person, is presented.

***Planning Service comment:***

***Relevant. Appropriate conditions will be applied, if permission is granted, to require contamination surveys and appropriate mitigation***

122. In doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

***Planning Service comment:***

***Relevant. Appropriate conditions will be applied, if permission is granted, to require contamination surveys and appropriate mitigation and restrictions on noise generating processes and water pollution***

123. Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

***Planning Service comment on para 123:***

***Relevant. Impact of noise will be considered and addressed as already identified above as will impact on tranquillity.***

124. Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

***Planning Service comment:***

***Not relevant as the proposal will not result in significant impacts on any relevant designated Air Quality Management Area (AQMA). The Council has a cluster of AQMA's in Colchester town centre and at Lucy Lane Stanway. Indeed it should be***

***noted that as the attraction is not located in the town centre this will benefit that location from an air quality perspective***

125. By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

***Planning Service comment:***

***Relevant. Light pollution is an important consideration hereabouts in the open countryside and in views. As a result all aspects of lighting will be conditioned in the event of planning permission being granted to minimise lighting impacts. (eg glare & sky glow). Members will note that the large floor area of the existing greenhouses could in themselves generate significant uncontrolled (and uncontrollable through the planning system) light pollution in crops being grown inside were being forced with the use of artificial light during darkness hours.***

## **12. Conserving and enhancing the historic environment**

126. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- the desirability of new development making a positive contribution to local character and distinctiveness; and
- opportunities to draw on the contribution made by the historic environment to the character of a place.

***Planning Service comment:***

***Relevant and the section on Core Strategy and Development Policies sets out those relevant to this case***

127. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

***Planning Service comment:***

***Not relevant***

128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require

developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

**Planning Service comment:**

**Relevant. The application includes such analysis. Members will want to note that. All Saints Church is Listed Grade I and that English Heritage has identified some adverse impact on its setting from increased activity rather than built form. The AONB is a heritage asset and the impact of the proposal on its character will be carefully explored and rehearsed in the report.**

129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

**Planning Service comment:**

**Relevant.. All Saints Church is Listed Grade I and that English Heritage has identified some adverse impact on its setting from increased activity rather than built form. Officers believe that this impact is not overwhelming adverse because increased activity will bring more visitors to the church which may benefit it in the longer term from support they may provide. Also the increased human activity is transitory rather than a permanent and fixed impact. (as an unsuitable new building constructed close by would be)**

130. Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.

**Planning Service comment:**

**Not relevant.**

131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

**Planning Service comment:**

**Relevant.**

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and

II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

***Planning Service comment:***

***Relevant as discussed in response to 128 & 129***

133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

***Planning Service comment:***

***Not relevant as total loss of a heritage asset is not involved***

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

***Planning Service comment:***

***Relevant. The proposal is considered to have a less than substantial harm to the significance of a designated heritage asset and so a consideration of the public benefits is relevant***

135. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

***Planning Service comment:***

***Relevant. The impact of the proposal on the landscape adjacent to but outside of the AONB and the impact of development on the non-statutorily listed Chantry need to be carefully assessed and weighed.***

136. Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

***Planning Service comment:***

***Not relevant as no heritage asset is to be removed prior to any planning permission being implemented and therefore its replacement with an inappropriate development does not arise.***

137. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the

setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

**Planning Service comment:**  
**Not relevant**

138. Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

**Planning Service comment:**  
**Not relevant**

139. Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

**Planning Service comment:**  
**Not relevant**

140. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

**Planning Service comment:**  
**Not relevant. The proposal is not being promoted as enabling development to reinvest in saving an important heritage asset for the future.**

141. Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.<sup>30</sup> However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

**Planning Service comment:**  
**Not relevant to the consideration of this proposal but the Council does make such information accessible**

## 10.0 Consultations

### 10.1 The Council's Environmental Control Team comment as follows:

"If the application were to be approved we would recommend the following conditions to minimise any impact from the development itself. These include (summarised):

- Control on construction and demolition.
- Restriction on construction working times, vehicles and deliveries.
- Noise levels at site boundaries.
- Sound insulation for building.
- Delivery times.
- Control of lighting.
- Control of fumes and odours from food premises.
- Arrangements for collection and disposal of litter.
- Conditions to deal with any contaminated land.
- Removal of manure.

Following the receipt of the information providing clarification on some elements of the proposal such as the special events and PA systems plus the concerns raised regarding the impact on tranquillity Environmental Control Officers and the case officer have discussed this issue and additional specific conditions have been recommended these are set out in the report.

### 10.2 The Environment Agency comment:

"We have no objections to the planning application but do offer the following advice and observations in response.

#### **Flood Risk**

We note from section 7.0 of the Environmental Statement Addendum (May 2012) that in terms of the proposed hydrology, drainage and flood risk to the site the principle does not differ to that under the 2009 planning application. We do acknowledge that the revised scheme proposes a smaller footprint compared to the previous application. After consideration, our position in terms of flood risk and drainage remains unaltered. We provide our comments to the 2009 application below.

The proposal is to discharge surface water to existing reservoirs close to the site, which already receive surface water flows from the site and are used to irrigate near by crops.

It has been stated that the works are unlikely to increase flows into the reservoirs, however, the owners of these reservoirs, P.G. Rix (Farms) Ltd, have stated that there is capacity for greater flows. Since water use for irrigation purposes on P.G. Rix (Farms) Ltd is high, this means that additional surface water from the proposed heritage and conservation site would be wholly utilised and would not pose any flood risk on the site.

## **Land Contamination**

We refer to Section 8.0 "Ground Conditions and Contamination" of the Environmental Statement and the associated "Phase 1 Geo-Environmental Assessment" Report Ref: No. 35717-04, dated January 2009, prepared by STATS Ltd, for the above site.

It is indicated there is a potential for contamination to exist at the site that may pose a risk to controlled waters, particularly in the area of the nursery, associated with the presence of above ground tanks and an underground tank used for the storage of hydrocarbon fuels, and some made ground.

Reference is made to a previous report detailing a Phase 1 Assessment of the "Tank Farm" June 2005, undertaken by Oakley Soils and Concrete Ltd, which included an intrusive investigation for the presence of potential contaminants associated with hydrocarbon fuels.

Although it is indicated this previous investigation did not identify any contamination by hydrocarbons to a depth of 3.8m bgl, this intrusive investigation was quite limited, and no copy of this report has been provided with the application. However, it is recognised in the latest report that further intrusive investigation of soil and groundwater is required at the site, particularly associated with the presence of made ground and the above ground & underground storage tanks in the nursery area, including beneath the buildings, hardstanding and tanks following their removal.

We recommend the following conditions are appended to any planning permission granted:

### **Condition**

Prior to the commencement of development approved by this planning permission (or such other date or stage in 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 site investigation results and the detailed risk assessment (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 (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.

**Informative/ advice to LPA:** This condition has been recommended as the Environment Agency is satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing.

**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.

**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.

**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 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.

**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, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

**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.

## **Foul Water Disposal**

It is proposed to dispose of foul water into the main sewer network. We recommend that Anglian Water Services Ltd is consulted to ensure that there is adequate capacity within the main sewer network and the receiving wastewater treatment works.

## **Pollution Prevention**

### **Advice to Applicant:**

#### *Oil Storage*

Any facilities, above ground, for the storage of oils, fuels or chemicals shall be provided with adequate, durable secondary containment to prevent the escape of pollutants. The bunded area shall be designed, constructed and maintained in order that it can contain a capacity not less than 110% of the total volume of all tanks or drums contained therein. All filling points, vents, gauges and sight glasses should be bunded. Any tank overflow pipe outlets shall be directed into the bund.

Associated pipework should be located above ground and protected from accidental damage. There shall be no gravity or automatic discharge arrangement for bund contents. Contaminated bund contents shall not be discharged to any watercourse, land or soakaway. The installation must, where relevant, comply with the Control of Pollution (Oil Storage) (England) Regulations 2001 and the Control of Pollution (Sludge, Slurry and Agricultural Fuel Oil) Regulations 1991 and as amended 1997.

Site occupiers intending to purchase or install pollutant secondary containment (bundage) should ensure that the materials are not vulnerable to premature structural failure in the event of a fire in the vicinity.

All drums and small containers used for oil and other chemicals shall be stored in bunded areas which do not drain to any watercourse, surface water sewer or soakaway.

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 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.

10.3 **Essex County Highways** would not wish to raise an objection to the application subject to the following requirements:-

- “1. Prior to the commencement of the development details of a wheel cleaning facility shall be submitted and approved.
2. Prior to occupation of the development the following shall be provided or completed:
  - All existing vehicular accesses to the proposed site shall be permanently removed.

***Planning Services comment:***

***The applicant has since indicated various existing access points need to be retained including farm and domestic access points. Essex County Highways has confirmed this matter can be dealt with by condition***

- A right turn lane at the A134 Nayland Road/London Road junction with central islands, the southernmost one being a pedestrian central island.
- A minimum 120 x 4.5 x 120 metre visibility splay maintained clear to the ground at all times at the A134 Nayland Road/London Road junction.
- Widening of the London Road carriageway between the A134 Nayland Road/London Road junction and a suitable point west of the proposed site access
- A priority junction with right turn lane in London Road to provide access to the proposal site with a minimum 120 x 4.5 x 120 metre visibility splay maintained clear to the ground at all times. Right turn lane shall have 2 no. pedestrian central islands.
- A minimum 2 metre wide footway along the south side of London Road between the A134 Nayland Road and the westernmost pedestrian access to the proposed site.
- A minimum 2 metre wide footway along the west side of the A134 Nayland Road between London road and the bus stop mentioned below.
- A minimum 2 metre wide footway along the east side of the A134 Nayland Road between the A134 Nayland Road/London Road junction right turn lane pedestrian central island and the footway which currently terminates at the 'Rose & Crown' Public House access. Footway shall include a link to the bus stop mentioned below.
- New and improved footway along the east side of the A134 Nayland Road/Boxted Church Road/Tog Lane junction.
- Relocated and improved to current Essex County Council specification (to include but shall not be limited to real time passenger information) of the two bus stops nearest the A134 Nayland Road/London Road junction. Relocation shall be agreed with the local bus service operators.
- A local bus service(s) between the proposal site, Colchester rail station and town centre, which shall be operated on a minimum 15 minute frequency basis during the proposal site's opening times as well as a minimum period before and after opening times. Details to be agreed with the local bus service operator(s), local planning authority and highway authority. A dedicated branded passenger transport service between the proposal site and Colchester rail station and town centre, which shall be operated on a minimum 15 minute frequency basis during the proposal site's opening times as well as a minimum period before and after opening times. Service shall be provided for the life of the development.

***Planning Services comment:***

***Essex County Highways has subsequently agreed that the 15 minute frequency of service could be accomplished using a combination of the two services described above and that the dedicated branded passenger transport service should be monitored with annual reviews including the provision of evidence and management of services and this process could form part of the Travel Plan.***

- Service facilities for free of charge use by local bus service operatives (details to be agreed with the local bus service operator(s), local planning authority and highway authority).
- A dedicated staff shuttle bus services, which shall be free of charge and based on staff shift patterns. Service shall be provided for the life of the development.

***Planning Services comment:***

***Essex County Highways has subsequently confirmed this service should be described as free/subsidised dependent on contract to be provided and that again this should be monitored with annual reviews including the provision of evidence and management of services and this process could form part of the Travel Plan.***

- A dedicated hopper bus service between the proposal site and the ‘honeypots’ to include but may not be limited to those in the Dedham Vale/Stour Valley. Service shall be free of charge and provided for the life of the development.

***Planning Services comment:***

***Essex County Highways has subsequently confirmed on going provision to be reviewed and monitored via the Travel Plan***

- A dedicated hopper bus service between the proposal site and Dedham Village coach park (via the A134, the A12 Junction 28, the A12 and Stratford Road), to link with a re-instated “Dedham Vale Hopper” service. The (Horkesley Park) dedicated hopper bus service vehicles shall tow especially fitted out trailers to carry cycles, be free of charge and provided for the life of the development.

***Planning Services comment:***

***Essex County Highways has subsequently confirmed on going provision to be reviewed and monitored via the Travel Plan***

- Improvements to Public Footpath Numbers 3, 4, 5 and 48.
- Permissive footpaths to link the proposal site internal layout to Public Footpath Numbers 3, 4,5 and 48.
- Cycle hire for the life of the development.
- A brown tourist sign strategy to include but shall not be limited to the A12.
- A travel plan to include but shall not be limited to a travel plan co-ordinator and a £3,000 contribution payable to Essex County Highways to cover the cost of approving, reviewing and monitoring the Travel Plan. Also measures to encourage those travelling to and from the proposal site as well as between the proposal site and the ‘honeypots’ to use the most appropriate route(s).
- A transport liaison group, which shall include but not be limited to key stakeholders, regular meetings and agreed meeting minutes.” to discuss all things relating to highways and transport relating to the development which will include but not be limited to the travel plan.

Plus other conditions:

- restricting points of access,
- gates to open inwards,
- pedestrian access to highway to have pedestrian barriers and appropriate visibility
- Location of gates
- Specification of bus stops.

#### 10.4 **English Heritage** comment as follows:-

##### “Summary

With this application planning permission is sought for a development to be known as the “Stour Valley Visitor Centre at Horkesley Park”. This would comprise an ambitious series of facilities. It is relevant to English Heritage because it would stand close to All Saints Church, an important medieval building now listed at grade 1. Among the broad range of planning considerations against which the proposals must be assessed is that of their affect on the setting of the church.

##### English Heritage advice (summarised)

All Saints’ Church stands to the north-east of the site. The Parish Church of Great Horkesley is set some distance from the village, in what is now a relatively isolated position. There may be archaeological remains of a deserted village adjacent to it.

To the north and west the setting of the church is formed by woodland. To the east and south it has been more open; but a belt of trees were recently planted along the churchyard’s southern boundary. The setting of the church might be described as screened and enclosed, but also is tranquil and essentially rural.

Medieval churches are among the most important historic buildings in England. Their interest lies in their history, architecture and fittings, but also in their place in the landscape or their setting. Most such churches are highly graded and, as noted above, All Saints is listed as grade 1.

Setting is defined as the surroundings in which a historic place is experienced. That experience will be in part visual, but will also encompass other considerations, including historical relationships between places and environmental factors such as noise, dust and vibration. English Heritage’s guidance, *The Setting of Heritage Assets*, provides assistance in respect of the consideration of setting.

The effect of the proposed development on the setting of the church is difficult to assess. To a large degree the proposed buildings themselves would be screened or partially screened by planting, certainly from the church’s immediate setting; and the principal range of buildings would be no larger than the existing range of glasshouses. The extent of the development would, however, be greater than that of the present development on the site and the change to the way in which the site is used would be dramatic. The former horticultural use of the glasshouses has already stopped. In its place the development would, it is intended, draw large numbers of visitors to its varied attractions.

It seems likely that the proposed development would have a significant effect on the setting of All Saints’ Church. That effect would be in part beneficial, in part harmful and in part neutral; and on balance the overall effect might be to cause limited harm to the church’s setting. The removal of the existing buildings and spoil heap might be thought beneficial; the replacement of the majority of the glasshouses might be thought neutral; and the erection of additional development harmful. In addition the radical

intensification of the use of the site, the activities associated with this, and the effect of such development on the rural character of the site might be thought harmful

In reaching this conclusion we differ from the authors of the Heritage Assessment submitted in support of the application. While there is much with which we agree in their assessment, it does not take full account of the experience of the place which is fundamental to consideration of setting. It also proposes a distinction between “the experience of the heritage asset” and “the experience of some other land which can be seen from the heritage asset” which is difficult to understand and to reconcile with the accepted definition of setting.

Recommendation

Your Council’s determination of this application will rest on consideration of a broad range of planning considerations, the most important of which, and the majority of which, are not the concern of English Heritage. In respect of the effect of the proposed development on the setting of All Saints’ Church, however, our advice to you is that this would be harmed to a limited degree by what is proposed.”

***Planning Services comment:***

***The response from English Heritage refers to the possibility of archaeological remains of a deserted village next to the Church.***

***This has been discussed with the Councils Archaeology Officer he advises that whilst the official Essex Heritage Environment Record includes a reference to the possibility of a deserted village there is no supporting evidence for this claim and in his opinion even were such a village to exist it would in all probability be under the site of the cricket ground which is unaffected by the application.***

#### 10.5 **Essex Wildlife Trust** comment as follows:-

“Whilst we are aware that this site does not include any designated Local Wildlife Sites, it is our opinion that it nevertheless comprises habitats and species of significant biodiversity value.

In coming to a decision on this development proposal Colchester Borough Council must consider the potential impact on biodiversity; the impact on ecosystem services and the local provision of accessible natural green space must also be considered. Any planning application for this site should be accompanied by fully comprehensive ecological surveys, conducted at the appropriate time of year, by a proper qualified ecologist. Where the presence of any protected species is known or suspected, Natural England should be consulted for their standing advice. The overall aim should be to ensure no net loss of biodiversity.

Any compensatory measures should normally be secured through planning conditions or a planning obligation. Opportunities should also be explored in the development proposal to provide new benefits for wildlife.

Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Essex County Council is participating in 1 of 6 national pilots to trial Biodiversity Offsetting. As part of the pilot they are encouraging applicants who are proposing significant development schemes to utilise the Defra Metric as part of their approach to ecological impact assessment.

In reaching your decision on this planning application, in addition to relevant legislation and the mitigation hierarchy, the following should be taken into account:

- the soundness and technical content of the ecological reports submitted with the planning application;
- the feasibility and risk associated with the delivery of the proposed ecological measures;
- evidence of commitment and resources to implement the necessary measures, capable of being secured through planning conditions and/or obligations and/or other consent regimes, e.g. European Protected Species (EPS).

Plans for the long-term management of habitats, species and other biodiversity features incorporated within the development should provide clarity and certainty over what is proposed. Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

#### 10.6 **Babergh District Council** comment as follows:-

“The proposal is for a development which is still described as a regional visitor attraction with predicted visitor numbers reduced from 485,000 to 316,000 p.a. It is also seen on the plans that the scheme still provides 220 car parking spaces with a large overspill parking area and a parking area for up to 28 coaches. Whilst the size and scope of the visitor attraction has been substantially scaled down and fewer visitors are expected, it is surprising that the scheme still proposes so much car parking.

This authority has concerns over the viability of the project, particularly as the inclusion of the significant commercial retail and catering floorspace in the previous scheme was justified as subsidising the heritage elements. If the long term viability of the scheme cannot be demonstrated it raises concerns about potential future obsolescence or future pressure for expansion of the centre to provide more income generating uses.

In this Authority’s previous response a concern was raised regarding traffic generation comprising both journeys to/from the attraction and linked trips within the AONB within the Babergh District particularly impacting on the surrounding villages. Such concerns remain, particularly given the size of the development and, in particular, the amount of car parking proposed.”

***Planning Services comment:***

***Members should note that Suffolk County Highways is the Highway Authority for Babergh District and they have raised no objection.***

#### 10.7 **The Council’s Arboricultural Officer** has considered the Arboricultural Impact Assessment and Method Statement and raises no objection to the application.

#### 10.8 **The Council’s Landscape Officer** comments as follows:-

“Impact on views & visual amenity – The Landscape & Visual Assessment (LVA) submitted by LDA Design and dated May 2012 (an updated version of the 2009 LVA submitted under planning application no. 090231) was assessed for accuracy through desk and field assessment against the methodology detailed within the national guidelines, i.e. the Landscape Institute’s ‘Guidelines for Landscape & Visual Impact Assessment’, and the detail submitted was found to fully accord with those guidelines. In essence the proposed developments potential visual impact was found to be accurately demonstrated within the LVA. This principally through identification of key visual reception points within the developments Zone of Visual Influence (both

previously agreed under the 2009 LVA (subject to localised adjustment as detailed under part 5 of the 2012 LVA)) and receptor sensitivity, magnitude of impact and significance of effect on those reception points during the construction and establishment phases (up to 15 years) of the proposed development. All of which were demonstrated as having, long-term, either no or a minor/beneficial effect as evidenced under Parts 8 of the LVA through written description, photomontage and a table (12) of findings.

Impact on landscape & natural beauty – The proposed developments potential landscape impact was also found to be in accordance with the Landscape Institute’s ‘Guidelines for Landscape & Visual Impact Assessment’ with the magnitude of impact accurately demonstrated and measured within the LVA in accordance with those Guidelines. The proposals appeared to satisfactorily reinforce the character of the landscape as identified under Colchester Borough Landscape Character Assessment, Character Areas B6 & A7a. Arguably improving the character of the landscape, particularly within the ‘Country Park’ area, principally through the introduction of pasture, the conservation & reintroduction of the hedgerow network and woodland copse planting, these all designed to more closely follow the pattern of the landscapes identified character. Also through the replacement of the existing glasshouses with buildings whose form and height complements the current scale of the existing glasshouses but which are arguably, through their layout and material use are more sympathetic to and therefore more complementary to their landscape setting. With the existing screen planting augmented with further planting so designed as to further reduce the buildings impact on the landscape over time, as illustrated through the visual assessment.

Impact of ambient light – The proposed lighting within the development area itself has been confirmed as being within the Institute of Lighting Professionals guidance for lighting within an AONB and should therefore be considered acceptable in landscape terms; this subject to an assessment in relation to any adverse increase in ambient light from vehicles on site.

Impact of noise – with reference to LDA Design’s claim in their letter of 23.10.12 that the impact of a PA system is not a landscape matter; it should be considered that the PA system does potentially impact on the tranquillity of the landscape. This tranquillity is a key feature of the adjacent AONB and has therefore been considered as part of this assessment. However provided the Environmental & Protective Officers are satisfied with the claim in LDA Design’s letter of 23.10.12 that ‘the directional speakers will ensure that the visitors can hear commentary without the sound impacting on the wider area and general visitor experience’ then this should satisfy these tranquillity related landscape concerns; this subject to an assessment in relation to any loss of tranquillity resulting from an increase in noise from vehicles on site. The report to the Planning Committee in respect of the 2009 application stated “The Landscape Officer considers that the widening of the Nayland Road/London Road junction and widening of London Road itself will have an impact on the landscape with regard to short views along the roads themselves (i.e. the urbanisation of the rural countryside). However, the impact of proposed mitigation works (additional planting) on medium and long views will not be adversely affected once the proposed planting matures. The entrance to the Horkesley Park development and the layout of the main parking area adopts a formal design and contrasts with the character of the surrounding rural area. Regarding the design of the potentially exposed overflow car, the Landscape Officer notes that this has been amended so that it is read (at maturity) as being within a

woodland block thus reducing the impact of parked cars of the surrounding area. This car park has also been 'sunken' into the landscape to reduce light pollution at an early stage of the development. The proposal to convert the open agricultural land to a managed Country Park with woodland parkland pasture and wildflower meadows is considered to enhance the landscape character of the site."

- 10.9 **The Council's Urban Designer** has been involved in the evolution of the design approach. Comments were initially raised about several matters including the detail on the application drawings, pedestrian circulation space and size of parking spaces. Additional drawings and an amended DAS have been submitted and the Urban Designer comments as follows:-

"The DAS supplement and amended layout drawings have made some acceptable changes that make pedestrian movements easier and more legible. The walking connection from cycle stands to entrance has been improved the same relocation of footpaths through the principle car park.

The amended DAS has not adequately described treatments for boundaries, especially secure boundaries to the built form. There is some illustration and discussion of different hedges but these would not provide adequate security to prevent incursion into the built form. We must therefore seek detailing for all boundary treatments, especially those that provide security rather than a visual stop so that we avoid inappropriate defensive measures such as palisade fencing which would be visually inappropriate.

The architectural description and illustration has been improved in the DAS but we still lack drawings that give adequate description. I would recommend that Sir Michael Hopkins is retained via the 106 legal agreement as the most appropriate means of securing the architectural quality eluded to. Should a lesser architect be hire post planning permission it is highly doubtful that the necessary character and quality would be present.

The renewable energy centre has been given further consideration for public access which appears a more satisfactory arrangement".

- 10.10 **The Dedham Vale and Stour Valley Partnership Join Advisory Committee (DVSV)** comment as follows:-

**National Planning Policy Framework (NPPF)**

The DVSV Partnership considers that this proposed development does not meet the definition of sustainable development as set out in NPPF paragraph 7 as its location does not support the prudent use of natural resources given its location, number of expected visitors and their predicted mode of travel.

**Colchester Borough Council LDF Development Policy DP22, DP21 AND DP10**

The DVSV Partnership considers that this proposed development, that is in and immediately adjacent to the AONB does not accord to DP22 due to its potential to adversely affect the views from the AONB, lead to increased traffic movements and is contrary to a number of the management objectives in the Dedham Vale AONB and Stour Valley Management Plan 201015 as outlined below.

The DVSV Partnership considers that this proposed development, that is in and immediately adjacent to the AONB does not accord to DP21 in respect that:-

- An up to date protected species survey and mitigation proposals is absent.
- The development could be located at an alternative site that would cause less harm.
- Protected lanes, such as Fishponds Hill, would be adversely affected.

The DVSV Partnership considers that this proposed development, that is in and immediately adjacent to the AONB does not accord to DDP10 in respect that:

- The proposed development is not compatible with the rural character of the AONB and its setting as this development anticipates 316,000 visitors per year and the associated infrastructure required to get visitors to and from the site would adversely affect the landscape.
- DP10 suggests that larger scale tourism facilities should be located in the urban area of Colchester and this development is within the rural area of Colchester.
- That the proposed development is not in a sustainable or accessible location.

### **Dedham Vale AONB and Stour Valley Management Plan 2010-15**

CBC Development Policy 10 notes in bullet point iii that: *Development will only be supported in or near to the Dedham Vale Area of Outstanding Natural Beauty (AONB) that:-*

*(iii) Supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan.*

The most relevant management plan objectives in the plan are:

*OB1 - Land use Management decisions will demonstrate consideration of landscape, cultural associations, tranquillity, biodiversity and geodiversity to conserve and enhance the area.*

The DVSV Partnership considers that this proposed development, that is in and immediately adjacent to the AONB does not accord to OB1 in that the scale of the development will adversely affect the tranquillity of the area and have a negative impact on its landscape quality.

*OB2 - Protected habitats and species will be conserved and enhanced.*

The DVSV Partnership considers that this proposed development should have undertaken a full and up to date protected species survey to ensure that any potential damage to protected species is avoided, limited or mitigated.

*OB4 – Development should be of an appropriate scale and take into account the landscape qualities of the area, from local landscape character assessments and should not adversely affect the integrity of any European site.*

The DVSV Partnership considers that this proposed development, which is in and immediately adjacent to the AONB does not accord to OB4 in that it is promoted as a regional tourist attraction and therefore a large attraction not appropriate to a countryside location. Furthermore there is concern that the retail element will necessarily expand to maintain the development's viability and that it would become an inappropriate retail centre in the countryside.

*OB10 – Encourage sustainable businesses to the area, particularly the AONB*

The DVSV Partnership considers that this proposed development, which is in and immediately adjacent to the AONB does not accord to OB10 in respect that it is located in an unsustainable location given that the business will rely on visitor income and that those visitors will predominantly come by car to the site.

*OB19 – Minimise the impact of road transport on the landscape quality and tranquillity of the area, particularly the AONB.*

The DVSV Partnership considers that this proposed development, that is in and immediately adjacent to the AONB does not accord to OB19 in respect that the development will increase the impact of road transport and adversely affect the tranquillity of the AONB due to the anticipated 316,000 visitors to the development. The DVSV Partnership considers that there will also be significant adverse impact on the AONB from service vehicles and light and noise pollution from its operation. The Partnership is concerned that the applicant has not clearly stated the number of 'out of normal' operating hours events which are forecast to be held.

**Impact on the AONB**

A development of this scale at this location will inevitably have an impact on the AONB. The Partnership's concerns relate to the following areas:-

- i) Natural Beauty
- ii) Visitor numbers
- iii) Road network
- iv) Noise, air and light pollution
- v) Visual impact

Ninety one percent of the 47.4 hectare site falls within the nationally protected Dedham Vale AONB. It is acknowledged that no new buildings are proposed for the AONB but a large Country Park is proposed for the protected landscape. The Landscape Character Assessment for the area indicates an area of 'Rolling Valley Farmland'. The primary purpose of AONBs is to conserve and enhance the landscape and a Country Park by definition is a different landscape type.

**The DVSP Partnership considers that a Country Park at this scale within the AONB should be seen as major development within the nationally protected landscape and does not reflect the local Landscape Character and conserve and enhance the AONB landscape. The Partnership therefore considers that planning consent should not be given as it is not consistent with national, regional and local policy on AONBs.**

**Visitor Numbers**

The applicant states that the development will attract 316,250 visitors in the first year.

**The Partnership considers this figure to be optimistic at best giving the numbers achieved at other attractions of a similar nature. Assuming that this figure is correct the Partnership has concerns of the impact of an attraction at this scale on the AONB through transport to and from the proposed site, travel on from the site, visual, noise, light and air pollution created by the visitors and their activity and therefore planning consent should not be given.**

### **Road Network**

National, regional and local policy generally supports a shift away from private car use. The applicant has stated that additional bus services will be provided but it is inevitable that if the development goes ahead then there will be a significant increase in the number of car journeys through the AONB, including the protected lane known as Fishponds Hill.

**The Partnership considers that the adverse impact on the AONB caused by additional road traffic is unacceptable and that the location is not sustainable, contrary to national and local policy, and therefore planning consent should not be given.**

### **Noise, air and light pollution**

The developer predicts over 316,000 visitors in the first year. It is unclear in the application at what frequency events after 'normal' working hours will take place and the inevitable deterioration of dark skies that would come from events taking place after dark. There will inevitably be an increase in ambient noise and air pollution created from visitors' traffic to and from the site by visitors and service deliveries. There appears to be little by way of mitigation proposals to this in the application.

**The Partnership considers that the noise, air and light pollution caused by the development would have a negative impact on the AONB and is contrary to national, regional and local planning policy and therefore planning consent should not be given.**

### **Visual Impact**

The application is for a development of 47.4 hectares of which ninety one percent is within the nationally protected Dedham Vale AONB. The Partnership acknowledges that the developer has sited the buildings outside the AONB. The development of a 'country park' within the AONB does not reflect the Landscape Character of the area, which is currently defined as 'Rolling Valley Farmland' and the following is included in its description:

*The overall impression in the landscape is of sinuous and organic boundaries around the anciently enclosed fields. There are only limited areas of common arable fields enclosed systematically*

**The DVSP Partnership does not consider that a Country Park at this scale within the AONB is appropriate and should be seen as major development within the nationally protected landscape. The development does not reflect the local Landscape Character and therefore planning consent should not be given as it is not consistent with policy.**

### **Sustainability and Transport**

The development site is located several miles to the North of Colchester and not close to any rail links. The applicant offers to run bus services to the site, however given the development proposed location it is inevitable that most visitors will arrive by private car.

**The DVSP Partnership consider that the development site is not at a sustainable location for this scale and type of development and that no alternative sites, that are more sustainable in terms of transport, have been considered by the applicant. Therefore the DVSP Partnership considers that planning consent should not be given as it is not consistent with policy.**

Dedham Vale AONB and Stour Valley Joint Advisory Committee have further commented in January 2013:-

“The Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project have seen the four documents listed below placed on Colchester Borough Council’s website:-

- Independent Project Review: Britton/McGrath Associates
- Horkesley Park Planning Appraisal: Nathaniel Lichfield and partners
- Horkesley Park Planning Application Review: Vectos Transport Planning Specialists
- 120965: CBC Planning Policy (revised edition 4.1.13)

that relate to this development application and wish to make the following observations:-

The Dedham Vale AONB and Stour Valley Joint Advisory Committee stand by their comments made to reflect its Partnership view made at the time of the application in a letter dated 2 August 2012.

The proposed development straddles the boundary of the nationally protected Dedham Vale AONB and as such should note the position statement agreed by the Dedham Vale AONB and Stour Valley Partnership on development applications affecting the setting of the AONB’. The primary purpose of the AONB designation is to conserve its natural beauty as laid out in the National Parks and Access to the Countryside (1949) Act in order to secure their permanent protection against development that would damage their special qualities.’

The accolade ‘natural beauty’ encompasses the abundance and variety of plants and wildlife found in the AONBs, together with characteristic rocks and landforms that lend AONBs their scenic beauty and much envied tranquillity.

The issue of tranquillity is of particular importance in relation to this development proposal given its location, the proposed size and type of operation. In addition the applicant’s estimate 82% of the expected visitors would be expected to arrive by car and this would inevitably impact on the AONBs tranquillity and therefore natural beauty, as defined above. This reliance on car transport indicates the proposed development is at an unsustainable location.

We welcome the applicant’s assertion that the application be assessed on planning policy. We note that the National Planning Policy Statement paragraph 14 notes that at the heart of the framework there is a presumption in favour of sustainable development and that for determination of application this means:-

*For decision making this means: approving development proposals that accord to the development plan without delay (unless material considerations indicate otherwise)”.*

In light of the new information contained in the four reports the Dedham Vale AONB and Stour Valley Project consider this application should not be given consent on three grounds:-

1. The development proposal does not comply with policy that is at the heart of the decision making process as outlined above. Where the application varies from planning policy is outlined in Colchester Borough Council’s Planning Policy response to the application dated 4 January 2013, the Vectos report

conclusions and in the Dedham Vale AONB and Stour Valley Partnership original response dated 2 August 2012. In brief it does not comply with national and local policy and does not adhere to the AONB management plan.

2. The development proposal is in an unsustainable location and would have an adverse impact upon the nationally protected AONB as suggested by the Nathaniel Litchfield and Partners report in its conclusion in paragraph 6.10 that states:- *“The Council will need to consider whether the benefits of the tourist elements of the scheme outweigh the disbenefits of major development in the open countryside, in particular the impact of the AONB and sustainability and transport impacts.”* The proposals are for a development in the open countryside, including elements in the AONB, which has the highest status of protection in relation to landscape and scenic beauty. The applicant states that 82% of visitors will arrive by car, which would adversely impact upon the AONBs primary purpose and tranquillity.
3. The development proposal is unsustainable development as suggested by Nathaniel Litchfield and Partners report that concludes in paragraph 6.9 that: *“There is no guarantee that the tourist attractions will be maintained and viable in the longer term.”* The presumption in favour of sustainable development in the National Planning Policy Framework notes the three dimensions of sustainable development as being economic, social and environmental’. The conclusion of the executive summary of the Britton/McGrath Associations states:- *“If one were to apply even the positive interpretation of our revised estimates to the Profit and Loss outlined in the Business Plan it is quickly apparent that the business as currently proposed is unviable”.*

The Dedham Vale AONB and Stour Valley Project therefore consider the application fails to convince on policy, environmental and economic grounds and we therefore maintain our objection to the application.

The comments reflect the Project’s Joint Advisory Committee on behalf of its Partnership. Individual organisations within the Partnership may submit their own response reflecting their organisations full remit.”

**10.11 CBC PLANNING POLICY EXECUTIVE SUMMARY IS PRODUCED BELOW.  
(THE FULL RESPONSE FROM PLANNING POLICY IS PRODUCED IN APPENDIX 1.)**

**Planning policy context**

The NPPF makes clear that the planning system remains plan-led and applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Section 38(6) of the Planning and Compulsory Purchase Act 2004 is not altered by the Localism Act or by the publication of the NPPF.

The East of England Plan was revoked on the 3 January 2013. In the absence of the East of England Plan the development plan consists of Colchester’s Adopted Local Development Framework and the proposal must be assessed against these policies. If it accords with the development plan it should be approved without delay as stated in NPPF paragraph 14, and development that conflicts with the Local Plan should be refused as set out by paragraph 12 of the NPPF. The second part of paragraph 14 of the NPPF only comes into consideration where the development plan is absent, silent or relevant policies are out-of-date.

The development plan should for Colchester not be considered absent, silent or relevant policies are out-of-date and the application should be determined against the development plan unless other material considerations indicate otherwise as set out by paragraph 12 of the NPPF. The material considerations include the NPPF and therefore both Colchester's locally adopted policies (the development plan) and any relevant paragraphs of the NPPF (a material consideration) should be taken into account.

The last bullet point of NPPF paragraph 14 dealing with where the development plan is absent, silent or out-of-date is not considered to apply. Even if, however, it was accepted that the development plan was silent on a particular issue it is not considered that the presumption in favour of sustainable development set out by the NPPF paragraph 14 would necessarily apply in this case as it does not apply where "specific policies in this Framework indicate development should be restricted". The NPPF includes a specific policy dealing with major development in designated areas at paragraph 116. This indicates that planning permission should be refused except in exceptional circumstances. If there was considered to be no specific policy in the NPPF indicating that development should be restricted or the development demonstrates that it meets the requirements of such policies then the first sub-point of NPPF paragraph 14 would apply. The means assessing the development against the framework as a whole as set out by NPPF paragraph 6 including the economic, social and environmental aspects of sustainability.

### **Development Plan - Local Planning Policy**

Despite the publication of the National Planning Policy Framework (NPPF) in March 2012, the Council's Adopted Core Strategy and Development Policies documents remain relevant.

Colchester's local policies cover all types of development and are capable of being used as the basis to assess all types of proposal. Relevant policies are identified in the full planning policy response. Those which are particularly relevant include:

### **Core Strategy**

#### **Policy SD1 (Sustainable Development Locations) –**

The policy requires priority be given to accessible and sustainable locations. The application site has been shown in the Vectos report to be unsustainable for a development of this scale. The proposal fails to accord with Core Strategy Policy SD1.

#### **Policy CE1 (Centres and Employment Classification and Hierarchy) –**

Policy CE1 supports small scale development in countryside locations which is consistent with the Council's approach to sustainability and the protection of the character of the countryside. The policy seeks to achieve a balance in rural areas between economic benefits and environmental disbenefits by supporting developments that are small scale and of local benefit. The Horkesley Park proposal cannot be considered to have low travel needs or low impacts given 316,250 visitors per annum are predicted by the applicant and that it is stated 82% of these visitors will arrive by car.

**Policy TA1 (Accessibility and Changing Travel Behaviour) –**

The Horkesley Park proposal still clearly fails to meet the requirement of policy TA1 that developments should not be car-dependent, given that 82% of the 316,250 visitors would be expected to arrive by car, and the level of parking provision would remain the same as that proposed in the previously refused application. The proposed car park does not constrain the demand.

**Policy TA2 (Walking and Cycling) –**

The location of the proposal makes it very difficult to serve by sustainable transport and relies very heavily on access by the private motor vehicle as it made clear in the Vectos report.

**Policy TA3 (Public Transport) –**

This policy states the Council's commitment to increase modal shift towards sustainable modes and focuses on Colchester's role of a Regional Transport Node. The Vectos review finds the coach modal share to be overstated and higher levels of private car use would result. There is a lack of incentive to use sustainable modes of travel over the private car and no certainty that such measures would be financially viable in the long term, demonstrating that the location is unsustainable.

**Policy ENV1 (Environment) –**

The policy seeks to protect and where possible enhance unallocated greenfield land outside of settlement boundaries. Where development needs or is compatible with a rural location the policy also sets out seven criteria that must be demonstrably satisfied. This includes that it should be in accord with all relevant policies; be appropriate in terms of its scale, siting and design; protect, conserve or enhance the interests of natural and historic assets; and provide for any necessary mitigating or compensatory measures. Whilst improving public access and understanding of the countryside is a key benefit, the scheme involving paid access would not provide free open access to the natural landscape and there are concerns over the impact of the scale of the attraction.

**Policy ENV2 (Rural Communities) –**

The Horkesley Park proposal is not small-scale and on that basis cannot be seen to satisfy the criteria set out in Policy ENV2 for location outside village boundaries.

**Development Policies (Adopted October 2010)**

**Policy DP1 (Design and Amenity) –**

This policy provides that all development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability.

**Policy DP7 (Local Centres and Individual Shops) –**

The applicant's supporting statement states that the shop and restaurant would be ancillary to the overall delivery of the visitor centre. It is stated the amount of floorspace would be significantly below the threshold which would trigger an assessment of the impact on existing centres. The Council's consultants Nathaniel Lichfield Partnership in their report also provides commentary on this issue and confirm that the scale of retail (A1) and café/restaurant (A3) floorspace is considered to be broadly reasonable for such an attraction. As currently proposed, therefore, the

development would not appear likely to result in adverse impact on town centres as a result of the retail part of the scheme. It is accepted that some form of ancillary shop and/or café is a common and acceptable feature in most visitor attractions. It is considered necessary that the users of such facilities are only able to gain access having purchased a general entrance ticket, as is currently proposed. The absence of such a requirement may lead to unacceptable town centre retail in the countryside not related to the rest of the visitor attraction. In such circumstances an individual sequential test would be appropriate. The potential relationship with the other display or exhibition areas of the attraction is a potential area of concern if these areas are to be used for display or advertising in association with the retail operation. Additional information provided indicates that this would not be the case; however, the degree of control that can be exerted on retail sales and entrance ticket requirements through planning conditions or legal agreements requires careful consideration.

**DP9 (Employment Uses in the Countryside) –**

Policy DP9 accords with the rest of the Council's spatial strategy and with the former East of England Plan in directing larger scale development towards town centres. Small scale proposals are supported where these contribute to the local community and help sustain rural communities. The Horkesley Park proposal does not accord with this approach. If successful the proposal would clearly have benefits in terms of job creation. The policy is also consistent with the sustainability objectives of the NPPF. Whilst if successful the proposal would deliver economic, employment and leisure benefits, the proposal does not appear to comply with this adopted policy by virtue of its large scale.

**Policy DP10 (Tourism, Leisure and Culture) –**

The proposal, whilst reduced in scale from that previously proposed, is still a large scale proposal (316,250 visitors per annum) within a rural area. Accessibility is poor and as set out in the Vectos report this does not appear to be possible to overcome through the proposed travel plan measures. The proposal is not small scale and therefore does not accord with this policy. It is noted that in the applicants planning policy statement it is stated that (paragraph 3.6) DP10 deals with small scale tourist facilities. It should be noted that this policy covers all tourism development in the borough not just for 'small scale' tourist facilities. It directs larger facilities to the town and supports appropriate small scale tourist developments in the rural areas.

**Policy DP17 (Accessibility and Access) –**

Despite the reduction in the scale of the proposal from the previous application the proposed Travel Plan remains largely unaltered. The previous concerns regarding the sustainability of this location for a large scale tourist attraction therefore do not appear to have been presently adequately addressed. The development remains car dominated and therefore does not appear successful in giving priority to sustainable modes.

**Policy DP19 (Parking Standards) –**

The 720 spaces provided are in excess of the maximum standard. Due to the unsustainable location and the high level of car use the overflow parking may be in regular use and the impact of this should be carefully considered as already noted above.

### **Policy DP21 (Nature Conservation and Protected Lanes) –**

There are a number of protected lanes in the area, including Holt Road, Workhouse Road and Fishpond Hill. The potential for additional development in the area to put pressure on these adjacent roads is a relevant consideration.

### **Policy DP22 (Dedham Vale Area of Outstanding Natural Beauty) –**

3.1.86 This policy requires that a proposal in or near the Dedham Vale AONB:

- (i) *Makes a positive contribution to the special landscape character and qualities of the AONB*
- (ii) *Does not adversely affect the character, quality views and distinctiveness of the AONB or threaten public enjoyment of these areas;*
- (iii) *Supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan; and*

This policy applies to proposals in or near the AONB and therefore a major scheme that crosses the boundary of the AONB would be covered by these policy requirements. The scale of the proposed attraction and its location in relation to the surrounding area and AONB raise concerns over its impact on the tranquillity of the existing AONB. The proposal is stated to attract 316,250 visitors a year the majority of which will travel to the area in a car. This increases the risk of dispersal tourism including to hotspots in the AONB which on some occasions could not cope with more cars. The proposal, therefore, may not comply with the above criteria to make a positive contribution to the AONB and to avoid adverse effects on its character. It would also appear to conflict with many of the objectives of the *Dedham Vale AONB and Stour Valley Management Plan* which seeks to ensure development is of an *appropriate scale* and protects tranquillity. Whilst the plan encourages *sustainable* business, tourism and transport opportunities, the objectives particularly support quieter informal recreation. Given that Horkesley Park is an entry-paying attraction, it would not appear to accord with the intent of furthering ‘public enjoyment’ and ‘informal recreation’ which imply free access.

### **National planning policy**

A more detailed summary of the relevant sections of the NPPF is included in the full planning policy response. Those which are particularly relevant, however, include:

The *Core Planning Principles* set out in the NPPF (pages 5 and 6) emphasise that the planning system should be genuinely plan-led, empowering local people to shape their surroundings through the use of local and neighbourhood plans.

Planning should “proactively drive and support sustainable economic development”. Proposals that would deliver sustainable economic development should therefore be supported. The applicant’s justification statement includes reference to a number of potential economic and social benefits.

Whilst economic development should be supported, the NPPF core planning principles also seek to ensure development is sustainable in social and environmental terms. A development that is claimed to attract 316,250 visitors per annum will generate a significant need to travel and is in an unsustainable location as set out by the Councils consultants Vectos’ report.

Paragraph 19 of the NPPF states that ‘significant weight should be placed on the need to support economic growth through the planning system’. The applicant’s supporting statements provide a clear summary of the stated significant economic benefits of the scheme. The proposal would support growth in tourism which accords with the NPPF and other development plan policies. The NPPF does, however, also include other requirements regarding sustainability and the protection of designated areas against which a balanced assessment must be made.

In accordance with paragraph 24, a sequential test should be applied to applications for main town centre uses that are not in an existing centre or in accordance with a development plan. The applicant has carried out a sequential test for the site as a whole. The application does not include a sequential test applied to the proposed main town centre uses on an individual basis. Whilst this may be appropriate the NPPF also states applicants and planning authorities should show flexibility in terms of format and scale. With regards to sustainability considerations, however, the proposed attraction does consist of a number of ‘main town centre’ uses, as set out in the NPPF, which are intensive in their nature and as a result attract a large number of visitors to this unsustainable location. This is highlighted by the Tourism Evaluation Report (page 80) which makes clear that the “vast majority” of visitors will not visit the open countryside elements of the attraction. In this respect it is notable that the applicant does not appear to have explained or carried out detailed analysis of why a smaller scale tourist attraction incorporating fewer main town centre uses could not be a viable proposal for this site.

Paragraph 28 of the NPPF is identified in the applicant’s planning policy statement as being particularly relevant and provides support for economic growth in rural areas. The third bullet point of this paragraph states that local and neighbourhood plans should ‘*support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres*’. The proposal, if successful, would help to support economic growth in this rural area and provide a new visitor attraction. Alongside this general support for rural economic development, however, are policy requirements that rural tourism development must be sustainable, must respect the character of the countryside, and must be sited in appropriate locations where identified needs are not met.

Paragraph 30 states that encouragement should be given to solutions which support reductions in greenhouse gas emission and reduce congestion. The generation of a high level of need to travel (316,250 visitors per year) to this relatively remote location and the proposed high numbers of visitors accessing the site by private car (82%) would not assist with these objectives.

Paragraph 34 requires that ‘*plans and decisions ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However, this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas*’. If the proposal is viable the development would rely on a high level of car based movement given the proposed scale of the attraction and stated numbers of visitors. A brief addendum to the Travel Plan has been provided by the applicant and states that, in the main, the plan provided with the earlier application remains relevant. Given the

reliance on the same travel planning measures and that the previous application report found that the location could not be made sustainable, this is considered to remain a fundamental issue with the application. There is, as noted in the NPPF, a need to have regard to the need to support for the rural economy, however, as noted above paragraph 28 of the NPPF also requires schemes to be sustainable, respect the character of the countryside, and be sited in appropriate locations where identified needs are not met. Given the scale of the proposal in this countryside location and the noted problems with the sustainability of the location it would appear there is conflict with these requirements.

Paragraph 95 states that new development should be planned '*in locations and ways that reduce greenhouse gas emissions*'. Whilst the applicant claims the potential for combined trips makes the proposal sustainable, the transport information submitted by the applicant shows that 82% of the proposed 316,250 visitors would arrive by car. The actual level of car use may be higher than this if the bus / coach modal share has been overstated given it is estimated to be much higher than that normally achieved in other similar attractions as set out in the Vectos report. In addition to the location, the scale and mix of intensive uses on the site adds to the travel demand and the potential for a smaller scale of proposal in overall terms does not appear to have been adequately explored. The development is therefore not planned in a location or in a way that reduces greenhouse emissions.

*Section 11* of the NPPF (conserving and enhancing the natural environment) is particularly relevant given the location of the proposal within the countryside on the boundary of the Area of Outstanding Natural Beauty (AONB). Paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 110 requires that plans should allocate land with the least environmental and amenity value. A proposal of this scale has potential to impact on the local rural area and potentially on the AONB.

Paragraph 111 states that planning decisions should encourage the effective use of land that has been previously developed and is not of high environmental value. Previously developed land is defined in NPPF and the application site does not meet this definition.

Paragraph 115 states that '*great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty*'. Paragraph 116 deals with major developments in AONBs and states that planning permission should be refused for major developments except in exceptional circumstances where it can be demonstrated they are in the public interest. The proposed new built development would be outside of the AONB; however, much of the application site is within the AONB. The land within the AONB would be changed in use from agricultural to use as part of a large scale tourist attraction. It is therefore considered that the criteria set out in paragraph 116 are relevant criteria against which the proposals should be assessed. This includes consideration of the need for the development, the scope for locating it elsewhere or meeting the need in another way, and any detrimental effect on the environment.

Other material policy considerations summarised in more detail in the full planning policy response include the DCLG Good Practice Guide on Planning for Tourism (2006), the Dedham Vale AONB Management Plan 2010 – 2015, the Haven Gateway Green Infrastructure Study, and the Landscape Character Assessment.

## ***Planning Policy Issues***

The following issues are covered in more depth in the full planning policy response within the policy context section, the consideration of the previous reasons for refusal, and in the conclusions section.

### ***Benefits***

If successful and viable the proposal would deliver a number of benefits which would help to meet the objectives of national and local policy. The proposal would, in particular, deliver a new tourist attraction; contribute to increasing the performance of the local tourism economy; would improve inclusive access to the countryside; would allow visitors to gain greater education and knowledge of food growing, and would of course provide additional employment in the local economy both on and off site. These benefits would help to achieve the economic and social objectives of the NPPF. NPPF paragraph 19 in particular also weighs in favour of the proposal which states that 'significant weight should be placed on the need to support economic growth through the planning system'. The proposal would help support tourism consistent with the broad objectives of the NPPF, the Core Strategy's general support for tourism and Development Policy DP10 in particular. The supporting documentation submitted by the applicant provides full details of these benefits which are also summarised in the NLP and Britton McGrath Associates reports commissioned by the Council.

The Britton McGrath report on the regional status of the proposal (18 December 2012) states there is no firm definition of what can be considered regional. The application of the term 'regional' to the attraction does not make it any more or less acceptable when judged on its merits against the policies in the development plan and against all other relevant material considerations. The Britton McGrath report does, however, demonstrate the potential nature of the proposed tourist attraction that would be provided and what benefits it may have in terms of the tourism offer in the area.

The Britton McGrath report (18 December 2012) refers to the Chinese Garden, the Constable Experience, and Suffolk Punches elements of the proposed scheme and concludes that the proposal has the potential to become a 'regional attraction' provided certain conditions are met. This appears to be based on significant investment in the Chinese Garden which has not been detailed in the written supporting information provided with the application. It is also based on at least a few authentic Constable paintings being exhibited in the Chantry. It is stated that discussions are on going but there would appear to be no certainty in this being achieved. The Suffolk Punch element is considered to be strong by Britton McGrath but they also refer to evidence that Shire Horses do not tend to attract high numbers of visitors at another attraction.

The Britton McGrath report (18 December 2012), however, looks solely at the potential 'regional status' of the proposal and does not consider the application as a whole or assess the proposal against the development plan and other material considerations. The report states that assuming conditions are met Colchester Borough Council should support the applicant's proposal. This appears to be based on an assumption that if a proposal is 'regional' this has a significant bearing on the acceptability of the scheme in principle. As set out above, regardless of whether or not a proposal is described as 'regional' the application must be assessed on its merits against the

development plan and other material considerations. Whilst a scheme that attracts visitors from a wider area may deliver greater tourism benefits that should be weighed in favour of the proposal, the fact a scheme may have 'regional' attraction does not remove the need to properly consider the application against the development plan and material planning considerations, taking into account the economic, social, and environmental aspects of sustainable development.

### *Viability*

As with the previous application the key economic benefits put forward as a part of the Horkesley Park development proposal are dependent on the attraction being viable and achieving sufficient visitor numbers. Should the visitor numbers not be achievable this would call into question not only the deliverability of the claimed economic benefits of this proposal but also the overall viability of the attraction. The applicant has provided a business plan to the Council in order to demonstrate the viability of the visitor centre. Paragraph 2.39 of the applicant's planning statement states that "The planning application includes the Business Plan for the scheme for the consideration of the Council. This will demonstrate the short and long term viability of the scheme." The submitted business plan also states at paragraph 1.1 that "CBC needs to satisfy itself that the Stour Valley Visitor Centre at Horkesley Park as proposed in the Planning Application is financially viable and sustainable."

The independent project review prepared for the Council by Britton McGrath Associates (November 2012) provides detailed commentary on the viability of the attraction and therefore whether the economic benefits will be delivered.

The report finds there is no reason to doubt that if successful the proposal would aid in increasing the performance of the local tourism economy, deliver a new attraction in visitor attraction markets, improving access to the countryside, allowing visitors to gain greater education and knowledge of food growing, and providing employment in the local economy. If these benefits are to be delivered, however, then the proposal must be viable and economically sustainable. This issue is then considered in detail in the Britton McGrath Associates report. The report states that the catchment area for visitors has been overestimated and therefore the total visitor numbers are significantly overestimated. The dwell time is considered to be excessive and the proposed admission pricing 'extraordinarily high'. The catering turnover is considered to be very ambitious and the retail spend assumptions 'extremely ambitious'. The report concludes that even with the most positive interpretation of revised estimates the business as currently proposed would be unviable.

Britton McGrath Associates have produced two further addendums to their November 2012 report. These addendums give further consideration to the importance of Colchester as a short break destination in their assessment of Horkesley Park, the second addendum bringing in extra sources of data and information where possible. The reports both conclude that the anticipated visitor numbers would remain at 100,000 to 130,000 visitors per year. The latest report from Britton McGrath associates (18 December 2012) also gives further consideration to aggregation in relation to likely penetration rates and forecasting visitor numbers. The report highlights that comparators such as Hop Farm also offer visitors a multi-faceted offer. This is reflected in the higher penetration rate that such attractions achieve. Given that the Britton McGrath analysis of the likely penetration rate at Horkesley Park has been based on such comparator examples, the effect of a multi-faceted offer has already

been taken into account. The report states that Britton McGrath associates “stand by the analysis presented in the previous document with regard to penetration rates”. The report concludes that the previous figures for visitor numbers provided by Britton McGrath associates remain valid. It is stated that the visitor figures may reach the upper ends of the 90,000 to 130,000 visitors per year estimate and could potentially reach 150,000 per year.

Should the scheme proceed and quickly become unviable this may result either in additional disused buildings and development in a sensitive rural location or proposals to change the nature of the attraction, the access and ticketing arrangements, or the uses on the site. In addition to the stated benefits of the scheme not being delivered, this would also be likely to lead to greater harm in sustainability terms and would further conflict with adopted planning policy. It is therefore important that there is sufficient certainty that the proposal is a viable proposition.

If the proposal is shown to be viable as proposed then the benefits outlined in the application and the supporting reports will clearly weigh in favour of the proposal.

### *Sustainable development*

The adopted Development Plan and the NPPF require development to be directed to sustainable locations. NPPF paragraph 28 provides support for sustainable rural tourism in appropriate locations. The proposed development would not appear to be a sustainable or an appropriate location for this scale of development as set out by the Vectos Report in particular. Adopted Local Policy in Core Strategy policy SD1 (Sustainable Development Locations) provides that growth will be located at the most accessible and sustainable locations and requires compatibility with local character. Core Strategy policies CE1 and ENV2 state that in countryside locations small scale tourism or business proposals would be favourable considered if they have low travel needs and low impacts and if they are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment . Development Policy DP10 deals specifically with tourism and requires that *where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation*. The proposal for a large scale tourist attraction in a rural unsustainable location would therefore not comply with these policy requirements.

There are diverse ways of broadening access and understanding of the countryside including more traditional low key and small scale activities which are likely to be more in keeping with the character of the countryside and have greater support from adopted local planning policy. The mix of uses proposed on the site is stated to attract 316,250 visitors per year. The scale of the attraction and its unsustainable location does mean there is conflict with adopted policy.

### *Retail elements*

The planning policy response considers the previous reasons for refusal including those related to retail use. The A1 shop and A3 café have now been reduced from that in the earlier application. Whilst the retail element now appears ancillary in floorspace terms there remains a strong focus on food and drink through elements such as the proposed ‘field to fork’ elements in the proposed scheme. The degree of control that

could be exerted on retail sales through planning conditions or legal agreements was an issue of concern under the earlier application. Although entrance fees are proposed to be charged to those visiting the retail elements the degree of control the planning authority has over these charges should be given careful consideration. Lower entrance charges combined with discounted goods on sale, for example, could quickly make the site a more attractive retail destination in its own right. This was also an issue of concern with the previous application. Advice at that time from the Council's barrister indicated that they were "of the view that it will be extremely difficult to devise an enforceable s.106 scheme to ensure that the retail and other PPS 6 uses do not operate independently".

### *Sustainable travel*

The NPPF supports sustainable rural tourism and leisure developments in appropriate locations. Elsewhere it emphasises the need to ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Whilst reference is also made of the need to take into account policies on rural areas these also seek to ensure development is sustainable and appropriate for the character of the countryside. Given the scale of the proposal in this countryside location and the noted problems with the sustainability of the location as set out in the Vectos report it would appear there is continuing conflict with these policy requirements.

The development would result in high levels of unsustainable travel as a result of its scale, mix of uses, and unsustainable location. The applicant states that 82% of the 316,250 visitors would arrive by car. The Vectos report provided to the Council raises doubts over coach mode share in particular and it is considered likely the car share could be higher than the 82% suggested by the applicant, especially in the absence of any practical constraints on parking. Even if the level of car use is accepted to be 82% as the applicant suggests, this shows the proposal would still be a car dominated development as set out in detail in the Vectos report. NPPF paragraph 34 requires that development that generates significant movement should be located where need to travel can be minimised and use of sustainable travel maximised, taking account of policies elsewhere, particularly rural areas. Such other policies, as already set out above, however, also require tourism development to be sustainable and in appropriate locations. NPPF paragraph 95 states that new development should be planned in locations and ways that reduce greenhouse gas emissions. Core Strategy Policy TA1 (Accessibility and Changing Travel Behaviour) states that development will be focused on highly accessible locations and that developments that are car-dependent or promote unsustainable travel behaviour will not be supported. The proposal includes no constraints on car parking in line with Core Strategy Policy TA5 (Parking). The proposal would also appear to conflict with the objectives of Policy DP17 (Accessibility and Access). Whilst the proposal includes some proposed measures for walking, cycling and public transport, the development remains car dominated and therefore does not appear successful in giving priority to sustainable modes. The proposal also conflicts with Policy DP19 (Parking) and the Adopted Parking Standards SPD in that it exceeds maximum parking standard due to its unsustainable location. The Vectos report provides details on the unsustainable location and confirms the conflict with adopted policy.

### *Scale and impact on the countryside and AONB*

The NPPF continues to give a very high degree of protection to Areas of Outstanding Natural Beauty. In particular, paragraph 115 states that *'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty'*. Colchester's locally adopted policies remain relevant and DP22 specifically refers to *'development in or near to the Dedham Vale Area of Outstanding Natural Beauty'* and sets a number of requirements that developments must meet.

The proposal is of a large scale and consequently is considered to have an unacceptable impact on a sensitive rural area. The supporting information submitted with the application predicts 316,250 visitors per year. The scale of the attraction, the mix of uses including many intensive 'main town centre uses', combined with the unsustainable location in a sensitive area on the edge of the Area of Outstanding Natural Beauty, results in greater impacts in terms of unsustainable travel as well as potential harm to the AONB and countryside more generally. The scale therefore drives the impact and results in greater harm when considered against adopted policy. National and local policies all place requirements on the development to be of appropriate scale and impact. NPPF paragraph 24 requires flexibility in terms of format and scale of proposals. NPPF paragraph 115 states that great weight should be given to conserving the landscape and scenic beauty of the AONB. NPPF paragraph 116 states that permission should be refused for major development in AONBs except in exceptional circumstances where it can be demonstrated they are in the public interest. Core Strategy Policy CE1 (Centres and Employment Classification and Hierarchy) supports small scale developments in the countryside if they have low travel needs and impacts. Policy ENV1 (Environment) seeks to protect and enhance unallocated greenfield land outside of settlement boundaries. Policy ENV2 (Rural communities) supports small scale schemes that are appropriate to local employment needs, minimise negative impacts and harmonise with the local character and surrounding natural environment. Policy DP9 (Employment Uses in the Countryside) requires proposed uses in the countryside to be of small scale. Policy DP10 (Tourism, Leisure and Culture) also seeks to achieve a balance in rural areas between economic benefits and environmental disbenefits by supporting developments that are small scale and of local benefit. The policy states that accessibility is poor proposals should be small scale. The Horkesley Park proposal cannot be considered to have low travel needs or low impacts and is large scale. The proposal also appears to conflict with other guidance including DCLG Good Practice Guide on Planning for Tourism (2006). Paragraph 5.4 of this guidance recognises that small scale developments are appropriate in less sustainable locations. The Dedham Vale AONB management plan also seeks to ensure development is of appropriate scale and protects tranquillity.

### *Summary*

Whilst if successful the proposal would deliver a number of benefits, and this is supported under planning policy, the proposal would also conflict with numerous policies as set out above. The Britton McGrath Associates report states the proposal is not considered viable as currently proposed and therefore there is considerable uncertainty as to if these benefits would be delivered. Should the proposals be shown to be viable then the benefits of the proposal in economic and social terms should be given significant weight in line with the NPPF and support under local policies. The

Vectos report, however, concludes the site cannot be made highly accessible and it is contrary to national and local policy. There is also conflict in terms of tourism and countryside policies where the development plan supports smaller scale developments to achieve a balance between economic and social outcomes whilst seeking to protect and preserve the character of the countryside and designated areas such as the AONB. The proposal by virtue of its scale and location does not accord with this approach and there remains conflict with adopted policy in this respect.

Notwithstanding whether the proposals are viable, there remains conflict with local and national policy as set out above in particular with regards to the proposal's unsustainable location for a major development, the high levels of unsustainable travel, and the scale and impact of the development proposed.

10.12 **Natural England's** comments on landscape and effects on the AONB are set out below.

The comments are prefaced as follows;

For the avoidance of doubt, our comments are restricted to matters of landscape and ecology, and more specifically the effects of the proposal on the Dedham Vale Area of Outstanding Natural Beauty (AONB).

Please note that there may be other material considerations within landscape and biodiversity more widely, which do not fall within Natural England's remit, such as local landscape character and local wildlife sites. The lack of comment from Natural England on such matters should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process. In particular we look to the Dedham Vale AONB Joint Advisory Committee to take a lead with respect to landscape impacts and the Essex Wildlife Trust on local wildlife sites and other local biodiversity priorities.

In our previous letters, we noted that the Transport Assessment dealt with *capacity* issues, but did not include an assessment upon the AONB, and in particular the sunken rural lanes, and questions of tranquillity. We are pleased therefore to see that these issues are discussed within the *AONB Assessment*. This is particularly important given the emphasis placed on tranquillity in the Dedham Vale AONB and Stour Valley Management Plan 2010-2015.

The *AONB Assessment* identifies "relative tranquillity" as one of a number of natural beauty factors, and at table 7.2 "noise", assesses the impacts of noise on tranquillity as negligible both within and in the setting of the AONB. The development is also predicted to enhance relative tranquillity through replacement of remnant glasshouses, and offers opportunity for screening. On traffic in particular, we note various mitigation measures are proposed but advise that at table 7.4 it is inappropriate to refer to this proposal as "a reduction" in numbers of visitors, as the baseline is not the former proposal, but rather an absence of development in this location. The same applies at table 7.6 "visitors and tourism".

We are pleased to see that, following our previous comments, the applicant has collated the various mitigation and management into a single Plan, which we note in particular includes mitigation for impacts to protected lanes (in particular Fishponds Hill) (Visual Resource), and the section on Traffic, Transport, and Access is notable.

Natural England supports the range of options presented, all of which should be employed to maximum effect, with the view to minimise the adverse effects of visitor traffic on the tranquillity of the AONB. A key element of the mitigation scheme will be visitor monitoring and management, and to that end we welcome the employment of a travel plan coordinator. Whilst the movement of visitors is inherently outside the developer's absolute control, we consider the range of options proposed, a robust monitoring scheme, and local accountability and feedback mechanisms through dedicated staff, should offer a reasonable basis upon which to operate the Visitor Centre. We encourage the planning authority to secure as many of the mitigation measures as possible via suitably worded planning conditions, or wherever possible via a legally binding S106 agreement.

In conclusion, you will be aware that Natural England submitted an objection to the previous application on the grounds that the proposal would adversely affect the tranquillity of the AONB, with particular reference to traffic on local lanes. We did not consider that the mitigation proposed for that scheme was sufficiently detailed to lend confidence to its deliverability, measurability, and whether it would form a consensus opinion amongst key stakeholders. However in respect of this application, recognising that the applicant has built on our previous advice by providing an AONB assessment detailing questions of tranquillity (in particular), submitted a mitigation and management plan describing a range of traffic and travel related measures, drafted a s106 agreement for local planning authority approval which offers greater security and accountability of such measures, and noting the reduction in the scale of the proposal, Natural England does not object on landscape grounds, subject to confirmation that the traffic and travel mitigation measures can be secured via S106 agreement or otherwise by planning condition.

***Planning Services comment:***

***The traffic and mitigation measures proposed will be secured by section 106 agreement.***

Natural England was re-consulted following the receipt of the further clarification on special events and countryside uses and has confirmed this does not alter their "no objection response".

Natural England was also consulted in respect of protected species habitats. Natural England originally commented that they objected on protected species grounds, due to inconsistencies in the submission on possible impacts to bats, and the need for further assessment on great crested newts. But noted that this was not a substantive objection, but based on deficiencies in the information provided. If these deficiencies are addressed, this objection may be overcome. Following the submission of further information Natural England advise that our objection as far as protected species is concerned, has been met, as the previously reported inconsistencies (bats), and further assessment (great crested newts), have been fully addressed.

**10.13 Colchester Borough Council's Archaeological Officer** comments as follows:-

"No objection to this proposal. The known and anticipated archaeological remains that survive on site has been described and discussed by the desk-based archaeological assessment produced by the Colchester Archaeological Trust Ltd. The proposed new build is to be confined to an area that has already been severely disturbed and

truncated. There will be some ground disturbance from tree/hedge planting and perhaps the overflow car park, but this will have a very minor impact.  
I would recommend that our standard archaeological condition C2.1 which would allow for a watching brief to be held on site be improved if consent is granted.”

10.14 **Suffolk County Highways** comment as follows:-

“Notice is hereby given that the County Council as Highways Authority does not wish to restrict the grant of permission.

With the opening of the new junction 28 on the A12 and the possible closing of the A12 crossover to the B1068 East Bergholt, and the reduced scheme with its reduction in visitor numbers, there is less predicted traffic flows on the minor Suffolk roads.

Following a request to the applicant, new traffic counts were undertaken in September 2012 on the following roads:

B1087 Nayland Road

Fishponds Hill

London/Lexden Road

Boxted Road

A1071 Boxford Lane

These counts showed that the base traffic flow levels in the majority of locations are less than that recorded in the original counts in 2001.

There are no highway grounds for refusal with the predicted levels of traffic on the Suffolk roads.

Note: The parking volatility in both Nayland and Stoke-by Nayland causes traffic flow problems at peak times. The current parking is sustainable and will be exacerbated by an increase in traffic flows. There is no substantive evidence showing this effect within the villages that can lead this authority to refuse on these grounds.

Note: We support the request by William Bramhill for a cycle link from Essex to Suffolk as part of the s106 contributions should the application get approval although land ownership may preclude this provision.”

***Planning Services comment:***

***The provision of this cycle link has been discussed with the applicant who has confirmed they do not own the land required to provide this cycle link. Suffolk County Highways has subsequently confirmed they are satisfied it is not possible to secure it.***

10.15 **The Highways Agency** comment as follows:-

“As the application will not adversely affect the A12 trunk road at this location, the Highways Agency does not intend to issue a direction and I enclose a form TR110 to this effect.”

**11.0 Parish Councils’ Comments**

11.1 **Boxted Parish Council (BPC)** comment as follows:-

“At our meeting on 11 July 2012 Mr Daniel Bunting attended on behalf of the applicants and gave various additional explanations and assurances. In particular that:-

1. There would be a complete severance of the tie with Carter's Vineyard in Boxted, which is presently being sold, and that hereafter there would be no reciprocal arrangements entered into with the new owners of the vineyard;
2. That traffic flow would be kept to a minimum because coaches rather than individual car use would be actively encouraged;
3. That the educational nature of the proposed development would remain;
4. That there would be no future attempt to increase the retail element of the proposed development.

Having reviewed the revised application and in the light of the above assurances, BPC came to the view that it would adopt a neutral position on this application.

Whilst our position is neutral we have concerns about the plans as follows:-

1. Increased Traffic Levels

The volume of traffic created by up to 316,000 visitors per year could indeed have a very detrimental environmental impact on the area, including surrounding villages such as Boxted.

2. Environmental Factors

Other environmental impact could be substantial, particularly light pollution (especially in the winter months).

3. Scale

Colchester Borough Council's Core Strategy ENV2 for Rural Communities states that the Council will "favourably consider small scale rural businesses, leisure and tourism schemes that are inappropriate to local employment needs and minimise negative environmental impacts on the countryside." It seems unlikely that the proposed scheme could be described as small scale.

4. Site Allocations

The Site Allocations element of Colchester Borough Council's Local Development Framework does not designate Horkesley Park as a development site.

5. Consequential Further Development

BPC is concerned about future further commercial development on this site."

11.2 Eight Ash Green Parish Council comment as follows:-

"At the July meeting it was resolved by Eight Ash Green Parish Council to make the following comments in respect of the planning application:

If the Borough Council are minded to grant planning permission Eight Ash Green Parish Council request conditions be applied for adequate signage from the new A12 junction (28) directing visitors to the park, and for the applicant to be asked to discuss suitable routes with Sat. Nav. companies for new devices and updates, with a view to preventing traffic using the country lanes of Eight Ash Green to access the park."

11.3 Great Horkesley Parish Council comment as follows:-

"The Council discussed the application in detail and resolved to support the application subject to the viability of the public transport proposals being further substantiated. Members agreed that comments arising from the 2009 application had largely been taken into consideration including the considerable reduction in the retail element (which would only be available to ticket holders and not general shoppers). The new design was considered to be unobtrusive and the control of light emissions seems to have been thought about. Members were impressed with the new approach and felt that their previous concerns had been satisfied. The use of hedges of a reasonable height was welcomed in view of the dwindling stock of hedgerows in rural England.

Members also made mention of the applicant's good history of investing in beneficial land management projects, in the local area, which they felt reinforced the credibility of the current application."

#### 11.4 Little Horkesley Parish Council's Executive Summary:-

1. The East of England Plan cannot be used as justification for this application.
2. Under the NPPF paragraph 115, a large development cannot be compatible with a location in, or near to, the Dedham Vale of Outstanding Natural Beauty.
3. Under the terms of the Colchester Local Development Framework (LDF) Core Policy ENV2 this is an inappropriate development which will damage the Dedham AONB.
4. This application could only be approved if the whole of the LDF for Horkesley was reopened and subject to full scrutiny.
5. Under Development Policy 9, the creation of 100+ Full Time Equivalent Jobs and attracting 316,000 visitors to a small sector of the AONB cannot be regarded as small scale.
6. Under Development Policy 10, this location again is not small scale, is not served by adequate public transport and "urban Colchester should be the focus for larger scale tourist, leisure and cultural activities.
7. There is no established tourism need for the Stour Valley Visitor Centre.
8. Seasonal, part time and low paid jobs in the leisure sector are not the basis for a successful and prosperous Colchester.
9. This application provides a "greenwash" of sustainability, which is totally undermined by the estimated 92% of visitors that will arrive in their personal cars.
10. The information on retail activity provided is inadequate to allow a proper public debate.
11. The Traffic Assessment is flawed because no consideration has been given to the impact on rural lanes in the Dedham Vale AONB and no attention has been given to LDF Development Policies DP21, 17 & 18.
12. The whole financial viability of the project is based on estimated forecasts backed by no statistical analysis and, therefore, cannot be regarded as credible.
13. The countryside is freely accessible and well used by the people of Colchester and it is unacceptable to charge for entry/

Please reject this totally inappropriate application for the Stour Valley Visitor Centre"

Little Horkesley have further commented in January 2013:-

"Little Horkesley is the village most affected by this proposed development – the Stour Valley Visitor Centre would look down on the village and the 91% of the site, which is in the Dedham Vale Area of Outstanding Natural Beauty, and immediately abuts onto the boundary of the Parish.

Over the last 10/12 years the Parish Council has closely followed the evolution of Colchester's Local Development Framework (LDF) and, wherever possible, have provided an input to the discussions. The Council's aim has always been to protect the intrinsic value of the countryside not only for the people living there but for the many others who visit the area for recreation.

Additionally the community have been aware of their responsibilities, being within the Dedham Vale, to protect an area which is not just of national importance but, through

its links to John Constable, of great international value. Many consider that the area ought to be designated a World Heritage Site.

Within the LDF were many protections for the countryside, which need not be enumerated here, but the Council were pleased that provision was made for “small scale” business development within the countryside and AONB. This was regarded as being important to allow businesses to flourish and to prevent the countryside being set in aspic.

However, this is not a “small scale development” but a major development in an area not designated for development in the LDF.

Development Policy 22: Dedham Vale Area of Outstanding Natural Beauty offers specific protection to the AONB and ties any development to the Dedham Vale AONB and Stour Valley Management Plan – the Project have objected to this application.

The report of the Planning Policy Unit of 16 November recommends rejection of the application on the basis that “it conflicts with national, regional and local planning policies” and is unsustainable by virtue of its location and “high levels of unsustainable travel”. A second report of 4 January demolishes the arguments of Buntings & Sons that the LDF should not be used to evaluate what is claimed to be a “regional” attraction.

Approval of this application, which ignored the excellent LDF, would be a betrayal of all those in our local community who worked so hard with Colchester Borough Council to produce a document which has become a model to many other councils.

There is also an indication in the conclusion of the Report that “The Britton McGarth Associates report make it clear the proposal is not considered viable as proposed and therefore there is considerable uncertainty as to if the benefits would be delivered.” It has long been the concern of the local community that this venture would possibly prove not to be financially sound and within a period of years could be sold on with its then existing retail permissions.

Any decision to approve this application, which clearly conflicts with all levels of planning law, is unsustainable and assessed as not being commercially viable, would be a betrayal of local communities. In the circumstances that the Borough was to approve this application, it would not be seen to be “acting reasonably”.

The Dedham Vale Area of Outstanding Natural Beauty is the most precious and vulnerable asset of the Borough of Colchester and must be protected.”

#### 11.5 Myland Community Council Support & comment:-

“The MCC Planning Committee considered the criticism of other parties regarding this application whilst debating this application. The Committee also found it prudent to advise the applicant about possible traffic problems and the lack of a robust North Colchester Travel Strategy and possible traffic problems and were appreciative of the applicant’s efforts to mitigate the same.

The Committee is of the opinion that this could be a move away from Colchester Borough Council’s mono-culture, which until now has been houses and nothing else. MCC requests that some S106 money is reserved to make a contribution towards the foot/cycle/bridleway over the A12 (Footpath 39) thus enabling access to the Essex Way and onwards to the Visitor Centre.”

#### 11.6 Leavenheath Parish Council (Suffolk) comment as follows:-

“Please note that Levenheath Parish Council objects to this application. This is due to the size and scale of the proposal and the traffic issues that would be generated.

Even with the reduction since the last application, this proposal is still considered too large and contains an extensive retail element. Overall it would not be in keeping with the Stour Valley/Dedham Vale.

Whilst the revisions have reduced the expected traffic flows, delays would still be expected during peak times due to the inadequate right turn, so motorists travelling along the A134 towards Colchester would be delayed. This would prove inconvenient and could also deter customers from making the journey to utilise Colchester businesses.

Leavenheath Parish Council therefore recommends refusal to grant permission on this occasion.”

#### 11.7 Nayland with Wissington Parish Council (Suffolk) state:-

“Nayland with Wissington Parish Council objects to this application because of the scale of the development and detrimental impact on the AONB and on this parish.

Whilst this Council recognises that the latest application has addressed some of the objections raised in respect of previous applications, it is felt that the scale of this proposed development will have a detrimental impact on the tranquillity of the Dedham Vale and Stour Valley AONB. It is felt that the potential influx of 316,000 visitors, mainly at weekends and during school holidays, will have a negative impact on surrounding rural road networks in Essex and in Suffolk.

The Council has serious doubts about the viability of a proposal on this scale in this location. The Council has concerns about long term sustainability and future use or expansion of the site, particularly if the venture is not successful.

There are several other aspects of this application where information is inadequate or limited, for example:

1. There is insufficient detail about the nature, scale and timing of ‘special’ and ‘cultural’ events or potential evening events.
2. There is insufficient information regarding the number and timing of delivery vehicles necessary to service the site.
3. There is no information on the number of covers in the café area, or the use of the open spaces between the buildings. These could be used as overspill, retail or eating areas.
4. The closing time of ‘dusk’ is too flexible and would allow very late opening times in the summer.
5. There is insufficient detail in respect of the use of the display ring.
6. In the Transport Report the emphasis was on Essex roads, despite the fact that the site is on the border with Suffolk. All transport links concentrate on Essex, although the catchment radius includes the road network from Suffolk. There is an assumption that all motor traffic will use the A134 in either direction, but it is likely that the rural network on both sides of the county border will be used. The Highways Authorities focussed on the A roads only.
7. The proposal refers to a frequent hopper bus from the visitors centre to Dedham via Carters Vineyard. No precise details of the route or timetable are given although this Council suspects that the intention is to travel through Nayland and Stoke by Nayland.

Nayland with Wissington Parish Council believes that this application fails to meet the criteria set out in a number of national and local planning policies as it will have a detrimental impact on the tranquillity of a designated AONB.

If permission is granted, Nayland with Wissington Parish Council believes that there should be strict restrictions on the use of the site during the evening so as not to cause disturbance to residents and wildlife. The term 'dusk' should not be used as a closing time. We would like to see a limit of 8pm for opening times in Summer, specified times for deliveries and restrictions to ensure there is no increase in light pollution, for example by the use of floodlighting."

#### 11.8 Stoke by Nayland Parish Council (Suffolk) comment as follows:-

"Stoke by Nayland Parish Council recommends that the application is REFUSED. The Committee feels that the following points, made about a previous 2009 application (090231), continue to be applicable:

1. Affect on existing facilities – the considerable retail and leisure aspects of the development would impact the viability of existing town centre facilities.
2. Traffic – the volume of extra traffic passing through Stoke by Nayland. Many more than the estimated number of visitors will choose to drive through the Dedham Valley AONB as it is the scenic and shortest route and that directed by SATNAV tools. The route in question includes the B1068 through Thorington Street which is narrow, winding and has been subject to special investigation and safety measures following accidents.
3. Light Pollution – the impact of illumination from the direction of Stoke by Nayland – as the highest point in the area, there is a strong likelihood of light pollution in this direction.
4. Noise pollution – the impact of noise from the day-to-day running of the centre – any special events incorporating outdoor PA systems or music will create noise which will travel a considerable distance.

In addition the Parish Council makes the following points on the revision to the application:-

1. It was pleasing to see that the revised application had no development within the AONB itself. However, the proposal is next to, and will detrimentally affect, the AONB.
2. The average length of stay is now estimated to be 4 hours. The Committee feels that this reduction will have the affect of increased traffic on the roads through the AONB as the visit will be combined with visits to other attractions in the area."

#### 11.9 Stratford St Mary Parish Council (Suffolk) comment as follows:-

"Stratford St Mary Parish Council has been advised of this new planning application through the Dedham Vale Society and having discussed this at our recent meeting wishes to object.

This application is very similar to that of previous ones. Whilst we do not have a view on the commercial use of the land as that is the concern of your Council and local residents, we do have concerns about the increased traffic that will result from this development and Stratford St Mary being a route to get to it.

As you know, Stratford St Mary is a conservation area within the Dedham Vale AONB with some old and historic buildings. We already had to contend with traffic on the A12 and commercial vehicles using the village as a cut through and a rat run, which results in damage to our listed buildings and increased noise and pollution. We are concerned how this development, if granted planning permission, will be signposted on the surrounding road network. We would like to see such signs directing visitors into

Colchester along the A12 and out again on the appropriate road rather than through our village and the narrow country lanes in our vicinity.

We therefore urge the Borough Council to carefully consider this application on all its merits and to take on board the Parish Council's concerns."

#### 11.10 Alphamstone & Lamarsh Parish Council (Suffolk) comment as follows:-

"The Parish Council wishes to confirm its objection to the revised application, especially in view of the consultant reports submitted.

The majority of the proposed development spans the Dedham Vale AONB, and this is specifically in place to protect and conserve the natural beauty of the area, in particular to secure it against any development that would damage those special qualities. The Dedham Vale is situated between two large conurbations, it is extremely rural, and subsequently has a road system that relates to the countryside. They are not designed to cope with the proposed visitor numbers, mostly expected by car.

The retail element also threatens to impact the viability of Colchester Town Centre which is currently under review in trying to maintain sufficient trade. This is especially relevant if the venture fails and the development is turned into another retail park. The Nathaniel Litchfield and Partners report suggests that the tourist attractions are not guaranteed to succeed in the longer term.

In summary the proposal appears to be completely against national, regional and local planning frameworks for the above mentioned reasons.

The Parish Council urges the Councillors to charge to protect this special area, and refuse the application."

## 12.0 Representations

### Community Engagement

- 12.1 The application includes details of the applicants Statement of Community Involvement (SCI). **NOT TO BE CONFUSED WITH THE COUNCILS STATUTORY STATEMENT OF COMMUNITY INVOLVEMENT.** This document includes a presentation and record of the exhibition and public consultations held on the 10 and 11 May 2012. The two days of public consultations took place at Great Horkesley WI Hall between 3pm – 9pm. It is stated 268 people attended.
- 12.2 The SCI states in total the equivalent of 29.85%(80) of the 268 attendees returned completed feedback forms of which 47.5% (38) were in support or raised no objection, 6.25% (5) did not sign in support but made positive comments in support, 7.5% (6) made neutral/non-committal comments (with no objection), 36.5% (29) expressed objection or negative comment and 2.5% (2) returned the forms with just a name or post code with no signature or comment.
- 12.3 The results of the feedback forms and other letters are submitted as an appendix to the application.
- 12.4 The SCI also refers to articles in the Colchester Gazette, Essex County Standard and East Anglian Daily Times which included details of the public consultations. Flyers were also placed in the village shop and the applicant wrote to a number of bodies including SVAG and local councillors informing them of the forthcoming public consultation. Further publicity and promotion for the public consultations was received via an interview on BBC Radio Essex.

12.5 Sir Bob Russell MP (Colchester constituency) comments as follows:-

“I write to offer my full support for this application, for the same reasons as why I supported the previous application which I am disappointed has not gone forward. The current proposal is smaller. It is difficult to see how anyone can make a serious objection on planning grounds.

Although Horkesley Park is not in my constituency, it is in the Borough of Colchester and thus it has a wider interest than just the immediately locality.

With the creation of around 150 jobs, I believe that many of these will be taken by people living in the town of Colchester which I represent. Helping to reduce unemployment is something which I believe is a key Council objective.

The proposal will also be an attraction for my constituents to visit, as they do in much larger numbers in respect of Colchester Zoo and other attractions elsewhere in North Essex and further afield.

The Stour Valley Visitor Centre will be of economic benefit for Colchester and district, at zero cost to the public purse.

The built footprint it will occupy is less than is currently the case.

The volume of traffic which will be generated is not on a scale that will cause problems on the A134 which passes the site. The road network serving Horkesley Park is considerably better than the narrow roads and lanes of North Norfolk where the famous Thursford Steam Engine Museum is located.

In summary, the Stour Valley Visitor Centre is good for jobs and the local economy; it does not diminish the appearance of the North Essex/South Suffolk countryside, rather it provides a continuation of the rural evolution of East Anglia; it will provide a further visitor attraction for the Colchester area at no cost to taxpayers; and it is in keeping with the Coalition Government's policies of wanting to assist businesses particularly in these difficult economic times, in this case a local company which has existed for nearly 200 years.

I trust that, this time, the application will be approved. I look forward to being present on the opening day of The Stour Valley Visitor Centre at Horkesley Park!”

12.6 Tim Yeo MP (South Suffolk constituency) comments as follows:-

“I am writing to recommend the above application is rejected by Colchester Borough Council. I have opposed all the previous applications for this and I do not believe that this new application addresses my earlier objections.

I appreciate this proposal is slightly reduced in scale compared to previous proposals but the same concerns still apply. The area, which includes the Dedham Vale Area of Outstanding Natural Beauty, is already visited by many tourists who enjoy its cultural and historic assets in a manner that does not unnecessarily infringe the enjoyment of local residents. A new major development in the open countryside of this type is not warranted.

The proposal will cause an unacceptable increase in traffic and particularly through my constituency for motorists travelling from Ipswich, who will be likely to take the short cut through Stoke by Nayland and Higham.

I am also still concerned about the retail element of the development, even though it has been slightly reduced in size. If visitors do not attend in the numbers suggested, pressure will be heightened to increase the amount of retail on the site. Once development has occurred, further expansion is easier to justify.

The claimed tourist benefits of the new proposal do not justify its approval and I do not believe it would be environmentally or economically sustainable in the long term. I therefore recommend this application is refused.”

**Comments from interest groups and amenity societies now follow: They are presented in alphabetical order**

12.7 The Beehive Residents Association (Suffolk) comments as follows:-

“Our decision to register our rejection of the issue has been restricted to the major concerns which we feel will have a major impact on the area.

The A134 which passes through Levenheath, virtually cutting it in half has always been under extreme pressure, with increasing accidents. Meetings are ongoing with Parish council and Suffolk County Council in an attempt to have lighting for the major junction of the High Road and the A134. We are continually being told there is no infrastructure for lighting and no money available for such improvements. There has been a substantial increase in vehicular traffic since the previous application was made for a similar venture in April 2006 and 2011. The A134 is under pressure of traffic and it is, and should this go ahead the village seems doomed.

Our organisation can find no benefit to the local community from this plan, and indeed, for the new venture to succeed and be the commercial pot of gold to the owner that is intended, the proposed scheme will have to utilise and seriously undermine the present level of the area infrastructure which is sadly lacking already.

In the opinion of our members this proposal would seriously affect the way in which this community has to live with the A134 and we wish to register our rejection of the plan.”

12.8 Colchester Cycling Campaign (CCC) comment as follows:-

“CCC is taking a neutral stance with regard to this project. However, should it be approved, we request that the following work be covered by a s106 agreement.

The changes we would like to see are:-

1. A non-signalised central island on the A134 to facilitate safer cycle/pedestrian crossings between Park Road and Water Lane.
2. A cycle path (and bridge, if necessary) between Park Road and Horkesley Road, Nayland (either beside the A134 or cutting diagonally from the Park Road/A134 junction to Horkesley Road, Nayland).
3. Cycle/pedestrian access to the application site via either Water Lane, Nayland Road, Fishponds Hill or London Road.
4. A contribution towards signage.

We understand that part of the former A134 is included in the verge on the east side of the current road and this may provide a base for a cycle path.”

12.9 The Colne Stour Valley Countryside Association comments as follows:-

“We object to the above application.

Despite the changes to the scheme which was overwhelmingly rejected in July 2011, it still has many of the same objectionable features. The Dedham Vale AONB must be protected from this sort of commercial exploitation. The Vale is already well served with many open footpaths and country lanes for the public to access and enjoy. An entertainment venue said to attract 316,000 visitors year on year (arriving mostly by car), and to generate this sort of the revenue the applicants presumably require, will

cause serious harm to the character and tranquillity of the AONB. In so far as there is a need for any of the attractions (see further below) there is no justifiable reason for their being here in the AONB. This is not a site which has been identified for development, let alone a major tourist attraction, in the Local Development Framework.

The proposals conflict with both the National Planning Policy Framework and the core Strategy and Development Policies of Colchester Borough Council's current Local Development Framework. In so far as relevant, they likewise conflict with the East of England Plan. There are no exceptional circumstances.

A development which is claimed to attract 316,000 visitors per annum and doubtless costs a very considerable amount of money to build and run is clearly a major development. As stated, there are no exceptional circumstances for having such a development within the AONB; nor has it been shown (particularly given the level of objection from such as the Suffolk Preservation Society, the Dedham Vale Society and at least four local Parish Councils) that there is any overwhelming public interest for it. Importantly, the National Planning Policy Framework states that applications for planning permission which conflict with an up to date Local Plan (as these do) should ordinarily be refused.

#### Development Policies

These proposals make no positive contribution to the landscape character and qualities of the ANOB; will adversely affect its character and distinctiveness and, subject to the comments of the Project, do not support the Management Plan.

The Applicants attempt to get round this by claiming that it is a regional significant scheme governed by the East of England Plan, which should have primacy. The scheme is not a regionally significant scheme. Colchester Borough Council's independent experts concluded that not even the much larger former scheme was.

#### Effect on the AONB

The AONB is one of Colchester's most precious heritage assets. Its distinctiveness is the open landscape, the way it continues to be farmed, its timeless tranquillity, and the many footpaths and uncongested country lanes. Commercial exploitation of the Vale must be resisted. The presence of over 316,000 visitors each year, arriving mostly by car, many using the protected lanes, will inevitably have a detrimental effect on the environment. The scheme makes no positive contribution to the special landscape character of the AONB.

The public are now denied access to the Applicant's Business Plan. It is now being said that the whole Plan is confidential even though such a Plan was provided on the first application and presumably not regarded as confidential. It is difficult to see how the whole Plan can be truly confidential.

Contrary to any claim to be open and transparent, the Applicants have chosen to deny the public access to the Business Plan, which would enable objectors to ascertain (as before) what revenue per capita is required to make the scheme viable, how this is made up or what is the lowest number of visitors per year below which the scheme fails. If, as suspected, the scheme is not sustainable it will inevitably lead to ever increasing commercial activity.

#### Traffic

Although Essex Highways Authority has not objected, its concerns are mainly with the major roads, A12 and A134. It is difficult to see how a proposal can be said to be sustainable which is intended to attract over 316,000 visitors each year, mostly by car, from as far afield as London and North Norfolk.

### Greenhouse site

The greenhouse site has been allowed by the owners to decline. It is understood that in the past there were others prepared to take it on for horticulture. There is no reason why it should not be restored to the use for which planning permission was granted or knocked down and put to agricultural use.”

The Colne Stour Valley Countryside Association NEW COMMENT We write to express our dismay on reading that the Planning Officers are minded to recommend permission for this proposal, when this would:- Cause very real damage to the AONB; Be completely unsustainable (made clear by CBC’s experts); Be commercially unviable, (estimated by Britton McGrath Associates to make an annual net loss of £1,7999,000); Contravene both the NPPF and all relevant Colchester Borough’s planning policies; Be in conflict with the Borough’s own planning Policy Advice of 4.10.13; and Not comply with the AONB Management Plan for the Dedham Vale, which the Borough is committed to. Underlying the Planning Officers preliminary statement appears to be a profound lack of appreciation of the importance of the Dedham Vale, its uniqueness and why this has to be protected. As the Countryside Commission report on the Dedham Vale Landscape said: *“The AONB.... embraces some of the finest unspoilt countryside. Of all the AONBs, it is a lowland landscape most held in the nation’s mind as the English rural idyll.... In a world where natural and cultural heritage are being lost at an unprecedented rate, remaining areas where the rural idyll and peoples pastoral roots can still be discovered are profoundly important”* “

*Conserving the special landscape of Dedham Vale in the future will involve many people and organisations-ideally working to a common goal through an agreed management plan. It will involve .....the effectiveness of planning authorities in controlling unsuitable development, and, no doubt, the outspokenness of local communities and others, who care about Dedham Vale, to resist harmful change... The essence of the Dedham Vale AONB landscape lies in its unspoilt traditional character. This will remain so provided it is continually managed with vigilance, sensitivity and care.”* What was stated in the Countryside Commission Report in 1997 is even truer today. Due in large part to careful management by the Dedham Vale AONB & Stour Valley Project, this description of the Vale has been preserved for the public to freely enjoy. How perceptive the requirement for local communities, who care about the Vale, to be outspoken in resisting harmful change and ensuring that the Planning Authorities adhere to planning policy. It is for this very reason that the National Planning Policy Framework states that Areas of Outstanding Natural Beauty must have ***the highest status of protection***, and why the Borough has adopted specific policies to protect the Vale and prevent development such as this. We have set out below the main planning provisions governing this application in order to emphasise why permission has to be refused. **Paragraph S115 of the NPPF** states that *great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection. Para S116* states that *planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.*

There are no exceptional circumstances. The reports commissioned by the Borough refer to numerous planning policies contravened by this application. Fundamental to the NPPF is the need for development to be sustainable. This proposal is not sustainable, as Vectos make abundantly clear. In its report to Council on compliance with transportation planning policy, Vectos state in unqualified terms that *“the*

*proposed development does not support the aims of National or Local Policy.”* Horkesley Park is in an unsustainable location and, with over 80% of expected visitors arriving by car, does not comply with either national or local transport policy (particularly **TA1** and **DP10** and **19**). **TA1** states that developments (such as this) which are car dependent or promote unsustainable travel behaviour **will not be supported**. The proposal is likewise commercially unviable. Britton McGrath’s report concludes that visitor numbers are only likely to be between 90-130,000, (less than 50% of number claimed), which *“inject a fatal flaw into the foundations of the Business Plan;”* It describes the forecast turnover as either ambitious or extremely ambitious, predicting an annual loss of £1.799m, and stating: *“Essentially the assumptions for many of the key foundations of the Business Plan appear to be fundamentally flawed resulting in an overwhelming conclusion that this is a business which would quickly become insolvent, resulting in any possible wider benefits to the community being lost.”* Britton McGrath was pressed twice by the Applicants to re-examine the visitor figures and consider whether Horkesley Park might, along with other local attractions, bring in visitors from further afield. Yet, in their first addendum they state that *“even visitor numbers of 100- 130000 would be ambitious”* The matters addressed in their second addendum resulted in their again stating that this *“all strengthens our original opinion that visitor numbers are unlikely to exceed 100-130,000.”* Stour Valley Action Group has persistently maintained that the proposal is unviable. Britton McGrath, whilst stating that it may not entirely agree with the absolute numbers detailed in the SVAG report, confirms that it is clear that they have identified the fundamental issues with the project; in that it overstates visitor numbers; overstates entry fees; overstates spend per head; overstates the margins on food, beverage and merchandise; and overstates the likely job numbers. Tellingly Britton McGrath says *“We cannot disagree with the principles of this conclusion.”* The Borough’s Planning Policy Department points out that even with the most positive interpretation of Britton McGrath’s estimates, the business as currently proposed would be unviable and that this is *“a very important material consideration given the scale and sensitive location of the development proposed.”* The Policy Department points out that, not only would the claimed benefits (including jobs) not be delivered, but that, if unviable, there would be a serious risk that it would result in a change in the nature of attractions to include business diversification and further travel intensive use; stating that *“this would lead to greater harm in sustainability terms and would further conflict with adopted planning policy.”* Many objectors fear that, if permission were given, the Applicants would be compelled to include further commercial activities and retail outlets to make it profitable. It is noteworthy that Vectos observe that the proposed level of parking is close to the level of car parking associated with food retail (3.3.21). The Policy Department further refers to the fact that the previous application was refused because the Council was not convinced that the project was viable and hence able to produce the claimed economic benefits. Precisely the same factors arise again. Consistency in applying planning policy is fundamental. It would be perverse if the Council were now to be advised to reach a different decision. Coming to the Borough’s own planning policies, the Policy Department makes clear that full weight must be given to all the main Policies in the **Borough’s Core Strategy (2008)** and the **Development Plan Policies (adopted 2010)**, whether or not the proposal is regionally significant (3.1.4). **Core Policy SD1** provides the overarching spatial policy for the Borough and ensures that new development is located in sustainable locations to minimise the need to travel and to avoid negative environmental impacts. The Policy Department says unequivocally that the proposal fails to accord with SD1. Access and travel policy **TA1** provides that developments that are car-dependent or promote unsustainable travel behaviour will not be supported. The Policy

Department again states that the proposal clearly fails to meet this policy. **Core Policy ENVI** states that developments *that have an adverse impact on the Dedham Vale Area of Outstanding Natural Beauty will not be supported*. Whatever commercial benefits it might be hoped could be brought to the Borough, (none if not viable), this policy alone requires the application to be refused if it will have an adverse impact on the AONB. We refer above to the unique features of the Dedham Vale. Charles Clover, Chairman of the Dedham Vale Society, has succinctly set out in his letter of 21<sup>st</sup> January 2013 how this proposal would increase noise, light, traffic and visitor pressure to an unacceptable degree. The independent body, the Dedham Vale AONB & Stour Valley Project, is best equipped to answer this and believes that it will have an adverse impact. The Policy Statement says the proposal is considered to have *“an unacceptable impact on a sensitive rural area.....The scale of the attraction, the mix of uses including many intensive main town centre uses, combined with the unsustainable location in a sensitive area on the edge of the AONB, results in greater impact in terms of unsuitable travel as well as potential harm to the AONB. (5.6, 5.7).* The Statement says that the proposal does not appear to accord with this policy (3.1.50). Nothing could be clearer.

**Core Policy ENV2** provides that *Outside village boundaries, the Council will favourably consider small scale rural business, leisure and tourism schemes that are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment.* Similar restrictions are imposed by Core Strategy Policy **CE1** and Development Policy **DP10**. The project is not small scale. The Policy Department is again explicit in saying that the proposal does not comply, as does the Nathaniel Lichfield report. **Policy DP 22** states that *development in or near to the Dedham Vale Area of Outstanding Natural Beauty will only be supported that: (1) Makes a positive contribution to the special landscape character and qualities of the AONB; (2) Does not adversely affect the character, quality views and distinctiveness of the AONB or threaten public enjoyment; and (3) Supports the wider environment, social and economic objectives as set out in the Dedham Vale AONB & Stour Valley Management Plan.* The Policy Department report is unambiguous. Paragraph 3.1.88 records that *the scale of the proposed attraction and its location in relation to the surrounding area and AONB raise concerns over its impact on the tranquillity of the existing AONB. The proposal is stated to attract 316,250 visitors a year, the majority of which will travel by car. This increases the risk of dispersal tourism including to hotspots in the AONB which on some occasions could not cope with more cars.* Paragraph 3.1.89 says that *the proposal, therefore may not comply with the criteria to make a positive contribution to the AONB and to avoid adverse effects on its character. It would also appear to conflict with many of the objectives of the Dedham Vale AONB & Stour Valley Management Plan.* This is again confirmed by the Dedham Vale AONB & Stour Valley Project. The Planning Officers statement that they would be minded to support the application, if evidence of regional status could be produced, cannot be justified. There is no support for this approach in the Planning Policy Department’s Statement, nor in the Borough’s applicable planning policies. Nevertheless, it caused Britton McGrath to revisit the predicted visitor numbers. Nathaniel Lichfield state in their report that in their view none of the proposed elements at Horkesley Park, in isolation or combined as a whole, have sufficient draw to suggest it will be a tourist attraction of regional significance. (3.32) Although, contrary to Nathaniel Lichfield, Britton McGrath conclude that, if viable, the project could have regional appeal, they state *“we stand by the analysis presented in the previous document with regard to penetration rates.”*

In other words, all the independent evidence shows the scheme to be unviable to a very significant extent and therefore unlikely to produce any of the claimed benefits;

the very reason for the Council rejecting the previous application (regional or otherwise). However, the latest report from Britton McGrath throws up further concerns with the proposal. It identifies as two of the key drivers of the scheme:- The Chinese Garden. The Constable Experience. A Chinese garden attraction within the AONB is contrary to everything for which the Dedham Vale was granted protected status, and does not comply with **DP 22**. Such an attraction should be in a sustainable location closer to the Town Centre. As for the so called Constable Experience, if there is need for such an exhibition and gallery, there is no special reason why it needs to be located at Horkesley Park. The views are not unique to Horkesley Park. Rather than fence off the area as a private fee paying attraction, the Vale should continue to be managed so successfully by the Dedham Vale AONB & Stour Valley Project as an area freely available to all to enjoy. Constable had no particular connection with Horkesley Park. There is no realistic prospect of the Applicants purchasing any worthwhile original paintings or persuading owners to lend them for display. We have set out the policies and evidence at some length to show that, if planning policy is consistently applied (as it must be), it would be improper for the Planning Officers to recommend acceptance.

#### 12.10 Campaign to Protect Rural Essex comment as follows:-

“CPREssex wishes to object to the above application. It is noted that the applicant has made a number of changes to the application refused in 2011. However, we consider that the proposals are still essentially the same in terms of being a major development within and on the edge of the Dedham Vale AONB and one which will have a severely detrimental impact on the Vale and its quiet enjoyment. Having studied the applicant’s proposals, we consider that the application is completely misconceived.

It is hard to believe there is any “dearth” of attractions; a “dearth” of large scale facilities that threaten the very character that draws people to the area perhaps.

It is also untrue to say there are “limited opportunities for visiting the countryside” or, in relation to the proposed country park, that “it will provide an outlet for low key informal recreation within an area where there are few opportunities for access to open countryside.” There is a very extensive network of footpaths and bridleways.

A development of the size proposed, and assuming the level of visitors materialises, is bound to detract from the character of this part of the Stour Valley and the Dedham Vale AONB.

Visitors, whatever measures are taken to encourage the use of public transport or cycling, are bound to arrive overwhelmingly by car. If the estimated number of visitors is met, then this will lead to a significant increase in traffic. We note the applicant claims that nearly all the traffic will arrive by way of the A134. We do not believe this will be the case.

It is much more likely that a significant number of vehicles will access the site along what are now mainly quiet country lanes, either because they visit this development and also visit Dedham or elsewhere in the Vale or because they are coming from locations where access through these lanes is more direct.

The applicant says (on page 38 of his submission) that all schemes get objections on traffic grounds and that this “reflects a difference between perceived problems and the actual amount of traffic”. There may be some truth in this observation. However, it also reflects the difference between the traffic engineer’s physical capacity approach against an approach that considers the environmental impact of traffic and its effect on

people's quality of life. This is especially true in our submission in respect of those country lanes adversely affected by the application."

CPREssex comment received January 2013 is very concerned to read that your officers will be recommending that the above application be approved. We note you refer to it being a balanced recommendation. It is accepted that you have to start with the development plan and weigh all other material considerations in coming to your view and without seeing your report it is obviously difficult to understand how you have come to the conclusion you have in undertaking this exercise. It is nevertheless surprising that you have come to the view you have. With the recent revocation of the East of England Plan, our understanding is that the development plan consists solely of the Council's adopted LDF. This is very clear in its defence of the Dedham Vale AONB and it is hard to see what other policies in the LDF could carry such weight for this to be set aside. (We are assuming of course that you accept that the development is harmful to the AONB, although it would be hard to imagine that you do not.) The National Planning Policy Framework (NPPF) is the most significant other material consideration in our view. That too is very clear in its recognition of the importance of safeguarding AONBs. We see nothing in the NPPF that sets this protection aside. Paragraphs 109 (first bullet point), 115 and 116 could not be clearer in pointing towards rejection of this damaging application. When the previous application was overwhelmingly rejected by your Committee, several Councillors spoke with feeling on the tranquillity of the area and its beauty. We share those sentiments. Were this application to be permitted, then it would have an irreparable adverse impact on the area's character. We urge you to reconsider your recommendation and reject this proposal.

#### 12.11 The Daws Hall Trust comment as follows:-

"We the Trustees of the Daws Hall Trust wish to object to the latest planning application (No. 120965) by the Buntings of Horkesley Park for a Visitor Centre on the following grounds:-

1. We do not believe that large scale developments such as this should be permitted so close to an important AONB.
2. The vast number of projected visitors with their cars/buses would have an appalling effect on the road systems in the area, particularly the narrow country lanes.

We understand that the current Local Development Framework issued by Colchester Borough, stipulates that developments that have an adverse impact on Dedham Vale AONB will not be supported. It seems clear to us that this application, if granted, would have an extremely adverse effect on this beautiful area and as such should be strenuously resisted and rejected."

#### 12.12 Dedham Vale Society comment as follows:-

"East of England Plan (EEP)

In the introduction to the Supplemental Planning Document of this application, it is noted that in the Localism Act the Secretary of State has the power to abolish regional plans but the EEP remains extant and forms part of the Development Plan for the purposes of determination. The EEP is used as a significant element in the justification for the application.

It is understood that the Government is required to conduct a series of Strategic Environmental Assessments, which are nearing completion, and, thereafter, the Secretary of State will exercise his powers to abolish regionalism.

Additionally there have been a number of appeals against Borough/District Councils, where decisions have been made on the basis of local plans, with Developers claiming precedent of regional plans. These appeals have been lost.

The excellent Colchester Borough Council (CBC) Local Development Framework (LDF), which has gone through the full approval process, is the basis on which the determination should be made.

The EEP will probably be consigned to the dustbin of history before this application reaches a determination.

### National Planning Policy Framework (NPPF)

The NPPF, on which planning decisions will be made in the decades ahead, is an extremely interesting and informative document. It appears not to contain a list of “dos and don’ts” but be a instruction manual to local councils on how to construct their individual local plans.

This is very much in line with the Coalition Government’s policy on Localism – the desire to have decisions made at the local level.

As said above, Colchester’s LDF, a document developed after years of public consultation and involvement, is the document against which all planning applications should be assessed and which fully implements the concept of Localism.

The Introductory Remarks of this application notes that “the NPPF establishes a presumption in favour of sustainable development which should be seen as a golden thread running through decision making”. The selection of this comment ignores the wide protection offered to rural areas and the highest level of protection afforded to “National Parks, the Broads and Areas of Outstanding Natural Beauty” – see NPPF para 115.

It can also be questioned whether a location sited in a rural area and attracting visitors from right across the East of England including London can be in any way regarded as sustainable.

The letter of objection will be dually based on the NPPF and the CBC’s LDF.

### CBC Local Development Framework

#### Core Strategy

#### ENV2- Rural Communities States:

“Outside village boundaries, the Council will give favourably consideration to small-scale rural business, leisure and tourism schemes that are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment.

The application appears to suggest that ENV2 supports this application but this needs further examination – the development:

- Is certainly outside the village boundary – indeed the location is closer to Nayland, a Suffolk village of great historical importance, than central Great Horkeley and a development here would move towards coalescence between two very different communities.
- Cannot be regarded as small-scale. Any activity attracting 316,000 annual visitors, with the number of staff envisaged and the army of logistical vehicles servicing the site, is not small – scale in the context of a rural facility.
- There is a minimal unemployment problem in the communities surrounding the site which will result in employees being “bussed in” thereby further undermining claims of being sustainable.

- Finally this application is sited in or near the Dedham Vale Area of Outstanding Natural Beauty. In fact only the Nursery Site (10.38 acres) is outside the AONB whilst the Chantry Art Gallery and Gardens (5.3 acres) and the Park and Farmland (101.04 acres) are within the AONB. By simple arithmetic this means that 91% of the space open to the public would be within the AONB.

This number of people concentrated in a small part of the AONB could “not minimise the environmental impacts and harmonise with the local character and surrounding natural environment”. One of the vital elements in any National Park or AONB is to provide areas of tranquillity – is that compatible with this number of visitors?

### Site Allocations

An important aspect of the LDF was to identify Growth Zones and then specific Site Allocations within those zones. These were arrived at after a lengthy public consultation and debate and planned development to the north of Colchester in the Northern Growth Zone focused on Myland and the Severalls Hospital Redevelopment. At no time was the Horkesley Park discussed as a development area and this is a major development which should be contained within the LDF.

However, there is precedent for changing the LDF Site Allocations. Wilkins in Tiptree have sought to develop a site which had not previously been identified and, therefore, not allocated as a suitable location. They have applied to the Council to re-open the LDF for that area of Tiptree and the public examination is underway. Only if proposed amendments go through the full LDF process, eventually being approved by the Department of Communities, will a planning application be made.

This must be the route through which any development at Horkesley Park must pass.

### Development Policies

These policies provide the detail on which any planning application must be determined.

DP22: Dedham Vale Area of Outstanding Natural Beauty Development will only be supported in or near to the Dedham Vale Area of Outstanding Natural Beauty that:

- (i) Makes a positive contribution to the special landscape character and qualities of the AONB;
- (ii) Does not adversely affect the character, quality of views and distinctiveness of the AONB or threaten public enjoyment of these areas, including increased vehicle movement;
- (iii) Supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan.

The phrase “in or near to the Dedham Vale AONB” is significant – the whole site, including buildings proposed for the current greenhouse site in order to support the commercial activities, must be regarded as being in the ANOB and judged so for planning purposes.

It is impossible to believe that a development of this size involving bringing 316,000 visitors to a single area of the AONB can make “a positive contribution to the special landscape character.....”

The impact on the AONB is a key theme which will run through this letter of objection.

The work being done by the Dedham Vale AONB and Stour Valley Project with the backing received from Lottery Funding for Managing a Masterpiece is aimed at improving access for all to the area.

Not only access but improving the cultural aspects of a visit and offering skill building and learning experiences to us all.

It is absolutely essential that any Developer seeks to work closely with the Project to further the “environmental, social and economic objectives of the .....Management Plan”.

We understand that no such contact or co-operation has been sought.

### Need

The application claims that there is a need for a regional tourist attraction in the Horkesley area - this claim needs to be substantiated.

There are a wide range of tourist attractions across East Anglia dealing with cultural aspects of life and the Countryside. The need for a new one claiming tenuous links to Constable, who was never recorded as having had any contact with Horkesley, is extremely questionable.

The real tourist attraction in the area is Colchester with its wide range of historical buildings and two thousand years of history. This is the tourist attraction that should be developed and indeed that is exactly what CBC is attempting to do.

Two competing tourist attractions within a few miles of each other would seem to be counterproductive.

### Sustainability

Much of the NPPF is concerned with Sustainability, which in broad terms is defined as reduction in carbon emissions, and it is clear that all applications must be assessed on strict sustainability criteria.

NPPF para 3 requires new developments to incorporate a Transport Statement aimed at minimising transport requirements. NPPF para 17 on moving to a low carbon future is also relevant in this context.

There can be no doubt the buildings proposed will be constructed to the highest possible standards of sustainability.

However, the concern is how will 316,000 visitors from across the East of England, including London, arrive at the Stour Valley Visitor Centre.

Anyone who has attempted to travel by train from, say, Cambridge to Colchester, will be aware that public transport is time consuming and uncertain, particularly during the inevitable weekend engineering works, and very expensive. A typical family of four will look to the family car sitting in the family garage thus contributing to the level of carbon emissions in the atmosphere.

Then the staff, who will mainly come from Colchester, will add to the problem as the development is some 5 miles from the centre of town and special transport arrangements will have to be made for them.

Finally there is the logistic train that will be supporting the site.

The provision of a transport plan involving bussing people from Colchester Station is a mere fig leaf of respectability – only a small minority of visitors from Colchester or those arriving by train are likely to avail themselves of this service.

As the application claims to be a regional attraction and is in a rural location outside Colchester, it will be a contributor to carbon emissions and not comply with NPPF para 32.

### Traffic Assessment

The Essex Highways Authority with the previous application raised no objections to increased traffic flows – this has been a source of anger and irritation in the local community.

The Highways Authority only have an obligation to assess traffic flows on A routes, in this case the A12/A134, and does not look at the problems created on roads off the A routes.

Additionally it is assumed that everybody will travel on the prescribed route A12/A134. Indeed in the application it is suggested that everybody will refer to the internet to obtain details of the route to Horkesley Park and in that way traffic will be controlled and focused as desired by the Developer.

This shows a total disregard for normal human behaviour – the family on a day out will decide their route and vary it to meet their needs.

The projected time that visitors will stay at the venue is 4 hours 1 minute (!) and almost certainly, after seeing exhibitions on Constable, will be inspired to explore the Vale further and will move cross country to Dedham, Flatford Mill etc.

The result will be much more traffic on the country lanes, many of which are single track, with consequent damage to the tranquillity of the AONB.

DP 22 refers to public enjoyment being threatened by increased vehicle movements and DP 21 has a commitment to “protected lanes” – no development will be allowed that “gives a material increase in the amount of traffic.....”

There are three “protected lanes” in Little Horkesley – Fishpond Hill, Workhouse Road and Holt Road, which are all under threat from the Visitor Centre.

Fishpond Hill is within a few hundred metres of the entrance and in the application the Developer promised to resolve the problem by telling people not to go down Fishponds Hill - a totally unrealistic approach.

### Visitor Numbers

This is a real area of concern because the financial viability of the project depends entirely on the foot fall.

Over the 10 or so years these applications have been around, the numbers have fallen from an estimated 785,000 to 316,000 and, although what is on offer has been scaled down, no convincing statistical analysis of how these numbers were arrived at has been discussed.

A comparison with similar venues across the East of England would show that these forecasts are optimistic – can it seriously be forecast that a visitor centre will attract the same number of visitors as Colchester Zoo in its first year of operation. The Zoo is a regional, national and international important venue but even the Zoo is struggling in these times of recession.

NPPF para 23 Ensuring the vitality of town centres is relevant – Colchester is a historic town with much of interest for the tourist and, how does a Tourist Attraction of claimed regional significance, sit with reference to the aim of revitalising Colchester Town Centre.

### Retail Activity

The application claims that the space devoted to retail is much reduced.

However, since when has the space devoted to retail been the sole determinant of retail success or failure. Additionally the proposed buildings are flexible and could be quickly adapted to retail purposes – the horse arena could become a regular Farmer’s Market attracting large crowds say every second Sunday in the month or perhaps the site of a pop concert and wouldn’t the Parklands and Farm overlooking Nayland make an ideal site for an outdoor Music Festival.

The public have so far been denied access to the information necessary to assess the financial viability of the project – can this be right in an age of openness?

It has always been a concern in the local community that this venture will fail, by virtue of a shortfall in attendance or retail sales, and the site be sold onto a third party with its then existing retail permissions e.g. a supermarket and then the problems for the AONB will really start.

On 22 June CBC issued a Supplementary Planning Document: Better Town Centre – improving Colchester for you and your family, which will be subject to a public consultation period from 22 June to 27 July. This initiative reflects the NPPF “Ensuring the vitality of town centres” paras 23 to 27 and under para 26 an impact assessment over the next 5 to 10 years should be required from the Developer.

An out-of-town tourist/retail operation would undoubtedly impact town centre initiatives.

### Access to the Countryside

Much attention is given in the application to the Developer’s wish to encourage and support cycling and walking. No doubt this is designed to comply with the NPPF para 35 and LDF DP 17.

There are a number of issues:

- The Stour Valley Visitor Centre is 5 miles from central Colchester and beyond the walking or cycling capability of most family groups,
- The route from Colchester is down the A134, a very busy and dangerous road,
- The population in the immediate area is small and unlikely to pay the required entrance fee on a regular basis.

Unless the Developer is willing to meet the cost of constructing safe cycle/walking paths all the way from Colchester, these claims are merely window dressing.

Additionally the people of Colchester already use the area extensively for recreation – horse riding, walking on the many quiet lanes, footpaths and bridleways and cycling either in family groups or as individuals.

These activities would be destroyed by any increase in traffic arising from the Stour Valley Visitor Centre on these quiet country lanes, particularly on summer weekends.

The CBC Green Infrastructure introduced in 2011 provided the perfect opportunity to the Bunting Family to open the Park and Farmlands to the people of Colchester as a free country park along the lines of the Highwoods Country Park – an opportunity missed.

Access to the countryside must remain free to all not £50/family of four.

### Noise and Light Pollution

A little further down the Vale at Woringford the shouts of delight as the 15 children at the local school ran out to play could clearly be heard in the valley.

The Visitor Centre has the same problem, the noise from families in the Park and Farmlands will roll down the hillsides towards Nayland and the vital tranquillity of the AONB will be disrupted.

However, we are not discussing the joyous noise from 15 children but potentially hundreds on a summer’s afternoon.

A real issue across the whole Vale is that of light pollution and several owners of pubs and restaurants across the area have agreed, or been forced to agree, to moderate the light spillage from their properties.

The site is on a hill overlooking the AONB and it is difficult to imagine, even with modern technology, how a high level of light pollution is inevitable.

The AONB must be protected from both forms of pollution.

### All Saints Church, Great Horkeley

This is a Grade 1 listed building which will be surrounded by the “Theme Park” and the application suggests that the Vicar and Congregation support the proposal.

The Vicar retired some months ago, is living in Northumberland and certainly never saw the latest application. The current situation, as discussed with the Lay preacher, is

that the Congregation are relieved that the most recent application is smaller but certainly does not “welcome” this intrusion to their beautiful rural location.

### The Greenhouse Site

The feeling in the local community is that after 10 + years of non-use the site has become an eyesore through managed “decline”. It should be returned to the purpose for which planning permission was granted, horticulture, or failing that knocked down and restored to agricultural use.”

Dedham Vale Society has further commented in January 2013:-

“This application is for a large-scale development with a significant impact on the Dedham Vale Area of Outstanding Natural Beauty – as 91% of the land in this application falls within it. The proposed visitor centre would involve major earth-moving and building works, including the building of a large car park on a hill within the AONB, with all the noise and light pollution resulting from that. It would involve a transformation of the setting of Great Horkesley church and the quiet valley running down to Nayland. The proposal is essentially for a tourist “honeypot,” or theme park, on a considerable scale and as such would increase noise, light, traffic and visitor pressure in this location to a degree unacceptable in a nationally protected landscape. The retail element also threatens to impact the viability of Colchester town centre. Through its 75-year history the Dedham Vale Society (DVS) has sought to protect the Dedham Vale from unsuitable development. It was instrumental in having the Dedham Vale AONB, and the AONB designation generally, enshrined in the 1968 Countryside Act. The DVS, which currently has around 900 members, considers that this proposal runs strongly counter to the letter and spirit of the AONB for all the reasons stated above.

That happens also to be the view of the other body charged with the stewardship of the AONB, the Dedham Vale and Stour Valley Project. These shared views deserve to be influential. The Dedham Vale is one of the smallest AONBs in the country, sandwiched between two major conurbations and its tranquillity and rural views are fragile and extremely vulnerable to development pressure. Government exhortations to create economic growth clearly do not apply to developments that would adversely affect the landscape or tranquillity of AONBs and ministers have made this abundantly clear.

For this reason, it is our understanding that the application runs counter to national, regional and local planning law. Specifically, the overriding need to protect the AONB is reflected in the National Planning Policy Framework. Paragraphs 115 and 116 of the NPPF contain strong protection for AONBs and comments on the importance of sustainable development when it comes to selecting sites near to transport infrastructure and the need to secure the long-term future of town centres. The Colchester Local Development Framework - approved by the planning inspectorate, the full Colchester Council and the government - contains in Development Policy 22 specific protection for the AONB. Further policies seek to protect the countryside by permitting only small scale business initiatives, protection of the town centre from out-of-town development and by focusing tourist attractions within the urban centre of Colchester.

Your own Planning Policy Unit has assessed the proposal as failing on all the above counts and the council’s independent advisors have assessed it as unsustainable by virtue of its location and the fact that 90% of the visitors will arrive by car. We would therefore like to register our dismay that the recommendation going to the Planning Committee is not based on planning law.

A key element in the decision is whether the proposal is commercially viable. The report from Britton McGarth Associates, consultants hired by the Council, gives reason seriously to question the proposal's viability. If it fails as a commercial venture, it could be sold on with its existing planning and retail permissions and become an out-of-town shopping facility or slip into other unsuitable uses including conference centres, amusement parks or themed wedding venues. The most likely of these, an out-of-town shopping facility, would run counter to the Council's aim of rejuvenating the centre of Colchester.

The application states that a "key driver" in ensuring the commercial success of Horkesley Park as a regional attraction is its association with the artist John Constable and "Constable Country". However, there are no connections between the Horkesley area and the paintings of John Constable, nor, we are informed, is there any realistic prospect of any public gallery loaning Constables for a worthwhile exhibition. Private owners would require hefty investment in atmospheric controls, security and insurance likely to make such exhibitions unrealistic. Comparison with the visitor numbers going to Dedham/Flatford, where Constable painted many of his most famous works, is inappropriate – the landscape he painted is there and access is free.

The idea of creating a Chinese garden within such a celebrated English landscape would also seem to be in conflict with the kind of landscapes the AONB was created to protect, as would the proposal to charge for admission.

So we have an application which in our view is manifestly against national planning law, unsustainable and probably not commercially viable. We struggle to understand why the council's officers are recommending approval, unless a motivating factor is the cost of an appeal. We believe that the officers should reflect on the long-term importance of the protected landscapes of the AONB as an asset for the residents of Colchester and the surrounding area and conclude that opposing a development which will damage that asset represents good value for taxpayers' money.

The Dedham Vale Society urges the officers to reconsider their recommendation and urges elected members of the planning committee to reject this application. The council's only honourable option is refusal."

#### 12.13 The Design Council comment as follows:-

"Unfortunately, due to limited resources, we are unable to review this proposal."

#### 12.14 The Essex Chambers of Commerce comment as follows:-

"I am writing on behalf of Essex Chambers of Commerce to register our support for the planning application. We are the County's leading business organisation representing a wide range of businesses from sole traders through to multi-national companies.

We are obviously aware of the background to the previous application for this site but feel that many of the objections to those proposals have been addressed in this current application.

The site is currently unused and clearly needs an alternative use or uses to be identified for it rather than being allowed to become derelict. We consider that these proposals amount to a viable and acceptable use.

If approved this application will create over 100 jobs and in the current economic climate this is something that should not be lightly disregarded. We also consider that there will be additional economic benefits to both the immediate area and further afield, including Colchester and north Essex generally."

12.15 The Foxearth and District Local History Society (Suffolk) comment as follows:-

“I and fellow members visited the site about two years ago and were introduced to the owners of the proposed development. It was explained to us very clearly the outline of the park and its aims and ideas for the future. We were behind the scheme for the following reasons. Firstly it is an historic site and this major reason was covered as to how the site and certain buildings would be retained and used in the scheme. Secondly the Suffolk punch breeding centre was felt to be an important and significant asset to the area in ensuring that this breed of horse was secured for the future. Lastly the park as a whole would continue to be of interest to the public from far and wide with particular reference to children and their education as regards wildlife for the foreseeable future .I am aware that there has been some local opposition to the scheme but I feel that this view is an indication of nimbyism and luddism. I have the backing of the F&DLHS in requesting that this proposal is passed to enable others with similar interests to ours are afforded the opportunity to enjoy the benefits of the scheme.”

12.16 The Haven Gateway Partnership comments

“The Haven Gateway Partnership continues to support Horkesley Park in their ambition for a Stour Valley Visitor Centre.

As I have previously affirmed, this support is given having reviewed business planning assumptions and found them both plausible and sound and likely to deliver a visitor attraction of genuinely regional scale and significance. This will be important in increasing year round visitors to support the local economy and provide additional attractions for existing visitors to the area to stay longer. Indeed, this is particularly of benefit for both the friends and family market and turning day visitors into overnight stays both of which are key markets if the visitor economy in Essex is to grow.

You will be aware that the Haven Gateway works particularly closely with the ports and specifically Harwich International. The introduction of the Stena Super Ferry service 3 years ago has re-invigorated ferry passenger numbers with some 5% rise year on year. Moreover, Harwich Cruise grew last year from 26 visits to over 40 and next year 54 cruise visits are currently projected.

These successes, in very challenging economic times, suggest to me that additional regional attractions accessible to international points of entry are likely to achieve significant visitor numbers and spend in both existing and new markets such as China. Moreover, accessibility locally and to London will drive visitor volume underpinning a powerful rationale for the business case.

On this basis, we continue to hope that the development is considered favourably as it could form an important new visitor attraction to not only the Stour Valley but also of wider regional –scale tourism benefit”.

12.17 The National Trust comment as follows:-

“The removal of built development from the AONB designated area and design improvements which will significantly reduce the height, bulk, massing and lighting impact of the proposed development are welcomed. So too is the removal of the garden centre and lecture theatre from the scheme and the resultant further reduction in anticipated visitor numbers from the original 485,200 to 316,000 per annum with associated decreases in anticipated trip generation.

However, notwithstanding the additional information submitted in support of the application, the National Trust continues to have the same strong overriding concerns about the promotion of this site for “Constable” related tourism development.

In particular the development will fly in the face of established Planning and Visitor Management policies for the AONB which aim to manage and control the extreme visitor pressure for Constable related heritage sites thereby ensuring:

- The conservation of the character and setting of the Grade 1 Listed Flatford Mill and Grade 2\* Listed Willy Lotts cottage.
- Protection of the visual and environmental qualities of the Dedham Vale (designated as of national importance as an Area of Outstanding Natural Beauty).
- Maintenance of the quality of life for people living in the area who are most affected by traffic and congestion along their rural roads and village streets.

Visitors to the area can experience the ‘spirit’ of place of ‘Constable Country’ captured in the beauty and tranquillity of the rural landscape and the key listed buildings within it associated with Constables paintings. Consequently a key element of visitor management for the area is to retain this ‘spirit of place’ by ‘playing-down’ the promotion of Flatford and its surroundings as a tourist destination.

The inclusion of Constable related “tourism” within the Horkeley Park application proposes a completely conflicting approach which would be likely to promote Constable thereby encouraging large numbers of additional visitors for which the provision of parking and access is inadequate. It thus follows that it will be likely to increase congestion and unauthorised parking along the narrow rural roads and within the small villages and towns of the Dedham Vale to the detriment of the enjoyment of visitors and residents as well as the quality of the AONB landscape.”

#### 12.18 Nayland with Wissington Conservation Society (Suffolk) comment as follows:-

1. The application is in conflict with the NPPF and the local development plan in many material respects.
2. The proposed development is not sustainable and it does nothing to enhance or conserve the countryside.
3. There are insufficient changes to this application, which merit any alteration in the decision to refuse it. The Dedham Vale AONB is a beautiful and tranquil jewel in the English countryside and it would be a tragedy for future generations if its unique character were to be destroyed by a parody of the reality.

Nayland with Wissington Conservation Society have further commented in January 2013:-

“I write on behalf of the Nayland with Wissington Conservation Society and in view of the additional documents lodged in connection with this application desire to make the following comments in support of the Society’s continued objection to the above proposal.

The Society appeals to the members of the Planning Committee that there can be no justification for any departure from National and Local Policies. This application will produce an unviable business as has been evidenced by the Council’s independent experts. There is no justification for regarding this application as a project enjoying regional status. The Council’s policy department and all three independent consultants have identified clear areas of opposition to this application. The future of the Dedham Vale Area of Outstanding Beauty is on your hands and we hope and trust you will refuse this unwanted application.”

12.19 Stour Valley Action Group comment as follows:-

**The Stour Valley Action Group (SVAG)** is one of the key interest groups making representations on the application. SVAG together with many of the objectors consider the development will have an adverse impact on the countryside and the AONB.

The Stour Valley Action Group (SVAG) was formed as a properly constituted representative body in June 2001 in response to the Applicant's first proposal for "The John Constable Countryside and Heritage Park". It now has an active mailing and e-mail list of over 720 members. Its primary Term of Reference is to "*Expose to full public scrutiny the Planning Application for the John Constable Countryside and Heritage Park and any variation to such Application*". The current Application is thus covered by the Terms

The Stour Valley Action Group (SVAG) strongly objects to the plans for the Stour Valley Visitor Centre at Horkesley Park (Horkesley Park) for the primary reason that if Planning Consent were to be granted it would do irreparable damage to the peace and tranquillity of the Dedham Vale Area of Outstanding Natural Beauty (AONB), which is celebrated for these very characteristics. This must not be allowed to happen in the name of short-term financial gain for Bunting and Sons (the Applicant). Furthermore we contend that the Application cannot be given consent under National, Regional and Local Planning guidelines, both generally and particularly as they relate to AONB's, and must be refused.

As our primary objections to Horkesley Park are based on the interpretation of the scheme in the light of planning law and policy, we have instructed independent expert planning consultants, Pomery Planning Consultants, to consider the Planning Policy aspects of the Application their report forms the basis for our objections.

Summary of Key Objections:

The Application is contrary to the whole ethos of government and local planning policy and must be rejected on these grounds alone.

The Application would compromise the peace and tranquillity of the AONB in a totally unacceptable way. The AONB is protected by National, Regional and Local planning policies.

No need has been established for the Application on a Regional basis. All its elements, and more, are available elsewhere in East Anglia.

Visitor numbers are likely to be closer to 150,000 than the 316,250 predicted by Sykes. The Application is not of Regional significance.

There is so much doubt about the reliability of the tourism data supplied that the Council is strongly advised to have the conclusions of the Sykes report tested by an independent consultant.

The project is predicted to make a loss before interest and tax of £2.5m. At the very least, we presume that the Council will get independent advice on financial viability.

Sales other than entry fees will probably account for 48% of sales. The claim that retail sales are 'ancillary' is not justified. It is of concern that the Council has apparently accepted that retail sales would be ancillary.

The job numbers predicted cannot be relied on and are likely to be much less than the 106.5 FTE on-site jobs predicted. This number cannot be secured through a S106 agreement.

The impact of additional traffic on secondary routes to the site and minor roads has not been properly examined.

We remain concerned about the impact of additional traffic on the Protected Lane which is Fishponds Hill.

Horkesley Park takes very little account of noise generated by people. The tranquillity of the Church, churchyard and across the Valley will be considerably compromised by noise, particularly at weekends.

Up to 3000 people per day can be expected on peak summer weekends. Noise from such a large number is potentially very intrusive.

It will be difficult to control light pollution particularly if the site is used for evening functions.

The Application would generate at least an additional 3000 tonnes of carbon dioxide per annum from visitors' car journeys alone. The Applicant has not assessed the overall carbon footprint of the development. An ADAS (Agricultural Development & Advisory Services) report commissioned by SVAG shows that the glasshouses could still generate an adequate return from horticultural activity.

The site should not be regarded as agriculturally redundant and the conversion of a Grade 2 field into an overflow car park should not be permitted within the guidelines.

At the date of writing there are 547 letters of objection and 297 in support. Those objecting include the Dedham Vale Society, the Colne Stour Countryside Association and Nayland with Wissington Conservation Society. They represent an aggregate membership of 1938 people (2658 including SVAG). The strength of opposition cannot be ignored.

Any decision to approve the Application would create a precedent for such intrusive developments that could affect all AONB's in the Country.

The Stour Valley Action Group has further commented in January 2013:-

"Further to your letter of 17th January 2013 inviting additional written comment on the above application, we believe that it must be refused on the basis that it is contrary to policy and the findings of the recently issued consultants' reports submitted by the team retained by the Council at local taxpayers expense.

In view of the incomprehensible position the Planning Officers have indicated they will be adopting in recommending approval of the application we have taken Leading Counsel's opinion on both the planning position and the process that the Council has followed. We attach that opinion from Mark Lowe QC together with an opinion on

policy from Pomery Planning Consultants and our own analysis of the question of financial viability and visitor numbers. We trust that the opinion will assist you and your colleagues in preparing your report and we wish the Council to be in no doubt as to the areas of major concern that we have over your position and that you should be clear as to the areas that we will challenge if your misguided approach continues and leads to a resolution to approve being made by the Planning Committee.

The Stour Valley Action Group's position throughout all the applications for Horkesley Park since 2001, of which this is the latest iteration, is that it would cause irreparable harm to the Dedham Vale Area of Outstanding Natural Beauty and destroy the peace and tranquillity for which the area is internationally famous. If approved it would set a precedent for inappropriate development in, and adjacent, to Areas of Outstanding Natural Beauty across the Country. This is surely not the intent of the NPPF or the Council.

If Horkesley Park were to be approved, it would completely negate the findings of the applicant's own consultants, LDA Associates, in their report for the Countryside Commission of 1997 entitled the Dedham Vale Landscape in which they extol the virtues of the outspokenness of local communities who care about the Dedham Vale to resist harmful change. We are vocal and this would be harmful change.

We are sure that the Planning Officers will change their stated position and see the overwhelming reasons for recommending rejection of the application".

### **Opinion from Mark Lowe QC**

#### Introduction

1. I am instructed to advise the Stour Valley Action Group (SVAG) on the appropriate approach in policy to the application due to be determined by Colchester Borough Council as local planning authority on 28 February 2013 relating to the application for planning permission for the Stour Valley Visitor Centre at Horkesley Park, Colchester and the recent conduct of the Council's officers with respect to the application.
2. This is an application for a major EIA development in the countryside well outside the built up area of the town. The application site comprises a total of 47.41 ha the majority of which lies with the Dedham Vale Area of Outstanding Natural Beauty. That which lies outside the AONB boundary is in part occupied by redundant agricultural glasshouses [4.2 ha], other buildings and their gardens [2.32] and a small amount of open countryside.
3. The application is the last in a line of similar applications seeking the redevelopment of this site over the past decade or so. All such applications have attracted a substantial volume of controversy and objection.
4. The current application was designed to be considered alongside the policies of the former RSS14, the East of England Plan, which contained a relevant policy, policy C2 relating to tourism proposals of regional significance. With effect from the 3rd January 2013 the EEP was revoked and that policy is now of no weight whatever. This foundation having disappeared the application now has to be considered against the remaining elements of the development plan and the NPPF, which was also published after the application was made.

5. In this advice I will consider the current procedural position, the appropriate policy approach as a matter of law and the material considerations that CBC will have to weigh in the balance when determining the application. In doing so I am assisted by the summary of the economic case relating to the development and the policy position that are attached to this Advice.

#### Procedural Position

6. The Council's consideration of this application has been in the context of a Planning Performance Agreement. This has led to close liaison and exchange of information between the Council and the applicant much of which has not been shared with third parties, including SVAG. I will now turn to the catalogue of shortcomings in the procedure adopted by the Council to date.
7. The Officers of the Council with primary responsibility for assessing the application and reporting on it to members met with representatives of SVAG in August 2012. At this meeting SVAG were informed that the Council were going to employ three independent consultants to advise them respectively on the business case for the proposals, the highways and transportation implications of the proposals and their planning policy implications. At this meeting SVAG were told that the reports would be published on the Council web site. (with the exception of the report into the confidential business plan). This did not happen. Only after a further meeting between SVAG and the Council on January 3rd 2013 did they release copies of these reports on January 7th 2013, those relating to the business case being so heavily redacted that the public have little insight on the material relied upon by the applicant to support what is, as I shall demonstrate later, a vitally important aspect of the case.
8. Moreover, these reports had plainly been shared by the Council with applicants for a substantial period of time before their release into the public domain as all had already been the subject of strenuous, albeit unconvincing, comment by way of rebuttal from the appellants and their consultants. This is contrary to the assertion contained on the Council's web page dedicated to this application that states: 'These consultants were instructed by the Council and paid by the Council with no input from the applicant'. However, there has been extensive input from the applicant to the supplemental material provided by the economic consultants Britton McGrath Associates ['BMA'], the key elements of which have been redacted so that their reasoning is largely unintelligible.
9. Undoubtedly the most serious shortcoming of the procedure adopted by the Council is the fact that they published a notice on the web page dedicated to this application in the following terms posted by the Council's Development Services Manager on 21 December 2012:  
'I would like to advise you that following detailed consideration of the merits of the planning application officers of the Planning Service are now in a position to prepare the relevant officers' report to Planning Committee.'

The application will be included on the Planning Committee agenda for the scheduled meeting of Thursday 14 February 2013 and I have made arrangements with the Democratic Services Manager to use Moot Hall as the venue for the meeting on the basis that there has been much public interest in the proposal and the meeting is therefore likely to be well attended.

I wish to advise you that based on our full professional analysis of the merits of the proposal the Planning Service's balanced recommendation will be favourable.

For the next month officers will be producing a complex and comprehensive Planning Committee report within which all of the various planning issues will be thoroughly explored. These will include looking at the impact of the National Planning Policy Framework (NPPF) which did not exist when the Council last considered a proposal on this site. The report will also consider the impact of the recent announcement that the East of England Plan will be abolished at the start of 2013.

It is my intention to publicise the relevant committee report on the Council's planning web-site earlier than statutorily required (which is 5 working days before the Committee meeting) in order to allow all interested parties greater time to consider the report and formulate their own reaction.

I should remind you that this update represents an officer opinion and it is not binding on the Council or the Planning Committee. Members on the Committee will judge the merits of the proposal 'on the night' based on the all the arguments and evidence presented (whether that be in writing or in verbal representations). (my emphasis)

10. This is the clearest possible indication to the public that although their opportunity to comment on the applications in the light of the recently released consultants' reports and the abolition of the EEP is still to come whatever they say on these important matters be of no or little value in the sense that the relevant officers of the Council have already determined that the report will support the application and recommend it for approval. This is plainly unfair and flies in the face of the well established principles of procedural fairness in public law i.e. that the objectors, along with all participants on the planning process, should be accorded "a fair crack of the whip"<sup>1</sup> and that consultation should be genuine in that it is undertaken before conclusions are reached and that the product of consultation must be conscientiously taken into account when the ultimate decision is taken<sup>2</sup>.
11. This predetermination or bias on the part of the officers is a blatant error and is further confounded by the following features of the stance adopted by them; namely (i) They have decided to support the application before they have received the advice of their colleagues responsible for policy matters on the proper approach to the application in terms of policy following the revocation of the EEP. (ii) They have decided to support the application before they have written their report on the application. (iii) They have indicated that they will apply a policy test to the application which is at odds with the advice they have received from their policy section and which is incorrect as a matter of law.
12. Had this been the conduct of the councillors determining the application it would be sufficient to render their determination of the application unlawful. However, 1 Fairmount Investments v. Secretary of State for the Environment [1976] 1 WLR 1255 2 E.g. Lord Woolf MR in R.v. NE Devon HA ex parte Coughlan [2001] QB 213 the members still have the opportunity to take steps to try and remedy this tale of procedural unfairness and substantive error in their determination of the application.

13. Why or how has this somewhat extraordinary state of affairs arisen? Without in my view being either unfair or cynical about the matter there is one obvious answer that stares out from the papers. I refer to the threat articulated by the appellants for example to BMA at a meeting on 11 December 2013: “if CBC were not able to confirm their support of the scheme by the end of play on Thursday 20th December, they would, subject to instruction by their client, lodge an appeal.’
14. The implications of this state of affairs are in the first place for the members of the Council determining this application. References to the monitoring officer of the Council and complaints of maladministration fall outside the remit of this advice. I limit my observations to the point that these events serve to undermine the confidence that the public and members could otherwise have on the objectivity and the reliability of the report they will receive from their officers on this application and lay stress on the need for members to take pains to exercise their own independent judgment on these matters.
15. The next procedural issue that is of concern to my clients, and no doubt to other objectors who find themselves in a similar position, concerns the paucity of information in the public domain as to the viability of the proposals. The applicants have judged, correctly in my view, that they should support their application by a demonstration of its viability. As Mr Jonathan Eddis of SVAG observes in his representation, which is an incisive examination of the material on the viability of the proposals: “Viability is absolutely critical to any assessment of this project. If the proposition is not viable, then none of the purported benefits will be achieved.” That need is supported by the policy analysis. In brief, the Council needs to be satisfied that the proposal as described in the application will be forthcoming and be likely to be viable before it can either give substantial weight to the benefits alleged to flow from it or be satisfied that it will not be the cause of the sort of harm alleged by objectors who claim that it is likely to fail and if so could be a Trojan horse for the introduction of other and more harmful uses on the site which will be provided with a car parking capacity equivalent to that of a modern superstore.
16. The information made available to the public in the reports published on 7 January 2013 is heavily redacted at the insistence of the applicant who claims that it contains confidentially sensitive information. Why this information should have this character is not stated. As there is no suggestion that a rival or similar proposal is in the offing it is difficult to understand what would be commercially sensitive about releasing the key inputs to the viability equation. All that has been revealed to date is the estimated annual visitation rate (a product of the assumed penetration rate within an assumed catchment population) and the estimated entry charge, all the rest is undisclosed although, as will be seen from the accompanying SVAG analysis, some other figures may be derived from the data. This feature seriously impedes the public understanding of the case in a demonstrably unfair way. However, the Council’s own independent economic analysts, Britton McGrath Associates [‘BMA’], have reached some significant conclusions on the allegedly confidential information that was released to them.  
The absurd lengths to which this process of redaction has gone is revealed by two examples from the main report of BMA dated November 2012 page 52

where all the figures relating to viability other than visitor numbers are redacted and on page 53 where BMA's own conclusions as to the likely turnover of the business and the likely staffing level are redacted, the latter being matters which on any view cannot be confidential to the applicants since they are the opinion of the consultants.

### The Policy Approach

17. The interpretation of policy is ultimately a question of law: *Tesco Stores Ltd. v. Dundee City Council* [2012] UKSC 13.
18. The starting point is the test established by s.38 (6) Planning and Compulsory Purchase Act 2004: 'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.
19. Thus the first question for the Council to address is whether the proposals comply with the policies of the current statutory development plan and not the question set out on the web page.
20. The Council has received independent advice on the planning policy status of the proposals from Nathaniel Lichfield and Partners ['NLP'] planning consultants with a well established national reputation which is reinforced by the careful and comprehensive advice received from the Council's own planning policy section dated 4 January 2013 which should be read by all members. This is summarised in the paper produced by SVAG's planning consultant, Mr Robert Pomery of Pomery Planning Consultants, to accompany this advice and I will not set this out further.
21. When the proposals were submitted that plan included the RSS14, the East of England Plan and the applicants were at pains to seek to justify the application by reference to policy C2 of that plan which provided guidance on proposals for leisure, sport, recreation, arts, tourism and cultural facilities which were of regional or national significance. Such proposals would be acceptable in rural locations such as this where exceptional circumstances were demonstrated. As stated above that policy is no longer of relevance. However it should be noted first, that the EEP contained no definition of the concepts or regional significance or of what constituted exceptional circumstances and secondly that the East of England Development Agency considered the proposal of 2009 which claimed to be likely to attract 485,000 visitors per annum, create some 226 jobs and generate £2.7m of additional expenditure in the area would be of only "subregional significance" i.e. as NLP observe in their report to the Council, "a facility a step below regional significance, but above local significance".
22. Nevertheless, the applicant still prays in aid of the proposals their alleged regional significance as a material consideration. Whether they are correct in doing so and the weight to be afforded to this matter is plainly for the decision maker to judge. However, it seems reasonable to assume that EEDA understood what was and what was not of true regional significance within their region so that if the 2009 proposal did not reach that status the current proposal with a substantially reduced volume of annual visitors (316,250) on the

appellants case and 100,000 to 130,000 as advised by BMA or a reduction of between 40 to 80%) and of employment figures (106.5 appellants and circa less than 50 SVAG analysis or a reduction of between 50 and 70% or more) will not do so. As the Council's own consultants demonstrate, the visitation figures and the consequent turnover derived from entry fees are grossly exaggerated and the further income from on-site sales (catering and retail) are also excessively optimistic. On this basis it is self evident that nothing of regional significance, whatever that nebulous concept means, can be produced.

23. Further, BMA in their heavily qualified Supplementary Review of the Potential for Horkesley Park to deliver Regional Status dated 18 December 2012 (recently disclosed) only admit of the potential for the proposals to become a regional attraction (for which they provide no criteria) provided three significant provisos are met and three "over-riding caveats" are taken into account. Thus any conclusion to the effect that the proposals would be of regional significance would fly in the face of the independent advice provided to the Council in the absence of a convincing demonstration that the provisos are met and the caveats, which, as we will see, require amongst others the submission of a revised Business Plan, are satisfied.
24. It follows from the analysis provided to the Council by its own specialist officers and that from its independent consultants that the scale of the proposals is inappropriate to a rural location and the accessibility of the site by sustainable means of travel other than the car dictate that the proposal is contrary to the policies of the development plan and it is necessary for the decision maker therefore to consider whether the balance of material considerations indicate that that the proposals should not be refused.
25. The first among these material considerations is the NPPF. In general terms hat advocates sustainable development which it describes as "a golden thread running both through plan making and decision-taking" (para 14). The same paragraph advises that when, as here, one is decision making one should approve proposals that accord with the development plan "without delay" and "where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole; or specific policies in the Framework indicate development should be restricted".
26. This poses the following questions:
  - i. Is the development plan absent, silent or relevant policies out of date?
  - ii. If so, do the adverse impacts significantly and demonstrable outweigh the benefits when assessed against the NPPF as a whole?
  - iii. Do specific policies of the NPPF indicate that development should be restricted?
27. The Core Strategy is present and is not out of date as it was adopted under the provisions of the 2004 Act. Is it silent? The advice of the Council's own policy team and NLP is that it is not. The policies clearly make provision for tourist facilities in the countryside, for sustainable development and transport accessibility. The relevant policies are carefully identified for members by their

policy unit, the departures from them are identified and NLP accord with that view. In my opinion these analyses are accurate as a matter of law

28. If the above analysis is correct one does not go to the second test, as the web page note of 21 December 2012 claims, but back to the test set out in s.38 (6) of the Act applying the presumption in favour of sustainable development as advised in paragraphs 196 and 197 of the NPPF which requires the decision maker to decide whether the proposals do accord with the Framework.
29. In striking that balance it is essential for the members to decide whether or not the scheme is likely to be viable as only if it is viable would it have the claimed advantages of regional status, economic benefits to the wider area including expenditure in the local catchment and new employment that are prayed in aid as example of the economic and social sustainability of the proposals and which are said to justify any departure from the development plan that may arise. Equally the issue of viability is important as it lies at the heart of the concern of SVAG and others that if this scheme were to fail there would be left a large white elephant in an unsustainable location in the countryside and in the AONB looking for a new use that might be even more incompatible with its surroundings and its rural location.
30. That requires the members to consider the three provisos and the 'overriding caveats' set out by BMA. I take them in turn below.
31. Proviso  
1: 'the investment in the Chinese Garden is forthcoming to the levels indicated and is executed to a high quality'. There is as yet no design for this garden in the public domain although it forms part of the proposals for which permission is sought. It lies within the AONB and will include new structures. One would anticipate that the Council would require some better information as to its design and the required structures before it could determine the application. One of the reasons for rejection of the previous application 090231 was the presence of new structures (the Warren) in the AONB and one might expect the same principle to apply here. It is of note that on page 39 of the Sykes Leisure Projects report dated May 2012 which forms part of the EIA it refers to a request from Essex County Council to include the Chinese Garden feature to "strengthen links with Jiangsu Province with which Essex is twinned". A letter from Cllr Martin, Leader of the Council, dated 11th October 2012 makes it clear that any statement made does not imply that ECC is promoting the application. Of equal importance is the fact that the public do not know and cannot comment on that level of investment since it has not been disclosed. Furthermore the report makes it clear that this central element to the scheme was not included in the Business Plan and recommends that 'future iterations of the Business Plan should include the cost of the Chinese Garden within the value of the project'. Therefore in addition to an identification of the nature of this part of the proposals the Council needs to be provided with and take advice upon, and the public needs to be consulted on, a revised Business Plan. Also close scrutiny needs to be given as to whether the required funds are secured as without them the scheme will fail.

32. Proviso

2: ' the Constable Country offer is further developed and defined and include the exhibition of at least a few authentic Constable Paintings in the Chancery'. This nebulous and ill-defined aspect of the proposal appears to require further, as yet unidentified, work to be done to develop and define it. This has long been the case. For example, I am instructed that as long ago as 2005 the applicant claimed to have original works available from public collections. A claim that was demonstrated to be without foundation on the intervention of Mr Stephen Deuchars, the then director of Tate Britain and currently the Director of the Art Fund. Again the applicant is being pressed to introduce some element of authenticity to this aspect; namely to be able to display some work of Constable himself. There is nothing in the public domain to give members any reassurance on these matters. The consensus of view of distinguished commentators with unparalleled expertise and authority in the field demonstrates there is no realistic prospect of this condition being satisfied by either purchase or loan of authentic works whether from public or private collections. I here refer to the representations, among others of Mr Conal Shields 3, one of the foremost modern scholars of Constable, Professor Michael Rosenthal 4, Mr William Feavor 5 and Mr Robin Duthy 6.

3 Former Head of Art History and Conservation at the London Institute, currently co-curator of the Thomson Collection and the Thomson Archive of Art, and fine art advisor to Lord Thomson of Fleet, whose collection of paintings, drawings and prints by John Constable is the largest in private hands, co-organiser of two Tate Britain exhibitions devoted to John Constable, one of these the official bicentennial celebration, co-curator 2015 Constable exhibition for the Royal Academy, London, the National Gallery of Canada, and the Clark Institute in the U.S.A.

4 Professor Emeritus of Art History, University of Warwick, author Constable, the Painter and his Landscape (Yale, 1983) and Constable (Thames and Hudson 1987)

5 Former art critic for the Observer , curator, including the exhibition of Constable at the Louvre, historian, broadcaster, author of Lucian Freud on John Constable, Pitmen Painters, and many other books, currently the Lucian Freud biography.

6. Managing Director of Art Market Research a company which has for thirty years created indexes and provided analytical reports on all sectors the international art market.

33. Proviso

3: ' the plans to integrate the Suffolk Punches as part of the visitor offer are realisable'. This is yet another conclusion to the effect that current plans for the scheme are inadequate and require further work before the Council could be satisfied that its content has even been settled.

34. Caveat one: 'that the development will be of high quality'. This is not something that can simply be settled by drafting conditions or a s.106 obligation. In order to overcome this hurdle the Council should require a demonstration first, that the proposals have been adequately costed and second, that the funds are available to achieve this result in terms of high quality.

35. Caveat two: 'that the balance of investment between 'content' and infrastructure is addressed'. This raises yet further issues with the reliability of the business plan submitted to CBC and the need for yet further funding to be obtained.
36. Caveat three: 'that the promised programme of events is forthcoming'. Further assurance therefore needs to be required of the applicant by the Council before the application is ready for determination.
37. In addition to these many flaws in the economic case for the proposals I draw attention to the conclusions reached by the analysis undertaken by SVAG of viability issues. In particular they have deduced from such figures as are disclosed by BMA that the maximum number of employees that they consider that could be afforded by the projected turnover of c£1.4m and on the BMA maximum visitor attendance rate 130,000 pa is c.40 FTE, when the scheme would be running at an annual loss of c.1.8m. The further figure they deduce from the BMA report is that the predicted capital cost of the proposals, before satisfying the provisos and overriding caveats in BMA's Supplementary, is likely to be in the order of at least £19m. It would be wholly irresponsible to grant planning permission to this scheme without a convincing demonstration in the public domain that such funds as are necessary to produce the scheme in a satisfactory form will be available to the applicant.
38. The members of the Council should be clear that if they were to approve these proposals they would be flying in the face of the guidance they have received from truly independent experts as to the essential lack of viability of these proposals with all the risks that that course of conduct entails. It would be premature and irrational therefore for them to do so in the public law sense until the applicant has demonstrated that the legitimate concerns of their experts as represented by the provisos and 'overriding caveats' to their opinion have been satisfactorily addressed.
39. It should be noted that there are also important issues with respect to the impact of the proposals on the nearby Church of All Saints, a Grade 1 heritage asset and on ecology in light of the objection from English Nature. These matters both fall outside the scope of my instructions.

## Conclusions

40. I have reached the following conclusions for the reasons set out above:
  - i. There is inadequate material in the public domain for the public adequately to understand the applicant's case that this proposal would be viable. This prevents the public from proper participation in the process of public consultation on the application. The need for this impediment has not been demonstrated. The inference is that commercial confidence is raised not because of the existence of any such confidence with respect to the business plan in reality but to inhibit informed debate.
  - ii. The senior officers of the Council who are to report the application to members have compromised their independence and tarnished their

- appearance of fair dealing by predetermining their approach to the application before the completion of the public consultation process and their own internal consultation process, critically with their policy team.
- iii. The approach to the issues that those officers have indicated that they intend to adopt is wrong in law and that advised by the Council's own policy team and their independent planning consultants is correct.
  - iv. It has been demonstrated by the Council's own policy team and the retained independent planning consultants that the proposals are plainly in breach of the development plan, which is to be regarded as up to date for these purposes. Therefore, pursuant to s.38 (6) of the 2004 Act, can only be justified if the balance of material considerations indicates that they should nevertheless be granted planning permission.
  - v. The view of the independent economic, transport and planning consultants engaged by the Council is that these are not sustainable proposals in the sense used in the National Planning Framework.
  - vi. There is compelling evidence from the independent economic consultants appointed by the Council to the effect that the proposals in their current condition are not viable, are likely to fail and will not bring about the tourism, economic and social benefits claimed for them. That is supported by the further analysis from SVAG.
  - vii. The Council has received advice from the same experts that six preconditions should be overcome before the Council would be in any position to consider giving support the application's propensity to provide a regional facility. Those include such important matters such as a revised Business Plan, acquisition of original Constable artworks, better definition of the Constable link and additional funding requirements. All of these are issues on which the Council presently have no information.
  - viii. The lack of definition of such major proposals advanced as an exception to established policies, particularly with regard to the scale of development acceptable within the AONB, is remarkable and should be noted by members. As a result members should be extremely wary of the claimed benefits of the proposals and alert to the real risk that the grant of planning permission to such an ill-defined collection of uses could lead to very substantial problems in the future should there be pressures to vary the proposals in order to provide something that is more likely to enjoy economic viability. In other words, they should not sell the pass to major redevelopment on this site unless they are satisfied that the proposals are both fully defined and assessed as likely to be viable.
  - ix. The Council has also received advice from its independent transportation experts that the proposals are in an unsustainable location which is not a matter which the applicant can or is likely to be able overcome.
  - x. In the circumstances it is difficult to see how members approaching this application with an open mind could rationally conclude that it would be appropriate to grant planning permission.

**Planning Services comment in respect of the above legal opinion submitted on behalf of the SVAG**

The first thing to make clear is that the Councils employed three independent consultants. Council officers appointed the consultants and prepared their brief with no input from the applicant.

Members should note whilst the PPA included a clause for the applicant to pay the Councils consultancy fees as the applicant disagreed with the Council's choice of consultants the Council appointed and paid all the fees.

Suggestions the PPA process has led to an exchange of information not available in the public domain is incorrect the only information not published relates to confidential financial and business information and information relating to the applicants confidential discussions regarding the provision of art in The Chantry.

The Council's consultants Nathaniel Lichfield Partnership and Vectos have not had any meetings with the applicant. Following receipt of the first Britton McGrath Associates (BMA) report and the applicant's response to it the Council asked BMA to clarify two areas of their original work and as a result two supplementary reports were submitted.

A meeting was held attended by Council officers, BMA, the applicants and their consultants. This meeting was held just prior to the Government confirmation of their intention to revoke the regional plan. One of the key issues discussed at the meeting was whether or not Horkesley Park could be considered to be a regional attraction. Another key area of discussion was whether finance for the proposal in its totality was available and whether or not the total proposal was deliverable. At the meeting the applicant provided verbal assurances regarding the funding of the proposal and also indicated the business plan had been subject to sensitivity testing.

The December BMA report addressed the issue of "regional status" and concluded that:

*"We believe that Horkesley Park has the potential to become a regional attraction provided:*

- *the investment in the Chinese Garden is forthcoming to the levels indicated and is executed to a high quality*
- *the Constable Country offer is further developed and defined and includes the exhibition of at least a few authentic Constable paintings in the Chancery;*
- *the plans to integrate the Suffolk Punches as part of the visitor offer are realisable.*

*We would also add the following over-riding caveats:*

- *that the development will be of a high quality;*
- *that the balance of investment between 'content' and infrastructure is addressed;*
- *that the promised programme of events is forthcoming.*

*We have not shifted fundamentally in our opinion that 310,000 visitors per annum is overly ambitious. However, the investment in the Chinese Garden*

*should, in our view, help to ensure that the development reaches the upper rather than lower limits of our estimate of 90-130,000 visitors per annum and could potentially reach 150k. It's worth noting that at 150k, this would put Horkesley Park in the top 20 attractions in the East of England region overall, and in the top 10 paid-for attractions.*

*However, based on the qualitative criteria as outlined earlier, we would conclude that Horkesley Park does have the potential to deliver as a regional visitor attraction”.*

By the time this report was received the Governments intention to abolish the regional plan had been published and to some degree the purpose of this report had been superseded.

The notice on the web page advising of the favourable recommendation was made after the applicant had given verbal commitments on the following matters. That evidence would be provided to the Council, in confidence, regarding the quality of work to be displayed in The Chantry Gallery, the financing of the proposal in its entirety and financing of the Chinese Garden; and the sensitivity testing already carried out in respect of their business plan. If satisfactory evidence was not received on one or all of these matters the Council's recommendation could be changed.

The applicant has subsequently produced a range of sensitivities on their business case to demonstrate its ability to succeed at varying levels of performance in terms of visitor numbers and spends and this information has been submitted to and considered in depth by BMA. This information relates to lower predicted figures on visitors and spends not the applicant figures.

The claim that BMA reports have been influenced by the applicant is completely untrue and Members should note that even in their final report BMA state *“In conclusion, we have not shifted fundamentally in our view that 310,000 visitors per annum is overly ambitious. However, the investment in the Chinese Garden could, if exploited correctly, enable the development to reach the upper rather than lower limits of our estimate of 100-150,000 visitors per annum.”*

The Council has also considered the question of deliverability of the proposal, and had sought clarification from the applicant on any costs of servicing project finance which might impact on the business plan and sensitivity. Whilst much of the information provided is commercially sensitive and confidential the Local Planning Authority is satisfied the applicant has the funds necessary to deliver the whole proposal. This issue is considered in greater detail in Part D of this report – Deliverability.

It is true the applicant has indicated his intention to appeal against non determination however this has not influenced the officer's recommendation. It is not uncommon for “threats” of an appeal to be made and it is the job of your officers to come to a professional assessment of the acceptability or otherwise of an application. Members will see a balanced report has been prepared and is clearly not one sided; objections have been reported in full and conflicts with policy set out. The importance of viability, or deliverability, has been set out in the report as has a full assessment and commentary on policy, adverse impacts and benefits.

## **The Stour Valley Action Group response continued**

Viability issues: Stour Valley Visitor Centre at Horkesley Park

Introduction:

The applicant has not provided any information that is in the public domain about his proposed business plan. This is apparently for reasons of commercial confidentiality that we do not accept as being valid. This is in contrast to the previous Application 090231, of which this application is a re-submission and has prevented open debate about a matter, which is of very considerable public interest.

Nathaniel Litchfield & Partners (see below under NLP) make it clear that viability, as would be demonstrated by the Business Plan, is a matter of material consideration under the NPPF and must therefore be demonstrated by the applicant if the application is to succeed.

We wish to place on the record that our ability to understand and comment upon these important proposals has been very substantially prejudiced by the absence of this information and we are therefore reduced mainly to commenting upon the conclusions reached by the independent consultants appointed by the Council to assess viability rather than coming to our own views on the submitted figures. In our view the Council should not determine this application until there has been public disclosure of this essential information and the public have had a proper opportunity to comment upon it.

Britton McGrath Associates were asked to review certain aspects of the application and they conclude that the project is financially unviable. Some further deductions that may be made from their report are given below but, in the event that Colchester does decide, against all the evidence and expert advice, to give consent, the applicant will, in all probability, lose money at the rate of £5000 per day from day one of it being opened. Furthermore we estimate that the applicant would only be able to cover the costs of about 40 full time employees at minimum wage from the projected revenues generated. It would not be possible to finance the employees necessary to operate the scheme in accordance with its plans.

### Britton McGrath Associates (BMA).

The BMA Independent Project Review (the Review) prepared for Colchester Borough Council reaches certain conclusions and provides some data from which additional reasonable assumptions can be deduced.

Their conclusion on page 6 of their report gives a very simple pro-forma Profit and Loss statement comparing their numbers with those of the Applicant. All the Applicant's numbers have been redacted with the exception of visitor numbers. This table is reproduced below:

Applicant BMA forecast  
Visitor numbers 316,250 130,000  
Gross sales redacted £1,400,000  
Net sales redacted £1,167,000

Less Cost of sales redacted £154,000  
Gross Profit redacted £1,013,000  
Less Overheads redacted £2,266,000  
Trading Profit (loss) redacted (£1,253,000)  
Depreciation redacted £546,000  
Net Profit (loss) Pre-Tax redacted (£1,799,000)

Their concluding paragraph on this page states:

“Essentially the assumptions for many of the key foundations of the Business Plan appear to be fundamentally flawed resulting in our overwhelming conclusion that this is a business which would quickly become insolvent thereby resulting in any possible wider benefit to the community being lost.”

Page 55 of their report states:

“In conclusion, whilst there may be a number of merits to this scheme, both for the Bunting family and the region, it would appear that many of these are unlikely to manifest themselves as the business itself, as it is currently conceived, is financially unviable.”

BMA do not rescind this statement in any of their supplementary reports.

Deductions concerning employees:

BMA state on p5 that:

“employment costs at the industry benchmark would result in a budget of c. £500,000 per year.”

On page 53 they state that:

“our experience of running similar leisure operations leads us to suggest that staffing should be planned to be in the order of 30-35% of turnover.”

From the P&L above, this would yield a staff cost of £490,000 assuming that a rate of 35% of turnover is used.

The minimum cost for a full time employee may be approximated as follows:

National minimum wage £6.16 per hour  
Hours worked 35 hours per week  
Hours per year (including three weeks paid holiday) 1820  
Pay per Year £11,211.00  
Employer NI contributions  
13.8% of pay above £7605/year  
13.8% of £3606.00 £497.00  
Estimated total cost of minimum wage employee: £11,708.00

This cost excludes any possible pension cost. Some of the younger employees may be paid at a lower rate. It is however a reasonable assumption in our view on the basis that there will be a range of employees on site from site managers to gallery curator to senior lecturers to skilled maintenance staff etc, all of whom would presumably be paid well above the minimum wage level. It is therefore reasonable to assume that the average cost per full time employee will be considerably higher than this. Based on the minimum wage figure, £490,000 would cover only 41 full time employees.

### Deductions concerning investment:

It is reasonable to assume that the depreciation figure given by BMA is the same as that given by the applicant on the basis that they have no reason to question the level of investment. We are advised that it is normal to depreciate new buildings over the longest possible time scale up to 50 years. We do not know the depreciation rates assumed by the applicant but conservatively we can estimate this at 35 years for a mix of buildings and capital equipment. Based on this reasonable assumption we can conclude that the capital investment anticipated by the applicant is of the order of £19M.

We do not know the source of capital for the project but in the normal project finance environment a return reflecting the risk would be expected. We do not speculate on a reasonable level of return in this case without further information on the source of funding. Any such cost would be chargeable after Net Profit and would not be supportable by the BMA model presented.

### Transport costs:

In addition, it is reasonable to assume that the applicant's business plan did not take into account the provision of all the transport requirements as set out in the letter from Essex County Highways to Colchester Borough Council dated 16th November 2012. These conditions, which would be enforced by a s106 Agreement, are stated in paragraph 2 of this letter and are:

Bullet points 12 to 17 on pages 2-3:

- 12 "A local bus service(s) between the proposal site, Colchester Rail Station and Town Centre, which shall be operated on a minimum 15 minute frequency basis during the proposal sites opening times as well as a minimum period before and after opening times. Service shall be provided for a minimum 5 year period. Details to be agreed with the local bus operator(s), local planning authority and highway authority."
- 13 "Service facilities for free of charge use by local bus service operatives."
- 14 " A dedicated branded passenger transport service between the proposal site and Colchester Rail station and town centre, which shall operate on a minimum 15 minute frequency basis during the proposal site's opening times as well as a minimum period before and after opening times. Service shall be provided for the life of the development."
- 15 "A dedicated staff shuttle bus service, which shall be free of charge and based on staff shift patterns. Service shall be provided for the life of the development."
- 16 "A dedicated hopper bus service between the proposal site and the "honeypots" to include but may not be limited to those in the Dedham Vale/Stour Valley. Service shall be free of charge provided for the life of the development."
- 17 "A dedicated hopper bus service between the proposal site and Dedham Village coach park (via the A134, the A12 Junction 28, the A12 and Stratford Road), to

link with a re-instated “Dedham Vale Hopper” service. The (Horkesley Park) dedicated hopper bus service shall tow especially fitted out trailers to carry cycles, be free of charge and provided for the life of the development.”

The planning application documentation does not include the provision required under bullet point 14 which would be very expensive. The costs of underwriting the public service required under bullet point 12 would also be very expensive bearing mind that the current services only run on an hourly basis and not at all on Sundays. It is very unlikely that an independent operator would provide these without such underwriting. Bullet Points 12 and 14 are not mutually exclusive as is suggested by the applicant. The Vectos report lists the schedule of transport infrastructure proposed by the applicant in para 2.1.31. The applicant is offering (inter alia) under bullet point 10: “Enhancements to the local bus services or the provision of a branded service to provide a 15 minute average frequency to Colchester Town Centre and Colchester North Station during the times that Horkesley Park is open, for a minimum of five years.”

We do not have the mechanism to estimate the incremental transport costs without seeing the applicant’s business plan and the extent to which they have been allowed for, but they are likely to be substantial and would further reduce the viability of the attraction to the extent that they have not been included by the applicant or BMA.

### Visitor numbers

Estimates of visitor numbers are key to the viability of Horkesley Park. These are dealt with below:

1. Sykes: (SLP)

The applicant uses the numbers derived by Sykes Leisure Projects set out in their report (TER) dated May 2012. Essentially, they outline the features of Horkesley Park and their analysis of the ‘need’ for it. They then derive their visitor numbers by defining the target market in terms of numbers and then applying a penetration rate. On page 44, para 5, of their report they quote Anian Leisure Consultants as experts who say that the geographical spheres of influence for a modern ‘state of the art’ heritage and natural attractions is less than one hour in each direction.

They then go on to give the subjective opinion that for an “attraction of the quality and scale proposed and promoted effectively with a realistic marketing budget, it is likely that the Horkesley Park catchment will be along the lines of Colchester Zoo and will be a two hour drive time. It is anticipated that approximately 60% of the Horkesley Park Visitors will travel less than one hour in each direction and 40% will travel between one and two hours.”

They give estimates of the 0-60 minute drive time and 61-120 minute drive time markets summarized in the Table 2 on page 45 of the report. The ‘primary’ market is given as 5,667,160 and the secondary as 24,034,706 giving a total of 29,701,866. Both of these totals include residents and very substantial numbers of domestic and overseas tourists. They then have to apply a penetration rate to this overall total of 1.04% to arrive at their visitor forecast of 316,250.

This is considerably higher than any other comparative attraction give on page 73, Table 13 of their report with the exception of Colchester Zoo (which clearly

has reached its visitor numbers over many years, is very well established and has a very different 'mix' of attractions.)

2. BMA:

In para 4.2, page 15 of the first BMA report they comment on available market and state that the 30 minute drive time is all-important. They give this as 332,000 people which is relatively small compared with other attractions reviewed. The total market in the 0-90 minute drive time is given as 4,663,000. They review Horkeley Park against other similar attractions on a sector-by-sector basis and conclude in their summary para 8.8 page 41 that:

“Other than an initial peak in interest at first launch it is very unlikely that visitor numbers in excess of 100-130,000 per year could be sustained”

The Sykes estimates rely very heavily on domestic and overseas tourists (22,710,000 out of the 29,701,866 total). BMA state in 9.1.1.3 that: “our study comparator attractions suggest that there is little evidence that this will be a tourist destination. Less than 1% of the visitorship of successful sites such as Willows Farm Village are from tourists.”

They conclude this paragraph by stating: “It would be our recommendation that at best any assessment of visitor number from tourists should be forecast following domestic success and from then on only including tourists within a one hour catchment area. This would equate to penetrating a market in the order of 4.5 million tourists rather than the c22million adopted by Sykes.”

In the BMA supplementary review dated 18th December 2012 they record (para 1.1 para 4 on page 4) the threat to Colchester Borough Council to reach a favourable recommendation by December 20th or they (the applicant) would lodge an appeal. They then discuss the possible impact of the Chinese Garden and Constable Country offer amongst other features and conclude that:

“ We have not shifted fundamentally in our opinion that 310,000 visitors per annum is overly ambitious. However the investment in the Chinese Garden, should, in our view, help to ensure that the development reaches the upper rather than the lower limits of our estimate of 90-130,000 visitors per annum and could potentially reach 150,000.”

They further conclude that it has the potential to deliver as a regional visitor attraction. (Without defining clearly what regional means,) nor do they provide any authority for this. This is the basis on which Colchester is now supporting the application.

BMA have also produced two addenda to their reports which look at different aspects of the potential market. The second of these concludes on page 4 that visitor numbers for Horkeley Park as the paid for visitor attraction currently proposed, are unlikely to exceed 100-130,000 visitors per year.

3. Nathaniel Litchfield & Partners (NLP)

The NLP report dated 9th November 2012 reviews the application against National, Regional and Local Planning Policy. They make a number of points relevant to viability. In para 2.21 they refer to the importance of viability criterion

in Para 173 of the NPPF. In para 2.22 they make it clear that their view is that viability is a material consideration and speculate on consequences of failure in terms of pressure to convert the new buildings into alternative uses that have less synergy with a rural location. In their conclusion on page 27 of the report they state that:

“There is no guarantee that the tourist attractions will be maintained and viable in the longer term.

The BMA analysis suggests the development will be significantly below that claimed by the applicant and the on-going viability is a major concern.”

They compare different aspects of the attraction with the similar attractions in the region which includes details of visitor numbers. The list given on pages 29-32 identifies all the East of England tourist attractions but the data given is from 2008. They do however defer to BMA in the analysis of potential visitor numbers.

The Council seem to be relying on the question of regional significance to recommend approval.

NLP conclude on page 17 of their report, based on their own analysis that the attraction would not be of regional significance. Furthermore they state that the tourist offer is very narrow and there is no guarantee it will be maintained over a long period and that the Council could not control the maintenance of the facility in the long term.

4. Visitor Attraction Consultants (VAC)

VAC carried out a study for SVAG during the very limited time given for consultation when the application was first recorded. (Letter dated 31st July 2012) They concluded that a settled down attendance level of around 100,000 visitors per annum should be considered for the Horkesley project: 150,000 at the maximum. They said that there could be an uplift in the opening two or three years but that this could not be guaranteed.

5. Stour Valley Action Group (SVAG)

In the SVAG “common sense’ view of financial viability prepared by financial experts and included in their report of July 26th 2012, a comparison was made with other attractions and concluded that a realistic estimate of visitor numbers would be 150,000 and that even this would be very ambitious.

Summary of annual visitor numbers:

Sykes 316,250 precisely  
BMA 130,000 probable, £150,000 maximum  
VAC 150,000 maximum  
SVAG 150,000 maximum

The conclusion must be that independent expert opinion shows that visitor numbers quoted by SLP will not be achieved and that they will be less than half the 316,250 number quoted by SLP.

As one might expect, the applicant stands by his original forecast and attempts to undermine all other opinion.

The consensus of expert opinion, other than SLP, the attraction will not be viable based on visitor numbers alone.

#### Other Elements of income

The BMA report analyses all the other elements and concludes that income from all elements is overstated by the applicant. This is summarized on page 5 of their report as follows:

##### Applicant BMA

Entry Price £14.95 £9.00, 70% yield  
Catering spend per head redacted £2.50  
Retail spend per head redacted £1.50  
Farm food retail redacted £1.04  
Total per head redacted £11.34

Total primary income based

130,000 visitors redacted £1,474,000

potentially rising to up to

£1.8M if Farm Food Retail

is available outside the perimeter.

We have no doubt that BMA are competent to provide these figures and we have no reason to question them. The analysis of these elements is given in para 9.2.2.2.1 and onwards starting on page 50. They conclude, inter alia, that the forecasted catering turnover of (redacted) is very ambitious and that retail income (redacted) is extremely ambitious based on information gathered in their study.

#### Opinion on Business Plan:

The applicant has supported his business plan with six letters of reference. These are from:

Mr M Tyler, Peyton Tyler Myers, Chartered Accountants to Bunting and Sons.

Mr Robert Leng, President, Essex Chamber of Commerce in which he gives his personal opinion.

Sula Rayska, Rayska Heritage Consultants. Believed to have been retained by the applicant.

Keith Brown, Chief Executive, Visit East Anglia Ltd

David Ralph, Chief Executive, Haven Gateway Partnership.

Martin Goymour, Managing Director, Banham Zoo.

All of these referees wrote their letters before seeing the conclusions of the BMA report. The applicant is unlikely to solicit letters that are not favourable and we question their value.

## Conclusion:

Independent expert opinion shows that Horkesley Park is not viable and would lose money at the rate of £1.8m per annum even if it only employed 40 minimum wage full time employees. It is not known whether all elements of cost including provisions of transport required by Essex Highways and servicing of capital and working capital have been fully accounted for. The BMA forecast of visitor numbers at 130,000 (150,000) is supported by other opinion. This is all before the additional costs required to satisfy the provisos and overriding caveats in BMA's Supplementary Review are taken into account.

In the circumstances the Council could not responsibly grant planning permission to these proposals as there is no reasonable prospect of them becoming viable and even less of them performing the economic and social functions ascribed to them by the applicant.

## **Planning Policy Review prepared by Pomery Planning Consultants on behalf of The Stour Valley Action Group January 2013.**

1. This paper has been prepared by Pomery Planning Consultants (PPC) on behalf of The Stour Valley Action Group (SVAG). Its purpose is to review the most up-to-date planning policy position in relation to the proposed Stour Valley Visitor Centre at Horkesley Park, near Little Horkesley. The paper follows PPC's original representations to the Council, which also dealt with matters of planning policy. As part of this latest review, the paper considers the policy advice the Council has received from its own Planning Policy Team and from commissioned independent reviews, undertaken by leading consultants.
2. Colchester Borough Council's Planning Policy Team has produced a comprehensive analysis of all relevant development plan policies associated with these proposals. Their conclusion is that the proposals conflict with a number of policies contained within the Council's Core Strategy and Development Policies DPD. It is also the position of the Policy Team that the proposals conflict with national planning policy contained within the National Planning Policy Framework (NPPF).
3. The Borough Council has also commissioned an independent review of these proposals in relation to planning policy matters. That review, carried out by Nathaniel Litchfield and Partners (NLP) advises the Council that:  
The Council will need to consider whether the benefits of the tourist elements of the scheme out-weigh the disbenefits of major development in the open countryside, in particular the impact on the AONB and sustainability and transport impacts. The Council will also need to assess whether these benefits are likely to be sustained, and must consider the risks of failure".
4. The Council has also sought two further independent reviews of the proposals in relation to visitor numbers and viability, which was carried out by Britton McGrath Associates (BMA) and transport planning and sustainability, which was undertaken by consultants Vectos. BMA conclude that the scheme as proposed would not be financially viable and subject to three challenging caveats, the visitor numbers could achieve regional scale. Vectos consider the

site's location to be unsustainable and as a result, consider the proposals to be in conflict with both LDF and NPPF policy.

5. Pomery Planning Consultants has reviewed the findings of the Council's Policy Team and likewise conclude that the proposals conflict with both local and national planning policy. We also concur with the advice issued to the Council by NLP, BMA and Vectos. This combined independent review, clearly demonstrates that these proposals do not comply with the development plan or with national planning policy.

6. The Development Plan

In accordance with s38 (6) of Planning and Compulsory Purchase Act 2004, these proposals fall to be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan in Colchester consists of the following three documents, which together comprise the Colchester Local Development Framework (LDF).

The Colchester Core Strategy (2008).

The Colchester Development Policies DPD (2010)

The Colchester Allocations DPD (2010)

The application site is not allocated for development and therefore the Allocations DPD is not relevant in the circumstances. All LDF documents were adopted post, 2004 and in accordance with paragraph 214 of the NPPF, have full weight in the determination of this application.

7. National Planning Policy is contained within the National Planning Policy Framework (NPPF) and the policies contained therein are a material consideration in the determination of this application.

8. Pomery Planning Consultants has carried out its own review of the relevant development plan policies against which these proposals are to be determined. PPC conclude that the proposals are in conflict with the following policies of the development plan.

The Core Strategy 2008

Policy

Nature of Conflict

SDI Sustainable Development Locations

The proposal will lead to major development in an unsustainable location.

CE1 Centres of Employment and The proposal is not small scale and has Hierarchy high travel needs with 82% of visitors arriving by car.

UR1 Regeneration Areas

Conflicts with the Council's strategy to direct major development to its regeneration locations.

TA1 Accessibility and Changing Travel The sites location is unsustainable Behaviour resulting in an increase in car borne journeys.

#### TA3 Public Transport

The proposed measurers' to reduce car journeys in favour of more sustainable transport modes is not supported by evidence that demonstrates that there will be a genuine modal shift.

#### ENV2 Rural Communities

The policy does not support large scale development in the countryside.

9. Development Policies DPD (2010)  
Policy  
DPI Design and Amenity  
DP9 Employment Uses in the Countryside  
DP10 Tourism, Leisure and Culture  
DP14 Historic Environmental Assets  
DP17 Accessibility and Access  
DP19 Parking  
DP22 Dedham Vale AONB

10. National Planning Policy Framework  
Nature of Conflict

The proposal fails to meet the sustainability requirements of the policy.

The proposal conflicts with the policy in that it only supports small scale tourism development in the countryside.

The policy requires that where proposals are not accessible, tourism proposals must be small scale.

English Heritage advise that the proposal will have some limited harm on the setting of All Saints Church. The proposal will increase car journeys and conflicts with the need to secure sustainable, accessible development.

Proposed parking provision exceeds maximum parking standards.

Inappropriate scale, increased car movements and adverse impact on tranquillity.

The policies contained within the NPPF are a material consideration in the determination of this application. The NPPF provides a presumption in favour of sustainable development and states that significant weight should be placed on the need to support sustainable economic growth through the planning system. Specific to this proposal is that the NPPF supports sustainable rural tourism that respects the character of the countryside. Such tourism must be in appropriate locations where identified needs are not met by existing facilities in rural service centres.

11. Sustainability

The application site is in the countryside remote from any urban centre. It is common ground that 82% of visitors to the proposed attraction will arrive by private car. Given such high reliance on the private car, the site's location is clearly unsustainable. The applicant proposes substantial bus service

improvements, but has not provided evidence that effectively demonstrates that these services will significantly lead to reduced car journeys. The bus services are only proposed to be temporary; therefore any modal shift that is achieved will also be temporary. Any permanent bus service provision is likely to be at a substantive cost to the development, which needs to be identified now and reflected in the overall viability of the proposal. On the evidence available the proposal fails to adhere to the sustainability principles of the NPPF.

## 12. Economic Benefits

The NPPF places significant weight on economic growth through sustainable development. However, such growth is not to be achieved at all costs and Paragraph 8 advises that “to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions”. Although the applicant’s assessment of the number of new jobs that will result from the development is viewed as optimistic, there would be some job creation were the scheme to go ahead. However, the economic development that would result is not sustainably located and thus fails to meet the economic sustainability requirements of the NPPF.

## 13. Appropriate Location and Need

The NPPF at Paragraph 28 supports “sustainable rural tourism” in suitable locations and where identified needs are not met by existing facilities. The application site has been demonstrated to be in an unsustainable location and there is no robust evidence before the Council that demonstrates that there is unmet need in the area, for these facilities. Consequently the proposals do not comply with the requirements of the NPPF in this regard.

## Conclusions

It is the findings of the independent reviews undertaken by leading consultants in relevant fields that these proposals are not viable and that the site is unsustainably located, where access will, in the majority, be by private car. The Council’s own Policy Team share this opinion and like the independent reviewers, consider that the proposals, as a consequence of these shortcomings, fail to comply with up to date local and national planning policy. Pomery Planning Consultants has assessed the proposals in the light of the development plan. It has also reviewed the findings of the independent reviewers. It is evident from the conclusions of this comprehensive professional assessment that these proposals are contrary to the development plan. Accordingly, the application should be refused planning permission, unless it can be demonstrated that there are material considerations that are capable of outweighing the harm that would result by not applying the usual application of development plan policy.

12.20 **The Stour Valley Action Group** has also submitted the following comments from their Tourism Consultant – Visitor Attraction Consultants:-

- They suggested that the market volumes mentioned in the Sykes Leisure Projects (SLP) report are too large and therefore resulting attendance levels are likely to be over inflated.
- They would advise using a penetration rate nearer 0.5% than the over 1% used and that this should be applied to the reduced market volumes.
- They suggest a more reasonable headline adult price of £5.00 (inc VAT) for a simplified all-inclusive ticket.
- After looking at comparative analysis, market size, penetration rates and price, they consider that a settled down attendance level of 100,000 should be considered for Horkesley Park; 150,000 at the maximum.
- They suggest that Admission Yield at 83% is high and a more realistic figure would be 70-80%.
- They consider that the project would stand a greater chance of success if it abandoned the idea of being a visitor attraction with a paid-for element but instead positioned itself purely as a retail development – in effect a shopping village with no admission charge.
- Research carried out by Heritage Lottery Fund discovered that over-optimistic visitor projections were commonplace with, on average, visitor predictions being almost 50% higher than the numbers achieved.”

12.21 The Suffolk Horse Society comment as follows:-

“I should like you to know how important to this Society is the work that Daniel Bunting does with his Suffolk Horse Punches.

The Suffolk Punch is officially classed as an endangered species by the Rare Breeds Survival Trust.

To be fully effective he does need a home base for his horses which is of sufficient quality to attract visitors. This is, sadly, not the case with his present farm. Furthermore, the Bunting family is already providing training for young people.

If planning permission is granted for the Horkesley Park Visitor Centre, the Buntings will increase the number of horses which they keep to a target of 30 and increase their payroll by 106 full time equivalents and to provide training and the opportunity to obtain qualifications to all these new employees.

The importance of this Visitor Centre to the Suffolk Horse Society is immense.”

12.22 Suffolk Preservation Society comment as follows:-

***Planning Services comment:***

***Members should note that the author of this letter is a member of staff in the Planning Service. However at the time the letter was written he was not employed by this Council. Members should also note that he has taken no part in the preparation of this report and has had no involvement at all in the application process.***

“The Society wishes to object to the proposals that it believes would serve to:

- Harm the character and tranquillity of the countryside and in particular, the Dedham Vale and Stour AONB;

- Promote and perpetuate an unsustainable form of development that would perpetuate an unsustainable form of development that would perpetuate trips by private car;
- Harm the setting of the Grade I Listed All Saints Church by introducing a ‘themed’ visitor attraction sited in close proximity incorporating extensive car parking areas with resultant associated intensive activity that would be incompatible with the historic rural agricultural setting; and finally
- Represents unjustified unsustainable development in a remote rural greenfield location in AONB that cannot be considered PDL as stated.

The Society does not accept that the proposed themed attraction could be reasonably considered to represent a scheme of regional significance as purported. Given that the current scheme has been diminished in scale from the 2009 scheme, the independent Lichfield appraisal of the former scheme commissioned on behalf of CBC concluded that the proposals considered either as a whole or individually had insufficient draw to warrant consideration as a regionally significant attraction.

Given that the scheme does not satisfy the definition of previously developed land the Society concludes that the proposals are contrary to the provisions of the NPPF and relevant development plan policies. In particular, much is made of the presumption in favour of sustainable development but as the NPPF confirms this does not undermine the statutory primacy of the development plan. As the Society will demonstrate, the proposals are contrary to the Core Planning Principles of the NPPF (paragraph 17) insofar as the scheme does not: recognise the intrinsic character and beauty of the countryside, encourage the re-use of PDL, conserve heritage assets nor focus significant development to make fullest possible use of public transport.

Unjustified harmful development in AONB – contrary to paragraphs 115 & 116 in the NPPF

The Society believes that the weight of national and development plan policies militate against isolated development in the AONB, on sites that are poorly served by sustainable modes of transport and where such development would serve to harm the reasons for designation (as promoted through the AONB Management Plan).

*Paragraph 34 of the NPPF states; “Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The proposal is clearly contrary to this fundamental principle of sustainable development.*

Contrary to CBC Core Strategy. In particular Policy SD1 at this location is inaccessible except by private car and the site is not PDL. ENV1 confirms that development on unallocated sites outside settlement boundaries will be strictly controlled to conserve environmental assets. Similarly, allied policy ENV2 provides only for small scale tourism schemes in such locations that effectively minimise their impact. This scheme clearly fails to meet these stringent preconditions.

In the opinion of the Society, the scheme is also contrary to the provisions of the allied Development Management Policies including DP1, DP9, DP10 and DP17 all of which seek to promote sustainability by focusing larger scale tourist development on Colchester. These policies also seek to protect the character of rural areas by requiring tourist developments to promote accessibility by a choice of modes of transport inter alia. Policy DP22 is dedicated to the Dedham Vale AONB and in the opinion of the Society the scheme is diametrically opposed to the objectives of this

policy as the development would adversely affect the distinctive character and tranquillity of the area and threaten public enjoyment including increased vehicle movements. Furthermore, the scheme would serve to effectively undermine the objectives of the Dedham Vale and Stour Valley Management Plan. Indeed, in the opinion of the Society, the impacts of the scheme are diametrically opposed to the strategic aims of the AONB Management Plan.

The Society finds the Heritage Report submitted as part of the EIA fundamentally flawed in its approach to the setting of heritage assets. The report does not embrace the concept of setting in its broadest sense, as defined in relevant English Heritage Guidance (The Setting of Heritage Assets 2011).

The architectural treatment of the new structures proposed on the site of the existing glasshouses is now generally more subdued and contextually considerate. Nevertheless the proposed high profile, white tented entrance canopy structure would appear alien and intrusive. Furthermore, the very extensive car parking areas, especially when populated by many hundreds of vehicles, would appear as harmful, incongruous elements abutting the AONB boundary.

The application suggests that there is an unsatisfied need for a rural themed attraction in the Dedham Vale and Stour Valley area. The Society presumes this is in response to Paragraph 28 of the NPPF. The Society considers that this contention is entirely without foundation. The Stour Valley offers unrestricted public access to genuine heritage sites and countryside, such as the National Trust's sympathetic sites at Flatford."

Suffolk Preservation Society further comments received February 2013:-

***Planning Services comment:***

***Members should note that the author of this letter is the wife of a member of staff in the Planning Service.***

"The Vectos report's conclusions clearly confirm that the development would not be sustainable as it would rely upon private car journeys to bring people to the attraction in 82% of cases and probably closer to 90%. They predict that only 4% of visitors would arrive by public transport. This high dependency upon car use clearly indicates that the location is inherently unsustainable. The level of car journeys and associated car parking would represent serious harm to the tranquillity of this rural location.

The Britton McGrath report is concerned with viability and tourism and the second report acknowledges that the proposals could be of regional significant dependent upon the attractions on offer. However, it does not consider that the development could ever be viable and the visitor numbers are unlikely to exceed 130,000 as suggested by our previous submission.

The Nathaniel Lichfield report assessed the proposals against the national, regional and local policy framework and concluded that there were fundamental questions regarding its contextual compatibility. In our opinion, the failure to achieve viability remains an overriding matter that the scheme cannot robustly satisfy.

The presumption in favour of sustainable development in the National Planning Policy Framework identifies three dimensions to sustainable development namely economic, social and environmental. This scheme relates to a greenfield site substantially within a nationally designated landscape and includes a significant proportion of 'town centre' uses. In our opinion, the scheme could not sustain the

promised economic benefits of inward investment and employment; whilst remaining in direct conflict with the social and environmental strands of sustainability.

In our opinion, the proposal is thus contrary to the sequential preference for sites outside national designations, on PDL and in town centre locations. Indeed, the scheme would incrementally undermine the efforts to regenerate the closest town centres of Colchester and Sudbury.

The proposed location is unjustified and flawed in policy terms. As previously identified, development in this location is poorly served by public transport and would exacerbate unsustainable trips by private car

The inevitable harm to the tranquillity of the AONB is in direct conflict to the statutory management plan for the area. The demonstrable lack of viability should terminate any reasonable ground for granting consent in directly conflict with the overwhelming thrust of the planning policy matrix.”

#### 12.23 Visit East Anglia comments as follows:-

“I am writing in support of the planning application. Domestic tourism in England is growing and the East of England is taking advantage of this improvement in demand for the time being. However, continually increasing consumer expectations for a high quality experience and a growing interest in exploring local life will mean that many of our rural areas that rely on visitors could see a significant reduction in income received.

The Stour Valley Visitor Centre at Horkesley Park will address these challenges and will help ensure that the area continues to flourish. The iconic nature of the design on the centre and the high quality experience that it will offer will be particularly appealing to the ‘discerning’ visitor and as a directly result help preserve the iconic status of the Stour Valley”.

#### 12.24 Comment from Visit Essex

“Visit Essex is the official tourism organisation for Essex, Southend and Thurrock and works closely with Colchester Borough Council among others to promote the leisure, tourism and heritage assets in Greater Essex.

The latest statistics available for 2011 show that during the year Essex attracted over 41 million visitors of which the bulk was day-trips. The industry contributed close to £3 billion to the Essex economy comprising both direct and ended and supplier spends, and employed over 55,000 staff, some 8% of the total Essex workforce. The industry is recognised as a key economic driver for Essex, Southend and Thurrock and for that reason is supported by the public sector, including Colchester Borough Council and Essex County Council. In recognition of the industry's economic contribution, both in terms of spend and employment, Visit Essex sits within the portfolio for economic growth at ECC, alongside Invest Essex which seeks to attract foreign and domestic direct investment into the county. The economic contribution of the visitor economy is of course also well recognised nationally by both the Department for Culture Media & Sport and by Visit England.

The projected visitor numbers you show would make you the 2<sup>nd</sup> most frequented paying attraction in Essex and the 6<sup>th</sup> within the South East Local Enterprise Partnership area, after Canterbury Cathedral (1.04 million), Colchester Zoo (881k), Leeds Castle (596k), Dover Castle (355k) and the Royal Pavilion Brighton (344k). With 316,000 visitors, the Stour Valley Visitor Centre will only account for 0.77% of all visits

to Essex, based on the number of visits reported in the Economic Impact study referred to above. The comparative figure for Colchester Zoo is 2.15%.

Of particular interest is the Chinese Garden, the importance of which has not perhaps been fully recognised. Gardens generally are very popular destinations with 3 destinations ranking among the top 20 nationally, including the Royal Botanic Gardens at Kew, the Royal Horticultural Society Gardens at Wisley and the Eden Project in Cornwall. More locally RHS Hyde Hall accounts for 145,000 visits and the Beth Chatto Garden for 37,000, although it should be noted that neither are easily accessible from main roads.

The interest shown by the Jiangsu Province Department of Culture and Jiangsu companies and organisations is very exciting and will make this a unique show-case for Chinese arts and culture from which Essex will benefit in other ways, such as foreign direct investment from China, which is already well established with the ownership by Cheung Kong Infrastructure of Essex & Suffolk Water and UK Power Networks and Hutchison Whampoa owning the ports of Felixstowe, Harwich and Thamesport, as well as Superdrug.

The uniqueness of this show-case of Jiangsu arts and culture will in my view lift Stour Valley Visitor Centre to a tourism destination of national importance and supports Government and Essex policy in attracting Chinese investors.

Visit Essex is keen to support any addition to the tourism assets in the county and the Stour Valley Visitor Centre will materially promote Colchester with the zoo, its museums, galleries and facilities as the premier destination in Essex and in the South East, outside London.

In due course we look forward to welcoming you as members of Visit Essex and we shall work with you to ensure that appropriate brown signage is provided on the A 12 and other approach routes within Essex.”

#### **NOTIFICATION UNDERTAKEN BY THE LOCAL PLANNING AUTHORITY**

12.25 The Council has notified all those people who submitted representations either against or in support of the 2009 application plus the usual neighbour notification. In total 7524 letters were sent out. In addition the application has been advertised in a local newspaper and notices have been displayed around the site.

12.26 750 letters of objection have been received commenting on the following matters (numbers in brackets show the frequency of comments received):-

##### Traffic and Transportation

1. Traffic concerns due to additional traffic (465)
2. Traffic Pollution (25)
3. Traffic safety (17)
4. Traffic Noise (24)
5. Shuttle will not work (1)

## Environment

1. Scheme is harmful to the AONB and countryside (472)
2. The countryside is already accessible via ProW for free (62)
3. Scheme is inherently unsustainable (21)
4. The ecological reports are wrong/insufficient (8)
5. Harm to the setting of ProW (4)

## Impact on the Development

1. It is outside of the village boundary (3)
2. Light pollution (12)
3. Will actually restrict access to countryside (9)
4. The scheme is large scale/too big (20)
5. Noise from the development itself (12)

## Economic

1. There is low unemployment around here (1)
2. This is a retail park scheme via the back door (118)
3. This will force other commercial uses to close (22)
4. Scheme is unviable (105)
5. No need for scheme/applicant has not clearly demonstrated need (160)
6. The business plan has been kept secret (53)
7. You will have to pay to get in and people won't (25)
8. Visitor numbers are unrealistic (37)
9. Job numbers are unrealistic (19)

## Other

1. It looks like a theme park (12)
2. The Statement of Community is flawed (1)
3. Should be used for farming to produce food/plants (22)
4. Open day feedback forms were misleading (3)
5. Unwanted by local community (17)
6. Lack of this kind of thing is the beauty of the area (10)
7. Departs from LDF and NPPF (61)
8. If this goes ahead and fails it will be impossible to control in the future/Trojan Horse (40)
9. Scheme should be permanently rejected to allow CBC to spend its money on more important things (5)
10. Worried about welfare of Suffolk Punches (2)
11. Exploits heavy horses for personal gain (1)
12. The NPPF discourages out of town retailing (1)
13. It is next to a Grade I listed church and will harm the setting (19)
14. No demand for Suffolk Punch breeding (2)
15. It will harm the vitality of Colchester Town Centre (3)
16. No thought has been given to All Saints Cemetery (2)
17. Most of the jobs will go to immigrants not local people (3)
18. It could be open until 10.00 p.m (1)
19. Much of the scheme could be used for commercial events (2)
20. Planning creep is possible (1)
21. Precedent for other development could be set (5)
22. The scheme raises moral issues (2)
23. The design is inappropriate (1)
24. Complete lack of consideration for the people who live opposite (1)

25. The architects are renowned for their city building but it is not a city location (2)
26. If this goes through it could expand further (1)
27. The Chantry is unsuitable for an art gallery (1)
28. It will create a fake and unnatural portrayal of our area (1)
29. The scheme does not overcome the 12 previous reasons for refusal of 090231 (7)
30. Great Horkeley Parish Council support does not represent views of locals (1)
31. Fences will impede wildlife (3)
32. Incomplete details (1)
33. Concerned over the retail element (2)
34. Tourist benefits do not justify approval (1)
35. Land could have dwellings instead (greater need locally for homes) (2)
36. Greenhouses should be used for agriculture (1)
37. Loss of property prices near the site (1)
38. Village will lose its charm (1)
39. Site more suited for agriculture (5)
40. When it fails they will want housing on the site (1)
42. No connection with Constable (Buntings don't own any of his work) (1)
43. All elements of the park are available elsewhere (4)
44. Will take trade away from local businesses (1)
45. Lack of public transport (1)
46. The Chantry is up for sale so makes a mockery of the scheme (3)

**Planning Services comment:**

***The applicant has confirmed The Chantry is no longer for sale. The Chantry and gardens forms a key element of the proposal.***

47. This is not infrastructure investment (1)
48. The public meeting was not well advertised (1)
49. This could go in one of the many disused buildings in the town (1)
50. Specific issues with regards to footpaths in Fishponds Grove (1)
51. Children will not be able to see over the fences (1)
52. A few houses on the site would be much better (1)
53. The Localism Act means the strong opposition carries even greater weight (1)
54. The site should have been put forward through the LDF process (1)

**Planning Services comment**

***The figures in brackets indicate that the objectors have raised a number of issues in their representations.***

12.27 360 letters of support have been received commenting on the following matters (numbers in brackets show the frequency of comments received):-

Traffic and Transportation

1. Traffic concerns are overstated (14)
2. Shuttle bus will reduce car use (1)

Environment

1. Will support countryside, rural heritage and farming (3)
2. Support Suffolk Punch Horses and rare breeds (46)
3. Will enhance wildlife diversity (7)
4. Land will remain green not developed for housing (1)
5. New buildings are outside the AONB (7)
6. Improved footpath and access to the countryside (11)
7. Increase tree planting (1)

8. Historic buildings retained (1)
9. Good use of buildings (1)
10. Reuses a brownfield site (5)

#### Impact of the Development

1. New buildings will be better than existing greenhouses (18)
2. No landscape harm caused (4)
3. Will support the increase in housing (10)
4. Support education (43)

#### Economic

1. Will be an asset to Colchester (16)
2. Job creating/training/educational benefits (80)
3. Will boost other traders in the area (10)
4. Not using public/taxpayers money (11)

#### Tourism

1. Will increase/benefit tourism in the area (30)
2. Will provide another place to visit (17)
3. Excellent visitor centre (2)
4. Support leisure, recreation and heritage (17)
5. Will take pressure off other attractions in the area (4)

#### Other Miscellaneous

1. Mitigation should be provided to community via S106 payments (1)
2. Boost profile of farming (1)
3. Good for the community (1)
4. Have addressed the refusal reasons (30)
5. Entrance fee will limit crowds (1)
6. Will be more fun than Firstsite (1)
7. Needs to be in a rural setting (1)
8. Buntings family a credit to the village (1)
9. Well designed (2)
10. Would help Church to remain open (1)
11. Great showcase for art (1)

#### ***Planning Services comment***

***The figures in brackets indicate the supporters have in the main only referred to 1 or 2 issues in support of the application.***

12.28 Since the Planning Service made public their intention to recommend approval of the application over 275 further representations have been received. Many of them re-iterate the objections set out above but the following new objections have been received.

1. An authentic Chinese Garden contains stone, concrete statues and buildings which will be out of keeping in the AONB
2. The intention to display Constables is unrealistic. The Buntings do not own any Constables. No insurer would underwrite works of art short of government indemnity. The Council should seek proper independent professional advice, such as Tate Britain, regarding the display of Constables as they have the necessary expertise. There are seemingly many 'Constables' for sale, mainly in

America BUT they are 'after John Constable' or 'School of Constable' - therefore not authenticated and worthless as such in a genuine Constable Gallery. A genuine attributed Constable sketch sells for between £8k - £10k but the content of these are simple subjects such as a tree or some clouds; not an actual scene and therefore worthless in a genuine Constable Gallery. Larger Paintings suitable for showing sell for between £400k - £600k but these are not considered to be 'iconic' or from his 'masterworks' and therefore worthless in a genuine Constable Gallery. Almost all of John Constable's famous paintings - his 'masterworks' are owned or held and shown in World famous museums. Those that are privately owned are loan to museums because the cost of insurance of such an artwork held in a private house, makes it prohibitive. The last recorded Constable painting (sold on the open market) made a record price of £22,400,000 (£22.4 million) at auction with Christie's. [Note: The Purchaser was not The Bunting Family] In order to gain any validity and recognition as a 'Constable Gallery' a minimum of 4 of the masterworks should be owned or on loan. The minimum cost of purchasing such painting would be in the region of £25 million each - A total of 100 million pounds. For any museum or gallery to lend their Constable collection, they would expect to be lent a similar collection in return; they would also expect to be dealing with an acknowledged curator of some standing on a salary of £60k upwards. This curator will need and expect an assistant, salary £25k along with a budget for travel, for authentication and to host academics from around the World at annual symposiums. This is how the Art Market works, No Curator - No Credibility. In order to meet the demands of their Insurers, any new Gallery must meet strict security requirements: 'A' Grade Alarm System - £10k / Full 2 man Security presences at all times (24hr) - £25k pa / Red Care Alarm system for both Fire and Police with buried cable and direct connection - £5k / Fully upgraded monitored camera systems with Locks & Wire sensors - £15k. Sensors behind each painting - £500 each / All windows to be fitted with 'bandit glass' at Grade 1 strength with 4hr attempt resistance - £800 each / Upgraded Fire & Flood Standards to included raised flooring and insulation - £10k - Total initial cost: £80,000 in Year 1.- Constables on loan from a London Gallery or from abroad will require 'white glove handling' at a cost of £3k to the location [Gt Horkesley] On arrival a museum approved expert will need to meet the consignment and submit a 'Condition Report' at a cost of £500 for each report along with travel expenses.- Public Liability Insurance: Insurance to protect the visiting public from accident and situation approx £5k pa. Access for Disabled visitors including ramps and toilets facilities - £10k- It is evident from this unbiased commentary that The Bunting's Constable Gallery as an unknown, untested and unlikely reality. The Constable Trust have been approached but "Declined any involvement".

3. If Constables are available they should be displayed at First Site.
4. The Planning Service has employed consultants at the tax payers cost and then ignored their advice.
5. The planning service has ignored the advice of the Council's own planning policy team.
6. The application is contrary to the NPPF and the Councils own development plan. The overarching spatial policy SD1 seeks to direct growth to the most accessible and sustainable locations in accordance with a settlement hierarchy. The Horkesley Park proposals also fail to meet the requirements of policy TA1 that states that developments should not be car-dependent. Some 82% of the 316,250 visitors are expected to arrive by car. The isolated, rural location of the application site makes it impossible to meet policies TA2 that encourage

walking and cycling nor TA3. Crucially the application conflicts with policy ENV1 that aims to conserve and enhance Colchester's natural and historic environment, countryside and coastline. In particular, developments that have an adverse impact on the Dedham Vale Area of Outstanding Beauty will not be supported.

7. The applicant's agents continually state that the third parties have not presented any evidence to assert the view that there is no need for the proposals. We maintain that the onus is upon the applicants to demonstrate need. A review of the numerous objections shows that third parties have clearly said why the proposed development is unacceptable including valid issues such as visual impact, harmful effects on the rural area including noise, dust, traffic etc, which are all important considerations in the context of its location within an AONB.
8. If permission is granted the Council may leave them selves open to a judicial review or complaint to the ombudsman.
9. There has been a lack of transparency as some documents have been censored.
10. The decision on the 28<sup>th</sup> February will affect Colchestrians for many generations to come.
11. Has the threat of an appeal and possible costs meant the Council has changed its mind.
12. The promotion of Carters Vineyard, also owned by the applicant would increase traffic in Green Lane.

***Planning Services comment: The Travel Plan submitted with the 2009 application stated that "The hopper bus service would provide regular linkages to destinations including Carter's Vineyards ... and that "in order to further reduce the impact of traffic in the area, Carter's Vineyards will be closed to access by private car and only accessible by hopper bus via Horkesley Park" Whilst the 2012 Travel Plan indicated this restriction was still proposed in February this year the applicant indicated this was no longer the case and stated " There are currently no plans proposed to provide travel arrangements between Horkesley Park and Carter's Vineyards.... The proposed Horkesley Park Hopper Bus will provide a service between Horkesley Park and other tourism destinations, including the Dedham Village Coach Park and nearby places of interest in and near the Stour Valley. The finalised route for the Horkesley Park Hopper Bus will be agreed with CBC, Essex Highways Authority and in liaison with applicable tourism destination attractions. The route would be subject to review at part of the wider Travel Plan in consultation with CBC and others" The LPA is not able to insist on this restriction which involves land remote from the application site***

13. The Planning Service has not been transparent as documents have not been released.
14. The applicants' agent - Collins and Coward - is dismissive of the importance of local views and the level of control that local people should have in decision –making. The NPPF calls for the planning system to be genuinely plan-led, empowering local people to shape their surroundings through the use of local and neighbourhood plans. In a written ministerial statement the Secretary of State for Communities and Local Government is abundantly clear on the level of importance that ought to be given to local communities.
15. The threat of legal action has overridden the whole process.
16. Viability is not proven.

17. There is no need for the art gallery as there are a large number of galleries in the area.

12.29 There has also been three further letters of support.

12.30 In addition to the above letters of support the following organisations have written to endorse the applicant's business plan:-

- Mr. Mike Tyler (Partner of Peyton Tyler Mears) of 15.08.12.
- Mr. Keith Brown (Chief Executive of Visit East Anglia)
- Mr. Robert Leng (President of the Essex Chambers of Commerce)
- Mrs. Sula Rayska (Managing Director of Rayska Heritage)
- Mr. Martin Goymour (Managing Director of Banham Zoo)
- Mr. David Ralph (Chief Executive of the Haven Gateway Partnership) of 20.09.12.

12.31 Following comment that other organisations may have been sent the business plan but not endorsed it the applicant submitted the following statement "I confirm that with the exception of the partners/senior managers of Bunting & Sons and our consultant team, only the people/ organisations listed were given copies of the Business Plan and this was on exactly the same confidentially terms and conditions as agreed by the Council"

12.32 The applicant has submitted a quantitative assessment of the representations received by the Council. This includes an analysis of all the submissions both support and objections in terms of where the writers live and provides a comparison with the number of residents in each parish who have not made any representations.

12.33 Whilst the Horkesley Park application has generated significant local interest and interest beyond the Colchester Borough area both in opposition and in support it needs to be remembered that the application should not be determined on the basis of a popularity contest but in accordance with the Council's adopted development plan policies and/or other material planning considerations.

### **13.0 Parking**

13.1 Parking provision is discussed in Part L of the report.

### **14.0 Open Space Provisions**

14.1 The application is not for residential development and there is no open space requirement

### **15.0 Air Quality**

15.1 The application site is outside the air quality management areas

## 16.0 Report

The report is divided in the following subjects

- Part A Changes since the 2009 Application was Determined
- Part B Key Policy Considerations
- Part C Reports Commissioned by the Council
- Part D Deliverability
- Part E Tourism Socio Economic Issues
- Part F Design Issues
- Part G Heritage Issues
- Part H Protected Species Biodiversity Issues
- Part I Public Rights of Way
- Part J Countryside, AONB and Landscape Issues
- Part K Traffic Transport Issues Accessibility Issues
- Part L Parking
- Part M Drainage and Flood Risk
- Part N Other Issues
- Part O An Analysis of the 2009 Reason for Refusal
- Part P Overview of Key Issues and Policies
- Part Q Development Team
- Part R Departure
- Part S Recommendation
- Part T Section 106 agreement conditions

### 16.1 PART A – CHANGES SINCE THE 2009 APPLICATION WAS DETERMINED

- 16.1.1 The application being considered is a submission following a refusal of application 090231. A useful starting point is therefore an explanation of the main changes between the current application and the 2009 application. Other important changes, in particular changes in policy, since the determination of the 2009 application will then be explained.
- 16.1.2 The 2009 application is described as “Change of use and redevelopment of land to form a heritage and conservation centre comprising a 40.89 hectare country park, art gallery and craft studios (The Chantry) public gardens, main building, Suffolk punch breeding centre, farm barn, underground nature watch building (The Warren) rustic adventure playground and main and overflow car parks”.
- 16.1.3 The 2012 application is described as “Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park' comprising a country park; art and craft studios ('The Chantry'); public gardens; a central building complex to provide an indoor display ring, 'Suffolk punch breeding centre', entrance building, shop, cafe, 'field to fork', 'farming through the ages', 'active learning', 'nature watch', and retained greenhouse as a 'demonstration nursery and gardens', and energy centre; main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision”.

16.1.4 In terms of built form the two most important changes are:-

1. The 2009 application proposed a single Main Building - a broadly rectangular structure measuring some 175m in length and 50m at its widest dimension. The building included a rotunda, 50m in diameter that projected beyond the rear building-line of the building with first floor accommodation. The 2012 application proposes a range of single storey buildings which reflect the grain of the existing green houses in profile and height. The proposed buildings will measure approx 6.4 metres to the ridge whereas the Main Building proposed in the 2009 application measured 10.7 metres.
2. The 2009 application included buildings within the AONB - the Warren, an underground building, and the Hollow a rustic play area. The 2012 application has no buildings within the AONB although the Chinese garden which is within the AONB will include a tea pavilion.

16.1.5 A comparison of the changes in the floorspace is set out in the tables below

A Existing Buildings on the Developed 4.2 Hectare Nursery Site (sq m)

**Planning Services comment these figures are supplied by the applicant**

Existing buildings	Below ground sq m	Ground floor sq m	First floor sq m	Total floor area sq m
1. glasshouses 5 blocks	0	19,298	0	19298
2. other buildings (6 units)	0	1,474	360	1834
<b>Total floor area</b>	<b>0</b>	<b>20,772</b>	<b>360</b>	<b>21132</b>

B Proposed Buildings under Planning Application 090231 (18 February 2009)

**Case officer comment these are the figures used in the 2009 committee report**

Proposed buildings	Below ground sq m	Ground floor sq m	First floor sq m	Total floor area sq m
1. main building	0	8759	1220	9979
2. farm barn (animal encounter)	414	0	0	414
3. Suffolk punch breeding centre	0	927	243	1170
4. the warren nature watch	1126	0	0	1126
<b>Total floor area</b>	<b>1540</b>	<b>9686</b>	<b>1463</b>	<b>12689</b>

C Proposed Buildings under Planning Application 120965 (31 May 2012)

**Planning Services comment these figures relate to the floor area of the buildings they do not include covered walkways forming part of the Courtyard Animal Enclosure and Suffolk Punch Breeding Centre. The figure for the entrance does not indicate the full extent of the canopy which extends for approx 4 metres around and between the entrance buildings. These additional areas are indicated in bold type in the table where applicable.**

Proposed buildings	Below ground sq m	Ground floor sq m	First floor sq m	Total floor area sq m
1. entrance	0	190 ( the entrance canopy extends 4 m around and between the entrance buildings and has an overall area of approx 720 sq m)	0	190
2.the courtyard animal enclosure	0	760 (this building also includes a central roofed walkway of approx 120 sq m)	0	760
3.suffolk punch breeding centre	0	960 ((this building also includes roofed walkways of approx 86 sq m)	0	960
4. indoor display ring	0	2080	0	2080
5. nature watch	0	320	0	320
6. active learning	0	620	0	620
7. demonstration nursery and gardens	0	1500	0	1500
8. farming through the ages	0	930	0	930
9. field to fork	0	320	0	320
10. renewable energy centre	0	90	0	90
11. café	0	590	0	590
12. visitor centre	0	590	0	590
<b>Total floor area</b>	<b>0</b>	<b>8950</b>	<b>0</b>	<b>8950</b>
<b>Less retained green house (No70</b>	<b>0</b>	<b>1500</b>	<b>0</b>	<b>1500</b>
<b>Total new build floor area</b>	<b>0</b>	<b>7450</b>	<b>0</b>	<b>7450</b>

16.1.6 The new buildings in the 2012 application (excluding the covered walkways and canopy overhang) are all single storey and have a floor area of 7450sqm plus 1500sqm of retained glasshouses a total of 8950 sqm. The new and retained buildings will be erected on the already developed Nursery site of 4.2 hectares. The nursery area currently has glasshouses and other buildings with a ground floor footprint of 20,772sqm. The nursery site and buildings are not within the AONB.

16.1.7 The total area of new building now proposed is 8950 sqm which is 43% of the ground floor footprint of the existing buildings and 42% of the total floor area of the existing buildings.

16.1.8 If the area of retained glasshouses is excluded then the new build floor area is 7450 sqm. This is 36% of the existing ground floor footprint and 35% of the total existing floor area.

- 16.1.9 The total area of new building at 8950 sqm is 92% of the ground floor area proposed in 2009 and 71% of the total floor area proposed in 2009.
- 16.1.10 If the area of retained glasshouses is excluded then the new build area is 77% of the ground floor area proposed in 2009 and 56% of the total floor area proposed in 2009.
- 16.1.11 All of the buildings are single storey the majority being 6.4 metres to the top of the ridge.
- 16.1.12 The majority of the floorspace in the 2009 application was provided in the Main Building which included a 2 storey element of 10.7 metres.
- 16.1.13 Therefore it is true to say that the proposed new build results in significantly less floorspace than currently exists on the site in the form of agricultural buildings. Similarly whilst not a material planning consideration in itself it should be noted that the latest scheme also comprises significantly less floorspace than the 2009 scheme.
- 16.1.14 Of greater importance and a fact that should be noted when issues of building impact are being considered is the fact that the buildings being proposed in the latest scheme are significantly lower and of a greatly reduced mass and scale.
- 16.1.15 It is not true to say that the 2009 and 2012 are identical nor is it true to say they are similar when it comes to a description of the new built form. Members must therefore take care when considering the merits of the latest proposal to judge these afresh and revisit the question of impact on the character of the countryside hereabouts.
- 16.1.16 All the following elements included the 2009 application are excluded from the 2012 application:-
- Main Building including the Specialist Garden Centre, the Food Experience, Lounge Area, Restaurant Café and First Floor Lecture Theatre and the dedicated Restaurant,
  - Farm Barn
  - the Warren and Café with the Hollow
- 16.1.17 The change of use of The Chantry, The Chantry Gardens, Country Park and Farmland including the use as a Fine Art Gallery is proposed in the 2012 application and is the same as the 2009 application.
- 16.1.18 The 2009 application predicted 485,000 visitors the 2012 application predicts 316,250 visitors.

#### Policy Changes

- 16.1.19 When the 2009 application was determined the Development Plan comprised the Regional Strategy for the East of England the East of England Plan (RSS), the Core Strategy, the Site Allocations document, Proposals Map and the Development Policies Document.
- 16.1.20 This application was submitted in May 2012 and at that time the RSS still formed part of the development plan. Although the Secretary of State had already indicated the intention to revoke the RSS due to legal challenge and the consequent delay in the

formal revocation this plan had to be given some weight. However in December 2012 the Secretary of State confirmed the RSS would be revoked on the 3<sup>rd</sup> January 2013.

- 16.1.21 The National Planning Policy Framework (NPPF) was published by the Government in March 2012 and at the same time replaced all the Planning Policy Statements (PPS's) and Planning Policy Guidance (PPG's).

#### Other Changes

- 16.1.22 Since the 2009 application was determined Junction 28 on the A12 has opened. The country is also experiencing a recession. The Government has issued a number of consultation papers and made comment in ministerial statements aimed at revising some planning restrictions to stimulate growth, provide jobs and encourage economic recovery.

### **16.2 PART B KEY POLICY CONSIDERATIONS**

#### Revocation of the Regional Plan

- 16.2.1 When the application was received the applicant was arguing that the proposal was for a regional tourism attraction and the key policy document was the regional plan. The regional plan included a policy which stated "exceptionally the specific attributes of a rural site may make it appropriate for a regionally strategic proposal". A substantial amount of the application documentation therefore seeks to demonstrate that the proposal is regional; it also seeks to argue the specific attributes of the site. Furthermore representations against the application, in particular those submitted by a planning consultant on behalf of the Stour Valley Action Group, include detailed information which in their opinion explains why the application is not of regional significance. The Councils appointment of consultants National Lichfield Partners (NLP) and Britton McGrath Associates (BMA) was in part to inform the Council on whether or not the proposal was of regional significance. These reports in particular the report from NLP concluded the attraction was not regional this conclusion was based on the BMA report which questioned the applicant's information on the uniqueness of the attraction offer and the predicted catchment area, visitor numbers admission price and spend. A large number of representations also question the regional importance of the application. Since the revocation of the RSS the question of whether or not Horkesley Park is regional and the "regional" elements of the application documentation in the consultant's reports and the representations are of less importance. However irrespective of whether or not it is regional it is a major development. The question of deliverability will be addressed later in this report. The applicant now argues that the NPPF is the appropriate policy document as the Councils LDF does not contain any policies to deal with a regional attraction however the Council does not agree with this argument. The application will be assessed against both the LDF and NPPF.
- 16.2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises: the Core Strategy (adopted December 2008); the Site Allocations (adopted October 2010); Proposals Map (adopted October 2010); and Development Policies (adopted October 2010).

16.2.3 The NPPF, Tourism Good Practice Guide, The Dedham Vale Management Plan and the Colchester Landscape Character Assessment are also relevant documents and therefore material considerations.

16.2.4 Following the revocation of the regional plan the applicant has submitted the following comment:-

“The Colchester Local Development Framework has no policies to consider a regional tourist facility. It can only deal with those of local significance. Accordingly, the LDF has a policy vacuum where the relevant policy for regional tourist facilities is absent. This is inevitably the case where the LDF was drawn up concurrently with the East of England Plan in a situation where both documents formed the Development Plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. In this context the LDF could only address developments of local scale.

Consequently, the Horkesley Park planning application from 3 January 2013 must be determined against the LDF and NPPF. In this regard the application has a presumption in favour of development as stated at paragraph 14 of the NPPF unless material considerations indicate otherwise”.

***Planning Services comment:***

***For clarification paragraph 14 of the NPPF refers to sustainable development the paragraph is produced in full below. The argument of a policy vacuum was put forward when the 2009 application was considered. This is not a view shared by the Council; it is considered the LDF does deal with proposals of a regional scale. This is discussed in detail in the spatial policy response below:-***

16.2.5 Spatial Policy’s comment on the Implications of the Revocation of the RSS is set out in paragraphs 1-16 below

1. The written ministerial statement issued on 11 December 2012 states that the Coalition Government has laid in Parliament an Order to revoke the Regional Strategy for the East of England. The order came into effect on 3 January 2013.
2. As made clear by paragraphs 11, 12 and 17 of the NPPF the planning system remains plan-led and applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Section 38(6) of the Planning and Compulsory Purchase Act 2004 is not altered by the Localism Act or by the publication of the NPPF. In the absence of the East of England Plan the development plan consists of Colchester’s Adopted Local Development Framework and the proposal must be assessed against these policies. If it accords with the development plan it should be approved without delay as stated in NPPF paragraph 14, and development that conflicts with the Local Plan should be refused as set out by paragraph 12 of the NPPF which states that: “Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.”
3. The second part of paragraph 14 of the NPPF only comes into consideration where the development plan is absent, silent or relevant policies are out-of-date. Colchester has an adopted Core Strategy, a Site Allocations and a

Development Policies DPD which form the development plan for the area and the development plan therefore cannot be considered to be absent. Paragraph 211 of the NPPF states that “For the purposes of decision-taking, the policies in the Local Plan should not be considered out-of date simply because they were adopted prior to the publication of this framework”. Colchester’s Local Policies are therefore not out-of-date. When considering if the development plan is silent it is relevant to consider if there are a lack of relevant policies against which to assess the proposal.

4. The Collins and Coward Ltd letter dated 13 December 2012 states that “In this case the Colchester LDF has no policies to consider a regional tourism facility”.
5. It is correct that Colchester’s LDF does not include a policy titled ‘regional tourism facility’ or a policy dealing exclusively with this form of development. This does not mean, however, that there are no policies against which such a development can be assessed.
6. Despite the publication of the National Planning Policy Framework (NPPF) in March 2012, the Council’s Adopted Core Strategy and Development Policies documents remain relevant. As there is generally no more than a limited degree of conflict with the NPPF it is considered that full weight can continue to be attached to the majority of the Council’s policies as set out by paragraph 214 of the NPPF. Even where there is some greater conflict, weight should be attached that is appropriate to the case according to the degree of consistency with the NPPF (NPPF para 215). Significant weight should continue to be attached to the Council’s adopted policies. Colchester’s most relevant adopted Development Plan Documents (DPDs) are the Core Strategy (2008) and the Development Policies DPD (2010). The Site Allocations DPD was also adopted in 2010. These adopted local policies cover all types of development and are capable of being used as the basis to assess all types of proposal. Should a particular proposal represent a departure from local policy then the exceptional circumstances and other material considerations that may justify such a departure would need to be made clear and justified.
7. Relevant local policies are Core Strategy (Adopted December 2008) Policy SD1 (Sustainable Development Locations) – This policy provides the overarching spatial policy for the Borough and ensures that new development is located in sustainable locations to minimise the need to travel and to avoid negative environmental impacts.
8. The applicant’s planning policy statement states that Policy SD1 does not preclude other opportunities coming forward for development and that there are instances where these opportunities will be outwith the urban area.
9. Policy SD1 sets out a clear settlement hierarchy and spatial policy for development in the borough with which the large scale Horkesley Park proposal does not accord. The policy requires priority be given to accessible and sustainable locations. The application site has been shown in the Vectos report to be unsustainable for a development of this scale. The proposal fails to accord with Core Strategy Policy SD1.
10. Policy CE1 (Centres and Employment Classification and Hierarchy) –

This policy sets out a clear hierarchy for development in Colchester directing larger scales of development towards the urban areas.

11. The applicant's planning policy statement states that rural tourism under CE1 is supported to meet local needs and economies. It is stated the LDF can only deal with local scale tourism projects because Policy C2 of the regional plan provides the development criteria for regional scale projects. In their letter dated 13 December 2012 Collins & Coward Ltd argue that the revocation of East of England Plan results in a policy vacuum.
12. Notwithstanding the comments in the applicant's planning policy statement and the letter dated 13 December 2012 it is considered that Policy CE1 is relevant to this proposal as the LDF can deal with all scales of development. The Council's adopted approach is to direct larger scale proposals to the urban areas. Policy CE1 supports small scale development in countryside locations which is consistent with the Council's approach to sustainability and the protection of the character of the countryside. The policy seeks to achieve a balance in rural areas between economic benefits and environmental disbenefits by supporting developments that are small scale and of local benefit. The Horkesley Park proposal cannot be considered to have low travel needs or low impacts given 316,250 visitors per annum are predicted by the applicant and that it is stated 82% of these visitors will arrive by car.
13. Policy UR1 (Regeneration Areas) –  
To enhance Colchester as a prestigious regional centre, the Borough Council is committed to regeneration in rundown areas, deprived communities and key centres, with the purpose of building successful and sustainable communities. Regeneration will also enhance Colchester's attractiveness as a visitor destination.
14. The Core Strategy identifies five Regeneration Areas to serve as a focus for new development, and in particular, to 'enhance Colchester's attractiveness as a visitor destination'. The main new cultural and tourist attractions for Colchester to 2021 are directed to these areas in accordance with the Council's spatial strategy, including Firstsite, the Cultural Quarter, and the Community Stadium. The proposed development is not located in or near to any of these Regeneration Areas, nor is it within or adjoining the urban area of the town. The proposal would introduce a large scale new development in the countryside and therefore does not accord with the approach promoted by adopted local policy.
15. Sequential Test  
In accordance with paragraph 24 of the NPPF, a sequential test should be applied to applications for main town centre uses that are not in an existing centre or in accordance with a development plan. The applicant has carried out a sequential test for the site as a whole. The application does not include a sequential test applied to the proposed main town centre uses on an individual basis. The NPPF requires applicants and Local Planning Authorities to show flexibility in terms of format and scale. The wording of the NPPF, the Nathaniel Lichfield & Partners (NLP) report provided to the Council, and Dundee legal decision (2012) highlight the need to consider sites that are suitable for the development proposed so in this respect consideration of the site as a whole may be appropriate. There is however a need to show realism and flexibility in

the proposals as highlighted in the Dundee decision and in the NPPF. It may therefore not be appropriate to require disaggregation of the uses with regards to the sequential test. With regards to sustainability considerations, however, the proposed attraction does consist of a number of 'main town centre' uses, as set out in the NPPF, which are intensive in their nature and as a result attract a large number of visitors to this unsustainable location. This is highlighted by the Tourism Evaluation Report (page 80) which makes clear that the "vast majority" of visitors will not visit the open countryside elements of the attraction. The scale of the attraction and the nature of the uses therefore add to the harm in sustainability terms by resulting in a high number of visitors travelling to this car dependent unsustainable location. In this respect it is notable that the applicant does not appear to have explained or carried out detailed analysis of why a smaller scale tourist attraction incorporating fewer main town centre uses could not be a viable proposal for this site.

16. Previously Developed Land

Policy SD1 and paragraph 111 of the NPPF require that planning decisions should encourage the effective use of land that has been previously developed and is not of high environmental value. The definition of previously developed land is in the NPPF excludes: land that is or has been occupied by agricultural or forestry buildings. The definition of agriculture in section 336 of the 1990 Act includes horticulture, fruit growing, seed growing, market gardens and nursery grounds.... It is therefore considered that horticultural nursery uses should normally be considered to come within the definition of agriculture. The applicant has not provided detailed information on the previous uses of the site but having regard to the above it is likely that glasshouses used previously for growing of tomatoes would not fall within the definition of previously developed land. It is noted that in the supporting information the applicant makes reference to the definition of previously developed land provided in the glossary to the LDF. Whilst this is a useful simple definition it is not exhaustive and there is further detailed interpretation provided by national policy and legislation on this issue as set out above.

***Planning Services comment:***

***The majority of the site, including the glasshouses does not constitute previously developed land.***

***Whether or not the site or parts of it constitutes previously developed land is one thing but it is clear that a significant number of agricultural buildings exist in the south-east corner of the site and that they are particularly prominent when viewed from the south. (London Road and the A134) Therefore the Council needs to consider what its reaction might be to the re-use of such buildings for non-agricultural use and what its view might also be to the extension of such buildings in such circumstances, Obviously members do not need to be reminded that the agricultural industry still benefits from a less restrictive planning regime and enjoys extended permitted development rights ever since the modern planning system came into being in 1948 when Government's have consistently looked to give farmers flexibility to expand production following the drive to be self-sufficient in food supplies after World War II.***

16.2.6 Planning Services assessment of the key policy issues

The Spatial Policy response refers to policy SD1 as the overarching policy for the Borough for new development to take place in sustainable locations. The Core Strategy includes a whole range of sustainable development policies including SD1, SD2, CE1, CE2, CE2a, CE3 and UR1. The aim of all these policies is to direct new development to sustainable locations following the hierarchy of defined employment land and growth areas.

16.2.7 One of the key elements of SD1 is that development proposals should take a sequential approach. To satisfy this policy a sequential test has to be applied. The Nathaniel Lichfield Partners (NLP) report commissioned by the Council considers this issue and concludes the sequential approach has been satisfactorily complied with.

16.2.8 The Nathaniel Lichfield Partners report states

*The Tourist Attraction and Sequential Test*

*“The proposed tourist attraction will compete for tourist visitors and may divert trade from other country parks, open farms, wildlife attractions, gardens and museums/galleries (as listed above). However the diversion of trade is likely to be spread thinly amongst a large number of existing attractions. The impact on other tourist attractions is only a planning consideration if the loss of trade would significantly affect the vitality and viability of designated town centres. Very few of the attractions identified are located within town centres.*

*In our view impact on town centres will be limited and would not be a valid ground for refusal.*

*In terms of the sequential approach the development needs to be considered as a whole (allowing for a reasonable degree of flexibility), as suggested by the recent Dundee legal decision relating to the sequential approach. On this basis the development cannot be disaggregated or accommodated within or on the edge of town centres, even if slightly smaller sites were considered.*

*Paragraph 24 of the NPPF indicates that when considering out of centre sites preference should be given to accessible sites that are well connected to town centres. It is arguable that any other rural site could be considered to be accessible and well connected to town centres, and therefore sequentially preferable to Horkesley Park.*

*If a suitable site large enough to accommodate the proposed tourist attraction did exist, for example immediately adjacent to Colchester urban area, then it may be possible to argue there is a more accessible and better connected site. If this was to form a valid reason for refusal the Council would need to demonstrate an alternative site exists at appeal. We have seen no evidence to suggest that a sequentially preferable location exists that is suitable, viable and available for the proposed tourist attraction.*

*Conclusions In our view the impact and sequential tests relating to main town centre uses in NPPF are unlikely to be valid ground for refusal in this case”.*

16.2.9 Part of the applicants submission regarding the sequential test is that the proposal requires a rural location and that all its elements are essential to the “attraction package”.

16.2.10 The NLP report therefore concludes they have seen no evidence to suggest that a sequentially preferable location exists that is suitable, viable and available for the proposed tourist attraction. This report also concludes that the retail element proposed would not have an adverse impact on the town centre. Whilst Spatial Policy has questioned some elements of the tourism package they have not suggested any

alternative sites and they do not question the NLP conclusions in these respects. The proposal has therefore followed and satisfied the sequential approach required by policy SD1. The retail element is now contained a separate building whereas in the 2009 application it formed part of a much larger building. Restricting retail use is therefore easier to secure and enforce

**16.2.11 Members are advised that this is one of the most important elements of the NLP advice to the Council and it is one of the reasons why the Planning Service has adjusted its weighting of the 2012 proposal. The Planning Service argues that as a result of NLPs very clear conclusion on this point of sequential preference they have in fact provided an important strand of support for the proposal. Clearly their advice includes consideration of other aspects of the proposal and members must be mindful of that additional advice.**

**16.2.12 Members are advised to have regard to the substance of that advice, particularly as it might now be weighted by additional material from BMA rather than rely on statements from objectors or the press about what the NLP advice says.**

16.2.13 Whilst the NLP conclusion is an important consideration the other key element of policy SD1 requires growth to be located at the most accessible and sustainable locations. CBC Planning Policy consider that as the application site has been shown in the Vectos (the Councils consultant) report to be unsustainable for a development of this scale the proposal fails to accord with this element of Core Strategy Policy SD1. The adverse impacts of the location and traffic are discussed later in this report

16.2.14 The application may conflict with sustainable development policies in the Core Strategy which all seek to direct development to urban areas. There is an argument to be made that a country park could not be provided in an urban area and a countryside location is required. If it is accepted no sequentially preferable location exists that is suitable, viable and available for the attraction and that a rural location is appropriate then the development plan policies which relate to scale of development and sustainable transport have to be considered in the light of this conclusion. The adverse impacts resulting from its large scale, reliance of the private car and location have to be considered. The application also has to be assessed against all material considerations and a range of policies in the development plan and the NPPF which on the one hand seek to protect and enhance the countryside and the AONB and on the other promote sustainable development and economic growth.

### **16.3. PART C REPORTS COMMISSIONED BY THE COUNCIL**

16.3.1 The Council commissioned independent consultants to advice on certain aspects of the application. Since the publication of the consultants reports in the public domain a large number of representations have been received suggesting the advice in the reports is being disregarded by the Planning Service.

16.3.2 The following consultants were appointed and their fees were paid by Colchester Borough Council. The brief for each consultant was set by Officers in the Planning Service and Planning Policy with no input from the applicant or their advisors.

16.3.3 Britton McGrath Associates (BMA) was asked to provide an evidence based evaluation of the relevant attraction markets to inform a review and critique of three key documents

- The Business Plan
- The Tourism Evaluation Report
- The Socio Economic Impact Assessment

Secondly, based on industry research and proprietary experience of operating not dissimilar businesses to provide a top line check of the Business Plan to ensure that it covers all appropriate elements.

Thirdly, to review and, where relevant/pertinent, comment on the objections of the Stour Valley Action Group (SVAG); such a review to focus on Tourism and Visitor Numbers, Viability and Job Numbers

16.3.4 Nathaniel Lichfield & Partners (NLP) was asked to provide:

- A policy review and comment on
- Sustainability issues and
- Whether the development will provide a regional facility and does it satisfy regional plan policy
- A review of the Socio Economic Impact Assessment
- A review of predicted jobs

16.3.5 Vectos was asked to assess the sustainability credentials of the scheme in terms of location and need to travel / car travel and to provide a

- Review of the updated Transport Assessment
- Review the package and viability of Travel Plan measures to consider the
- Implications of policy changes / NPPF on the transport and sustainability aspects of the scheme and to
- Review whether the transport assessment and car/coach modal split is realistic for the site and if this is not achievable the implications for car parking.

16.3.6 Britton McGrath Associates

The first report from BMA dated November 2012 disagreed with the applicant's predictions in terms of catchment area, visitor numbers, price and income. Two addenda reports were also produced providing clarification on Colchester's pull as a tourist destination for short stay breaks. A supplementary report was submitted to the Council dated 18 December looking at the potential for Horkesley Park to deliver regional status.

16.3.7 This report concluded "In conclusion, we believe that Horkesley Park has the potential to become a regional attraction provided:

- the investment in the Chinese Garden is forthcoming to the levels indicated and is executed to a high quality;
- the Constable Country offer is further developed and defined and includes the exhibition of at least a few authentic Constable paintings in the Chantry;
- the plans to integrate the Suffolk Punches as part of the visitor offer are realisable.

We would also add the following over-riding caveats:

- that the development will be of a high quality;
- that the balance of investment between 'content' and infrastructure is addressed;
- that the promised programme of events is forthcoming.

We have not shifted fundamentally in our opinion that 316,000 visitors per annum is overly ambitious. However, the investment in the Chinese Garden should, in our view, help to ensure that the development reaches the upper rather than lower limits of our estimate of 90-130,000 visitors per annum and could potentially reach 150k.

It's worth noting that at 150k, this would put Horkesley Park in the top 20 attractions in the East of England region overall, and in the top 10 paid-for attractions.

However, based on the qualitative criteria as outlined earlier, we would conclude that Horkesley Park does have the potential to deliver as a regional visitor attraction".

***Planning Services comment***

***All of the above BMA reports were produced prior to the revocation of the Regional Plan. The key question now is not whether Horkesley Park is regional but whether it can be delivered.***

***The applicant disputes the BMA predicted catchment, visitor numbers, ticket price and spend. However they have provided BMA with Business Plan sensitivity analysis information to allow BMA to determine whether or not the attraction could be delivered and be viable at the BMA predictions and this final report from BMA is discussed in Part D Deliverability.***

***The BMA reports have been very useful in drawing out key elements of the Horkesley Park proposal which are unique and of regional appeal. As a result the Council has sought further details on these parts of the proposal. BMA has also drilled down into the business plan and the sensitivity analysis predictions.***

16.3.8 Nathaniel Lichfield & Partners report

One of the conclusions in the NLP report is that based on their own analysis and information on visitor numbers, facilities and pricing structures from the first BMA report none of the proposed elements at Horkesley Park, in isolation or combined as a whole, have sufficient draw to suggest it will be a tourist attraction of regional significance.

***Planning Services comment***

***Since the preparation of the NLP report in November 2012 the Regional Plan has been revoked. As previously discussed whether or not the attraction is of regional importance and therefore whether it satisfies policies in the regional plan is no longer relevant. Following discussion with Officers and BMA the applicant has provided further explanation on the Chinese Garden and The Chantry Art Gallery which has satisfied BMA that these elements have the potential to be regional attractors.***

***The NLP conclusions on the sequential approach and impact on the town centre have been important in assisting officers in the assessment of the application against core policies in the Development Plan on sustainable development. The NLP conclusions on socio –economic benefits are also set out in the relevant part of this report.***

16.3.9 Vectos

The conclusions from the Vectos report are set out in detail where transport and sustainability transport issues are considered.

***Planning Services comment***

***The advice from the consultants has been carefully taken into account. What has changed since the submission of the application and the preparation of the consultants' reports is the revocation of the regional plan. As much of the work done by NLP was an assessment of Horkesley Park as a regional attraction this is now of only limited importance. The NLP report has also been superseded to some degree by the further work carried out by BMA once the importance of the Chinese Garden, the Chantry Art Gallery and the Suffolk Punch was fully appreciated. The reports in particular the work done by BMA has been very useful in satisfying officers that if planning permission is granted and the visitor numbers and spend is not as high as the applicant predicts the attraction would still be deliverable.***

## **16.4 PART D DELIVERABILITY**

- 16.4.1 As discussed in part B of this report the application was promoted by the applicants as a regional attraction and it was argued it satisfied policies in the regional plan. Now the regional plan has been revoked the question of whether or not it is regional is of less importance. The first Britton McGrath Associates (BMA) report commissioned by the Council questioned a number of the key assumptions in the applicants Tourism Evaluation Report (TER). However the key question is not whether the attraction is regional but whether or not it is deliverable in a form that will provide a major attraction drawing people from outside the Borough.
- 16.4.2 Will it be a major attraction is the appropriate question and will that be enough to sustain the business is the appropriate question? Not an academic analysis of 'is it a regional attraction or not.' That results in a great deal of wasted time and energy because there is and never was a definition for such a phenomenon. Did it rely on crossing a magical visitor number threshold? Did it rely on the distance visitors were willing to travel (miles or travel time)? Was it dependent on position in regional league table? The answer has never been clear.
- 16.4.3 So what should members be looking at now that the importance of the Regional aspect of deliberation has been downgraded? The answer is as it always has been. Relevant LDF/Local Plan policies, National Policy and an assessment of any harm of the proposal may cause and whether it can be appropriately mitigated.
- 16.4.4 Deliverability is probably the most important issue in determining whether or not the Council can support the application despite what the applicants agents believe. In a very practical sense in most instances if planning permission is granted in areas where development is normally and easily embraced within a local plan (usually urban areas) there are a range of alternative uses that would be equally acceptable within any such buildings. Indeed often such changes can be facilitated by permitted changes of use without the need for further planning permission. However in this case if Members accept that a Departure is justified what certainty is there that the business will be delivered as intended and in its entirety? What happens if the business model was not sound and it is no longer possible to run the business and use the buildings for the intended purpose?

16.4.5 The applicant might argue that the Council is able to control future changes of use away from the approved (if permission is granted) purpose and that is certainly true. However what happens if the proposed new uses are not acceptable to the Council. How difficult will it be in a realistically practical sense to resist the use of empty buildings that cost many millions of pounds to build and are all in good condition having only recently been built? Would the Council be brave enough to leave such development empty in such circumstances? Would a Government Inspector? The answer is who knows? That is why the Planning Service has spent so much time with its consultant BMA looking into the applicants business plan and why the question of deliverability is so important.

16.4.6 Looking at deliverability the key questions explored by the Council's planning services are:-

- **Is finance in place to provide the entire package of attractions being proposed from day one?**

16.4.7 The evidence suggests that yes it is and in such circumstances the applicant can be required to deliver all the facilities prior to opening via a legal agreement

- **Does the business model being used by the applicants have enough sensitivity built into it to allow certain key assumptions not be fully realised and still result in a viable project?**

16.4.8 The evidence suggests that yes it does as will be explained in more detail later.

- **Will the central elements of the scheme that will make it a key attraction be delivered to the level of dramatic effect and quality suggested by the applicants?**

16.4.9 The Chinese Garden

16.4.10 The Gallery

16.4.11 The Suffolk Punch Horse centre

16.4.12 Before moving on it is worth exploring one of the objectors main fears about the what if scenario. What if the Horkesley Park attraction failed and a retail user bought the site? Particularly one of the dominant supermarket companies. Could we see a large supermarket occupy the buildings - Not without first securing planning permission.

16.4.13 That said the Planning Service shared the concerns of objectors on this point. That is why the following 2 key changes were negotiated by the Service into the 2012 scheme.

1. A significant reduction in retail floorspace within the scheme (and this can be restricted by condition and within any associated legal agreement if members are minded to grant planning permission.

and more importantly

2. The large single volume building contained in the 2009 scheme was ruled out and the applicants were required to break the uses down into a series of smaller freestanding buildings. Therefore were a major supermarket to acquire the site it would not suit their business model to operate from floorspace scattered between buildings and not under one roof. This has been a very deliberate negotiating stance from the Planning Service and is one of the many reasons why the Service has shifted its weighting this time round.

16.4.14 If planning permission is granted the decision will be reached after a careful consideration of all the benefits and disbenefits of this specific proposal and a conclusion reached that the benefits outweigh the disbenefits. The decision to approve will therefore be made on this specific proposal and it is not the case that if this attraction fails another attraction would then be acceptable.

16.4.15 ***Britton McGrath Associates Report February 2013***

*BMA has submitted a further report which pulls together the key threads of all of the earlier studies/reports carried out as part of this project. In this respect it takes into account:*

- *The benchmarking study and performance review produced in the original BMA report and the subsequent addenda;*
- *The detailed information on the concept provided in the following meetings;*
- *BMA's views following a site visit and further benchmarking on the strengths of the revised concept*
- *Consideration of the business case sensitivities provided by Bunting and Sons plus the output of the cross party workshop on project viability*

*Further review of the product experience, looking at the areas of identified strength, has lead us to conclude:*

- *In terms of uniqueness and ability to draw from up to two hours away, we would suggest that the Chinese Garden does have the potential to be a strong destination driver for Horkesley Park.*
- *Of the three key drivers identified here, we would argue that, currently, Horkesley Park's Constable Country offer is the least well defined; however, in terms of potential, we believe it holds the greatest scope. If developed and executed to its fullest potential and, assuming the presence of authentic Constable Paintings on site, then we would support the argument that the Constable Country element of the offer at Horkesley Park could draw significant visitor numbers from outside of the region.*
- *Based on uniqueness and regional provenance, the rare nature of the breed and the Buntings' knowledge and experience of relevant animal husbandry, then the Suffolk Punches could definitely be argued to contribute to Horkesley Parks' cumulative appeal.*

*A key challenge for Horkesley Park is its location and the consequent resident or visiting population from which it might draw. Whilst Horkesley Park has 29.7m people within a 2 hour drive time, other comparable sites have in some cases double or triple that number of residents or visitors to draw from.*

*In conclusion, we have not shifted fundamentally in our view that 310,000 visitors per annum is overly ambitious. However, the investment in the Chinese Garden in particular could, if exploited correctly, enable the development to reach the upper rather than lower limits of our estimate of 100-150,000 visitors per annum.*

*The perception appears to be that achieving a visitor number in the order of 100-150,000 per year would not be considered a success. This level of performance would put Horkesley Park in the top 18 [paid for] visitor attractions in the East of England and be a very creditable performance.*

*Having said that, we still believe that lead pricing at or below c.£10 per adult, with the standard discounts for concessions etc. will still be essential to draw this volume*

*We also believe that it would be prudent, for the purposes of initial business planning, to anticipate achieving average performance on retail and catering spend per head. This has been determined using data from the top attractions in the UK, as represented by ALVA.*

*Despite this, we have still been able to demonstrate, in full collaboration with Bunting and Sons, that, with prudent management, it is possible to create a viable and sustainable business at this level.*

*We believe that Horkesley Park has the potential to become a quality attraction that would add value to the portfolio of reasons to visit the Colchester area provided:*

- *The investment in the Chinese Garden is forthcoming to the levels indicated and is executed to a high quality;*
- *The Constable Country offer is further developed and defined and includes the exhibition of a number of authentic Constable paintings in the Chantry;*
- *The plans to integrate the Suffolk Punches as part of the visitor offer are realisable. We would also add the following over-riding caveats:*
- *That the development will be of a high quality;*
- *That the balance of investment between 'content' and infrastructure is managed carefully with the emphasis on elements that add to the visitor experience;*
- *That the promised programme of events is forthcoming.*

*In addition to this we would like to take this opportunity to strongly recommend that the applicant undertakes independent market research among potential consumers - when the concept is further developed, but before the point at which it is too late to change*

## **Scheme finance**

**Ordinarily the Planning Service would not enquire as to how a proposal is to be financed as that is a commercial matter for the developer**

**However in this particular case that question has been asked as BMA, working on behalf of the Council in considering the question of deliverability of the proposal, wanted to better understand how any costs of servicing project finance might impact on the business plan and sensitivity. Whilst much of this information is commercially sensitive and confidential the position can be summarised as follows:-**

- **Investment by the Bunting family of their own resources**
- **Involvement of what are described by the applicant as selected private partners in a joint venture arrangement**
- **Support from China**
- **Gifts & donations**

The applicant has indicated that there is no contribution from the public purse towards delivery of the project.

Therefore the applicant has claimed that project delivery is not dependent upon funding from banks. They have described the situation as a 'no strings' arrangement.

The applicants have indicated that the attraction if approved would be controlled and the Bunting family and therefore commitments to quality and management controls can and will be delivered.

A significant number of objectors have questioned the viability of the proposal and question its medium/long-term prospects. (the fear being later re-use for other purposes that may harm the character and amenity of the area). The financing arrangements described by the applicants would suggest that they will have a greater ability to be flexible and that sensitivity options are more diverse than a project which depends heavily on traditional funding from the financial sector.

## **16.5 PART E TOURISM SOCIO ECONOMIC ISSUES**

### **16.5.1 TOURISM**

#### **Information from the Application Documents**

16.5.2 The applicants Tourism Evaluation Report (TER) states Horkesley Park will provide a comprehensive balanced product offer that is designed to appeal to different markets to provide customer choice and to provide a return for a substantial investment. It would go a long way to put Essex on the tourism map and provide a flagship attraction. It also states it would provide an ideal opportunity for cruise ships visitors and provide sufficient onsite activities to help develop over night stays

16.5.3 The TER states that for many years the tourism industry within the east of England has lagged behind other regions. It states:-

“Colchester’s ‘Unique Selling Proposition’ is its historic past and there are three historic figures that have the potential to improve Colchester’s image as a tourist destination – Emperor Claudius, Boudicca and John Constable. In perception studies, John Constable or ‘Constable Country’ was found to have the most widespread appeal for visitors and there are opportunities to sensitively promote this aspect of the local tourism product.”

16.5.4 The applicants TER indicates that visitor surveys have found that whilst visitors did not consider there were any distracting influences in the Vale they wanted to see additional shops, more toilets better signs and information. Local residents wanted to see traditional farming, more trees, additional and improved footpaths, additional and improved cycle trails, cycle hire shops, traffic management and more informal recreation improved public transport and park and ride.

16.5.5 The applicants TER also refers to the Dedham Vale Management Plan and states:-

“The Dedham Vale AONB and Stour Valley Management Plan 2010-2015 have a vision that in 2025 the AONB and Stour Valley will be an area providing access to the countryside for both residents and visitors, enabling them to enjoy the landscape and associated benefits. These include health benefits associated with increasing exercise for those that choose to walk, cycle and paddle their way through the area. To achieve this vision they state that every opportunity must be taken to help visitors to gain greater understanding and appreciation of the historic landscapes and heritage features they have come to enjoy. They point out that local businesses have an important role to play in providing enhanced opportunities for sustainable tourism within the area. Horkesley Park will open up access to currently a private area of the Dedham Vale AONB and Stour Valley region with lovely views across the Stour Valley. The Country Park will help to fulfill many of the aspirations and aims identified in the Management Plan and its vision to 2025.

16.5.6 The applicants TER further states “The current Dedham Vale AONB and Stour Valley Management Plan 2010-2015 acknowledges that 92% of visitors to Dedham Vale AONB came by car and that there are limited opportunities for moving around the area by public transport. Under the banner ‘Enjoying the Area’ theme, they state that they wish to ensure people see the area as a place to enjoy; there are opportunities to travel in more sustainable ways; and the area’s heritage assets are understood.”

16.5.7 The applicant has provided the following further explanation regarding the Chinese Garden “The Stour Valley Visitor Centre at Horkesley Park will feature a number of gardens. Around The Chantry, re-built in 1803, there are 2 hectares (5 acres) of gardens where it is proposed to restore the Georgian and walled gardens, and create an authentic Chinese Garden. The restored Georgian gardens will surround the house and have views across the adjoining wildflower meadow and Stour Valley. The walled garden will have its south wall extended to create a completely enclosed garden laid out and planted to reflect the period of the Great Plant Collectors from 1750 to 1850. Behind the high walls of the walled garden an authentic Chinese Garden including a small tea pavilion will be created, hidden from external view. The tranquil gardens will make much use of water and rocks – an oasis of calm.

16.5.8 The Chinese Garden is being created in the Visitor Centre at the suggestion of Senior Members of Essex County Council to help strengthen cultural links and in turn trade between China and the UK, particularly between the Province of Jiangsu and the County of Essex, which are twinned.

16.5.9 The Chinese Garden and the gardens of the Great Plant Collectors will incorporate Bunting & Sons’ historical trading links with the Far East.  
The commitment value of the Chinese Garden will be in excess of £1.5 million”.

### **Art Gallery component**

16.5.10 There is considerable scepticism amongst many objectors that the gallery will be delivered and if it is it will not and cannot live up to the billing of the applicants and stated expectations. That is understandable. The applicants do not currently run a gallery, they have not given an indication that they already own such a collection and no details of actual artworks to be displayed have been revealed.

- 16.5.11 Setting up a gallery that will showcase artworks by leading regional artists from nothing seems, at the very least, a difficult task particularly when major works are already on display in public galleries or are in private collections. The applicants have described the gallery element as showing works that celebrate the English Countryside. The gallery will not concentrate just on the display of paintings by John Constable. The range of art on display will be diverse but original Constables will feature. The question being asked is how will the gallery attract the loan of such works and will those works be minor works from the selected artists. (eg miniature pencil drawings rather than £24m masterpieces). Currently that is not known.
- 16.5.12 What the Planning Service does have are written indications from a arrange of private collectors of a willingness to loan artworks to the Horkesley Park gallery if it is approved and the Chantry is set up appropriately to house these safely. Some objectors have suggested it is unlikely that private collectors will not make works of art available to the gallery. Evidence submitted confidentially suggests that there are owners of such artworks who are willing to loan pieces, subject to understandable caveats.
- 16.5.13 The letters submitted to the Planning Service have been provided confidentially on the basis that owners do not want to reveal their names or artworks publicly at this stage. It has been suggested that some are concerned that they may be subject to unwelcome lobbying or that it may pose security issues.
- 16.5.14 The applicants have described the artists who would be representative of those sought for inclusion in the gallery. These include, Harry Becker, Robert Burrows, Thomas Churchyard, John Constable, Thomas Gainsborough, Alfred Munnings, John Nash, Leonard Squirrel.
- 16.5.15 The applicants have also conducted a survey of works sold at auction over recent years for the artists identified as being relevant to the proposed Chantry gallery. This suggests that pieces by all of the artists considered relevant can be purchased at auction for thousands, ten of thousands and hundreds of thousands and that there is no shortage of such works including Constables. Clearly a minor work –perhaps a pencil sketch at 7½ inches by 6 inches is likely to command a more modest price than an internationally acknowledged masterpiece and that is likely to prove a lesser draw to the public. However the body of a collection of art by a variety of leading artists does appear capable of being built up through purchase which would complement the display of loaned works.
- 16.5.16 Whilst the application is sparse on actual detail (i.e. named works) the Planning Service appreciates that the potential loan of such works will be dependent upon many factors including, the delivery of adequate security, humidity and lighting control and insurance cover. Some indication of a willingness to loan pieces has been provided. The conversion of the Chantry to accommodate important works of art can be conditioned.
- 16.5.17 The applicants argue that they need the certainty of knowing the project has been approved and Chantry details approved before they can secure the loan and purchase of artworks. Officers are suggesting that a S106 Agreement can be used to ensure that the development only proceeds in its entirety once every component

element has been secured and that details of the works to be displayed within the Chantry have been identified.

- 16.5.18 There is no doubt that the gallery component is an important element in the proposed attraction's offering. This along with the Chinese Garden and the Suffolk Punch centre are the drivers for visitor numbers and the fact that all can be enjoyed in one place along with the other aspects of the proposal. Understandably a gallery displaying regional art relating to the countryside provides a strongly linked thematic connection with the overall theme of the attraction.
- 16.5.19 That said the Chinese Garden will, it is proposed, be complemented by the display of some important Chinese art pieces within the Chantry. This would widen the cultural offer within the scheme. The inclusion of Chinese pieces has a thematic association as the Chantry was built at a time when many country house owners were decorating rooms with a Chinese theme as was a la mode. (And a by product of burgeoning trade with the far east).
- 16.2.20 Members will be aware that the Chinese connection has already proved a major cultural attraction that has encouraged visitors to the town when the Council mounted its Guardians of the Kings exhibition in Colchester Castle. This was followed by the Treasures of China exhibition. There is growing interest in Chinese Culture and this would forge another cultural link with China which could in time prove significant from an economic perspective as business relationships evolve. there could also be significant tourism benefits to be realised from increasing the number of visitors from China.

***Planning Services Comment***

***The response from planning policy sets out all the relevant policies including Policy DP9: Employment Uses in the Countryside and Policy DP10: Tourism, Leisure and Culture. The response indicates that policy DP10 is the appropriate policy to deal with any scale of tourist development in the rural area. This policy states amongst other things that "proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites". The policy recognises that not all rural locations are readily accessible by public transport. Where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation. The policy states that urban areas of Colchester will be the focus for larger scale tourist, leisure and culture facilities and accommodation in line with the need to concentrate development at the most sustainable and accessible locations. Planning policy consider the proposal conflicts with DP10 because the proposal is for a large scale tourist attraction in a rural unsustainable location.***

***However whilst the application conflicts with this policy because it is large scale it does simply follow that the proposal is therefore unacceptable. It has to be considered in the context of the sequential approach discussed in part B of this report and the key question is whether the proposal results in an adverse impact and demonstrable harm. If there are no other suitable sites available then the impacts of the proposal have to be assessed against policies which seek to protect the countryside and the AONB and whether the proposal will result in material harm rather than simply its large scale and rural location.***

16.5.21 The NPPF states “The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system”. Paragraph 28 of the NPPF states 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 and support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. Paragraph 28 continues “This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

***Planning Services comment:***

***The “need for Horkesley Park is discussed later in this report but the overriding factor is not “need” but an assessment of the adverse impacts and the benefits.***

16.5.22 The NPPF also promotes the health benefits of open spaces and recreation. Other parts of the NPPF seek to protect the countryside and AONB’s. However the NPPF supports in general sustainable economic growth. The question of whether or not the development constitutes sustainable development is discussed later in this report.

16.5.23 Planning Policy refer to The Good Practice Guide on Planning for Tourism which “whilst supportive of tourism in general also seeks to ensure that proposals should result in levels of tourism that are appropriate and sustainable for a given area. As noted in the planning policy response to the earlier application, in ‘honeypot’ areas such as the Dedham Vale, this means that visitor numbers must be carefully managed to ensure that the environmental capacity of the area is not overstretched”.

16.5.24 This document also states that there will be some occasions where development for tourism is sought at a location where it will be difficult to meet the objective of access by sustainable modes of transport. The choice of location may have been determined by a functional need, such as a visitor centre. Developers and planners may find that in such cases there will be limited opportunities to make the development accessible by sustainable modes of transport or to reduce the number or proportion of visits made by car. For small-scale schemes, the traffic generated is likely to be fairly limited and additional traffic movements are therefore unlikely to be a reason for refusal for otherwise suitable tourism developments.

16.5.25 Horkesley Park would seem to be one such case where there are limited opportunities to make the development accessible by sustainable modes of transport or to reduce the number or proportion of visits made by car. However the development is not small scale and the traffic generated is significant

16.5.26 The Dedham Vale AONB and Stour Valley – Management Plan 2010-2015 is a material consideration. The policies in this plan have at their heart the protection of the AONB and its setting. Significant themes that run through this document are that tourist developments should be of an appropriate scale and not detract from the landscape character of the area; the protection of the tranquillity of the area; the

reduction or mitigation of the negative impacts of tourism; and that new development should be sustainable. These issues and the potential impacts of the proposal are discussed in other parts of this report

- 16.5.27 Planning policy states that Colchester is covered by a sub-regional study, the Haven Gateway Green Infrastructure Study (2008) and that no regional level sites were identified for the Stour Valley area given its designated status. Instead, the document states that 'it is vital that great care is given to siting, scale and detailed design of new development to reflect local character and maintain the distinctiveness of the Areas of Outstanding Natural Beauty.' The impact of the development and material harm will be discussed in other parts of this report.
- 16.5.28 The Council commissioned consultants Britton McGrath Associates to assist in determining whether or not the application would be a regional attraction. The initial report questioned fundamental assumptions in the applicant TER in terms of catchment area, drive time and spend etc. Since the receipt of the initial report and following a meeting with the applicants, officers and consultants for both the applicant and the Council clarification has been provided on some elements of the proposal. In particular the Chinese Garden and The Chantry Art Gallery
- 16.5.29 The Councils consultants BMA, considers these two elements and to a lesser degree the Suffolk Punch facilities elevate the proposal and make it unique in terms of attraction offer in the region. BMA estimate such an attraction could generate up to 150,000 visitors. This is an upper estimate and BMA consider the number of visitors is more likely to be within the region of 100,000 to 120,000. Even at this lower number BMA consider Horkeley Park would still be a major attraction and unique attraction which is not currently provided in the region. The applicant disputes these figures and argues that due to the uniqueness of the attraction and the combination of the different elements their prediction of 316,500 visitors is correct. However as stated above what is key is not the exact number of visitors but whether the proposal is deliverable.
- 16.5.30 Obviously if permission were to be granted it would be essential to secure the key elements of the attraction within a section 106 agreement.
- 16.5.31 Tourism is of importance to the national and local economy as well as influencing the image and reputation of the town and surrounding area, it generates significant revenue, creates and sustains jobs and helps to maintain important assets and is an important contributor to the quality of life for local people. The planning system has a crucial role to play in ensuring that the tourism industry can develop and thrive (thereby maximising economic, social and environmental benefits) and that these benefits are achieved in the most sustainable manner possible. The importance of tourism is recognized in national and local policies. The Spatial Vision in the Core Strategy sets out where we want to be in 2021 and articulates ambitious aspirations for Colchester to become a sustainable and prestigious regional centre surrounded by thriving villages and countryside.
- 16.5.32 The Dedham Vale is a popular visitor destination and has been designated an Area of Outstanding Natural Beauty. The main visitor pressures are absorbed in three locations Dedham, East Bergholt and Flatford, which together comprise 'Constable Country'. At peak times these sites are at or near capacity.

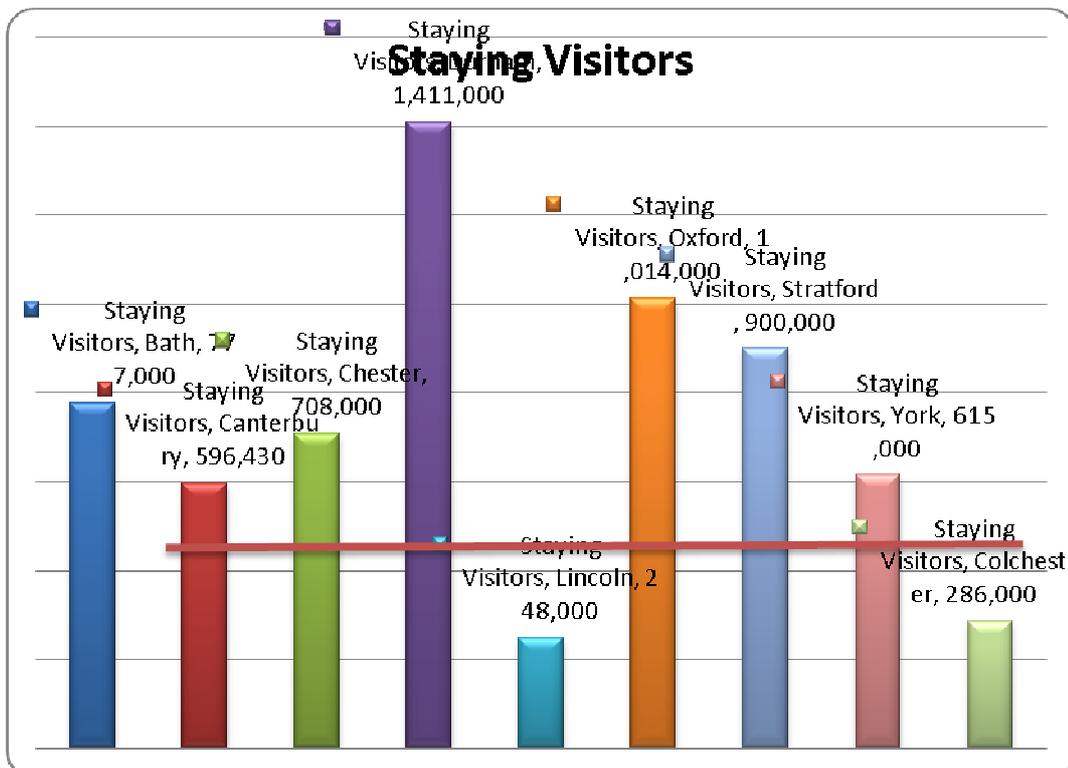
- 16.5.33 The Horkesley Park development is promoted as an ‘outstanding regional visitor facility’ that is described as a year round attraction that will attract visitors on a continuous basis and, as such, will increase off-peak and low season visits to the wider area. It is also claimed that the Horkesley Park development will help to relieve some of the harmful pressures on the main tourism locations by providing an additional destination to visit. It is argued that the Horkesley Park development will provide a much needed supplement to and partner for the limited number of existing tourism venues in the Stour Valley.
- 16.5.34 The Dedham Vale AONB and Stour Valley Joint Advisory Committee have objected to the Horkesley Park planning application on the grounds that it runs contrary to policy EA5 of the Dedham Vale AONB and Stour Valley Management Strategy 2004-2009 which seeks to encourage tourism to become more sustainable, bringing more benefits to minimise any negative impacts on the valley.
- 16.5.35 Whilst Horkesley Park will meet some of the objectives of the above management plan in terms of education, raising awareness, information and promotion objectors consider this is not a real benefit as it will only be available after paying the entrance fee. Many residents and local interest groups consider that Horkesley Park would actually have a detrimental impact on the existing ‘honey pot’ location in the AONB and other Constable-related sites by generating increased interest in them.
- 16.5.36 The applicants TER suggests Horkesley Park would go a long way to put Essex on the tourism map and provide a flagship attraction and states that for many years the tourism industry within the east of England has lagged behind other regions. It also states it would provide an ideal opportunity for cruise ship visitors and provide sufficient on site activities to help develop over night stays.
- 16.5.37 Information provided by the Councils Enterprise & Tourism Officer regarding tourism in the East of England is set out below;

Domestic Overnight Tourism Trips East of England 6<sup>th</sup> out of 9 regions  
 Inbound Tourism Trips East of England 5<sup>th</sup> out of 9 regions  
 Day Visits East of England 6<sup>th</sup> out of 9 regions

The TER states Colchester underperformed compared to other historic destinations. This is confirmed is data supplied by the Councils consultant BMA:-

“Data has been sourced on a number of comparator towns in the UK which enable us to demonstrate the relative range in scale of short break destinations and where Colchester might sit in this.

This clearly shows that, with just under 250,000 staying visitors per year, the short breaks market in Colchester is very small compared to the range of destination towns considered.



16.5.38 So where should consideration of tourism come in the Committee’s consideration of the merits of proposal and what is the wider context? That is a question that is explored in considerably more detail in the following section Socio Economic Benefits.

16.5.39 That said it does appear that tourism in Colchester is performing below its potential and that a boost to visitor numbers and more importantly those staying in the town for short and extended breaks will inject more income into the local economy through tourist spend. That is likely to result in more overall jobs in a variety of sectors including hospitality.

16.5.40 Colchester competes for tourists and visitors with towns and cities all over the country as well as areas closer to home such as Norfolk and Suffolk with their seaside resorts and historic houses and towns and villages as well as other Essex towns.

16.5.41 It is highly likely that potential visitors currently pass through Colchester on their way to other tourist destinations in the East of England and beyond without stopping. The town really can become something more than a conduit for travellers looking to experience the delights of other towns.

### Socio Economic Benefits

#### *Planning Services comment*

***Members should note the following assessment of jobs provided by the application is based on their assessment that their will be 316,500 visitors. The Councils consultants BMA considers visitor numbers will actually be far less a maximum of 150,000. If the BMA projection is correct then the number of jobs created will also be reduced.***

16.5.42 The applicants consultant DTZ has undertaken an assessment of the likely socio-economic effects of the proposed development, particularly with regard to the local economy.

16.5.43 The assessment states “Once fully operational, it is expected that the equivalent of around 106.5 full time staff will be employed on the site. This total is made up of around 67 full time employees and 79 part time members of staff, so in total around 146 people will be employed on site. Staff and managers alike will work in a wide variety of jobs in a large country park with emphasis on farming and fine art to gardens and renewable energy fully supported by visitor facilities and services”.

16.5.44 It is expected that most of the staff working at Horkesley Park will be drawn from the local area, defined as the area within 30 minutes journey from the Centre. In addition to the jobs created on the Horkesley Park Site, further jobs will be created in the local economy:

- During the construction of the new buildings and facilities, renovation of existing buildings and establishment and restoration of the gardens and surrounding parkland.
- By the purchase of products and services from local businesses needed for the operation of Horkesley Park.
- Through the off-site spending of both employees and visitors in the local economy, both of which will spend money with other providers of local services.

16.5.45 Overall, the applicant estimates that Horkesley Park will generate around an additional 70 full time equivalent jobs elsewhere in the Essex and Suffolk sub-region, on top of the 106.5 full time equivalent people working on the site. In overall terms, therefore Horkesley Park is expected to generate around an additional 176 full time equivalent jobs in Essex and Suffolk, once multiplier, leakage and displacement effects are taken into account. Horkesley Park will also have positive spin off benefits for local businesses, generated by offsite spending of visitors, increased local incomes and local sourcing of goods and services.

16.5.46 In identifying the spatial level at which the impacts of Horkesley Park should be assessed DTZ has had regard to considerations:-

- The majority of the people that will work at Horkesley Park can be expected to come from an area no more than 30 minutes drive away from the site, though some employees may come from further afield. The 30 minutes drive time isochrone covers practically all of Colchester Borough and Babergh District, plus parts of Tendring and Braintree Districts.

16.5.47 The report divides the economic benefits into five distinct categories

16.5.48 Construction phase here the benefits principally are jobs in the construction sector which are estimated as 9.7 Full Time Equivalent (FTE) jobs.

16.5.49 On-site employment benefits; these are jobs directly created by the operation of the visitor attraction. The submitted information suggests Horkesley Park will create 146 jobs once open and fully operational. Of these 67 are expected to be full time and 79

part time. This implies that HP can provide 106.5 FTE on site. The DTZ report states that evidence for the 2001 census indicates over half of Colchester's residents travel less than 10km to work. They conclude the nature of the jobs created at Horkesley Park means it will draw on a mainly local labour force and they estimate that 75% of the jobs will be filled by people living within a 30 minute drive time. It is not anticipated any people employed will live outside Essex and Suffolk".

16.5.50 The applicants would also commit to a local employment plan as part of a section 106 agreement.

"Induced employment benefits are defined as additional jobs sustained by expenditure of Horkesley Park employees. DTZ conclude this expenditure in the local economy can be expected to support an additional 10.7 FTE jobs in the local economy, 18.6FTE in Essex/Suffolk and 26.6FTE in the region. Horkesley Park will also purchase goods and services from businesses 30 % local in 24% Essex/Suffolk and in the 25% east of England. The first round of this expenditure is estimated as 17.4FTE local, 31.4 FTE Essex/Suffolk 43.7FTE East of England but it will be significantly reduced after the first round.

Off-site spending by visitors; the DTZ report states that the Day Visits in Great Britain survey recoded that in 2010 day visitors to Colchester were typically spending £37.37 per person on their visit. DTZ state that excluding expenditure at Horkesley Park this means that on average each visitor can be expected to spend an additional £14.22 in the local economy probably in pubs local shops at other attractions or on fuel".

***The Planning Service considers this figure may be an overestimation as visitors to Colchester spend on food and drink and other merchandise as part of the "Colchester experience" whereas visitors to Horkesley Park are more likely to make these spends on site.***

16.5.51 The DTZ report also suggest as well as day visitors any overnight visitors will spend on average £133.67.

16.5.52 It is also indicated that visitors will come to the area because of Horkesley Park. Based on figures in the TER DTZ estimate 75% of visitors will be additional to the area and DTZ estimate this will generate £3.37 million of expenditure which equates to 75FTE jobs in the local area. DTZ assume 1% of people will stay overnight or stay an additional night expected to generate £464.000 expenditure and 10.3FTE jobs in the local area.

16.5.53 Off site tourism expenditure is estimated as 70.3 FTE jobs in Essex /Suffolk and 50.3 jobs at the regional level.

***Planning Services Comment***

***If successful and deliverable the proposal would deliver a number of benefits which would help to meet the objectives of national and local policy. The proposal would, in particular, deliver a new tourist attraction; contribute to increasing the performance of the local tourism economy; would improve inclusive access to the countryside; would allow visitors to gain greater education and knowledge of food growing, and would of provide additional employment in the local economy both on and off site. These benefits would help to achieve the economic and social objectives of the NPPF. NPPF***

***paragraph 19 in particular also weighs in favour of the proposal which states that ‘significant weight should be placed on the need to support economic growth through the planning system’. The proposal would help support tourism consistent with the broad objectives of the NPPF, the Core Strategy’s general support for tourism. These benefits will, of course, only be delivered if the proposal is deliverable.***

- 16.5.54 The Council’s Enterprise Officer has commented that a proposal of this scale would seem capable of generating the onsite jobs as planned however he notes that of the 155 FTE jobs the number taken by Colchester residents may only be between 25 – 40%, given that employment benefits would be obtained by surrounding local authorities, too.
- 16.5.55 Providing jobs for Colchester’s growing community is a central objective of the Core Strategy which has identified Strategic Employment Zones to help deliver this objective. It assumes a floor target of approximately 14,200 employee jobs, and many of these jobs have already been created since 2001. The Council cannot deliver the additional employment directly but it can help protect existing employment, stimulate new employment-generating development and accommodate these in the most suitable locations. To help deliver employment, the Borough will need to take advantage of growth employment sectors and minimise job losses in declining sectors. Currently the Borough is on track to achieve and surpass the job target total without the proposed development at Horkesley Park.
- 16.5.56 The report on the 2009 application stated;  
“In 2008, 2318 businesses were recorded in rural wards of Colchester and these employed 14,744 people; this compares to the 2003 figures of 1,986 businesses employing 12,939 people. The share of Colchester’s total businesses (strictly workplaces) that are located in the rural areas is almost exactly proportionate - varying between 33% and 35 % - to its share of the Borough’s population. The small but steady upward trend in rural job growth over the period suggests that the Borough’s approach to rural business which is in line with PPS4 and strikes an appropriate balance between employment and countryside protection has been effective”. According to available information to the Council, the most recent figures remain those of 2008.
- 16.5.57 The 2009 also report also provided the following information on unemployment rates;  
“The unemployment rates in the villages surrounding Horkesley Park are relatively low. The most recent statistics (August 2010) for claimants of Jobseekers Allowance benefit in the Ward which covers the proposed development at Horkesley Park development, Fordham and Stour, shows a total number of only 45 claimants. In comparison, the total number of JSA claimants for the Borough at this date was 3,020, making Fordham and Stour account for only 1.5% of all jobseekers. More precisely, as a proportion of Fordham and Stour residents, JSA claimants totalled only 1.2 per cent of the resident population aged between 16 – 64 years whereas for the Borough as a whole the rate was 2.5%”.
- 16.5.58 The unemployment rates in the villages surrounding Horkesley Park remain relatively low although there has been a slight increase. The most recent statistics (November 2012) for claimants of Jobseekers Allowance benefit in the Ward which covers the proposed development at Horkesley Park development, Fordham and

Stour, shows a total number of only 50 claimants. In comparison, the total number of JSA claimants for the Borough at this date was 3,100, making Fordham and Stour account for only 1.3% of all Colchester's jobseekers. More precisely, as a proportion of Fordham and Stour residents, JSA claimants totalled only 1.35 per cent of the Ward's resident population aged between 16 – 64 years whereas for the Borough as a whole the rate was 2.55%".

- 16.5.59 The Councils consultant Nathaniel Lichfield concluded "DTZ estimate that the development will benefit the Essex/Suffolk economy by directly generating 106.5 FTE's. A further 18.6 FTE's will be generated by induced employment. These estimates appear reasonable. As a minimum it is reasonable to assume the development will generate 125.1 FTE's in the Essex/Suffolk economy, of which 90.6 will be generated in the 30 minute local drive time area.

### **Harnessing the potential of tourism and job creation**

- 16.5.60 It is clear from the report produced by BMA that Colchester is not performing as well in attracting short break / holiday visitors as some counterpart English towns with a similarly strong heritage offer see table above. Why should we be punching below our weight? and does that matter?
- 16.5.61 The Council having realised for some time that the town lacked adequate and suitable bed spaces to support a significant growth in tourism business commissioned the Humberts report which provided the spark for a concerted effort to court operators and boost visitor bedspaces.
- 16.5.62 With strong encouragement from the Council as a regeneration, planning and economic development authority as well as a significant land owner has started to attract substantial interest from, investment by and resultant development activity from hotel operators. Most recently Greyfriars (High Street at the top of East Hill) has started to be converted into a hotel, East Hill House will follow, the former post office site in St Peter's Street now has planning permission for a new hotel development, plans for a hotel in Queen Street are being pursued and the office building at the foot of North Station Road has been converted into a hotel.
- 16.5.63 This significant investment is laying a new stronger foundation to support a growth in tourism in and around Colchester. This expansion to the town's basic tourism infrastructure is also in the process of being or has been extended by the opening of the new junction of the A12 in North Colchester (junction 28), the planned construction of the approved park & ride facility north of the A12 and associated bus-way into Colchester, the delivery of the town's new bus station, proposed town centre improvements and significant investment in attractions within the town with the Council at the head of this drive – for example Colchester Castle is currently undergoing a multi-million pound refurbishment and complete refit to ensure that it remains a major attraction.
- 16.5.64 The Council is also investing in promoting and marketing the borough as a tourist destination and is seeking to boost short break / holiday visitors. Take as an example the 'Walls' initiative.

- 16.5.65 The Borough has many geographic, accessibility and natural advantages to grow tourism business as well as a handful of important and successful core attractions which include Colchester Zoo, Town Centre shopping and Colchester Castle and scenic attractions such as the Dedham Vale. Advice from BMA suggests that for the town to deliver a sustainable growth in short-break / holiday tourism it needs to develop sufficient points of interest to support interest beyond day visits and needs to boost repeat visits to the short stay visitor by boosting the range of things to see and enjoy and for these to be ever changing.
- 16.5.66 The Horkesley Park development has the potential to play a significant part in boosting the town's ability to attract visitors as a significant attractor and boost tourist spend in the borough. A boost in tourism has the potential to give the local economy a significant fillip with all that brings. Clearly Members will want to be sure that a new attraction is not provided at the expense of one of its existing jewels – The AONB.
- 16.5.67 Colchester as one, if not the, consistently fastest growing District in England over most of the past 3 years has seen a rapid growth in the town's population as residential development has burgeoned across the town over the past ten years.
- 16.5.68 If the town is to create the chances for its people to enjoy a good quality of life this extraordinary growth in homes needs to be accompanied by an expansion in other opportunities. These will come from amongst other things availability of new jobs and the ability to enjoy varied leisure opportunities.
- 16.5.69 A strong and diverse cluster of significant attractions sitting alongside niche and smaller scale draws, all working together with the hotel, guesthouse and B&B market to drive visitor growth can generate significant economic benefits which in turn spillover into other areas of the town's life.
- 16.5.70 The town will need to look to its own resources and opportunities if it is to sustain balanced communities that do not rely on commuting out for their opportunities.
- 16.5.71 It is therefore concluded the economic benefits of Horkesley Park is an important material consideration. However many of these benefits will have to be secured by section 106 agreement.

## **16.6 PART F DESIGN ISSUES**

- 16.6.1 Relevant policies are Core strategy Policy UR2 (Built Design and Character) –which seeks to secure high quality and inclusive design in all developments and states *'Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported'* and Development Policy DP1 (Design and Amenity) –This policy provides that all development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Paragraphs 56 – 68 of the NPPF state "The Government attaches great importance to the design of the built environment" and that "good design is a key element in achieving sustainable development, and is indivisible from good planning"

16.6.2 The Council's Urban Designer has been involved in the evolution of the design approach from an early stage and agreed single storey buildings reflecting the grain of the existing glass houses was acceptable in principle. The Urban Designer's response is set out in the consultation section.

16.6.3 The applicant has appointed Sir Michael Hopkins RIBA Hopkins Architects. The application states "Hopkins Architects have reviewed the original scheme looking at the features and layout of the existing glasshouses and industrial buildings to inform the new design".

16.6.4 The Design and Access Statement (DAS) describes the masterplan principles and the evolution of the design and the architecture design in the following terms;

"The architectural aesthetic strikes a balance between traditional and modern. The common theme between the buildings is the honest and simple use of a restricted palette of materials, the use of elegant exposed structure and the sensitive attention to detail. The masterplan uses for the main part, simple barn like structures to house the majority of the proposed facilities and exhibitions. The building design is founded on the scale, orientation and basic form of the glass houses that exist on site, employing slender multiple pitched roof structures which form the backdrop to the contrasting forms of the entrance building with a tented roof structure extending over a simple timber building and a beautiful single span timber structure supporting a lightweight roof forming the Indoor Display Ring. The materials selected are simple and modern and respect the adjoining architectural styles and materials but not mimic them. The careful and sensitively scaled forms, and a combination of light weight elements and timber and glass structure provide an elegant development that in conjunction with extensive tree planting to the proposed car parking and circulation areas and surrounding park farmland will allow the buildings to blend into the surrounding and wider rural landscape context. This quality and simplicity will continue within the interior of the buildings with extensive natural light penetrating the structure through glass walls or roof lights illuminating the interior and minimising the need for artificial light throughout. The use of high quality materials will create buildings of the highest standard that will positively contribute to the environment and the future built heritage of the area".

#### Appearance and Materials

16.6.5 The Entrance Building will be a white canopy structure with stainless steel tension rods and tie downs. Underneath the canopy structure will be softwood stained timber clad enclosures either side of the ticket turnstiles. The floor material will be hardwood timber decking.

16.6.6 The Courtyard Animal Encounter is a single storey structure with colonnades on the courtyard side, the walls will be either full height timber framed sliding glazing units or full height stained softwood boarding. In between the panels the supporting columns for the roof will be expressed as pairs of flitched softwood columns with stainless steel connecting plates and bolts. The central section of roof above the entrance to the courtyard will be glazed to highlight the main entrance below.

16.6.7 The Indoor Display Ring is covered by a curved grid shell roof that spans approximately 40 metres. Underneath the roof will be a system of stainless steel ties and struts which will take out any horizontal forces. This roof will also sit on flitched

timber columns spaced at approx 4.8 m centres. Generally the soffit of the roof will be covered by boarded softwood with three strips of continuous rooflights evenly spaced across it. The walls will be constructed from panelised stained softwood boarding or full height timber framed glazing. Large stained softwood timber double doors in the north and east elevations will allow access for animals including Suffolk Punches.

- 16.6.8 The six single storey timber buildings to the north of Horkesley Square will be similar to the Courtyard Animal Encounter Buildings but the roofs will have gable ends, not hips.
- 16.6.9 The curved Renewable Energy Centre will be clad in vertical timber boarding with a flat conical roof over.
- 16.6.10 The Demonstration Nursery and Gardens are located within existing glasshouses which will be modified and refurbished to provide a safe space for public access.
- 16.6.11 The roofs to all of the buildings except the entrance building and the Demonstration Nursery and Garden will be standing seam zinc with roof lights.
- 16.6.12 The Suffolk Punch Breeding Centre will be constructed in a similar manner to the other main buildings but its wall construction will be more robust because of the close proximity to the Suffolk Punch horses.

***Planning Services comment:***

***The extracts from the submitted Design & Access Statement reproduced above were written by the applicants and their advisors. Therefore members should approach them with some caution for fear of the descriptions being over exuberant or exaggerating of the intended quality. That said the extract avoids the use of evocative adjectives and does set out to describe the thinking behind the design philosophy in a calm and ordered manner.***

***The Council's own Urban Designer has been involved in the discussions that have led to the evolution of the latest design and he too has sought to keep an understanding and appreciation of the sensitivity of the setting at the heart of design discussions.***

***He has in his comments alluded to the potential quality of the final scheme but he has also quite rightly made it clear that the design success of the scheme from a design perspective is dependent upon the quality of the detailing of every part of each building. Commissioning a top architect does not guarantee the delivery of such quality but it helps. Leading architects have reputations that are hard won and they do not want to be associated with poorly received buildings. The commitment to quality must be shared by an applicant because it is they who will pay for that quality. It is they who will not cut corners to save on construction costs. The applicants have certainly espoused a strong commitment to doing the best as they too have a long history of commerce in Colchester.***

***This is why the Council's urban designer is suggesting that Sir Michael Hopkins is retained by the applicants on the project and certainly continues with a supervisory role around design quality.***

***The applicant has confirmed their contractual arrangement with Sir Michael Hopkins mean his practice will be retained at the construction stage if planning permission is granted. This will be secured in the section 106 agreement.***

***In terms of overall design the latest scheme has been carefully designed to incorporate significantly lower buildings than in 2009 and it even uses the greenhouse character of the existing site in places to retain that agricultural link in appearance.***

***Perhaps one of the strongest responses to ensuring that the impact of the new buildings is cloaked is by separating uses into a series of smaller buildings and for those to be designed with generally inward facing views and for activity to be enclosed around a court yard rather than having extensive openings towards the Vale.***

***Careful design considerations are not restricted to buildings. The interplay between parkland and the wider countryside (AONB) beyond has also been sensitively handled with extensive new planting enhancing the quality of the parkland setting and increasing biodiversity and habitat formation. With the continued involvement of Sir Michael Hopkins and his practice at the construction stage it is considered the application complies with design policies in the Council's Development Plan and the NPPF.***

## **16.7 PART G HERITAGE ISSUES**

16.7.1 There are several listed buildings on the roads which surround the application site. Water Lane in Little Horkesley has seven listed buildings but none of these buildings abut the site. The closest building is over 300 metres away from the site boundary where a cricket bat willow plantation within the country park is indicated. It is considered activity within the Horkesley Park site will not adversely affect the setting or character of these listed buildings. Fishponds Cottage in Tog Lane Great Horkesley is located at the junction of the road with Fishponds Hill and London Road on the opposite side of the road to the site. The property is approx. 130 metres from the site boundary an area indicated as parkland pasture. Whilst this property is located on one of the minor roads near the site which may be used by traffic accessing the site neither the traffic or activity within the Horkesley Park site is considered to have a material adverse impact on either the setting or character of this building. The Rose and Crown PH is a listed building and is located on the A134 close to the junction leading to the site access. The application includes a range works including new paths, bus stops, shelters and bus laybys but it is not considered these works will adversely affect this building.

16.7.2 The most significant listed building is the Church of All Saints which is either adjacent or close to the application site on its north, east and south boundaries. It is accessed off the A134 through the application site and is close to The Chantry. The Church dates from the C12 but was substantially enlarged and remodelled in the C15 and is listed grade I for its architectural and historic interest. Medieval churches are amongst the most important buildings in the country and their interest is derived not only from their history, architecture and fittings but also their place within the landscape.

- 16.7.3 English Heritage has been consulted on this application because whilst the application will not affect the building itself it is considered to affect the setting of the Church of All Saints.
- 16.7.4 Core Strategy Policy ENV1 seeks to protect, conserve or enhance historic assets. Policy DP 14 sets out in more detail the Councils commitment to protecting these assets from the adverse impacts of development. Paragraphs 126-141 of the NPPF makes it clear the importance the Government places upon the protection of heritage assets. As the church is grade 1 the highest weight should be given to its protection.
- 16.7.5 **The application documents explain** “The immediate setting of All Saints’ Church is experienced within its churchyard and that whilst the church can be seen from most places within the churchyard, but there is a strong sense of enclosure arising from the surrounding mature trees and plantations. The applicant’s information also explains that it is not a church which has extensive outward views over the landscape, or to other local features of interest. Some views from the churchyard are filtered by existing mature trees and shrubs. It notes the existing glasshouses are within the setting of the church, and have affected views northwards to the church from the Nayland Road.
- 16.7.6 The submitted information assesses the views of the church tower from the surrounding and concludes with the demolition of the existing buildings in particular the tall chimney on one of the buildings and the replacement with the proposed buildings change will not amount to harm will in fact reduce the harm.
- 16.7.7 The application also assesses a longer view of the church tower from the war memorial in Little Horshesley, which is listed grade II. The applicant information concludes “The existing skyline will change as a result of the removal of the glasshouses and the chimney, and the creation of new landscaping and extensive planting. Part of the view below the skyline will also change in appearance as a result of new planting and landscaping in the western part of the site. It may initially be possible during peak times to see some cars in the woodland area comprising overflow parking, but the overall softening of this view will amount to a change in the setting of the church that should be regarded favourably within paragraph 137 of the NPPF
- 16.7.8 A key change to the church is identified by the applicant as the demolition of the existing greenhouses, the industrial buildings the tall chimney and oil tanks, the removal of the covered soil heaps and the erection of the new buildings restore gardens woodland parkland pasture wildflower meadows. The improved vernacular design and materials used in the new buildings will have a positive effect on the setting of the church. Overall, the EIA impact of the whole development balances out as a neutral/positive change which is moderate/significant after mitigation.
- 16.7.9 Most of the other changes do not amount to harm at all, and are neutral or positive in their effect. Any minor harm within the change brought about by the scheme could not possibly be described as substantial, or “exceptional” or “wholly exceptional”, and it does not result in the total loss of significance (or anything like the substantial loss of significance) of the listed church or the other heritage assets described in this assessment. Therefore, the tests relating to substantial harm within paragraphs 132 and 133 of the NPPF are not relevant to this scheme”.

**Planning Services comment:**

***In reaching a decision on the impact of the development on the setting of The Church of All Saints the response from English Heritage is very helpful. The response explains setting is defined as the surroundings in which a historic place is experienced. The response also states that the effect of the proposed development on the setting of the church is difficult to assess. English Heritage considers that to a large degree the proposed buildings themselves would be screened or partially screened by planting, in particular from the church's immediate setting.***

***However English Heritage also considers the extent of the development would be greater and the change to the way in which the site is used would be dramatic as the development would, it is intended, draw large numbers of visitors to its varied attraction. They conclude Horkesley Park would harm the setting of the church to a limited degree.***

***Your officers consider Horkesley Park will draw significant numbers of visitors in close proximity to the church and church yard and many may also visit the church. In some ways this could be beneficial but in terms of the actual setting of the church a significant number of visitors would have an adverse impact on the quiet setting of the churchyard and church although such impacts would be transitory only. It is considered the application would be contrary to the policies set out above which seek to protect heritage assets as it would affect the setting of the listed building to a limited degree.***

## **16.8 PART H PROTECTED SPECIES AND BIODIVERSITY**

- 16.8.1 Relevant policies in the Development Plan include ENV1 and DP21 which seek to conserve and enhance biodiversity and require ecological surveys to be submitted if protected species are suspected on a site. Paragraphs 109 -121 in the NPPF set out the Government's policies in respect of "Conserving and enhancing the natural environment". Paragraph 117 is of particular relevance and sets out a number of criteria against which application should be assessed to minimise impacts on biodiversity which includes "promote the preservation, restoration and re-creation of priority habitats".
- 16.8.2 The submitted documents include the 2009 Environmental Statement (ES) Ecology Baseline Assessment and Phase 1 Ecological Survey plus updated ES documents including a Phase 1 Habitat Survey, bat activity survey, water vole and badger survey, and great crested newt survey.
- 16.8.3 Members will note from the representations concern has been expressed regarding the impact on great crested newts. This issue was also raised in respect of the 2009 application.
- 16.8.4 Natural England has been consulted in respect of protected species habitats. Natural England originally commented that they objected on protected species grounds, due to inconsistencies in the submission on possible impacts to bats, and the need for further assessment on great crested newts. But noted that this was not a substantive objection, but based on deficiencies in the information provided. If these deficiencies are addressed, this objection may be overcome. Following the submission of further information Natural England advise that our objection as far as protected

species is concerned, has been met, as the previously reported inconsistencies (bats), and further assessment (great crested newts), have been fully addressed.

16.8.5 EWT has also raised no objection

***Planning Services Comment:***

***The application includes a Mitigation and Management Plan. This document indicates that amongst a variety of proposals to improve biodiversity and protect and enhance habitats approx 2-3 hectares of new woodland planting will be carried out, The Great Horkesley Churchyard County Wildlife Site adjacent to the site boundary will be enhanced by the creation of new habitats and the provision of new wildlife corridors. In addition existing grassland will not be intensively managed but will be sown with a mix to improve the diversity of grass and herb species; wildflower meadows will also be planted. The proposed landscape plans will include native and locally appropriate species. The existing ponds will be dredged and the habitats enhanced. The application indicates over 50,000 indigenous trees, shrubs and hedges will be planted. The planting and habitat protection and creation set out in the application documents and the Mitigation and Management Plan will be secured by condition and within a section 106 Agreement. The proposals are acceptable and satisfy policies in the development plan and the NPPF to protect protected species and to protect and enhance biodiversity.***

## **16.9 PART I PROW**

16.9.1 There is a network of existing public footpaths within or immediately adjacent to the site. FP3 provides a link from Water Lane, before entering the north west corner of All Saints Church churchyard and entering the site; it then crosses land to the north of the Nursery before connecting with the A134. FP4 provides a link from London Road at Fishponds Hill extending across the site towards the A134. FP5 is located within the site and links London Road with Fishponds Hill, crossing the fields to the west of the glasshouses. FP48 links Footpath 3 and 4 via The Chantry drive from the A134.

16.9.2 The applicant states “Landowners are required by law to have Public Footpaths which cross their property at a minimum width of 1.2m”

***Planning Services comment:***

***As Horkesley Park is a “pay to enter” attraction access from the PROW which cross the site will be prevented. The PROW will be contained within 6m wide grassed “green lanes” flanked by 1 metre width indigenous hedges and stock proof fencing which will be maintained to a height of 1.4 metres. It is argued by the applicant that the enclosures to the footpath have been designed to help retain a sense of open space and that the long views from them of the AONB are broadly retained. Your officers including the Landscape Officer consider that whilst views for the PROW will be restricted to a limited degree, when standing close to the hedge and fence, wider views of the landscape will not be affected.***

## **16.10 PART J COUNTRYSIDE AONB AND LANDSCAPE**

16.10.1 This chapter of the report will assess the development proposal and its impact on the landscape, countryside and the AONB. The issue of tranquillity is also discussed. It is divided into the following sections

Section A Introduction

Section B Information from application documents

Section C Analysis of the issues and conclusions

### **Section A Introduction**

16.10.2 Statutory regulations require certain applications to be undergo an Environmental Impact Assessment (EIA) a process by which the information about the likely environmental effects of a project can be collected, assessed and taken into account by both the developer and the local authority. The information is presented in an Environmental Statement (ES). The Regulations define two schedules of development where an ES is required. Schedule 1 development is where an ES is mandatory. Horkesley Park comes within schedule 2 of the Regulations and the EIA

16.10.3 The current application includes all the documents, including supplementary information, forming the ES submitted with the 2009 application together with a 2012 addendum to the 2009 ES. The ES includes a Landscape and Visual Assessment, and an assessment of ecology, traffic transport and access; air quality and climate, lighting, noise and vibration; plus an AONB assessment. The ES assesses the impacts of the proposal including impact on the countryside and AONB. A Mitigation and Management Plan has also been submitted which sets out the measures to be implemented to offset adverse impacts

### **The Site Context**

16.10.4 The wider topographical context of the site is defined by its location on the southern slopes of the Stour Valley. A number of tributaries of the River Stour dissect the valley sides to form a series of locally distinct valleys. The western part of the site extends across the eastern slopes of the Great Horkesley West Valley, with the site boundary following the north-south flowing tributary of the River Stour. The small settlements and farm complexes that surround the site are set along a network of small roads and lanes, many of which are sunken, giving the area a very rural and tranquil character; the A134 is the only A road in the vicinity of the Horkesley Park site. Agriculture is the predominant surrounding land use and this combined with the settlement pattern and road network are representative of the landscape character of the Stour Valley.

16.10.5 The site is located at the transition from the steeper valley slopes with its enclosed secluded character and the more elevated and open flatter plateau. Existing hedges contain the Nursery site along the London Road and the A134 and also the agricultural fields and land to the north and west. The Nursery site is visually contained by linear belts of Poplar trees and hedgerows on the perimeter of the area. Arable fields extend down slope and westwards from the Nursery to a large clump of trees and more extensive stands of woodland adjacent to the Fishponds Hill and a linear belt of trees along the Great Horkesley West Valley. The land immediately to the north of the Nursery site extending up to the boundary of All Saints Church

comprise agricultural land while to the east is the Cricket Ground. The Chantry, a private house, is set in its own grounds and surrounded by areas of agricultural land. The woodland areas and tree groups on the northern part of the site form notable features.

16.10.6 The western and northern parts of the site are located within the Dedham Vale AONB; the former nursery site is located outside the AONB.

### **Dedham Vale AONB**

16.10.7 The Dedham Vale was designated by the then Countryside Commission as an Area of Outstanding Natural Beauty in 1970 and covers the eastern end of the Stour Valley. It protects an area of lowland river valley of exceptional quality.

16.10.8 The following statement is taken from a Countryside Commission paper of 1978:

“The boundary of the original AONB was generally drawn to coincide with that part of the Stour Valley associated with the landscape paintings of John Constable. Although the area has no precise geographical limits the boundary of the AONB has been broadly defined so that it includes the Vale itself with the small tributary valleys entering the main valley on the north and south sides. Away from the tributary valleys the northern and southern limits of the AONB correspond broadly with the skyline edge of the low arable plateau seen from the Vale itself. The line selected follows suitable and convenient roads, tracks or field boundaries.”

16.10.9 The boundary has been slightly extended twice since 1970: first in 1978 to take in the Polstead area and an additional part of the Brett tributary valley, and then in 1991 when it was extended westwards across the A134 to include Wormingford, Wissington and the woodland area around Arger Fen in the Assington Brook valley.

16.10.10 The primary purpose of designating an AONB is to conserve and enhance natural beauty. In pursuing the primary purpose of designation, account should be taken of the needs of agriculture, forestry and other rural industries and the economic and social needs of local communities. Particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment. Recreation is not an objective of designation (unlike the National Parks) but the demand for recreation should be met so far as this is consistent with the conservation of natural beauty and the needs of agriculture, forestry and other uses.

16.10.11 In accordance with Section 87, Countryside and Rights of Way Act 2000, the Dedham Vale AONB has the statutory duty to pursue the following two purposes: a) to conserve and enhance the natural beauty of the AONB; and b) to increase the understanding and enjoyment of the special qualities of the AONB. In fulfilling these roles, the AONB shall seek to foster the economic and social well-being of people living in the AONB.

16.10.12 The governance of the AONB is undertaken by the Joint Advisory Committee, which is made up of appointed representatives from Suffolk County Council, Essex County Council, Babergh District Council, Colchester Borough Council and Tendring District Council. In addition, Braintree District Council and St. Edmundsbury Borough

Council are part of the committee because they represent the additional Stour Valley Project Area which is managed alongside the Dedham Vale AONB.

## **Section B Information from the Application Documents**

This section is divided into the following sub-sections

Section 1 Landscape and Visual Assessment

Section 2 AONB Assessment

Section 3 Traffic

Section 4 Noise

### **Section 1 Landscape and Visual Assessment**

16.10.13 The 2009 application included a Landscape and Visual Assessment (LVA) prepared by LDA. The following paragraphs are produced from the 2009 committee report and explain the LVA.

“In order to assess the existing and potential effects of the proposed development the visual assessment considers the short to medium distance views of the site (up to 1.5km) from the centre of the site and longer distance views within the wider landscape.

16.10.14 The LVA states that the local zones of visual influence are limited by the rising landform, existing woodland and linear lines of trees and hedgerows in the vicinity of the site. The western limit of the zone of influence has been identified as being formed by the local ridgeline approximately 0.5km to the west of the site and aligned parallel to Water Lane. To the north of the site, the Landscape Assessment states the zone of visual influence extends across land up to Water Lane however the medium distance views are restricted by the falling landform of the River Stour Valley and woodlands. Existing views of the site from this direction are therefore often filtered and confined to views of trees and woodland. To the east of the site, the boundary of the local zone of visual influence follows the A134; it is stated that intermittent short distance views of the site are obtained from the A134 however the falling landform to the east of the road together with existing woodland means that medium views of the site are restricted from the east. To the south west, the boundary of the local zone of visual influence is described as broadly following Fishponds Hill and cutting across to Tog Lane, following the local ridgeline. Tog Lane and Boxted Church Road form the southern boundary of the zone of visual influence and from these areas occasional medium distance views of the glasshouses are obtained but are filtered by the line of Poplar trees”.

16.10.15 The 2012 LVA comments that the views of the site remain the same and that due to increase in height of trees and vegetation within and local to the site visibility has been slightly further reduced.

16.10.16 With regard to long distance views of the application site the submitted LVA states that there five main areas where mostly filtered views of the site can be obtained. From the upper north facing sides of the Stour Valley (principally from Dead Lane and Champion Lane) it is stated that views of the site can be glimpsed but these are filtered views and only apparent in clear conditions. From the lower north facing sides of the Valley (principally from Bures Road and Winston Road) the site can be glimpsed from the open sections of the road. Views of the site from the plateau

areas to the west are limited to small dispersed areas comprising Holts Road, Workhouse Road, School Road, Chapel Corner and Crabtree Lane. Areas to the south from which views of the site can be obtained include the plateau between Tog Lane and School Lane. From Tog Lane the assessment notes that it is possible to distinguish the nursery in winter but in summer the site is not really perceptible. Views to the east of the site from the plateau near Bosted are confined to intermittent views from Church Road and Green Lane". The 2012 LVA finds the views of the site remain the same with a slight further reduction in visibility due to the growth of trees and vegetation.

- 16.10.17 Having established a 'landscape baseline' the Landscape and Visual Assessment describes the potential direct and indirect effects of the proposed development during the construction and operation phases and considers the impact of the development on key visual receptors.

Summary of Principal Potential Effects during the Construction Phase from the Applicants LVA

- 16.10.18 Activities during the construction phase of the proposed development have the potential to impact on the landscape, visual and heritage resource. The principal effects, which will all be short term and temporary, are summarised below:-
- Direct physical changes arising from the removal of selected areas of existing vegetation, and the excavation of topsoil and localised regrading of the landform.;
  - Change in built form within The Nursery Site arising from the removal of glasshouses and associated industrial type buildings and the construction and progressive emergence of new buildings.
  - Effect on landscape character arising from creation of country park area with conversion of arable land to pasture and meadow, and new woodland structure; and building development activity principally within The Nursery Site associated with the removal of the redundant buildings and progressive construction of the new buildings.
  - Change in the views experienced by the key visual receptors and visual effect on viewpoints.
  - Visual and aural effects arising from construction traffic movement, site demolition work and building construction activity within a fenced compound for the construction of the new buildings on The Nursery Site, together with road widening and construction of internal roads.
  - Visual effect of lighting within the building construction area to accommodate security and health and safety requirements.
  - Visual effects associated with the limited removal of selected areas of trees; the planting operations associated with the establishment of new woodland and parkland trees within the country park area, and tree planting within the forecourt car park area, and immediate setting to the new buildings on The Nursery Site;
  - Potential effect on the heritage resource through loss or disturbance of evidence of the crop marks within the agricultural fields to the west of the core development area within The Nursery Site and arising from the construction of The Warren and new tree planting areas.

## Summary of Principal Potential Effects during the Operational Phase from the Applicants LVA

16.10.19 The principal effects arising from the operational phase will be both long term and permanent.

- effect on landscape character arising from the conversion of the arable cultivation to pasture and meadow land, together with the establishment of substantial areas of new woodland and trees, and associated long term management of the land and partial replacement of the glasshouse blocks and industrial type buildings and structures with the new buildings principally within the nursery site.
- effect on and enhancement of the biodiversity resource arising from the long term management of the land based on conservation principles; and
- visual effect of the change in views to the site from the visual receptors of the new buildings and surrounding country park area, as the new woodland and tree planting areas mature.

16.10.20 The Landscape Assessment notes that local improvement works to the London Road and the A134 are required and states that these works will contrast with the rural character of the site to the west. It is argued however that the A134 is already an established busy route way and therefore the proposed highway improvements will only have a limited impact on the surroundings. In the approach to the site, it is argued the improvement works to London Road will result in localised change in character to a small section of this small lane and that new planting will assist with the integration of the new road into the surrounding landscape.

16.10.21 The LVA also assesses the impact on landscape resources including topography, soils and land use and vegetation topography earth works are confined to foundations for new buildings, access road and car park in the core development area. The construction of the overflow car park will be integrated into the existing topography, soils and land use will include change from land in agricultural production to less intensive land management regimes with conservation and recreation objectives . The land will be managed as a country park and will include planting of structural woodland, parkland, trees, wildflower meadows, parkland pasture and heritage farming areas. The parkland with the Chantry will have additional parkland planting and creation of gardens including a Chinese garden. Existing areas of woodland including Fishponds Grove will be enhanced through appropriate management.

14.10.22 Existing woodland, tree lines copses and vegetation will be predominantly unaffected. The only exception is the limited areas within and on perimeter of the nursery site where there is some removal or transplantation to accommodate access routes. The most significant is removal of a 40 metre section of frontage hedgerow for the main vehicular access.

### Effects on Landscape Character

16.10.23 The applicants LVA judges the overall sensitivity to change of the landscape character of the site to be High in view of the location of the site within or adjacent to the Dedham Vale AONB.

- 16.10.24 The new buildings on The Nursery Site have a form, scale, and massing that responds to the landscape and visual context. It is considered, therefore, that the proposal will integrate into the local landscape character more sensitively than the existing glasshouses and associated industrial type buildings. Materials for the new buildings will be locally sourced wherever possible, and relate to local colours and types of material to further assist in their integration.
- 16.10.25 Within the Country Park area the open agricultural land will be replaced by a mosaic of woodland, parkland pasture and wildflower meadows which will support the aim “to recreate some of the lost woodlands within this landscape” as set out in the Stour Valley Partnership Historic Landscape Study. This new pastoral and woodland land use pattern is in keeping with the characteristics of the Stour Valley Character Area and Dedham Vale AONB, and result in an enhancement of the local landscape character of the site as well as its wider setting. Furthermore, the commitment to its long term management will ensure the continuing enrichment of both the local and wider landscape character.
- 16.10.26 Prominent landscape features which are representative of the local landscape character, such as the lines of poplars, the topographical form of the Great Horkesley West Valley and the areas of mature small woodlands associated with The Chantry and Rectory Grove will be retained, with their integrity unaffected by the proposals.
- 16.10.27 The local improvements to London Road at the junction with the A134 will contrast with the rural landscape character to the west of the site. However, the A134 is already an established routeway and the proximity of the site to the road reduces the overall perceived impact.
- 16.10.28 In the approach to and entrance into the site the improvements to London Road will result in a localised change in character of this small lane that is typical of the surrounding area. However, only a short section of London Road will be widened, and the new tree planting on the south eastern side of London Road will improve the character of the setting of the road and integrate it into the wider landscape through the establishment of landscape features that are characteristic of the area.
- 16.10.29 In relation to the potential sensitivity of the locality to the establishment of ‘developments with individual large / bulky buildings’, as reviewed in the Essex Landscape Character Assessment, the approach undertaken to the redevelopment of the site would result in a positive change to landscape character. The redundant and visually discordant glasshouses and associated industrial type buildings will be replaced by more sensitively designed buildings that respect and integrate with the site, and surrounding landscape character.
- 16.10.30 The increase in visitors to the area as a consequence of the development proposal in the operation phase will result in some loss of tranquillity. However, activities associated with the proposed development are sympathetic to rural pursuits associated with the countryside.
- 16.10.31 Overall, the magnitude of impact is considered to be Medium during the construction and operation phases. The significance of effect on landscape character resulting from the proposals is considered to be Moderate, with an Adverse quality of effect during the construction phase but once the works are

completed the overall effect at Year 1 will be Minor and Beneficial. After 15 years, once the new planting is well established, the development is contained within its woodland framework, and has integrated into and enhanced both the local and wider landscape character, the significance of effect is judged to be Moderate and Beneficial.

## **Section 2 AONB Assessment**

16.10.32 The applicant's assessment of effects on the AONB draws from the findings in the Landscape and Visual Impact Assessment, Traffic Transport and Access, Lighting, Tourism and Tourism Evaluation Report, Noise and Vibration and Heritage in the 2009 and 2012 Environmental Statements.

16.10.33 The AONB assessment considers the following factors landscape quality, scenic quality, relative wilderness, relative tranquillity, natural heritage features and cultural heritage. In table form it assesses the impact of landscape and visual, noise, lighting, traffic, cultural heritage and visitors /tourism against each factor and the impacts both within the AONB and the setting of the AONB.

16.10.34 The assessment of relative tranquillity against landscape and visual, noise, lighting, traffic, cultural heritage and visitors /tourism is produced below:-

### Relative Tranquillity

16.10.35 **Landscape and Visual Impacts within the AONB** - The proposed change of land use enhances local landscape character within the AONB and will offer greater opportunities to access semi natural habitats and traditionally managed agrarian landscapes.

16.10.36 **Landscape and Visual Impacts on the setting of the AONB** - Development requires the removal of glasshouses, industrial type buildings and other structures (including oil tanks and brick chimney) located on land outside the AONB and visible from within it that could be regarded as detractors of local tranquillity. Proposed built development and activity (e.g. car movements) will be largely screened from views from within the AONB

16.10.37 **Noise Impacts within the AONB** Noise levels generated by the propose development resulting from impact on the e the predicted increase in road traffic within the AONB (mainly along the A134) are less than 3db and will have a negligible impact on the existing noise environment within the AONB.

16.10.38 **Noise Impacts on the setting of the AONB** Noise levels generated by the propose development resulting from impact on the predicted increase in road traffic and the operation of the new buildings outside the AONB are less than 3db and will have a negligible impact on the existing noise environment

16.10.39 **Traffic Impacts within the AONB** Impacts on the setting of the AONB - minimise the effect of traffic associated with the proposals within the AONB. A brown tourism sign strategy will be implemented to discourage visitors using rural roads. The brown tourist sign strategy will be implemented to include, but shall not be limited to, the A12. Additional signage, and during busy times stewards, will be used to direct visitors arriving and departing the Horkesley Park Site The Protected Lane within

the AONB (Fishponds Hill) will not experience any significant increase in traffic levels. The maximum predicted increase of 6 vehicles every 80 minutes on average would not have a material impact on this Protected Lane. The Horkesley Park website will include travel information and state that the narrow lanes should not be used by visitors. Educational material will be displayed at the Visitor Centre and will be available only

- 16.10.40 **Traffic Impacts on the setting of the AONB** minimise the effect of traffic associated with the proposals within the AONB. A brown tourism sign strategy will be implemented to discourage visitors using rural roads. The brown tourist sign strategy will be implemented to include, but shall not be limited to, the A12. Additional signage, and during busy times stewards, will be used to direct visitors arriving and departing the Horkesley Park Site. The Protected Lane within the AONB (Fishponds Hill) will not experience any significant increase in traffic levels. The maximum predicted increase of 6 vehicles every 80 minutes on average would not have a material impact on this Protected Lane. The Horkesley Park website will include travel information and state that the narrow lanes should not be used by visitors. Educational material will be displayed at the Visitor Centre and will be available online
- 16.10.41 **Visitors Tourism Impacts within the AONB** Predicted visitor numbers at peak attendance time on land within the AONB, that is the Country Park will be on average 4 visitors per acre (which is a very low number), and only one third of the visitors would visit the open countryside. It is concluded that the number of visitors in the open countryside will have no significant impact on the AONB
- 16.10.42 **Visitors Tourism Impacts on the setting of the AONB** Predicted visitor numbers at peak attendance time on land within the AONB, that is the Country Park will be on average 4 visitors per acre (which is a very low number), and only one third of the visitors would visit the open countryside. It is concluded that the number of visitors in the open countryside will have no significant impact on the AONB
- 16.10.43 **Lighting and Cultural Heritage**Impacts within the AONB n/a
- 16.10.44 The figure of on average 4 visitors per acre referred to above is taken from the applicants Tourism Evaluation Report (TES) which states “Local objectors have stated that Horkesley Park will result in ‘hundreds of thousands of visitors running amok creating noise, disturbance including standing on newts and other wildlife’. Using figures extrapolated from the Tourism Evaluation Report it is possible to calculate the number of visitors who will be in the open countryside of the Country Park at any one time.
- 16.10.45 The TES states however, it is likely that the vast majority of visitors will stay within the main development area on the former Nursery Site located outside the AONB and ‘The Chantry ’and gardens, where they will be able to enjoy the key ‘attractor’ elements and visitor facilities. It is therefore prudent to assume that only one-third of the visitors would visit the open countryside. Therefore at peak times on the busiest day of the year the number of visitors within the open countryside is likely to be at a density of 4 per acre. This number is minute and contrasts with 417 visitors per acre at Bristol Zoo Gardens. Four visitors per acre at Horkesley Park is very low and are for the 4 or 5 peak days of the year. On other days the density will be miniscule.

The number of visitors in the countryside will therefore have no significant impact on neighbouring properties and the AONB.

***Planning Services comment:***

***As Bristol Zoo Gardens are located on the edge of an urban area and close to the A4 this is not comparing like for like.***

Summary of other factors considered in the applicant's AONB assessment

16.10.46 Factor: Landscape Quality,

Impacts within AONB

- landscape enhancement by creation of farmed areas, woodland, wood land pasture and wildflower meadows. Management of landscape within AONB by traditional farming methods
- no lighting proposals and extremely low level lighting in the Chinese garden.

Impacts on setting of AONB

- removal of existing buildings and erection of new buildings.
- management of woodland and tree belts
- car parks and assess located south of proposed buildings and screen woodland
- lighting mainly screened from views from AONB no lighting overnight or late evening design of lighting to mitigate against light pollution. Overflow car park will not require lighting

16.10.47 Factor: Scenic Quality

Impacts within AONB

- proposal will enhance character through use of traditional land management practises and woodland planting
- no lighting proposals and extremely low level lighting in the Chinese garden
- demolition of the existing buildings including the high chimney will improve views and skyline.

Impacts on setting of AONB

- demolition of existing buildings. new build less intrusive long term management of woodland car parks and assess located south of proposed buildings and screen
- lighted vehicular routes are located south of AONB and will not be visible, overflow car park will not be illuminated. Less new building external pedestrian routes lit by low level luminaries with no upward light spill. Upward light waste will be less than the existing glasshouses.

16.10.48 Factor : Natural Heritage

Impact within AONB

- proposed land uses reflect broad variations in geology and soils. Topography unaffected proposals will enhance habitats

Impacts on setting of AONB

- topography unaffected

#### 16.10.49 Factor: Relative Wildness

Impacts within AONB

- areas within AONB will remain inaccessible by road will remain uninhabited and remote. new woodland planting and management
- noise levels from increase in traffic less than 3dB

Impacts on setting of AONB

- demolition of existing buildings will enhance character. New building significantly less intrusive. Management of trees and woodland. Car parks and assess located south of proposed buildings and screen woodland

#### 16.10.50 Factor: Cultural Heritage

Impacts within AONB

- built development outside AONB, removal of buildings and erection of new will improve setting of heritage assets; church of All Saints and War Memorial at Little Horkesley.

#### 16.10.51 ***The case officer has sought further clarification on the possible impact of the uses, in particular the outside events, on the tranquillity of the area and AONB and the following response from the applicant has been submitted:***

16.10.52 The applicant comments “The site adjoins the A134 main road. The masterplan has been carefully considered and planned and activities sensitively located. The core development area is the principle area of built form and this adjoins London Road and is close to the A134. The Core development area lies outwith the AONB. The core development area is not a tranquil location. We have undertaken tranquillity mapping and the EIA shows the development would have no significant adverse impact. The Council has raised a particular concern about groups of people in the open parkland. We have identified that there would be a number of events in the parkland including sheep dog trials, ploughing matches etc.

16.10.53 These Park-wide events are shown in the business plan as 4 per year. The Park-wide events location will vary depending on the nature of the event. For example a sheep dog trial would be held on the grazing fields - part of the Parkland, a flower and garden event would be held within the Indoor Display Ring and Gardens and a historic re-creation of farming in bygone days event would be Park-wide.

16.10.54 In this context it is important to consider the current and fall back positions in terms of planning. The land is used for agricultural activities, which differentiates it from remote or tranquil locations such as national parks which usually have no active use of the land save for animal grazing. The Horkesley Park site has agricultural machinery and human activity at present. The land is also crossed by footpaths no doubt capable of accommodating groups of people in the countryside. The site benefits from “Permitted Development” rights that allow for events such as sheep dog trials for 28 days per year and other activities such as a farmers market for 14 days per year. Some activities such as ploughing or allowing people on the land to walk and explore the countryside do not need permission because they are not development under the Planning Acts.

- 16.10.55 The Applicant has offered to agree planning conditions restricting the number of “events” per year and to agree to certain activities taking place in certain locations on the site. Accordingly, the proposed restrictions would make the land less useable than is currently lawful. Therefore, there can be no adverse impact in respect of “tranquillity” relating to groups of people on the land. A useful comparison is that some 250,000 people visit and walk the Stour River valley and visit the buildings at Flatford Mill without any controls on the number of people, size of group, accessible hours of day in the most sensitive and famous location in the AONB.
- 16.10.56 Accordingly, it can be concluded that there is no impact on the relative “tranquillity” of the site in respect of the proposals for Horkesley Park. The multiple use of the Country Park for both recreation and animal husbandry etc will be achieved with minimal impact on the area. Management techniques will be implemented to allow a level of public access that is compatible with ecological and landscape considerations”.
- 16.10.57 Information provided to the Landscape Officer on the 2009 application regarding impacts on tranquillity forms part of this application. This information includes the CPRE Tranquillity mapping for the AONB. The Horkesley Park site is identified within the “less tranquil” areas. The CPRE mapping on night blight i.e. light pollution is also submitted which shows the site and all the adjacent area as being within the dark notation.

***Planning Services Comment: These maps will form part of the committee presentation***

### **Section 3 Traffic**

- 16.10.58 Information from the applicant’s Traffic Assessment (TA) indicates the peak day attendance for Horkesley Park assuming 316,250 annual visitors, will be on Sundays in August calculated as follows:
- (1)  $50,600$  (August proportion)  $\div$   $4.43$  (weeks in the month) =  $11,422$  weekly attendance.
  - (2)  $11,422$  (weekly attendance)  $\times$   $0.20$  (Sunday proportion) =  $2,284$  peak daily attendance.
  - (3)  $2,284$  (peak daily attendance)  $\div$   $8$  opening hours in the day) =  $286$  visitors per hour.
  - (4)  $286$  (visitors per hour)  $\times$   $4$  (dwell time on site) =  $1,144$  visitors during the peak 4 hours.
  - (5)  $1,144$  (visitors visiting during the peak 4 hours)  $\div$   $101$  acres (size of park and farmland that forms the Country Park that is in the AONB) =  $11$  visitors per acre

- 16.10.59 It is estimated 16% of visitors during the busiest month August

Fridays in August 418 cars  
 Fridays in August 7 coaches  
 Saturdays in August 452 cars  
 Saturdays in August 7 coaches  
 Sundays in August 685 cars  
 Sundays in August 11 coaches

- 16.10.60 The traffic impact of the development proposals has been considered along the following two way highway links:
- Lexden Road to West Bergholt;
  - A134 (Nayland Road);
  - Langham Road;
  - Boxted Road;
  - A134 Horkesley Hill;
  - London Road;
  - Fishponds Hill;
  - Ivy Lodge Road;
- 16.10.61 The likely impacts within Suffolk have also been assessed, along the following routes:
- A134 (Nayland),
  - A1071 (Boxford Lane), Boxford
  - B1087 (Stoke Road), Nayland / Stoke by Nayland
- 16.10.62 The TA states that in addition to the routes set out above, it is possible that, on infrequent occasions, visitors may travel on other routes when arriving or leaving Stour Valley Visitor Centre at Horkesley Park. It is impossible to quantify the exact usage of these non-core routes; however it is considered that the use of rural roads over and above those set out above would be minor and result in insignificant traffic increases at most.
- 16.10.63 The base traffic flows within the 2009 TA for each of the eleven links have been updated with up to date traffic flows. Essex County Council (ECC) and Suffolk County Council (SCC) were both contacted to find out the availability of traffic survey data for each of the links.
- 16.10.64 The proposed development traffic results in a maximum percentage increase of 11.8% on the B1087 road through Nayland with a maximum increase in flows of 16 passenger car unit's. The TA states that this increase is during the Sunday peak hour where the overall traffic flow is much reduced and the base traffic plus development flows are less than the flows which occur on a weekday or Saturday without development. Furthermore, the number of development vehicles routing via the B1087 / B1068 is anticipated to be lower than that estimated as visitors will be signed to enter the site via the A12 junction 28. The route via the A12 junction 28 will also be advertised in all marketing material. In addition the proposal to stop up the gap for right turn movements onto the B1068 from the A12, if implemented, will further prohibit vehicles from entering Horkesley Park via the B1087 / B1068 enforcing the travel choice that is likely to occur in any case. Furthermore as it is more likely that the split of traffic originating from / travelling to Ipswich and beyond via the A12 would be 80% via the A12 and A134 (south) and 20% via the B1087 / B1068. This would reduce the numbers to approximately 3 vehicles in the Friday peak hour, 5 in the Saturday peak hour and 6 in the Sunday peak hour. Therefore this would further reduce the percentage impact to 1.7% in the Friday peak hour, 2.7% in the Saturday peak hour and 4.4% in the Sunday peak hour.

**Planning Services comment:**

**The applicant has recently submitted a letter from Atkins, working on behalf of the Highways Agency. “Atkins confirmed the closure of the Hughes Corner (B1068) Central Reservation Gap at a Public Meeting on the 14 January 2013 and that the work is scheduled to commence in March 2013”.The applicant confirms the possible closure of the Hughes Corner Central Reservation Gap was taken into consideration by their highway consultant when evaluating/assessing trip distribution for Horkesley Park. The original 2009 assessment assumed 50% of those travelling from/to Ipswich and beyond via the A12 would travel along the B1087/B1068, with the other 50% travelling to/from the site via the A12 and A134 (south). The updated 2012 assessment took into account the potential Hughes Corner Central Reservation Gap closure forecasting that if the gap was to close 20% of those travelling from/to Ipswich and beyond via the A12 would travel along the B1087/B1068, and the remaining 80% travelling to/from the site via the A12 and A134 (south).**

16.10.65 Overall the maximum impact of the development traffic reduces significantly from the original proposal. The highest impact in the 485,000 visitors per annum proposal was 34.8% on the A134 Nayland Road in the Sunday peak hour. This reduces to a 22.2% impact in the 316,250 visitors per annum proposal. The percentage increases on the surrounding highway network, as a result of the development traffic, are well within the normal levels of daily variation in traffic flows. Furthermore it is not considered that the development traffic would result in congestion on any of the assessed links.

16.10.66 The three tables below show the percentage increase in traffic on the predicted busiest days (Friday, Saturday and Sunday) in the predicted busiest month (August)

Table 4: Percentage Increase – Friday daily

Link	Two Way Flows		Increase	
	2012 Base	Proposed	Absolute (pcus)	Percentage
Lexden Road	869	874	5	0.6%
(A134) Nayland Rd	10055	10779	724	7.2%
Langham Road	7206	7206	0	0.0%
Boxted Road	2445	2462	17	0.7%
A134 Horkesley Hill	10084	10311	227	2.3%
London Road	1177	1189	12	1.0%
Fishponds Hill	235	238	3	1.3%
Ivy Lodge Road	2889	2889	0	0.0%
A134 (Newton)	10671	10813	142	1.3%
A1071 (Boxford)	6838	6850	12	0.2%
B1087 (Nayland)	2455	2529	74	3.0%

Table 5: Percentage Increase – Saturday Daily

Link	Two Way Flows		Increase	
	2012 Base	Proposed	Absolute (pcus)	Percentage
Lexden Road	648	656	8	1.2%
(A134) Nayland Rd	8362	9144	782	9.4%
Langham Road	5101	5101	0	0.0%
Boxted Road	1921	1939	18	0.9%
A134 Horkesley Hill	8694	8940	246	2.8%
London Road	1014	1027	13	1.3%
Fishponds Hill	242	264	22	9.1%
Ivy Lodge Road	1931	1931	0	0.0%
A134 (Newton)	9200	9353	153	1.7%
A1071 (Boxford)	5974	5986	12	0.2%
B1087 (Nayland)	2078	2160	82	3.9%

Table 6: Percentage Increase – Sunday Daily

Link	Two Way Flows		Increase	
	2012 Base	Proposed	Absolute (pcus)	Percentage
Lexden Road	489	497	8	1.6%
(A134) Nayland Rd	6765	7952	1187	17.5%
Langham Road	3940	3940	0	0.0%
Boxted Road	1320	1347	27	2.0%
A134 Horkesley Hill	7033	7406	373	5.3%
London Road	822	842	20	2.4%
Fishponds Hill	170	174	4	2.4%
Ivy Lodge Road	1506	1506	0	0.0%
A134 (Newton)	7443	7674	231	3.1%
A1071 (Boxford)	3922	3940	18	0.5%
B1087 (Nayland)	1266	1389	123	9.7%

The only increase above 10% is along the A134 on a Sunday.

16.10.67 Tables 5.4 - 5.6 show that the maximum increase in terms of daily movements is on the A134 Nayland Road on a Sunday when the development traffic is anticipated to result in a 17.5% increase. This is not envisaged to result in a significant impact as the A134 currently accommodates significantly more than 7952 daily two way movements on weekdays and as such the development traffic could be accommodated and higher levels are already experienced on the route.

16.10.68 The proposed development traffic results in a maximum percentage increase of 9.7% on the B1087 road through Nayland. This 9.7% increase is during a Sunday where there are predicted to be up to 1,389 daily pcu's. The B1087 accommodates more than 1000 additional daily pcu's on weekdays and Saturdays and therefore it is considered that this Sunday level could be accommodated.

- 16.10.69 It is more likely that the split of traffic originating from / travelling to Ipswich and beyond via the A12 would be 80% via the A12 and A134 (south) and 20% via the B1087 / B1068. This would reduce the numbers to approximately 30 vehicles on a Friday, 33 on a Saturday and 49 on a Sunday. Therefore this would further reduce the percentage impact to 1.2% on a Friday, 1.6% on a Saturday and 3.9% on a Sunday.
- 16.10.70 The proposed development traffic on Fishponds Hill is not anticipated to result in a traffic impact with a maximum daily percentage increase of 9.1% on a Saturday. This increase is a result of 22 additional vehicles on Fishponds Hill over an entire day. This number is more likely to be 3 or 4 pcus, but in order to maintain consistency with the previous agreed Transport Assessment has been kept at 22 pcus. If the development traffic was 4 then the 9.1% impact would reduce to a 1.7% impact.
- 16.10.71 The number of development vehicles routing via the B1087 / B1068 is anticipated to be lower than that estimated in Tables 5.4-5.6 due to marketing and signage advising visitors to enter the site via the A12 junction 28.

#### Summary

- 16.10.72 The only hourly increases above 20 vehicles associated with the development traffic are along the A134 itself. It can be concluded that the development proposals would not have a significant effect on the remainder of the surrounding highway network including the radiating country roads from the A134.
- 16.10.73 The new A12 junction 28 and NAR will further promote access to the site via the A12 and junction 28. This route will be the signed and advertised route and therefore the majority of visitors will utilise it to access the attraction.
- 16.10.74 In addition to this if the proposal to close the gap on the A12 which enables traffic to turn right onto the B1068 is implemented this would further restrain traffic accessing the Stour Valley Visitor Centre at Horkesley Park to route via the B1087 / B1068. Discussion with the Highways Agency has revealed this could be implemented in the first quarter of 2013 subject to consultation. Whereas the gap will further enforce route choice it is considered the benefits of using the strategic road network will result in visitors using this even without the formal gap closure.
- 16.10.75 The robust 50% B1087 / B1068 and 50% A12 / A134 (south) assignment of development traffic travelling to/from Ipswich and beyond via the A12 does not result in any significant link increases. The impact also reduces as a result of the new visitor number proposal.
- 16.10.76 The likely 80% A12 / A134 (south) and 20% B1087 / B1068 assignment of development traffic travelling to/from Ipswich and beyond via the A12 further reduces the impact on the B1087 / B1068 and vehicles travelling through Nayland and Higham.

16.10.77 The largest percentage increases are primarily on Sunday when the total traffic flow is substantially lower than the flow on Friday and Saturday. In addition the percentage increases on the surrounding highway network, as a result of the development traffic, are well within the normal levels of daily variation in traffic flows and any increases will be imperceptible.

#### **Section 4 – Noise**

##### Noise

16.10.78 The applicants ES concludes that with regards to construction assessment the magnitude of noise and vibration impact from the construction phase is anticipated to be minor adverse for noise and vibration impacts. Therefore, specific mitigation measures are considered within Environment Management Plan.

16.10.79 In respect of operational noise induced by road traffic flows, the applicants 2012 ES concludes the magnitude of impact would be minor. According to the Design Manual for Roads and Bridges (DMRB) Volume 11, Section 3 – Part 1 HD 213/11, the magnitude of operation impact for long term is considered to be negligible. In comparison to the conclusion with 2009 version, the magnitude of the impact is lessened.

16.10.80 The applicants ES concludes noise and vibration impact due to the installation of the service plant associated with the proposed building is not considered to be significant, as the size of the proposed building has been reduced, alternatively quieter plant to be used.

##### Operation Phase

16.10.81 The applicants ES identifies the most significant noise sources during the operational phase to be noise induced from increases in road traffic flows due to the operation of the proposed development. However, the ES anticipates that changes in noise levels will be less than 3DB, which the ES indicates means the impact from the road traffic is 'negligible' and that no further mitigation is required.

##### Impact of Plant Noise from Buildings

16.10.82 The ES identifies the likely impact of noise from heating and service plant within the proposed buildings would be low and controllable and therefore, the impact from the service plant is considered to be negligible.

##### ES Summary Conclusions in respect of Noise

16.10.83 The magnitude of noise and vibration impact from the construction phase was anticipated to be minor adverse for noise and negligible for vibration impacts. However, as a detailed construction programme is not provided, specific mitigation measures will be considered within an Environment Management Plan.

16.10.84 In the 2009 ES, significant impacts of noise and vibration were generally predicted to be minor for the operation phase. In accordance to the updated DMRB, the magnitude of impact for long term is considered negligible compared with the previous 2009 version.

16.10.85 The ES does not anticipate that operational noise and vibration from the service plant associated with the proposed building will give rise to a significant impact. As a number of smaller buildings have been proposed for this new application the service plant required are likely to be quieter.

### **Section 5 - Lighting**

16.10.86 The applicants AONB assessment provides the following information in respect of lighting:

- there is no lighting proposed in the AONB

#### ***Planning Services comment:***

***The assessment indicates there will be lighting in the grounds of The Chantry which is in the AONB***

- no lighting overnight or late evening
- the overflow car parking area will not require lighting as it is for day time use only
- lighting mainly screened from views from AONB
- design of lighting to mitigate against light pollution. .
- the lighted vehicular routes are located south of AONB and will not be visible,
- external pedestrian routes lit by low level luminaries with no upward light spill.
- Upward light waste will be less than the existing glasshouses.
- new buildings designed so the glazed elevations face into the site

#### Lighting Summary from the ES

16.10.87 “As part of the 2009 application DPA lighting consultants were commissioned to undertake a lighting impact assessment for the proposed Horkesley Park Heritage and Conservation Centre. The results of the lighting assessment were included in the Environmental Statement which formed part of the planning application.

Since this application, a number of changes have been made to the proposed development which reflects the comments and feedback from the original planning application. DPA lighting consultants have been commissioned to review the revised development proposals and assess how, if at all, the revised proposals would affect any environmental impact due to lighting previously assessed. It is our opinion that whilst the changes to the core development proposals have differed significantly in terms of architectural forms and layouts, the conclusions from the previous lighting impact assessment remain valid and the proposed development would, in our opinion, have a minor beneficial overall effect when compared to the current baseline conditions.

In terms of the impact of the proposed development on the setting of the neighbour Dedham Vale Area of Outstanding Natural Beauty (AONB), it is our opinion that the above conclusion is also valid. From specific receptor locations, the proposed development will form part of the setting of the AONB. During the daytime, the careful selection and siting of lighting equipment will minimise any detrimental effects by ensuring that the lighting fits harmoniously into the overall architectural design and that views of lighting equipment are in the most part screened from more distant viewpoints by the landscape and architectural features which form part of the development site. During the hours of darkness, the application of sensitively designed interior and exterior architectural lighting techniques for the proposed core

development coupled with the modest night-time operating hours will mitigate against light pollution and ensure that night-time views from and towards the AONB which include the development site will be improved over current baseline conditions”.

### **Section C Planning Services analysis of the issues and conclusions**

- 16.10.88 The setting of the Dedham Vale AONB does not have a geographical border and the location, scale, materials or design of a proposed development or land management activity will determine whether it affects the natural beauty and special qualities of the AONB. A very large development may have an impact even if some considerable distance from the AONB boundary.
- 16.10.89 Helpfully examples of adverse impacts are set out in Dedham Vale Stour Valley Management Plan and can include:
- “Blocking or interference of views out of the AONB particularly from public viewpoints
  - Blocking or interference of views of the AONB from public viewpoints outside the AONB
  - Loss of tranquillity through the introduction of lighting, noise, or traffic movement
  - Introduction of an abrupt change of landscape character
  - Loss of biodiversity, particularly species of importance within the AONB
  - Loss of features of historic interest, particularly if these are contiguous with features within the AONB
  - Reduction in public access to or within the AONB
  - Increase in air or water pollution
- 16.10.90 Adverse impacts might not be visual. The special qualities of the Dedham Vale AONB include tranquillity. A development which is noisy may well impact adversely on tranquillity even if not visible from the AONB.”
- 16.10.91 Information from the application documents is summarised above although summarised, it is still in some detail as the potential impact of the development in the countryside and the AONB in particular is a very important issue. It has given rise to the most objections. In reaching a view on whether or not Horkesley Park will have an adverse impact on the countryside and the AONB and whether it is contrary to the policies which seek to protect such areas from the adverse impacts of development is a key factor in determining whether the Local Planning Authority can support the application.
- 16.10.92 An important consideration is whether Horkesley Park constitutes major development in the AONB. If it is then the NPPF general presumption in favour of sustainable development will not apply and the application would have to be assessed against paragraph 116 of the NPPF which requires assessment against the following criteria:
- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
  - the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
  - any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

- 16.10.93 The Planning Policy team and others including the planning consultant acting for SVAG consider it is major development.
- 16.10.94 The committee report in respect of the 2009 application considered this issue. Although at that time Government advice was contained in PPS's not the NPPF the relevant advice in PPS7 contained identical criteria to NPPF paragraph 116 for assessing major development in the AONB.
- 16.10.95 The 2009 report stated  
"The work carried out by Nathaniel Lichfield Partnership considers the extent to which the Horkesley Park proposal constitutes major development affecting an AONB. Their comments are as follows:  
  
"In our view the conversion of The Chantry and the rustic play area would not normally constitute 'major' development in the AONB, nor would the creation of the country park (i.e. with no new buildings). However, the Warren building is a large new building of 1126sqm, which in our view constitutes major development and therefore this should be considered against the tests listed at paragraph 22 of PPS7".
- 16.10.96 **The current application does not include The Warren. The Country Park does not include any new buildings. Some of the representations refer to features (including walls, sculptures, waterfalls, pagoda and a tea pavilion) being provided within an authentic Chinese Garden and that these features will comprise development within the AONB. The Chinese Garden is within the AONB but on land that currently forms part of a residential curtilage. The details of the Chinese Garden will be secured by section 106 agreement but these features do not constitute major development. It is the Planning Services view that the proposal does not constitute major development in the AONB and paragraph 116 in the NPPF therefore does not apply.**
- 16.10.97 However whilst NPPF paragraph 116 may not apply the application has to be assessed against policies in the LDF which seek to conserve and enhance Colchester's countryside and safeguard the Borough's biodiversity, geology, history and archaeology. In particular, developments that have an adverse impact on the Dedham Vale Area of Outstanding Natural Beauty will not be supported.'
- 16.10.98 The response from Planning Policy has set out the relevant policies and other relevant documents. The most important LDF policy is DP22 (Dedham Vale Area of Outstanding Natural Beauty) This policy requires that a proposal in or near the Dedham Vale AONB:  
i) Makes a positive contribution to the special landscape character and qualities of the AONB  
(ii) Does not adversely affect the character, quality views and distinctiveness of the AONB or threaten public enjoyment of these areas;  
(iii) Supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan; and

Where exceptionally development is essential, landscape enhancements, mitigation or compensation measures must be provided to the Local Planning Authority's satisfaction. Any existing development that adversely affects the landscape qualities of the AONB will be expected to satisfactorily mitigate this impact as part of any new development proposals.

Other relevant policies include Core Strategy Policy ENV1 which seeks to conserve and enhance the natural and historic environment, biodiversity, and archaeology, Policy DP 1 as it seeks to protect residential amenity as well as requiring all developments to respect and enhance the landscape and other assets and DP 21 where one of the principle objectives is to conserve or enhance biodiversity.

- 16.10.99 Paragraph 115 of the NPPF is also relevant and states that 'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty'. Part of the application site is within the Dedham Vale AONB. This section is therefore especially relevant and it is important the development does not negatively affect the AONB. It is not only the impact of the built development itself that has the potential to impact on the AONB but also the associated activities around and outside of the site. The NPPF also states planning policies and decisions should limit the impact of light pollution for artificial light on local amenity, intrinsically dark landscapes and natural conservation.
- 16.10.100 The Spatial Policy response refers to other policies documents including the DCLG Good Practice Guide on Planning for Tourism, the Haven Gateway Green Infrastructure Study, Colchester's Landscape Character Assessment and the Dedham Vale AONB Management Plan 2010 -2015. The response from the Landscape Officer refers to the Landscape Character Assessment and confirms the applicants proposals comply with it. The DVSV Partnership response set out the main policies from the Management Plan. These relate to tranquillity, protection of habitats and landscape and minimising the impact of road transport on the landscape quality and tranquillity.
- 16.10.101 The Dedham Vale AONB and Stour Valley Management Plan 2010-2015 Strategy Document is a material consideration. This document states that some recreational pursuits can lead to a loss of tranquillity and refers specifically to off road motor cycle sports; paint ball events; clay pigeon shooting and model aircraft events. However the use of land as a country park is not specifically mentioned. The management plan also states that the tranquillity of the area is a key part of its landscape quality and that changes to human activity, including recreation behaviour in combination with other affects could lead to a change in character of the area. The management plan identifies the following objectives for managing the landscape.
- 16.10.102 **OB1** Land use management decisions will demonstrate consideration of landscape, cultural associations, tranquillity, biodiversity and geodiversity to conserve and enhance the area.  
**OB2** Protected habitats and species will be conserved and enhanced.  
**OB3** The area retains its assemblage of landscape features which contribute to the character of the AONB and Stour Valley

16.10.103 The DVSV Partnership and SVAG consider Horkesley Park will have an adverse impact on landscape character. However the Councils Landscape Officer concurs with the applicants Landscape and Visual Assessment and considers the proposed new woodland and hedge planting will actually reinforce landscape character. He is also satisfied with the information and mitigation for impact of the use, buildings and car parks on the short and long views. Natural England has also raised no objection on landscape grounds. It is therefore concluded Horkesley Park will make a positive contribution to landscape character and will not adversely affect the character, quality views or distinctiveness of the countryside or the AONB.

16.10.104 **So what is it amongst this range of views that members are being asked to decide between?**

**1. Do you consider that from what you have seen from the site visit, observed on the proposed drawings/plans and heard described that the proposal does involve major development within the AONB?**

**If you do you then you must consider the proposal against the requirements of paragraph 116 of the NPPF**

- **the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;**

**Is the proposal needed? There is probably no overriding need for the proposal in that The Bunting family currently has a breeding group of Suffolk Punch horses and they show them around the country drawing attention to the fragile nature of the breeds continued existence. Is it important to save the breed? Will the Horkesley Park proposal single handedly save the breed from extinction? Is a Chinese Garden and a gallery needed in the sense of adequate school places and hospital beds are essential? No.**

**However will it make an important contribution to boosting the local economy? You must decide.**

- **the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and**

**Has anyone come forward with such developed and backed plans for a tourist development of this type elsewhere in the borough? No.**

- **any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.**

**Will the development in your opinion harm the character of the AONB and its wildlife and landscape? How much will be seen? Will the development within the AONB be screened or will it be visible in long views from across the valet or even from the Essex side? Can the proposal be said to be limiting people's recreational enjoyment of the AONB? Certainly walkers will**

continue to be able to walk the public footpaths and a new prescriptive routes will be created.

Depending on your reaction to these questions you will begin to have the weighting of your balance in respect of this aspect of the consideration of the merits of the proposal.

2. If you do not consider the proposal involves major development within the AONB what impacts do you feel the proposal has in terms of the setting of the AONB?

16.10.105 Judged against the DSV Management Plan criteria how do you consider the proposal scores?

“• **Blocking or interference of views out of the AONB particularly from public viewpoints**

The Planning Service believes that the proposal will not block views out of the AONB because of the existing topography, the distance across the valley, the dense intervening tree cover between the roads to the north and the new buildings and the low profile of proposed buildings which will no more so restrict views out than the existing agricultural buildings

• **Blocking or interference of views of the AONB from public viewpoints outside the AONB**

Again members will need to take careful account on the site visit and from drawings of what can and can't be seen of the AONB from outside the AONB as a result of the proposal. In the opinion of the Planning Service no additional impediment will result as public footpaths remain open and will afford views to the north across the Vale.

• **Loss of tranquillity through the introduction of lighting, noise, or traffic movement**

Certainly these could be issues. Are you satisfied that adequate controls are or can be put in place to reduce light and noise pollution? These can in the opinion of the Planning Service be properly controlled to avoid such nuisance. Members familiar with the previous agricultural use will know that such use can itself give rise to light pollution from greenhouses where commercial crops are being forced by the use of artificial light at night. Traffic impact is considered in the traffic section of this report

• **Introduction of an abrupt change of landscape character**

This is not expected

• **Loss of biodiversity, particularly species of importance within the AONB**

The Planning Service believes that the proposal will enhance landscape and biodiversity through new planting, habitat management and restoration work.

- **Loss of features of historic interest, particularly if these are contiguous with features within the AONB**

**The loss of such features is not an issue here although impact on the setting of the grade I church is a consideration.**

- **Reduction in public access to or within the AONB**

**Not an issue**

- **Increase in air or water pollution”**

**Not an issue**

**16.10.106 However let's look in greater detail at this issue:-**

The consultation response from Natural England is an important consideration. Natural England recommended refusal of the 2009 application on the basis that the application contained insufficient information to demonstrate that there would be no adverse effects on the features of interest for which the Dedham Vale AONB is designated. Natural England now comments. We are pleased to see that these issues are discussed within the *AONB Assessment*. In respect of this application, recognising that the applicant has built on our previous advice by providing an AONB assessment detailing questions of tranquillity (in particular), submitted a mitigation and management plan describing a range of traffic and travel related measures, drafted a s106 agreement for local planning authority approval which offers greater security and accountability of such measures, and noting the reduction in the scale of the proposal, Natural England does not object on landscape grounds, subject to confirmation that the traffic and travel mitigation measures can be secured via S106 agreement or otherwise by planning condition.

16.10.107 Natural England is also satisfied with the information and mitigation proposal for sunken lanes.

16.10.108 The increase in traffic and its impact on the AONB has given rise to significant objection. Concern has been expressed about the ability of the roads to cater for the extra traffic and an increase in accidents, noise, congestion and disturbance. Information in the applicants Traffic Assessment has been questioned in the representations. The figures for the predicted increase in traffic, the routes to be taken by visitors to Horkesley Park and the routes when travelling to other parts of the Stour Valley have all been questioned. SVAG also question whether the Traffic Assessment considers all the appropriate roads. A drawing, from the transport assessment, showing the predicted routes for vehicles travelling from Horkesley Park to Dedham and Flatford will be included in the Committee presentation.

16.10.109 Essex County Highways has confirmed that the information in the Traffic Assessment including the information on predicted additional vehicle movements are based on best practise. The information has been accepted by both Essex and Suffolk County Highways and the Highway Agency. The accident statistics have also been agreed as being accurate. These authorities consider the roads have the capacity for the additional traffic and have raised no objection to the application.

- 16.10.110 The tables showing the percentage increase in traffic have been included in the report so Members can see the predicted vehicle movements. These figures relate to the days when the most traffic is predicted (August: Fridays, Saturdays and Sundays) and are based on the applicants predicted visitor numbers. If the lower visitor numbers predicted by the Councils consultant Britton McGrath Associates are correct then there will be a corresponding reduction in traffic.
- 16.10.111 The Traffic Assessment considers the figures given represent a worst case scenario as the likelihood is more visitors would actually use the A12 route particularly now junction 28 on the A12 is open. The TA also indicates the roads will be able to cater for the additional traffic at the busiest times (during the weekend) as the traffic levels will be similar to those during weekdays. Whilst the traffic may be acceptable in terms of road capacity it means residents living along these roads will lose the benefit to their amenity of reduced traffic during the weekend. The Dedham Vale AONB and Stour Valley Management Plan 2010-2015 Strategy Document is concerned that developments that involve large amounts of traffic can impact on tranquillity and that travel plans and sustainable methods of travel should form part of any proposal. The adverse impact of the extra traffic has also been raised by the National Trust who is concerned at the impact on roads through the Stour Valley.
- 16.10.112 The impact of traffic on the AONB and tranquillity is difficult to assess. If an application were proposed in Dedham village or at Flatford the impact would be clear cut as all traffic would have to travel to the site along country lanes within the AONB. In the case of Horkesley Park there is not only a range of available routes but it is also reasonable to assume a significant number of visitors, in particular those travelling a distance, would travel along the A12. The predicted routes and additional traffic information submitted on behalf of the applicant and accepted by the Highway Authorities indicates there would not be a significant increase in traffic along minor roads within the AONB and in the absence of any contradictory evidence your officers have to accept this information.
- 16.10.113 The impact of Horkesley Park on the tranquillity of the AONB has also been raised by The DSV Partnership and SVAG and many of the objectors. This issue has been considered in detail by your officers and further clarification sought from the applicant. Tranquillity is a difficult concept to determine as every individual's perception of an area is different but the three principle elements are people, landscape and noise. The following all contribute to the perception of tranquillity, openness of the landscape, naturalness of the landscape, presence of other people, lack of human impact, noise, lighting and visibility of roads or urban development.
- 16.10.114 The CPRE has produced tranquillity mapping and these are referred to in the applicants' submission. The case officer has contacted both the national and local CPRE offices to seek advice on the issue of tranquillity and whether Horkesley Park would affect the tranquillity mapping. Whilst a copy of the map has been provided the case officer has received no comment on what effect Horkesley Park would have and the response from CPRE does not refer to this issue.

- 16.10.115 The CPRE map shows Dedham Vale AONB divided into 0.5 km squares with a colour mapping ranging from most tranquil to least tranquil. The part of the site containing the glasshouses is shown towards the upper end of least tranquil whereas the other parts of the site are more towards the middle and your officer's interpretation of the mapping for Horkesley Park concurs with the applicants. However Members should note the CPRE website makes it clear that "The results of the study should not be used without an understanding of the methodology used and its caveats". The website indicates that it is possible that the mapping for an area could, for example, be influenced by a very high score on a positive feature which could outweigh negative features.
- 16.10.116 The application does not propose any lighting in the country park area of the AONB or the overflow car park. Whilst the application documents indicate lighting in The Chantry area is limited and in the core development area it would be less than the existing glasshouses Environmental Control have indicated conditions should be imposed to secure appropriate lighting.
- 16.10.117 The Environmental Statement (ES) indicates that noise during the construction period could have an impact on AONB be for a short period only. The ES has also considered traffic noise and concluded this would not give rise to significant additional traffic noise.
- 16.10.118 However the ES has only considered traffic noise and it does not assess the noise impacts of human activity within or outside the core development area, vehicles using the car parks or PA systems. The impact of this noise has been discussed with Environmental Control Officers who consider most noise impacts can be mitigated by the imposition of conditions. Environmental Control officers consider noise will not have an adverse impact on residential amenity. However noise from additional vehicles on public roads cannot be controlled. It is appreciated that many of the representations express concerns about noise from additional traffic but it is not considered this will be so significant as to be unacceptable in particular as the Traffic Assessment predicts the majority of the traffic will travel along the A12 and A134 already busy roads. Recommended conditions include details of all the PA systems to be submitted and agreed, noise attenuation fences along some boundaries of the overspill car park boundaries and the out door arena; and the surface material of the main car park to be agreed. Environmental Control Officers consider the location of the coach park next to the AONB has the potential to cause noise and suggest consideration should be given to its re-location closer to the road frontage. The Planning Service understands this concern but the suggested re-location would separate the coach park from the core development area and make this parking more prominent. The Planning Service considers an acceptable compromise would involve relocating the 6 coach spaces closest to the AONB boundary allowing substantial new planting to be provided next to the AONB. In addition Environmental Control recommends conditions regarding noise so that "noise generated shall not exceed 0dBa at the boundary with the AONB above the background levels". A range of other conditions are also requested relating to the café and delivery area. A restriction of the number, location and time of the parkwide events is also proposed.
- 16.10.119 The location of the site, existing uses, relationship to the AONB and the proposed distribution of uses; in particular those with the potential to be noisy is an important consideration.

- 16.10.120 The main activity will take place within the core development area which is outside the AONB. Within this area there will be the general hubbub generated by a larger number of people. Although visitors will be spread out over the whole area and within buildings, there are open gardens and walkways between buildings. There will also be vehicle movements and noise associated with vehicles in particular within the main car park. However the main car park is on the south boundary of the site separated from the AONB by the core development area and areas of parkland pasture. The core development area is also separated from the AONB by parkland pasture areas. A dwelling also owned by the applicants provides some separation.
- 16.10.121 The overflow car park is described as being within a landscape setting. With the capacity for 300-400 cars this element has the potential to cause disturbance in particularly when used to capacity hence the condition for acoustic fencing recommended by Environmental Control. This fence will have to be sensitively located so it does not impact on the AONB but this area will have substantial new hedge and tree planting. The overflow car park is adjacent to the AONB and the north boundary is formed by a PROW. The coach park is indicated within the overflow car park next to the AONB.
- 16.10.122 The site is “U shaped” with the proposed buildings and car parks at bottom of U and the country park, farming and parkland pasture forming the two arms of the U shape . One arm Of the U shape is in the AONB but runs adjacent to the A134. Traffic noise is audible from part of this area. The other arm of the U is adjacent to the AONB. The parkwide and special events (those which take place in the open) have the potential to be noisy in particular clay pigeon shooting which is identified in The Dedham Vale AONB and Stour Valley Management Plan as an activity which can affect tranquillity. It is therefore essential the number, location and timing of these events are strictly controlled. In terms of location within the site the area on the east side with a boundary along the A134 would have least impact on the AONB.
- 16.10.123 The application documents indicate there will be an average 4 visitors per acre in the country park. However your officers do not consider this “average figure” represents a true reflection of the impact. Elements of the attraction will generate higher concentrations of visitors. The Suffolk Punch forms a key element of the attraction and it is assumed their working area within the country park will be frequently visited by a large number of visitors. Indeed many of the supporters of the application cite Suffolk Punches as a reason for support. Other elements of the attraction including the park wide events and the use of the outdoor display area will have large groups of visitors. The Suffolk Punch working area is located in the east part of the country park near the road and there it is unlikely to be an issue with noise compared to existing car noise. Similarly the heritage farming area is within the AONB it is promoted as having links to schools and therefore will be visited by school groups but again located on part of the site closest to the road so noise is unlikely to be an issue. Other elements of the attraction including the park wide events will have large groups of visitors and it is therefore important to restrict not only the number of occasions they take place but also their location within the site and the timing of these events. One element of tranquillity is the absence of human activity or influence. Changing the use from a farmed landscape to a country park with public access will impact on this perception of tranquillity to

some degree. However other parts of the Stour Valley and Dedham Vale are publically accessible and have significant visitor numbers. Your officers conclude that people enjoying the AONB will not in itself impact on tranquillity and this is consistent with paragraph 116 of the NPPF which requires AONB's to be protected for their recreational opportunities.

- 16.10.124 The existing buildings include a range of buildings, one with a tall chimney, in addition to glasshouses which are to be demolished (with the exception of the retained glasshouses). These buildings have a footprint of approx 20,772 square metres. Whilst the new buildings represent a 62% reduction in total existing floor area they will still cover a large area with a frontage of approx 250m. Whilst the glasshouses are large they are an agricultural use, a common and accepted use in the rural landscape. The new buildings whilst following the grain of the existing in terms of form and height will have a completely different feel and level of activity due to their use as a tourist attraction. Whilst the core development area, where the buildings are to be located is outside the AONB and separated from it by areas of parkland pasture the proposal will result in significant new building within the countryside. The buildings will be visible from the roads fronting the site until the new landscaping matures.
- 16.10.125 In conclusion whilst many of the representations raise strong objections to the application due to its impact on the countryside, AONB and tranquillity key consultees including Natural England, the Landscape Officer and Environmental Control do not object to the application. It is considered that Horkesley Park will not adversely affect landscape character or views and in terms of light pollution there may be an improvement. The planting, conservation and management proposals will it is considered benefit the landscape and ecology. Adverse impacts will result from noise in particular additional vehicles using the roads which cannot be controlled. Due to its scale the proposal has the potential to generate significant additional traffic in the AONB which could result in additional noise and disturbance and have an adverse impact on tranquillity. There will be some noise disturbance during the demolition and construction period although this will be of limited duration.. The use itself will introduce a much more intensive level of activity with greater human activity and traffic generation well in excess of that associated with an agricultural use.
- 16.10.126 The Planning Service considers that Horkesley Park does not conflict with policies in the LDF, NPPF and The Dedham Vale AONB and Stour Valley Management Plan which seek to protect and enhance landscape character and prevent the adverse impacts of light. Habitats will also be protected and enhanced. The proposal to plant significant new woodland, reinstate hedgerows and introduce new wild flower meadows will enhance the landscape character. The impact on tranquillity is not so easy to assess. Tranquillity is referred to in the LDF, the NPPF and The Dedham Vale AONB and Stour Valley Management Plan. There is no guidance in these policy documents on how potential impacts should be assessed and despite enquiries by both the Case Officer and Environmental Control officers it has not been possible to locate any useful information. It is also difficult to assess as individual perceptions of what is tranquillity differ. However your case officers' opinion is that impacts on tranquillity are most likely to occur from the extra road traffic and the activity within the Horkesley Park site itself if controlled by appropriate conditions and by section 106 agreement is unlikely to have significant adverse impacts on tranquillity.

## 16.11 PART K TRAFFIC ACCESSIBILITY ISSUES

### Traffic

- 16.11.1 The application documents include the Transport Assessment and Travel Plan from the 2009 application a 2012 addendum to both documents. During consideration of the application Suffolk County Council requested additional assessment work which was undertaken with revised traffic survey data and submitted as a Technical Note, October 2012. The Traffic Assessment looks at existing site accessibility, traffic impacts within Suffolk, personal injury accident, a review of surrounding highway network and a review of transport policy. It includes the methodology for calculating the trip generation, distribution and assignment and includes figures for vehicle numbers, routes and number of vehicles using each route. The Traffic Assessment indicates that the assessment represents a worst case for the site. A summary of this information was included in Part J above. Members will be aware that many of the representations question the figures, the routes and split between main and local roads in the TA. However the methodology and information has been accepted by both Essex and Suffolk County Highway Authorities and the Highways Agency.
- 16.11.2 Essex and Suffolk County Highway Authority and the Highways Agency have not objected to the application subject to a range of improvements which include the following
- all farming access points to be kept gated and locked
  - access to HP shall be via the proposed new access
  - a right turn lane at the A134 Nayland Road/London Road junction shall be provided with central islands including pedestrian islands
  - the London Road carriageway to be widened
  - existing bus stops to be relocated and provided with a layby each
  - a brown tourism sign strategy to be provided
- 16.11.3 In addition to the above other measures to promote sustainable travel measures are proposed these are described in the following section of the report.
- 16.11.4 Many of the representations question the capacity of the roads to cater safety with the additional traffic. However no objection has been received from the Highway Authorities who consider the roads have the capacity to accommodate the additional traffic and your officers have to accept their expert advice on this issue.

### **Accessibility sustainable transport issues**

#### Information from Application Documents

- 16.11.5 The applicants Transport Assessments, Environmental Statements and Travel Plan set out the following sustainable transport measures:
- extension of the existing local bus service/s between HP, North Station rail and Colchester town centre, possibly by being combined with a dedicated HP branded passenger transport service, to provide altogether a 15 minute average frequency during the time HP is open to the general public and (for staff in particular) during certain periods before and after such time of being open to the

general public. The extra buses required to provide the extended service will be funded by HP. the extension will be added to the current rural service to provide for local people as well as for the HP visitors and staff. the extended service would be operated on a demand responsive as it is considered inappropriate to operate empty services on the local highway network.

- A Hopper bus service will also be provided between the HP site and the Dedham Village coach car park to link with the “Dedham Vale Hopper” bus service (and any potential successor of it) when in operation, shall be provided as part of the HP ticket admission charge.
- A dedicated staff shuttle bus service shall be provided in perpetuity free of charge or subsidised (depending on individual employment packages) between HP and the local area, based on staff shift patterns.
- improvement to public footpaths new pedestrian and cycle ways
- permissive path to link to existing national long distance paths
- cycle hire
- travel plan to be set up with a travel co-ordinator
- transport liaison group to be set up and maintained

16.11.6 The application information compares this public transport provision to Colchester Zoo which has over 500,000 visitors a year and only an hourly Saturday bus service, no Sunday service and an hourly bus service Monday to Friday.

***Planning Service comment:***

***This is not considered to be a fair comparison as the zoo is an established attraction which opened in the 1960's.***

16.11.7 The 2009 Travel Plan forms part of the current proposal. Its long term strategy is described as promoting sustainable forms of travel choices for staff and visitors encouraging cycling, walking, public transport and car sharing. It acknowledges this is predominantly aimed at influencing staff travel behaviour. A non-car accessibility strategy has been identified for visitor travel and measures that prove the most successful will be further developed. In addition to the 2009 provisions a £3000 contribution is offered for the Highway Authority and Local Planning Authority to approve, review and monitor the Travel Plan. The travel co-ordinator will be responsible for implementing and admin the TP which will include measures to assess a detailed non-car accessibility framework, local recruitment, shuttle bus for staff, monitor existing bus services, branded HP bus, car sharing scheme, walking cycling and emergency ride home. The TP will be reviewed annually.

16.11.8 The 2009 TA indicates local community first targeted for recruitment and car sharing will be promoted. However it accepts that walking will only be viable for a small proportion of employees and cycling only viable from some villages, towns and north Colchester.

16.11.9 The TA indicates the coach modal share of 14% is justified as the proposals have a focus on group activities, learning and education and therefore visitors attending such are more likely to arrive in large numbers.

16.11.10 The TA refers to NPPF paragraphs 29, 32, 34 and 36 in support of their application as it includes a package of sustainable transport measures and a travel plan. Reference is also made to policy DP 10 which states proposals for tourism and

leisure should promote accessibility by a choice of transport means and proposals must not cause significant harm to amenity. This policy further states it is recognized that not all rural location can be made readily accessible by public transport.

#### The Councils Consultant Vectos

- 16.11.11 The Council has appointed Vectos to advise on matters relating to transportation planning policy, access and access by no car modes. The review updates a report commissioned by the Council in 2009 from SBA. Vectos had questioned the need for a new TA rather than reliance on the 2009 TA and 2012 addendum. However the Highway Authorities and the Highways Agency accepted these documents but did request updated accident figures.

#### Summary and Conclusions of the Vectos report

- 16.11.12 “This report has examined a planning application for development at Horkesley Park near Little Horkesley. The application seeks the development of a Heritage and Conservation Centre with a total floor area of 9,650 sqm of D2 Assembly & Leisure land uses being proposed.
- Consideration of the supporting information which accompanies the application has concluded that 720 parking spaces will be provided comprising formally marked out spaces and overspill car parking.
- Based upon traffic generation predictions provided in a Supplementary Transport Assessment report, there will be a maximum of 685 cars visiting the site on any day. Therefore, the development would provide unfettered car parking at a level which would normally be acceptable for food retail development. This level of parking would be in excess of, and a departure from, the adopted maximum standards required in Development policy DP19.
- The development will be accessed principally by the private car with little opportunity or demand for alternative modes of travel 82% of the 316,250 predicted visitors
- A review of the location of the development confirms that there are no material areas of population within either a reasonable walking or cycling distance.
- There is no rail access to the proposed development.
- The assumption of a 14% access by coach services does not accord with evidence from other locations and surveys most notably from the Visit England national survey of 2005 and The GB Day Visitor Statistics 2011. It must reasonably be anticipated that a lower level of coach access will result with a consequent increase in car access as the only realistically available alternative mode of transport. Current bus services are poor. The development would not be accessible by walking and cycling. Substantial bus service improvements are proposed by the applicant. No evidence has been advanced to demonstrate how effective these services would be in reducing the use of the private car. The provision of the majority of services would need to be in perpetuity with a substantive financial cost which would need to be included in any viability appraisal of the scheme overall. A planning obligation to secure funding in perpetuity for these services would be contrary to the principles of Circular 05 of 2005 in the absence of any further evidence of their effectiveness or linkage in terms of need to the proposed development.

Consideration of the proposed development at Horkesley Park in the context of the NPPF and the East of England Plan, confirms that it does not comply with the basic objectives of national or regional policy guidance.

The development does not promote more sustainable travel choices.

The level of free car parking proposed at the development would not promote sustainable transport choices and reduce reliance on the private car.

With respect to Local Policy, this report has considered the adopted policies in the Local Development Framework. It can be concluded that with respect to the matter of transportation policy, the development does not accord with the many of the substantive local transport policies. Specifically and most importantly Policy TA01 confirms that future development in the Borough will be focussed on highly accessible locations which reduce the need to travel. TA01 further confirms that developments which are car dependant or promote unsustainable travel behaviour will not be supported.

The proposed development is car dependant and is not in a highly accessible location.

Consideration of the supporting information confirms that no evidence has been offered to demonstrate how the proposed location could be made highly accessible by modes other than the private car and accordingly it must be concluded that the development is contrary to policy TA01 and other succeeding local policies”.

### Applicant Response

16.11.13 “It is not expected that the development will rely on people travelling to the site by car, the use of 82% private car “is expected to represent a maximum threshold and has been used with the highway capacity assessments to represent a worse-case assessment. Organised coach journeys can be associated with education use but also at weekends they can include coach tours from local, regional and national origins.

The 4% quoted for non-car / coach access has been noted as being an assessment based on worse-case assumptions for the purposes of the traffic assessments a full package of measures to facilitate and encourage travel by sustainable modes has been proposed by the applicant. This has been accepted and agreed with the Local Highway Authority. The application is supported by a Travel Plan. Any package of measures must be reasonable and viable and it is considered that the operation for a period of 5 years for a service is appropriate for the service to become commercially viable and to assess the level of demand. This approach is a recognised best practice approach.

Vectos states Horkesley Park is not within walking or cycling distance of any railway station or halt. The accessibility of the site by all modes of travel has been reviewed and considered by Essex County Council in their role as the LHA and they deem it to be acceptable. Clearly, the differences between policies and measures required will vary from urban to rural areas (NPPF paragraph 29). The consideration of this application clearly needs to take into account the rural location and the key elements and objectives of the attraction. It is not appropriate to apply urban solutions to rural areas.

The NPPF recognises the difference between developments in rural and urban locations. Paragraphs 29, 32, 34 and 37 are key considerations. Key is the third bullet point of paragraph 32. Consideration of this development does not lead to the conclusion that the “residual cumulative impacts of development are severe”. The viability of a scheme and the scale of obligations and policy burdens are identified in paragraph 173 of NPPF.

The Vectos Review suggests that the Horkeley Park proposals are contrary to Policy TA1 and TA2 within the adopted cores strategy. Compliance with these policies clearly requires development proposals to be brought forward in a manner which promote sustainable travel, including cycling and walking and providing a choice in modes of travel

The Horkeley Park Travel Plan does in fact include significant and substantial commitments to sustainable travel – indeed much of the content of the Travel Plan formed the basis of the package of sustainable access measures that have been agreed with, and have the support of the ECC Highway Authority. Furthermore the Travel Plan, it is very much an evolving travel plan process and measures would be reviewed to “...best meet the requirements of sustainable development”.

- 16.11.14 It is expected that the delivery of the Travel Plan and its success would be an on-going process and coordinated at regular transport liaison group meetings with key stakeholders. Indeed, this is a specific requirement of the ECC Highway Authority.

***Planning Services Comment and Conclusions***

***The Planning Policy response identifies the main policies in the development plan. Transport and Accessibility Policies, TA1, TA2 and TA3 in the Core Strategy seek to improve accessibility by enhancing sustainable transport links and encouraging developments that reduce the need to travel future development will be focused on highly accessible locations to reduce the need to travel and developments that are car dependent or promote unsustainable travel behaviour will not be supported. Public transport, walking and cycling are promoted. Policy DP 10 states - "It is recognised that not all rural locations are readily accessible by public transport. Where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation”.***

- 16.11.15 ***Paragraph 5.4 of The Tourism Best Practice Guide recognises that there are circumstances where it will be difficult to meet the objective of access by sustainable modes of transport and states "The choice of location may have been determined by a functional need. Developers and planners may find that in such cases there will be limited opportunities to make the development accessible by sustainable modes of transport or to reduce the number or proportion of visits made by car. For small-scale schemes, the traffic generated is likely to be fairly limited and additional traffic movements are therefore unlikely to be a reason for refusal for otherwise suitable tourism developments”.***
- 16.11.16 ***The NPPF promotes sustainable transport however the government also recognises that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions will vary from urban to rural areas.***
- 16.11.17 ***A package of sustainable transport measures to be funded by the applicant is described above. However even with these measures there remains a concern that additional traffic will travel to the site via the AONB and Stour Valley plus additional vehicles will travel to other parts of the AONB and Stour Valley. Whilst the applicants Traffic Assessment predicts routes and vehicle numbers based on best practise these are not matters that can be controlled***

*by either planning condition or within a section 106 agreement. The application includes a Travel Plan but access remains car dominated and appears it will have only limited success in encouraging sustainable modes of travel.*

- 16.11.18 *The Dedham Vale AONB and Stour Valley Joint Advisory Committee have objected to the application on the grounds that it runs contrary to a number of policies and management objectives of the Strategy Plan which seeks to encourage tourism to become more sustainable and minimise the reliance on private transport. They also note that a proportion of visitors may go on to explore the villages further afield within the AONB. Whilst there is potential to encourage this traffic to use the main road route options through signs, there is no means of controlling this. In the view of the Joint Advisory Committee, the increased use of the minor roads between the proposed Horkesley Park development and Dedham and Flatford will undoubtedly have a detrimental impact on these roads. They also comment that although the applicant has stated there will be additional bus services will be provided it is inevitable that if the development goes ahead there will be a significant increase in the number of journeys through the AONB including Fishponds Lane a protected lane. Similar comments are made by SVAG and The Dedham Vale Society.*
- 16.11.19 *DP Policy DP21 states that identified protected lanes are to 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. Protected Lanes have been identified as having a special character that should be protected against adverse development. These features can be sensitive to even modest change, such as an increase in traffic movement which can result in an adverse impact on their character and quality; the nature of these effects range from erosion of road side verges to indirect impacts such as reduced tranquillity. The Transport Assessment prepared in support of the Horkesley Park proposals includes a full assessment of the distribution of Horkesley Park generated traffic on the local and wider highway network. With specific respect to traffic increases on Fishponds Hill, the submitted assessment indicates that there will be no increases in traffic levels during the specific peak hour assessment periods examined in the transport assessment. The maximum (August - Sunday) corresponding daily traffic increases on Fishponds Hill as a result of Horkesley Park are also low. This leads the transport consultant to conclude that it is difficult to see how this could be considered a “material increase”. In the absence of alternative technical information, the Local Planning Authority has to rely on the fact that Essex County Council consider that the surrounding road network can accommodate the anticipated increased traffic flows. It would be difficult to state that the suggested increase in vehicles using Fishponds Hill would have a significantly detrimental impact on the quality and character of this lane. The report to Members in respect of the 2009 application accepted there would be no significant adverse impact on Fishponds Hill due to traffic and that application predicted visitor numbers in excess of 485,000.*
- 16.11.20 *The National Trust are concerned that Horkesley Park would be likely to promote Constable thereby encouraging large numbers of additional visitors for which the provision of parking and access is inadequate. They are concerned that it will be likely to increase congestion and unauthorised*

*parking along the narrow rural roads and within the small villages and towns of the Dedham Vale to the detriment of the enjoyment of visitors and residents as well as the quality of the AONB landscape.”*

- 16.11.21 *It should perhaps be re-stated that whilst the Constable connection is certainly a feature of the proposal it is not the overriding theme. The proposal comprises a range of themes hung around the celebration of the English countryside and a Chinese Garden to reflect the Regency fashion for such things in the grounds of the Chantry.*
- 16.11.22 *Inevitably there will be interplay between the attractions of the AONB and those at Horkesley Park. Several routes exist between the two destinations some direct via the A12 others more scenic through the countryside. In today’s technological world those who decide not to travel between the two by bus or cycle will no doubt drive. Those with sat nav will punch the required destination into their device and it will take them via the quickest main road route if that is how it is programmed or the scenic route if that is what is preferred. An expansion in rural tourism is inevitably likely to result in such an impact.*
- 16.11.23 *The question perhaps to ask is if sequentially no other site except a rural site is possible and none has come forward for a similar proposal is this proposal as sustainable as it can be?*
- 16.11.24 *With 82% predicted to come by car that compares favourably with the 92% that visit Dedham by car. Coaches carrying a predicted 14% of visitors to Horkesley Park mean that car travel is reduced. The application includes significant investment in cycle provision and a hopper bus service both designed to make alternative modes of transport possible. The site is located close to the north of Colchester and its mainline station.*
- 16.11.25 *The opening of the new junction 28 on the A12 in North Colchester may have proved attractive to drivers moving to and from Suffolk through Myland and Highwoods with the connection that is now possible between the A134 and the A12.*
- 16.11.26 *At the time the Council was considering the 2009 application the applicant’s consultants argued that there was no requirement for the Borough Council to consider matters of sustainable access and transport planning policy given that these matters had been considered by Essex County Council. This was not considered a reasonable interpretation of the situation and the report stated “While the views of the County Council are clearly relevant to this proposal, this does not obviate the requirement for this Council to satisfy itself as to the acceptability or otherwise of a planning application in relation to the planning framework. It is important to note that the County Councils have no powers of direction and they are a consultee to the Local Planning Authority. Moreover they have stated that it is for this Council to determine whether the development proposal is located in a sustainable site”.*
- 16.11.27 *Clarification has again been sought from Essex County Highways (ECH) on this issue and they have confirmed the view expressed in 2009 has not changed. ECH has also stated “our role is to ensure a proposed development*

*is accessible by more sustainable modes of transport such as public transport, cycling and walking. Whether a proposed development is sustainable in overall terms is a planning rather than highway/transport consideration. This includes for example whether it would be economically sustainable, ecologically sustainable etc”.*

- 16.11.28 *The applicant argues that the application site is well located because it is near to centres of population and sources of labour and that bus services will be laid on for staff and visitors. Other measures to encourage the use of non-car modes and car sharing are suggested within the proposed travel plan. The applicant aims to recruit 80% of staff from within a travel to work distance of 20 miles with priority given to people living within 10 miles of the Site;*
- 16.11.29 *However a 20 mile distance means the majority of employees are likely to live too far away to cycle or walk to the site. Whilst cycling is possible the topography of the surrounding land and the nature of the roads are such that even employees living within a few miles of the site are likely to be deterred from cycling / walking.*
- 16.11.30 *A staff bus is proposed by the applicant to help dissuade employees from using their cars but there is no guarantee that they will use this facility. Likewise the measures contained in the travel plan that are directed at reducing staff using cars and encouraging car sharing have no guarantee of success.*
- 16.11.31 *The parking provision of spaces 220 in the ‘main front’ car park and a further 400 to 500 spaces in the woodland car park provides a clear indication that it is expected that the majority of those visiting the site will travel by car. In fact the applicant own information states that 96% of visitors will arrive either by car or coach. Although there is a caveat saying this is the maximum number predicted.*
- 16.11.32 *The applicant is providing opportunities for alternative choices of transport to be used by visitors and staff at significant cost but their own figures indicate this will only relate to a small percentage of journeys and there is nothing to compel their use. The development is not within walking or cycling distance of a rail station. Therefore even if facilities for pedestrians and cyclists were improved they would benefit only a tiny proportion of visitors to the site.*
- 16.11.33 *The visitor numbers are predicted as 316,250 and 82% of visitors will travel by private car and 18% will travel by sustainable transport methods such as public transport, coaches, walking or cycling. These sustainable methods will be promoted to visitors to travel to HP and to use to travel elsewhere in Dedham and Stour Valley. The Travel Plan indicates these sustainable methods of travel will be assessed and the most successful promoted and possibly enhanced. However there is no certainty of the use of these other modes of travel and the Travel Plan admits success is more likely to be with staff rather than visitors.*

- 16.11.34 ***The role of the Highway Authorities is to ensure a proposed development is accessible by more sustainable modes of transport such as public transport, cycling and walking. It should be noted that both highway authorities and the highway agency are satisfied with the range of sustainable modes of transport and this is a material consideration.***
- 16.11.35 ***Part B of this report considered the issue of the location of the proposed development in conjunction with the overarching spatial policy SD1 and concluded that the sequential approach required by this policy had been satisfied. The Councils consultants NLP concluded “they have seen no evidence to suggest that a sequentially preferable location exists that is suitable, viable and available for the proposed tourist attraction”.***
- 16.11.36 ***If it is accepted there are no preferable sites for this facility it also has to be accepted that it opportunities for visitors to access the site by sustainable transport means may be limited. However the harm resulting from the use of private transport has to be assessed.***
- 16.11.37 ***The application indicates 82% of visitors will travel by private car but it also proposes a substantial package of sustainable travel measures. The advantages and disadvantages therefore need to be assessed because the proposal satisfies some aspects of sustainable transport policy by promoting and proposing sustainable travel means and at the same time conflicting with the same policies due to the large number of visitors that will travel by private car. However the Case Officer considers that due to the scale of the development and the level of visitors predicted and the significant difference in the predicted percentage of visitors arriving by private cars compared to those arriving by sustainable means of travel means the proposal is not able to promote sustainable transport to an acceptable degree and in this respect is contrary to sustainable transport policies in the development Plan, NPPF and the Dedham Vale AONB and Stour Valley – Management Plan 2010-2015. However transport is only one element of sustainable development and this issue is discussed in part P of this report.***

## **16.12 PART L PARKING**

- 16.12.1 Policy TA5 (Parking) – This policy states that car parking will be managed to support the economy and sustainable communities. It is stated that provision for disabled, cycle and motorcycle parking will need to be provided where appropriate

### **DP Policy DP19 (Parking Standards) –**

- 16.12.2 The Adopted Parking Standards Supplementary Planning Document (SPD) sets parking standards for all types of uses. For all uses other than residential uses it is a maximum standard.
- 16.12.3 The parking provision is the same as that proposed in the 2009 application. It is argued that whilst the total number of visitors is lower 316,250 compared to 485,000 due to changes in the scheme and dwell times would increase. The main car park will have 220 spaces with an overflow car park which can accommodate 400- 500 spaces. The latter are shown within a landscaped setting where the spaces will not be marked out of the ground. The floor area of the proposed buildings, including the

retention of the existing building is 9650sqm. The parking standard for D2 uses is 1 space per 20sqm. This gives a maximum parking standard of 483 spaces. The 720 spaces provided are therefore in excess of the maximum standard.

- 16.12.4 Sixty cycle parking spaces are proposed which meets the required minimum standard of 58 spaces. The 18 spaces for powered two wheelers is just below the policy standard but could easily be increased similarly whilst 22 spaces are indicated as disabled parking bays just below the policy requirement of 23 spaces this could again easily be increased. An area shown for coach parking will accommodate 28 coaches.
- 16.12.5 Spatial Policy comment “The Council commissioned work from Savell Bird & Axon (November 2010) on the transport aspects of the previous proposal. With regards to parking it was concluded that on balance, given that the development does not assist in delivering any objectives of the Development Plan, it is reasonable to conclude that there is no case to relax the maximum provision allowed for in the Adopted Parking Standards. The Vectos report on the current revised application reaches similar conclusions.
- 16.12.6 Spatial Policy indicate that instead of calculating parking requirement on floor area an alternative method would be based on the visitor numbers contained in the Tourism Evaluation Report (TER). The TER for the revised scheme (page 80) states that on Sundays in August the peak attendance will be 1,144 during the peak 4 hours (2,284 per day). The addendum to the Transport Assessment states that 82% will arrive by car with an average occupancy of 2.8 per car. This results in a total maximum number of cars of 335 on site. Whilst this is lower than the parking standard suggested by the Parking Standards SPD (2009), this is still higher than the 220 formal car parking spaces proposed. As already noted the addendum to the travel plan submitted with the application states that there will continue to be 220 formal parking spaces with 400 to 500 overflow spaces. The above calculation and the Vectos report therefore suggest that the overflow parking will be in regular use. The impact of this additional car parking on the footprint of activity on the site and the impact on the countryside and AONB should therefore be given due consideration.
- 16.12.7 Spatial Policy also considers “the design and layout of the parking areas proposed does not give any priority to alternative modes of transport. The main entrance is surrounded by car parking. For the proposal to be credible in promoting sustainable transport it needs to rearrange the cycle, bus/coach and car parking and drop off”. Similar concerns were raised by the Urban Designer and the amended layout drawings have made some acceptable changes that make pedestrian movements easier and more legible and the walking connection from cycle stands to entrance has been improved the same relocation of footpaths through the principle car park.
- 16.12.8 The Vectos report has also considered the proposed parking provision and comment as follows “The Supplementary Transport Assessment supporting the application confirms that the development will provide what is essentially an unconstrained level of parking, significantly above the level which would normally be acceptable when applying the maximum car parking standards. The standards permit a maximum parking ratio of 1 space per 20 sqm of development for D2 uses, the maximum number of spaces which would normally be permitted is 483 spaces. Rather, a parking ratio of 1 space per 13.4 sqm is proposed which is more in

keeping with a foodstore development. With the level of car parking significantly exceeding this maximum allowable provision the development should be considered to be contrary to policy DP19. It should be noted that the maximum parking standards adopted by Essex County Council incorporate a caveat which would allow for greater than the maximum standards to be provided, at the discretion of the Local Planning Authority, where an applicant has demonstrated this to be essential.

- 16.12.9 This unconstrained parking can be demonstrated by comparing the volume of car parking proposed with the number of visitors which are predicted each day. A total of 720 parking spaces are proposed including overspill car parking. In comparison, it is predicted that a total of 685 cars are predicted on a Sunday, reducing to 452 on a Saturday and 418 during the week. Therefore, it can be concluded that car parking is unconstrained, with there being significant overprovision throughout the year.
- 16.12.10 Regarding car parking charges, whilst there is an opportunity for car parking charges to be introduced in this location in order to encourage the use of more sustainable modes of transport, there is no proposal to do so. Therefore, with free, unconstrained car parking being made available, it can be concluded that there would be little or no incentive for visitors to travel by more sustainable modes of transport.
- 16.12.11 On balance, given that the development does not assist in delivering the objectives of the Development Plan, it is reasonable to conclude that there is no case to relax the maximum parking provision allowed for in the Essex County Council Adopted Parking Standards.

#### Applicant Comment

- 16.12.12 “It is not correct to assume that the maximum daily parking accumulation will equate to the 685 car trips generated throughout the day. Arrivals and departures across the daily profile will mean that the total parking accumulation will be less than the total car trips to and from the site. The total of 685 car trips also reflects the peak August scenario; the peak assessed in order to consider a worst case in terms of traffic impact on the highway network. The comment re the use of overspill parking is therefore not accepted. It is not good practice to provide formal parking for the maximum number of vehicles that may only occur on one or a few days per year at a leisure attraction. The use of overspill parking to accommodate these ‘exceptional days of demand’ is appropriate as part of a package of transport measures for the site. The Council is able to control parking levels through planning conditions if necessary. The highway authority has raised no issue with regard to car parking levels. Vectos fails to understand that car parking is included in the entry charge. No facilities within the visitor centre are available to non-fee paying visitors. The Council has calculated parking based on the highest demand of 335 cars and correctly identified this is higher than the 220 formal spaces. However, the Council gives no regard to dwell time. However, this is exactly why overflow parking is appropriate to avoid the need to have formal car parking to deal with just peak flow”.

#### Officer Comment.

16.12.13 ***The proposed development is a leisure use and therefore falls within the D2 use category parking standard. The parking standards document sets out D2 uses as Cinemas, Music and Concert halls, Bingo and Dance Halls Swimming Baths, Skating Rinks, Gymnasiums or Sports Arenas. These uses all comprise buildings where a calculation based on the floor area is appropriate. The application proposal comprises buildings plus a country park with a range of facilities so a calculation based simply on floor area is not necessarily the correct approach. The parking standards do not set out a standard for a leisure facility which includes a number of elements within buildings and in the countryside. The application details also indicate a number of “special events” where an overspill car park would be required to accommodate these additional visitors. Your officers consider that due to the discrepancy between the visitor numbers predicted by the applicant compared to the number predicted by BMA the car parking areas should be provided in a phased manner and this will be secured within the section 106 agreement. In addition to increase the width of the planting area along the front of the site your officers consider the row of parking spaces behind the London Road frontage should be omitted and the proposed planting area increased. This would reduce the parking area by 44 spaces.***

### **16.13 PART M DRAINAGE AND FLOOD RISK**

16.13.1 The majority of the site (including the main area of development) is located within Flood Zone 1: Low Risk and is not affected by the 1:100 year and 1:1000 year return period for fluvial flooding or the 1:200 year tidal flood plains as shown on the Environment Agency flood map. A tiny part of the western area of the site is located within an indicative flood plain, however this outside the built footprint and will not present a flood risk to the development, which is located at a higher level.

16.13.2 Due to the size of the site a FRA is required to assess the potential adverse effects on flood risk elsewhere in the catchment. the FRA therefore focuses on the control of surface water runoff generated by the development and the effect on the capacity of any receiving watercourses/ drainage systems. the changes in the amount of built area, hardstanding and soft landscaping will lead to an overall increase in the amount of soft landscape over the whole site

16.13.3 A flood risk assessment has been submitted which confirms the site is outside the flood plain and is not at risk of flooding from either fluvial or tidal sources. the assessment also demonstrates that the changes in surface water run off rates caused by the development can be attenuated surface and disposed, where necessary, through the adoption of an appropriate drainage strategy.

16.13.4 Foul drainage to the main sewer and rainwater harvesting and a sustainable drainage system are proposed.

16.13.5 The EA has raised no objection to the application and it is considered the application is acceptable in terms of flood risk and drainage issues and it therefore complies with policy DP 20 which requires satisfactory flood defence measures and appropriate SUDS for managing surface water drainage

## 16.14 PART N OTHER ISSUES

### A: Ground Conditions and Contamination

16.14.1 As part of the planning application submission, an assessment has been undertaken of the effects that the proposed development would have on the ground conditions and geology of the site or whether these factors may impact the development.

#### **The phase 1 Geo-environmental Assessment concludes:**

The desk study and site reconnaissance has indicated that the majority of the site comprises open agricultural land with The Chantry country house in the north east and a former Nursery site in the south. The use of part of the site as a Nursery has resulted in a number of potential contaminative issues;

- 5No above ground diesel and heavy oil tanks and a below ground petrol/diesel tank
- Development of the site as a Nursery is likely to have resulted in minor deposits of Made Ground across the site.

The remaining majority of the site is noted not to have been subject to any significant potentially contaminative use having remained under agricultural/pasture these areas appear to have been subject to normal agricultural practices including presumably the use of agrichemicals such as fertilisers, pesticides and herbicides in the past. Some agrichemical residues may be present in the soils, but these are not likely to be at significant levels. No other significantly potentially contaminative land uses have been identified within these areas or within the vicinity of the site.

With regards to human health, possible pollutant linkages have been identified between possibly associated with the fuel tanks and any possible made ground. Any significant pathway towards the Great Horkesley West Valley Brook is considered to be restricted due to the presence of London Clay at the surface.

#### **Recommendations**

The Phase 1 Assessment has provided the basis for identifying the scope of the investigations required to inform the development of any remediation scheme that may be required. An Exploratory intrusive investigation is recommended across the Nursery area to confirm the ground conditions and levels of contamination present prior to demolition and determine the need for remediation at the site this should be agreed with the Local Authority ahead of development commencing

#### ***Planning Service Comments:***

***Environmental Control and the Environment Agency have considered the detailed reports the conclusions and recommendations are acceptable to them subject to conditions.***

### B: Viability of the glasshouses

16.14.2 In response to comment raised in some representations by the SVAG questioning the viability of the existing glasshouses the applicant has submitted a report prepared by Gerry Hayman horticultural consultancy. This report considers the viability of the glasshouses for tomato production. The report states "The last crop of tomatoes was grown in 2000 although it had been unprofitable to grow tomatoes for a number of years prior to that due to the huge energy costs for heating and lighting the glasshouses and labour costs. The glass houses were specifically designed for tomato production in the 1970's. As technology has moved along the set up has become dated and unable to compete in modern markets with its limited size. Bunting and Sons have experimented with alternative crop production and

poultry production as an alternative use but have been unable to achieve sufficient yields to make these viable. They have also investigated the potential of using other crops, their demand, the infrastructure required and all the costs. Speaking to different producers the conclusion is clear all production under glass in the UK whatever the scale is difficult. The glass houses are seriously dilapidated and the cost of upgrade is prohibitive running into millions of pounds with no viable crop use. The Hayman report concludes that under current and anticipated economic conditions there is no prospect of the Great Horkesley nursery returning to profitable tomato production

***Planning Officer Comment:***

***Your officers have no reason to disagree with the conclusions of this report.***

**C: Sustainability Issues**

16.14.3 The application details include a Sustainability Assessment and Sustainable Construction Management Plan.

16.14.4 The Sustainability Assessment indicates “The development will deliver a target of BREEAM ‘very good’. Each building will meet the necessary credits, including energy, water, transport, land use and ecology, waste, materials, pollution, health and wellbeing and management. Specific approaches for the buildings, however, will be confirmed post planning as the detailed design of the buildings is worked out. Measures that are likely to be included are:

- Appropriate approaches to managing waste will be included so that minimisation, reuse and extensive recycling become the ‘norm’ for the site and its visitors. Green waste generated within the site will be used on-site. Where appropriate, in carbon, environmental, practical and financial terms, best practice technology will be employed. A site Waste Management Plan with waste reduction targets will be drawn up prior to construction and on-going operations monitored.
- Rainwater harvesting and a sustainable drainage system will ensure water use is managed appropriately. Where feasible and viable, grey water management systems will be used which will recycle rainwater in new reed beds, existing reservoirs and new balancing pond for use in toilet systems and irrigation. Inside the buildings water resource saving devices will be used, such as sanitary ware with adjustable flushing systems, low flow taps and shower heads.
- Sustainable construction techniques, sustainable locally sourced building materials and recycled materials will be used wherever practicable to reduce the use of natural resources.

A BREEAM Design Stage Assessment will be carried out prior to construction.

***Planning Services comment:***

***These matters will be secured by condition which will require the BREEAM Design Stage Assessment to be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development.***

16.14.5 The Sustainable Construction Management Plan includes a range of issues the most important ones are set out below

- Management and prevention of light, noise and air pollution

- Energy and water saving measures/processes
- Waste reduction and diversion from landfill measures/processes
- Responsibly sourced and low impact construction materials
- Locally source labour and suppliers
- Monitoring and targeting of environmental impacts
- Protection of ecological features
- Construction site operative awareness and training
- Site Traffic Management Plan
- Communication, notification and accessible information concerning site activities/ programme/ information, including emergency procedures/ contacts
- Wider community engagement

***Planning Services comment:***

***A Sustainable Construction Management Plan will be secured by condition and will include the above matters together with other issues identified by your officers.***

## **16.15 PART O - AN ANALYSIS OF THE 2009 REASON FOR REFUSAL**

- 16.15.1 This part of the report sets out the reason for refusal for the 2009 application. The application was refused for a single reason containing several elements each element is set out and there then follows comments in **bold text** explaining whether or not that element has been overcome in the 2012 application.
- 16.15.2 Relevant national policy is set out in PPS1, PPS 4, PPS 5, PPS 7, PPS 9, PPG 13, and PPG 17. Regionally, the sentiments of these policies are expanded through the East of England Plan (EEP) policies SS1, SS2, SS3, SS4, C2, E6, T1, T2, T7, T8, T9, T13, T14, ENV1, ENV2, ENV 6, ENV 7 and HG1. The local policies that add specific detail to these overall aims and objectives are the adopted Core Strategy (2008) policies SD1, CE1, UR1, UR2, TA1, TA2, TA3, TA3, TA5, ENV1, ENV2 and ER1; and Development Plan Policies (adopted 2010) DP1, DP5, DP7, DP9, DP10, DP14, DP17, DP20, DP21, and DP22. The basic principles of these policies is an aim is to conserve and enhance the countryside and protect and enhance the built environment through recognising the importance of achieving sustainable development, in terms of location and design and its impact on the surrounding area. The adopted Site Allocation DPD and adopted Proposals Maps (2010) reflect these principles and objectives. The Tourism Good Practice Guide, the Dedham Vale AONB Management Plan and the Landscape Character Assessment also form material planning considerations.
- 16.15.3 EEP policies SS1, SS2, SS3, SS4 and SS6 and Core Strategy Policies SD1 and CE1 direct significant development proposals to existing settlements (notably town centres and the identified regeneration areas / key gateways) and/or allocated sites. The Horkesley Park development proposal conflicts with these policies as the site is not identified for significant development and is set in open countryside, divorced from existing settlements. It has not been demonstrated that there is a requirement to locate this development at this site or that there are other material planning considerations that would justify a departure from the development plan.
- 16.15.4 The Horkesley Park development is promoted as a regional tourist attraction and

should therefore constitute an excursion destination, the primary purpose of which is to allow public access for entertainment. The scale of the PPS 4 elements (Food and Garden Centre) are significant and are not considered to be truly ancillary to the tourist element of the proposed development. The PPS 4 elements should be subject to the PPS 4 sequential tests. The amount of retail development proposed is significant and the case has not been made to show it is essential in terms of being enabling development to justify the scale of the town centre type uses in this countryside location. The PPS4 requirement is not overcome by the claimed relationship to those elements that are appropriate to a countryside location either in terms of ancillary or enabling development so as not to justify their location in a sequentially preferable site. Furthermore, it is not considered that there is an appropriate planning mechanism by which the extent of retail sales can be appropriately controlled to prevent intensification of these uses or would be reasonable and/or practical for the Local Planning Authority to enforce.

***Planning Services comment:***

***The proposal still involves large scale development in the countryside and is in conflict with those policies which require development, in particular developments that will generate large amounts of traffic, to be in sustainable locations. The Council's consultant NLP has concluded that "In terms of the sequential approach the development needs to be considered as a whole (allowing for a reasonable degree of flexibility), as suggested by the recent Dundee legal decision relating to the sequential approach. On this basis the development cannot be disaggregated or accommodated within or on the edge of town centres, even if slightly smaller sites were considered. Paragraph 24 of the NPPF indicates that when considering out of centre sites preference should be given to accessible sites that are well connected to town centres. It is arguable that any other rural site could be considered to be accessible and well connected to town centres, and therefore sequentially preferable to Horkesley Park. If a suitable site large enough to accommodate the proposed tourist attraction did exist, for example immediately adjacent to Colchester urban area, then it may be possible to argue there is a more accessible and better connected site. If this was to form a valid reason for refusal the Council would need to demonstrate an alternative site exists at appeal.***

***We have seen no evidence to suggest that a sequentially preferable location exists that is suitable, viable and available for the proposed tourist attraction. Conclusions In our view the impact and sequential tests relating to main town centre uses in NPPF are unlikely to be valid ground for refusal in this case".***

***If Members accept this conclusion then a location some 8 km (as the crow flies) from Colchester town centre is unlikely to be able to be fully accessible by non car modes of transport.***

***Other issues relate to the scale of the food and garden centre elements which were considered to be significant and not truly ancillary to the tourist element. The garden centre element has been removed from the scheme. Both Spatial Policy and NLP consider the retail element is now acceptable. The retail sales area is now contained within a separate and distinct building rather than forming part of a larger building. It is therefore possible to restrict retail sales to that building by condition or within the section 106 agreement. The attraction will be all ticketed and so it will not be possible to access the***

***shop without paying the entrance fee. It is accepted that as with all applications subsequent applications can be submitted to vary or remove conditions. This part of the reason for refusal has been substantially overcome.***

- 16.15.5 The key economic benefits put forward as a part of the Horkesley Park development proposal are dependent upon the attraction achieving 485,000 visitors per annum. The Local Planning Authority has not been convinced that the attraction will sustain 485,000 tourist visitors in the long-term and this calls into question not only the deliverability of the claimed economic benefits of this proposal but also the overall viability of the attraction.

***Planning Services Comment:***

***The latest report from BMA indicates Horkesley Park is deliverable***

- 16.15.6 Development Plan policy DP9 states that employment development proposals in the countryside should be of a small scale and should not harm the rural character of the area either by the nature and level of activity or any other detrimental effects such as noise and pollution. Development Plan policy DP10 states that proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites. Where accessibility is poor, proposals should be of a small scale and/or comprise the conversion of suitable rural buildings. Policy DP10 states that the urban areas of Colchester will be the focus for larger scale tourist, leisure and cultural facilities and accommodation in-line with the need to concentrate development at the most sustainable and accessible locations. The proposed development, by virtue of its scale, location and design is considered to conflict with these policies.

***Planning Services comment:***

***The key issues are the impact on rural character, compatibility with the rural character of the surrounding area and accessibility. These issues have been discussed in detail earlier in this report. Your officers have concluded that there will be some benefits to rural character but adverse impacts will result due to the additional traffic.***

- 16.15.7 PPS 13 focuses on the importance of providing new development in accessible and sustainable locations so that it minimises reliance on the private car. PPS4 supports more sustainable patterns of development and highlights the importance of reducing the need to travel, especially by car. Core Strategy Policies SD1, TA1, TA2, TA3, TA4 and TA5 and Development Plan Policies DP17 and DP18 reinforce the need for sustainable developments and reducing dependency on the car. The proposed development, by virtue of its rural location, is not sited in a sustainable location and will not reduce car dependency. Paragraph 37 of PPG 13 advises that when determining the acceptability of developments involving leisure, tourism and recreation which generate large amounts of traffic and which will not be well served by public transport, consideration should be given to the extent to which the proposal needs to be in the proposed location, including whether the development has a meaningful link with the particular location or attraction. In seeking compliance with PPG 13, the onus is on the applicant to demonstrate the need for the development and that there is a meaningful link between the development and the proposal site. It is considered that the applicant has not adequately

demonstrated a need for the development in this location or that the development as a whole has a meaningful link with the site.

**Planning Services comment:**

**PPG13 and PPS4 have been cancelled and replaced with the NPPF which promotes sustainable development. Sustainable development is not the same as Sustainable location. Given the scale of the proposal in this location and the noted problems with the sustainability of the location as set out in the Vectos report and discussed in detail in this report there is continuing conflict with these policy requirements.**

- 16.15.8 Development Plan Policy DP19 requires parking provision to be provided in accordance with Essex Planning Officers Association Vehicle Parking Standards which was adopted by the Council as SPD in November 2009. The size of the proposed parking bays do not conform to the standards set out in the SPD. The proposal also fails to provide adequate parking provision for disabled and motorcycle parking or for cycle parking.

**Planning Services comment:**

**The parking bays indicated are of an acceptable size and adequate parking provision for disabled, motorcycle parking and cycle parking can be secured by condition. However there is concern that the parking provision exceeds the Councils maximum standard and the overflow car park could be used on a more regular basis. As there is also concern that the applicants predicted visitor numbers may not be achieved it is considered appropriate to require a phased parking provision. This element of the reason for refusal has been largely overcome.**

- 16.15.9 PPS1 seeks to promote high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but over the lifetime of the development. PPS 1 advises that design, which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. Core Strategy Policy SD1 states that development proposal will be expected to achieve a high standard of design, sustainability and compatibility with local character. Core Strategy policy UR2 also promotes high quality design, stating that development that is discordant with their context and fail to enhance the character and quality of an area will not be supported. Development Policy DP1 require all new development to be designed to a high standard and that it should respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, scale, form, massing, proportions, materials and/or landscape setting. The proposed development, and in particular that of the Main Building, is considered by virtue of its size, scale, mass and general design to be wholly inappropriate for this sensitive countryside location.

**Planning Services comment:**

**The large single Main Building which contained the majority of the floorspace and was in part 2 storeys is no longer proposed. The application now involves a number of smaller single storey buildings which reflect the grain of the**

**existing glasshouses. The general design, scale and mass of the buildings are considered acceptable. This part of the reason for refusal has been overcome.**

- 16.15.10 PPS 5, Core Strategy Policy UR2 and Development Plan Policy DP14 require development proposals to preserve or enhance listed building and their setting. The development proposal, and in particular the intensity of use generated by it, is considered to have an adverse impact on the setting of the Church of All Saints, a grade I listed building.

**Planning Services comment:**

**English Heritage advice that the setting of the Grade 1 Listed Building would be harmed to a limited degree by what is proposed**

- 16.15.11 Core Strategy Policy ENV1 and Development Plan Policy DP22 states that development proposals will only be supported in or near to the Dedham Vale Area of Outstanding Natural Beauty that make a positive contribution to the special landscape character and qualities of the area; do not adversely affect the character, quality of views and distinctiveness of the AONB or threaten the enjoyment by the public of the area and support the wider requirements of the Dedham Vale AONB & Stour Valley Management Plan. The submitted Landscape and Visual Assessment fails to analyse the proposed development in the context of the proposal to reduce the height of the belts of Hybrid Black Poplar trees (as recommended in the arboricultural assessment). In view of this, the true impact of the development on the wider landscape setting has not been adequately demonstrated and it cannot therefore be determined whether the proposal will have an adverse visual impact on the surrounding area and, in particular, in views from the AONB. The applicant has also failed to satisfactorily demonstrate that the proposed development would not have a detrimental impact on the tranquillity of the AONB.

**Planning Services comment:**

**The 2012 LVA includes an assessment of the black poplars and CBC Arboricultural and Landscape Officers are satisfied with the conclusions and proposals set out in the LVA. This part of the reason for refusal has been overcome. An AONB assessment including an assessment on tranquillity has been submitted your officers have given detailed consideration to the impact on tranquillity and have concluded**

16.15.12 PPS7 provides that major developments should not take place in designated areas, including Areas of Outstanding Natural Beauty (AONBs), except in exceptional circumstances. Consideration of major applications should include assessments of the need for the development; the cost of and scope for developing elsewhere outside the designated area or meeting the need for it in some other way; and any detrimental effect on the environments, the landscape and recreational opportunities and the extent to which that could be moderated. The Warren Building is considered to constitute major new development within the AONB. The onus is on the applicant to demonstrate the need for the development and the scope for providing the development in some other way or outside the site. It is considered that the applicant has not adequately demonstrated a need for the development in this location or assessed the potential for providing the proposed development in some other way.

***Planning Services comment:***

***The Warren Building has been withdrawn from the application and there is no major new development in the AONB. This part of the reason for refusal has been overcome.***

16.15.13 The Colchester PPG17 Study and the Haven Gateway Green Infrastructure Study (HGGIS) indicate that there is not a requirement for a new regional level Accessible Natural Green Space (ANGS) within the Stour Valley given its designated status. Instead, HGGIS states that it is vital that great care is given to the siting, scale and detailed design of new development to reflect local character and maintain the distinctiveness of the Areas of Outstanding Natural Beauty. Furthermore ANGS in the context of the PPG17 study and the Haven Gateway Infrastructure Study is defined as sites that are free at the point of entry for the public. The proposal is accordingly not considered to be in accord with PPG17.

***Planning Services comment:***

***The Colchester PPG17 Study and the Haven Gateway Green Infrastructure Study (HGGIS) indicate that there is not a requirement for a new regional level Accessible Natural Green Space (ANGS) within the Stour Valley given its designated status. HGGIS states that it is vital that great care is given to the siting, scale and detailed design of new development to reflect local character and maintain the distinctiveness of the Areas of Outstanding Natural Beauty of Outstanding Natural Beauty. However whilst this document may not indicate a requirement for Horkesley Park the key issue is the assessment of its adverse impacts and benefits, this has been considered in detail in earlier parts of this report.***

16.15.14 Policy DP21 requires development proposals to be accompanied by sufficient information to assess the effects of the development on designated sites or protected species together with any proposed prevention, mitigation or compensation measures. A Great Crested Newt, which is a protected species, has recently been discovered in the vicinity of the application site. The submitted protected survey strategy is now considered out of date and fails to provide an up-to-date mitigation strategy in respect for the Great Crested Newt.

***Planning Services comment:***

***An up to date survey has been submitted and Natural England raise no objection. This part of the reason for refusal has been overcome.***

**16.16 PART P OVERVIEW OF KEY ISSUES AND POLICIES**

16.16.1 This part of the report comments on the status of the Councils development plan. It also assesses the Horkesley Park proposal against key policies in the development plan pulling together the policy issues discussed in earlier parts of this report. It considers the application in terms of the Governments presumption in favour of sustainable development set out in the NPPF and assesses the adverse impacts against the benefits.

16.16.2 Paragraph 14 of the NPPF states (the relevant part of Paragraph 14 in determining this application is **highlighted**)

“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
  1. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  2. specific policies in this Framework indicate development should be restricted.

16.16.3 **For decision-taking this means:  
approving development proposals that accord with the development plan without delay; and**

- **where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:**
  1. **any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or**
  2. **specific policies in this Framework indicate development should be restricted.**

16.16.4 The key questions to be answered are therefore

1. Is the Councils development plan absent, silent or out of date? And if none of these apply
- 2.
3. Does the Horkesley Park proposal accord with the development plan?

**Question 1 - Is the Councils Development Plan absent, silent or out of date**

16.16.5 **The response from planning policy addressed this question**

The NPPF makes clear that the planning system remains plan-led and applications must be determined in accordance with the development plan unless material

considerations indicate otherwise. Section 38(6) of the Planning and Compulsory Purchase Act 2004 is not altered by the Localism Act or by the publication of the NPPF.

- 16.16.6 The East of England Plan was revoked on the 3 January 2013. In the absence of the East of England Plan the development plan consists of Colchester's Adopted Local Development Framework and the proposal must be assessed against these policies. If it accords with the development plan it should be approved without delay as stated in NPPF paragraph 14, and development that conflicts with the Local Plan should be refused, unless material considerations indicate otherwise, (as set out by paragraph 12 of the NPPF). The second part of paragraph 14 concerning decision-making of the NPPF only comes into consideration where the development plan is absent, silent or relevant policies are out-of-date.
- 16.16.7 Paragraph 12 states "National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place"
- 16.16.8 The development plan for Colchester should not be considered absent, silent or that relevant policies are out-of-date and the application should be determined in accordance against the development plan unless other material considerations indicate otherwise as set out by paragraph 12 of the NPPF. The material considerations include the NPPF and therefore both Colchester's locally adopted policies (the development plan) and any relevant paragraphs of the NPPF (a material consideration) should be taken into account.
- 16.16.9 The last bullet point of NPPF paragraph 14 dealing with where the development plan is absent, silent or out-of-date is not considered to apply. Even if, however, it was accepted that the development plan was silent on a particular issue it is not considered that the presumption in favour of sustainable development set out by the NPPF paragraph 14 would necessarily apply in this case as it does not apply where "specific policies in this Framework indicate development should be restricted". The NPPF includes a specific policy dealing with major development in designated areas at paragraph 116. This indicates that planning permission should be refused except in exceptional circumstances. If there was considered to be no specific policy in the NPPF indicating that development should be restricted or the development demonstrates that it meets the requirements of such policies then the first sub-point of NPPF paragraph 14 would apply. The means assessing the development against the framework as a whole as set out by NPPF paragraph 6 including the economic, social and environmental aspects of sustainability.
- 16.16.10 **Answer to Question 1 The Council considers its development plan is not absent, silent and relevant policies are not out of date. Even if it was accepted that the development plan was silent on a particular issue then the application has to be assessed against the NPPF as a whole including the economic, social and environmental aspects of sustainability.**

## **Question 2 - Does the Horkesley Park proposal accord with the development plan?**

- 16.16.11 The Core Strategy has a number of sustainable development policies SD1, CE1, CE2, CE2a and CE3 all of which promote growth in sustainable locations. These policies refer to the areas the Council has designated for development including five regeneration areas, major centres as well as land designated for employment purposes. The main thrust of these policies is to promote accessible locations. Transport and Accessibility policies in the core strategy also follow this approach. Policy TA1 seeks to improve accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Policy TA2 promotes walking and cycling and policy TA3 promotes Public Transport. Policy SD1, which is the overarching policy for sustainable development in the Borough requires new development proposals to take a sequential approach.
- 16.16.12 The sustainable development policies seek to direct new development to urban areas and as the proposal involves major development in the rural area it is clearly contrary to the intention of these policies. However as the proposal involves a country park it is argued that an urban location is inappropriate. In addition the sequential approach has been correctly followed and the Councils consultant has confirmed the development would not impact on the town centre. The application includes a substantial package of measures to encourage and promote the use of modes of transport other than the private car. However, even with all these measures the vast majority of visitors will still drive to the site. The application information indicates 82% of visitors will come to the site in a private car and 18% by sustainable modes of travel. Due to the scale of the development and the predicted number of visitors it is considered that Horkesley Park is not in a sustainable location and the predominant means of transport used by visitors to visit the site will be by unsustainable transport modes. The application is therefore also, on the face of it, in conflict with Core Strategy policy TA1 which seeks to improve accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. However a rural attraction that passes the sequential approach is unlikely to be in a sustainable location in transport terms compared with an urban attraction. It is considered the application is in conflict with these policies but that the significance of that conflict must be viewed in the context that a country park proposal cannot be located in an urban area.
- 16.16.13 Core Strategy policy ENV1 seek to protect, conserve or enhance natural and historic assets and requires development to be appropriate in terms of scale, siting and design. Development Policies DP21 seeks to protect protected lanes and the AONB. Policy DP22 sets out criteria for development in or adjacent to the AONB. These policies include criteria requiring any development to make a positive contribution to the special landscape character and qualities, not to adversely affect the character, quality views and distinctiveness, not to threaten public enjoyment and to support the objectives of the Dedham Vale AONB and Stour valley Management Plan.
- 16.16.14 These issues have been assessed in Parts G, H and J of this report. The development is large scale but in terms of built form it is concluded the new

buildings will be an improvement in visual terms. The main car park fronting London road will in the medium to long term be hidden from public view by the proposed new planting. The landscape character would be improved by the introduction of hedge planting along field boundaries and wood land planting. However the character of the landscape would change from just agricultural use to one with human activity and recreational use as well as agriculture. Biodiversity would be improved by the enhancement of habitats and creation of new ponds and meadows. Views of the site would not be adversely affected. The adverse impacts of light pollution within the site can be controlled by condition.

- 16.16.15 The proposal will be introducing activities which have the potential to cause noise and disturbance and may affect the tranquillity of parts of the site. Specific events can be controlled by condition restricting their location, number and timing but the general use of the site by visitors in particular the country park areas cannot be controlled. The applicant has indicated an average of 4 visitors per acre in the country park however “an average figure” does not reflect concentrations of visitors in parts of the site or take account of these impacts. The case officer, in conjunction with Environmental Control Officers, has made an assessment of the impact of the proposal on tranquillity. This has been a difficult matter to assess because whilst The Dedham Vale AONB and Stour Valley Management Plan and paragraph 123 of the NPPF refer to tranquillity there is no indication of how impacts should be assessed. Your officers have concluded that the noisier elements of the proposal can be controlled by condition and visitors within the country park are unlikely to have a significant adverse impact on tranquillity. However members will be aware that other areas of Dedham Vale AONB for example between Dedham and Flatford are publically accessible where visitors can walk and also hire rowing boats on the river Stour.
- 16.16.16 Policy DP22 also refers to the adverse impact on the AONB caused by “increased vehicular movement” and The Dedham Vale AONB and Stour Valley Management seeks to minimise the impact of road transport on landscape quality and tranquillity. The vast majority of visitors to the site are predicted to arrive by private car. Due to the scale of the development and the predicted number of visitors it is considered vehicle movements have the potential to result in adverse impacts on roads within the AONB. However Members should note that the Travel Assessments submitted on behalf of the applicant based on a modal split of 50:50 predict only a limited increase in traffic on the minor roads. These assessments have been accepted by Essex and Suffolk County Highways as being based on best practise.
- 16.16.17 The application satisfies several of the criteria in these policies and The Dedham Vale AONB and Stour Valley Management Plan in terms of landscape protection and improved views but adverse effects are likely to result from noise and vehicle movements. To that extent the application is contrary to development plan policies and the objectives of The Dedham Vale AONB and Stour Valley Management Plan.
- 16.16.18 Reference has been made to the adverse impact of additional traffic. Policies in the development plan including Core Strategy policyTA1, TA2 and TA3 and Development Policy DP17 and DP19 all promote sustainable transport and encourage the use of public transport, cycling and walking. The Traffic and

Transport objectives in the Dedham Vale AONB and Stour Valley Management Plan seek to encourage the development and use of public transport and ensure the transport implications of any development take account of the special qualities of the AONB. The application includes a substantial sustainable transport package including funding additional bus services from the town centre, via north station to the site and a “hopper bus” from the site to other parts of Dedham Vale, the Travel Plan will also encourage staff to use sustainable methods and transport. However even with this package of measures the applicant predicts 82 % of visitors will come to the site by private car. Your officers have therefore concluded that the application is in conflict with the above policies as it remains car dominated and does not give priority to sustainable travel modes.

- 16.16.19 Policy DP10 is the relevant policy for tourist attractions in the rural area. This policy indicates that in rural areas proposals must be compatible with rural character and avoid causing undue harm to the open nature of the countryside. It is considered the proposal satisfies this part of the policy. The policy also states that proposals should promote accessibility by a choice of transport means. The policy continues where accessibility is poor should be small scale. Your officers consider accessibility is poor, the proposal is clearly not small scale and whilst the application does promote accessibility it is not predicted the large numbers of the visitors will travel to the site other than by private car.
- 16.16.20 Whilst the NPPF has a general presumption in favour of sustainable development it also contains policies which seek to protect the countryside and AONB's. In addition paragraph 12 makes it clear that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Paragraph 12 states “Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise”. Whilst Horkesley Park does conflict with some policies in the development plan it is also in compliance with others. An important consideration for Members is whether there are other material considerations which outweigh the conflict with policy
- 16.16.21 Paragraph 19 of the NPPF states “that significant weight should be placed on the need to support economic growth through the planning system”. The application would support growth in tourism which accords with the NPPF and other development plan policies. Part E of this report set out the full range of economic benefits that could accrue to Colchester from Horkesley Park over and above simply visitors going to the attraction.
- 16.16.22 Paragraphs 18 – 22 of the NPPF are concerned with delivering sustainable development, which includes tourism development, and building a strong competitive economy. Paragraph 19 states” The government is committed to ensuring the planning system does everything it can to support sustainable economic growth”. The Horkesley Park proposal will clearly support economic growth. The question of whether or not it is sustainable is discussed below.
- 16.16.23 However paragraphs 29 - 41 of the NPPF also promote sustainable transport. Paragraph 32 states” all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that plans and decisions should take account several criteria including whether the opportunities for sustainable travel modes have been taken

up depending on the nature and location of the site, safe and suitable access can be achieved for all people. Paragraph 34 indicates plans and decisions should ensure development that generates significant movements are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies elsewhere in this framework particularly in rural areas, for example paragraph 29 states “The Government recognises that different policies and measures will be required in different communities and the opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Paragraph 36 indicates the Travel Plan is a key tool in assisting sustainable development.

- 16.16.24 The application includes a Travel Statement and Travel Plan and a substantial package of sustainable transport measures proposed are all in accordance with the NPPF, however your officers still have concerns regarding the location of the site and the significant amount of additional traffic that will be generated using unsustainable traffic modes.
- 16.16.25 Paragraphs 109 – 125 of the NPPF are concerned with conserving and enhancing the natural environment. Paragraph 116 sets out criteria for assessing major development in the AONB, but in your officers opinion the application does not include major development in the AONB. If Members disagree with this view the development then has to be assessed in terms of need, the cost and scope of providing it outside the AONB or meeting the need in some other way and any detrimental effects on the environment, the landscape and recreational opportunities and the extent to which that could be moderated
- 16.16.26 Paragraphs 109-115, 117-125 state the Government’s intention to protect and enhance valued landscapes, minimising impacts on providing net gains in biodiversity, great weight is put on conserving landscape and scenic beauty in AONB’s. The government also advises new development that contributes to unacceptable levels of noise pollution should be refused and areas of tranquillity that have remained relatively undisturbed by noise and are prized for their recreational and amenity value should be protected.
- 16.16.27 **Answer to Question 2. The application clearly complies with several of the relevant policies in the development plan and NPPF but is potentially in conflict with others including relating to the scale of the development in the rural area and to sustainable travel. One key area of compliance with the NPPF is in respect of new economic development, job creation and benefits to Colchester as a tourist attraction. Horkesley Park also accords with policies in both the development plan and the NPPF to enhance landscape character and biodiversity. The main area of conflict, in officers view, is with policies that promote sustainable travel modes and require developments that generate significant vehicle movements to be located where the need to travel is minimised and sustainable transport modes maximised. Due to the scale of the development significant vehicle movements will be generated which will be car dominated and do not give priority to sustainable travel modes. However as the proposal is for a major rural attraction which cannot be located in an urban area this conflict with policy is practically inevitable.**
- 16.16.28 **In your officers opinion therefore Horkesley Park is overall not in accordance with the development plan.**

**Question – Do material considerations indicate nonetheless that planning permission should be granted and in particular does Horkesley Park comprise sustainable development in accordance with the NPPF?**

**The NPPF sets out the three roles which together comprise to sustainable development an economic role, a social role and an environmental role. The question does Horkesley Park comprise sustainable development is discussed below**

16.16.29 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

Relevant extracts from the NPPF are set out in some detail below so Members have an understanding of the background and principles to this document.

***“Achieving sustainable development***

*The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.*

*There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:*

- ***an economic role*** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- ***a social role*** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- ***an environmental role*** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

*These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the*

*planning system. The planning system should play an active role in guiding development to sustainable solutions.*

*Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):*

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

*Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas.*

### ***The presumption in favour of sustainable development***

*Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.*

*This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.*

*The National Planning Policy Framework constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining applications”.*

16.16.30 Whether a proposal constitutes sustainable development is not a simple mathematical exercise. Just because a scheme satisfies two of the three roles does not necessarily mean it is sustainable development and similarly if it does not satisfy two of the three roles it does not necessarily mean it is not. It is a question of the weight given in each individual circumstance. For example in a regeneration area or area of high unemployment more weight would be given to the economic role whereas in an area of high employment more weight would be given to adverse environmental impacts.

### **Does Horkesley Park constitute sustainable development?**

16.16.31 To answer this question the proposal has to be assessed against the three dimensions of sustainable development: economic, social and environmental.

- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and

innovation; and by identifying and coordinating development requirements, including the provision of infrastructure

16.16.32 Horkesley Park would contribute to the economic role in the following ways

- it would provide a new major tourist attraction including The Chantry Art Gallery and Chinese Garden which have the potential to be regional attractors.
- it will boost visitor numbers to Colchester and those staying in the town for short and long term breaks
- it will inject more income into the economy through tourist spend and create more jobs in a variety of sectors including hospitality
- It will assist Colchester in becoming an area where people visit and stay rather than travel past without stopping
- It will create jobs during the construction and operation of Horkesley Park and lead to induced employment benefits such as jobs created by the spend of employees
- It will create opportunities for local suppliers and support jobs
- It will increase training opportunities in a range of skills
- It will increase apprenticeship schemes
- It opens new scope for marketing Colchester and raising its profile within the East of England
- It generates an increase in business rate
- Inward investment
- strengthening links with China
  
- **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. Horkesley Park would satisfy this role by:-
  - providing a new leisure opportunity for both Colchester's growing population and visitors,
  - assisting in the creation of a more balanced community and adding to residents quality of life
  - expanding other economic opportunities not just a growth in housing
  - Creating a high quality natural environment
  - Expanding cultural and tourism links
  - Adding to a general understanding of the countryside and providing general educational support
  
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. This is the role where Horkesley Park would have both positive and negative impacts as set out below:-

- adverse impact additional traffic and noise in some locations within the AONB and sporadic impacts on tranquility and amenity
- re-use and re-development of land that is not previously developed
- Whilst carbon emissions & pollution from cars and other vehicles will inevitably rise as a result of increased numbers the real impact is difficult to assess because in the open countryside the impact is likely to be unnoticeable. However unlike leisure and tourist attractions in the town centre these will not adversely impact the Towns Air Quality Management Areas (AQMA).
- Potentially transitory adverse impact the impact of the setting of the Grade 1 listed church as a result of additional human activity at peak times but increased visitors potentially could have a beneficial impact that could help to sustain the church and worship in the countryside
- localized impact of the highway works
- adverse impact signage (but the Councils control over signage is to be secured in the section 106 agreement)
- adverse visual impacts of the buildings and car parks in the short term
- adverse impact light pollution (but this can be controlled by condition)
- positive impact; promotion of Countryside and AONB
- positive impact; improved biodiversity
- positive impact; improvement and re-instatement of landscape character
- positive impact; package of sustainable transport measures which will be available to all not just visitors to Horkesley Park
- positive impact: new buildings have a reduced footprint and height compared to the existing buildings

#### Conclusion on Sustainable Development

- 16.16.33 If Horkesley Park is successful it will satisfy the economic and social roles and will satisfy in part the environmental role in terms of improvements to landscape character and biodiversity.
- 16.16.34 The question is how much weight should be given to these elements, in particular the creation of jobs, other socio-economic benefits and the contribution to Colchester as a tourist destination. Do these benefits outweigh the adverse impacts referred to above? There is no guarantee all the predicted jobs will be forthcoming in especially as the applicants predicted visitor numbers are considered to be an overestimate. There is also no guarantee any jobs will go to local people. There is also an argument that as this is an area of relatively low unemployment only limited weight should be given to the creation of new jobs, apprenticeships and training opportunities.
- 16.16.35 If the application is approved it is essential that the whole attraction can be delivered. This key question was considered in Part D of the report. This part of the report explained why deliverability was so important and also explained in detail the issues and questions your officers have asked and explored in conjunction with the Councils consultants BMA these include is the required finance in place to deliver the whole scheme?, and would it still be viable if the applicants assumptions are not fully met? The answer to these questions was yes.

- 16.16.36 The principal conflict with policy and adverse impact is associated with the scale of the development and the additional traffic. This is an element that has given rise to the most objections. It is also an element that cannot be controlled either by condition or within a section agreement. A substantial package of sustainable transport measures is proposed. However your officers have concluded that due to the scale of the attraction and visitor numbers and the significant difference between the visitors arriving by car compared to those arriving by sustainable traffic means that the proposal is not able to promote sustainable transport to a substantial degree.
- 16.16.37 Visitors to Horkesley Park driving along roads within the AONB could result in a loss of quality and tranquillity. Furthermore if Horkesley Park successfully promotes the Dedham Vale and Stour Valley and Constable this could also result in additional traffic on these roads and further pressure in villages such as Dedham and Flatford.
- 16.16.38 **All of the benefits and adverse impacts have to be assessed and a view taken as to how much weight should be given to each. If the conclusion is that the adverse impacts result in significant demonstrable harm then planning permission should be refused because Horkesley Park would not constitute sustainable development.**
- 16.16.39 Your officers have given weight to the elements that contribute to the social and economic role. In terms of the environmental role there are both benefits and adverse impacts. Your officers conclude that whilst there will be adverse impacts on the countryside and the AONB, these will not result in significant demonstrable harm and the benefits therefore on balance outweigh the adverse impacts. This view is informed in part by the fact that both County Highway Authorities have raised no objection to the application and whether significant harm can be demonstrated.
- 16.16.40 Members may of course apply different weight to the benefits and adverse impacts and come to a different conclusion.
- 16.16.41 **The Planning Service concludes however that Horkesley Park does constitute sustainable development and that on balance the benefits of the proposal outweigh the adverse impacts and breaches of development plan policy.**

## **16.17 PART Q DEVELOPMENT TEAM**

- 16.17.1 The application has been considered by the Development Team. The only requirement is for the package of transport and travel measures and travel plan to be secured either by condition or within a section 106 agreement as appropriate

## **16.18 PART R DEPARTURE**

- 16.18.1 The Horkesley Park application was advertised by the Council in the East Anglian Daily Times on 15 June 2012 as a Departure from the Adopted Development Plan.
- 16.18.2 In the event that Members are minded to agree the officer recommendation to grant planning permission for the proposed development the application will have

be referred to the Government's National Planning Casework Unit for an adjudication as to whether it is a proposal that needs to be decided by the Secretary of State (Department for Communities and Local Government – DCLG). This referral is required under the Town & Country Planning (Consultation) (England) Direction 2009 as the proposal falls within a category of development defined by paragraph 5. (1) of that Order that requires such a referral. Namely:-  
5.1 (a) It is to be carried out in an 'out-of-town' location; and,  
5.1 (b) It is not in accordance with one or more provisions of the development in force; and,  
5.1 © It consists of the provision of buildings in excess of 5000sq.m

## **16.19 PART S RECOMMENDATION**

**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 be authorised to complete the agreement to provide the following.**

**If members are minded to approve the application it will have to be referred to the Secretary of State as set out above. If the secretary of State decides not to "call-in" the application the following matters need to be secured within a section 106 Agreement**

## **16.20 PART T SECTION 106**

### **1: FINANCE**

- finance for the whole attraction in its totality to be in place prior to the commencement of any part of the development. (This clause is not intended to prejudice early implementation of mitigation planting and habitat restoration)

### **2: WHOLE ATTRACTION TO BE PROVIDED IN ACCORDANCE WITH THE SUBMITTED DRAWINGS**

- all elements of attraction to be in place prior to opening (except for the gardens during construction full details to be agree with LPA)
- and to only be open to the public in its totality unless otherwise agreed with the lpa in writing

### **3: TICKETING**

The Horkesley Park attraction shall be a gated facility, to which general public entry will be by admission ticket only unless otherwise agreed in writing 28 days beforehand with the lpa.

Entrance to the attraction shall be by an all-in-one ticket that enables open access to all core attraction elements including special events. Park-wide events shall be ticketed on the basis of core attraction entry price + a supplement for the park-wide event;

All tickets shall at no time include or entitle the bearer to a refund or discount against (i) purchases that may be made on the site either in the café/s or in the visitor shop or

(ii) entrance to core attraction elements. This clause shall not prevent the use of concessionary all-in-one ticket pricing.

Use of the parking areas (for all forms of motorised vehicles and cycles) will be included in the ticket admission charges. The parking areas will be for the use of visitors and staff only and they will have their gates shut and locked when Horkesley Park is not open to the general public.

#### **4: HOURS OF OPENING**

- To be submitted to and agreed with the LPA to be reviewed by LPA annually
- evening events shall not finish after 9.30pm unless they are subject to prior 28 day written approval by the lpa and in any event these shall be limited to no more than 10 occasions in any one calendar year unless otherwise agreed in writing by the lpa.

#### **5: DESIGN CODES**

Prior to commencement the applicant shall agree with the lpa a written design code which shall amongst other things require:

- Hopkins Architects to be retained to supervise the implementation and construction of all the buildings prior to commencement to submit to and get approval from the LPA
- A written commitment to the delivery of quality design, detailing, materials and landscaping which will be worked up into appropriately scaled drawings and specifications.

#### **6: RESTRICTION ON USES**

- The use of each building within the development and the extent of that use is to be restricted to those and that specified on the submitted drawings. All uses shall be ancillary to the primary use of the site as a tourist attraction and shall not operate separately or independently at any time.
- Any exhibition/s and demonstration/s shall be restricted in nature and content directly to themes and subjects that are directly related and ancillary to the project vision as defined in the applicants submitted document titled:- Stour Valley Visitor Centre at Horkesley Park – “A Celebration of the English Countryside” May 2012.
- The approved gift shop and food/drink uses within the specified buildings shall only be accessible to people who have paid to enter the wider site and their use shall be ancillary to the approved attraction and shall not trade or otherwise operate in isolation
- restriction on the use of the County Park to prevent is use for any other leisure purpose within the use classes order
- The Chinese garden shall be retained in the approved form and remain open at all times that the park is open thereafter unless otherwise agreed by the LPA
- The Chantry and the provision of notable artworks shall be retained in the approved form (but not the exact list of artworks, more the level of quality) and remain open at all times that the park is open thereafter unless otherwise agreed by the LPA
- The Suffolk Punch elements being conditioned in the same way

- The uses hereby prescribed shall not be changed without the further written approval of the lpa even if such changes subsequently are defined as permitted development

#### **7: ART**

- At least 6 months prior to commencement of development to submit the Art Strategy to the Council for approval.
- Not to commence development unless and until the Art Strategy is approved by the Council.
- To implement the Art Strategy and comply with the contents of the Art Strategy at all times during the opening of the development to the public.
- Not to commence development on the display retail area in the core development area prior to the commencement of development on the Chantry Art Gallery and not to allow the display retail in the core development area to open to the public unless and until the art gallery is also open to the public.
- Art Strategy definition – a scheme setting out the exact description together with supporting evidence of the pictures to be displayed in the Chantry gallery during the first five years that the Chantry gallery is open to the public and information as to how the pictures are to be funded and as to the authenticity of the pictures and to have a binding commitment to provide the pictures.
- The layout and use of all rooms, including the tea room, within The Chantry shall be submitted to and agreed with LPA prior to commencement

#### **8: GARDENS**

- Not to commence development unless and until a Landscaping Scheme and implementation timetable is approved by the Council.
- To implement to Landscaping Scheme and comply with its contents at all times.
- Landscaping Scheme is a full detailed and costed landscaping initiative for the Site including the Chinese garden to include full details of all hard and soft landscaping in the Site, maintenance management plans and detailed delivery timetable.
- Not to commence development on the display retail area in the core development area prior to the commencement of development on the Chinese garden and not to allow the display retail in the core development area to open to the public unless and until the Chinese Garden is also open to the public.
- Provided always that with the written consent of the Council members of the public may visit the Site in pre-arranged groups to view the construction and setting out of the elements contained in the Landscaping Scheme.

#### **9: PROVISION OF A TOURISM STRATEGY**

- the content of the tourism strategy, including a review mechanism, marketing, event planning and co-ordination with other local tourism attractions and hotels shall be submitted to and approved in writing by the lpa prior to the commencement of development
- the approved strategy shall thereafter be implemented

#### **10: AGREEMENT TO A SIGNAGE STRATEGY**

- the signage strategy shall include a commitment to identify locations on the new buildings and around the site where advertising will be located and not to display remote signage
- all signage shall be submitted to and approved in writing by the lpa

### **11: RESTRICTION ON THE OCCUPATION OF DWELLINGS**

- the occupation of the dwellings within the application site shall be restricted to persons employed on the Horkesley Park site

### **12: SALES**

- No goods shall be sold to the public other than from the visitor shop and the only goods sold shall be those that are linked to the activities and displays on the site. The retail development areas are not open to the public unless the gallery and the Chinese garden are also open to the public.

- All displays and demonstrations on the display and retail area shall be connected to countryside activities and none of the following shall take place whatsoever within the Site:-

- Weddings
- Concerts
- Conferences
- Private Evens
- Boot Sales
- Shoots

Permitted development rights in respect of 14 and 28 day temporary uses shall be removed (notwithstanding any subsequent changes in legislation)

### **13: FARMERS MARKET**

- The Farmers Markets shall take place only within the Indoor Display Ring and shall be restricted in number to one per calendar month
- Only the selling of local produce by local growers and producers is permitted. Nothing that isn't grown, raised, baked, caught, shot or made by hand by the people selling it shall be sold and the seller is only permitted to sell their own produce only and no one else's.

### **14: PARKWIDE EVENTS**

- Parkwide events shall to be restricted to 4 events in any one year
- A minimum of 28 days before the event takes place a parkwide event plan shall be submitted to the lpa containing details of proposed location within the site, the date and the timing of the event plus details of prior notification to Parish Council's and other interested parties and extra marshalling for car parks, catering and such other information as required by the lpa shall be submitted to and approved in writing with the lpa.
- The number of parkwide events shall be reviewed by the lpa after Horkesley Park has been operating for 12 months and thereafter on an annual basis

### **15: SPECIAL EVENTS AND ORGANISED GROUP ACTIVITIES OUTSIDE THE CORE DEVELOPMENT AREA**

- definition of all these events shall be agreed with the lpa
- special events and organised group activities outside the core development area shall be restricted to a total of 4 events a year
- a minimum of 28 days before the event takes place details of the proposed location within the site, the date and the timing of the event shall be submitted to and approved in writing with the lpa

- the number of these events outside the core development area to be reviewed by the lpa after Horkesley Park has been operating for 12 months and thereafter on an annual basis
- the area for archery demonstrations and tuition shall be agreed in writing with the LPA prior to the commencement of development

**16: A SUSTAINABLE CONSTRUCTION MANAGEMENT PLAN**

- A Sustainable Construction Management Plan shall be submitted to and approved in writing with the lpa prior to commencement of development

**17: STOUR VALLEY ENVIRONMENT FUND.**

- The applicant shall contribute £18,000.00 to the Stour Valley Environment Fund prior to the opening of Horkesley Park
- The applicant shall contribute £1,000.00 to the Stour Valley Environment Fund per annum for a period of 5 years after the opening of Horkesley Park

**18: CBC TRAVEL PLAN CO-ORDINATOR**

Bunting & Sons will make an agreed contribution to cover involvement of the strategic transport team in coordinating travel plan arrangements relating to this development

**19: HORKESLEY PARK ECOLOGICAL MANAGEMENT PLAN AND STRATEGY**

- The Horkesley Park Ecological Management Plan and Strategy shall include details of all the proposed measures to conserve and enhance the biodiversity value of Horkesley Park by implementing but shall not be limited to the measures described in the Mitigation and Management Plan. The content of the Horkesley Park Ecological Management Plan and Strategy shall be agreed in writing with the lpa and The Plan shall be submitted to and agreed in writing with the lpa prior to the commencement of development

**THE HORKESLEY PARK ECOLOGY ADVISORY GROUP**

- set up an EAG consisting of invited groups to regularly review the Horkesley Park Ecological Management Plan and Strategy

**20: HORKESLEY PARK LANDSCAPE MANAGEMENT PLAN AND STRATEGY**

- The Horkesley Park Landscape Management Plan and Strategy shall include details of all the proposed measures to conserve and enhance the landscape value of Horkesley Park by implementing but shall not be limited to the measures described in the Mitigation and Management Plan. The content of the Horkesley Park Landscape Management Plan and Strategy shall be agreed in writing with the lpa and the Plan shall be submitted to and agreed in writing with the lpa prior to the commencement of development

**THE HORKESLEY PARK LANDSCAPE ADVISORY GROUP**

- set up a LAG comprising invited groups to regularly review the Horkesley Park Landscape Management Plan and Strategy

**21: HORKESLEY PARK LIAISON GROUP**

- set up a HPLG comprising invited groups to meet regularly ( to be agreed)

The purpose and objectives of the Horkesley Park Liaison Group shall include, but not be limited to, the following:

- to liaise on and discuss any issues relating to the construction and operational effects of Horkesley Park
- to identify and resolve any issues arising from the operation of Horkesley Park
- to provide to members of the Horkesley Park Liaison Group information concerning but not limited to :
  - (a) the programme for and the progress of construction;
  - (b) forthcoming parkwide and special events
  - (c) including proposals for the management of traffic during parkwide events

**22: CODE OF CONSTRUCTION PRACTISE (COCP)** shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The CoCP shall include, but not be limited to

- Preparation works - working times, duration of works, details of location and
- Demolition of buildings, working times for these works and re-use of materials on site
- Details of wheel washing facilities to be provided and retained
- Construction activity - exact location on site, duration at different locations, use of plant and machinery, number of employees, working times delivery times, temporary roads, demolition and other works.
- measures to deal with noise and vibration, dust and air pollution, waste management and light pollution

**23: CONSTRUCTION TRAVEL PLAN**

- The Construction Travel Plan for Horkesley Park shall be submitted, at least 3 months prior to commencement of construction, to CBC and ECC and approve in writing
- Plans for construction shall be in accordance with Construction Travel Plan principles to minimise the impact of vehicular traffic on the local highway network by contractors and their employees during construction.
- Measures shall be implemented and maintained to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of Horkesley Park. Details will be agreed with the Local Planning Authority and Highway Authority
- The Construction Travel Plan shall include but not be limited to the : scope and programme of construction and a Construction Method Statement; details and estimates of the workforce; estimated traffic flows associated with construction, deliveries and monitoring; mitigating methods (traffic routing, recruitment of local workforce, transportation of workforce, car sharing schemes, etc.); and measures to minimise construction traffic (local sourcing of materials, soil transfer, deliveries, waste minimisation, etc).

**Construction Travel Plan Co-ordinator**

A Construction Travel Plan Co-ordinator shall be appointed to manage the implementation and review of the Construction Travel Plan. Roles of the Construction Travel Plan Co-ordinator will include:

- liaising with local planning and highway authorities;

- implementation and promotion of transport measures to minimise traffic impact; and
- organisation of car sharing schemes (including incentives for those participating).

#### Footpath/Cycleways

- Entrance signs, finger posts and interpretation/information boards shall be provided relating to the Stour Valley.
- Leaflets shall be distributed along with other publicity material to provide improved footpath information and information on the wider network (as part of strategy to improve ease of access, through improved linkages, to the PROWs and footway/bridleways).
- Leaflets shall be distributed along with other publicity material to provide improved cycle route information and information on the wider network (as part of strategy to improve cycle routes in the area and harmonise promotions and signage).
- Public Footpaths on the west of The Nursery Site shall be improved by incorporating them (without altering their position or accessibility in any way), on 6m wide grass tracks flanked by 1m width indigenous hedges with stock proof fencing (hard up against the hedge the field side), which will be maintained to a height of 1.4m to ensure views across the valley are maintained.
- Permissive footpath(s) shall be provided on land owned by Bunting & Sons to link Horkesley Park, and its comprised and adjoining existing Public Footpaths (3, 4, 5 and 48) with existing Public Footpath No.1 (by Water Lane, 150 metres south of the river Stour, being the Essex/Suffolk border), linking to the Stour Valley Path/St Edmund Way/E2 European Long Distance Route.
- A brown tourist sign strategy shall be implemented to include, but shall not be limited to, the A12. Additional signage, and during busy times stewards, will be used to direct visitors arriving and departing the Horkesley Park Site.
- Any proposed traffic calming shall be laid out and constructed after consultation with the emergency services and bus operators.

## **24: LOCAL EMPLOYMENT PLAN (CONSTRUCTION AND OPERATION)**

The Local Employment Plan to be submitted to and agreed with CBC prior to the commencement of development and shall include but not be limited to:

- ensure priority is given to the recruitment of local construction and operational employees;
- ensure a target of 80% of employees are recruited from within a travel to work distance of 20 miles with priority given to people living within 10 miles of the Site;
- ensure a commitment to staff training including working in partnership with local educational and training providers, Local Job Centre, work experience opportunities/placements (transport to be provided in connection with training – included in the Travel Plan); and
- ensure commitment to local training programmes incorporating apprenticeships, work experience opportunities and other job creation schemes covering a wide range of subjects, including: heavy horse management, restoration, landscape, gardening, general horticulture, land management, food production, nature conservancy, arts and crafts, cultural development, catering and tourism.
- The applicant will work with the Council, Job Centre Plus (JCP), Colchester Institute (CI) and other agencies to assist with the provision of a training course for appropriate skills. The operator will advertise any new job through the Job Centre Plus (as well as undertaking its own recruitment). It will also ensure that any

graduate of the 'training course' who applied for a job using the operator's application system is interviewed.

Construction Stage Recruitment shall include but not be limited to:

- use all reasonable endeavours to promote and recruit local employees, contactors, sub-contractors;
- issue a written statement regarding local recruitment at tender stage to ensure local people benefit from employment opportunities;
- notify CBC of job opportunities that arise during construction;
- encourage sub-contractors to take work experience people where opportunities exist; and
- share details with CBC of all contractors/sub-contractors used during the construction phase.

## **25: LOCAL SOURCING SCHEME**

The Local Sourcing Scheme shall be submitted to and agreed in writing with the LPA, it shall include but not be limited to the following elements

- it shall be prepared and implemented whenever possible to procure the use of local suppliers and/or services and/or distributors during the construction and operation of Horkesley Park. The Local Sourcing Scheme shall include a pre-agreed criteria for sourcing suppliers with:
- sustainability ethos e.g. relating to the use of traditional materials, recycled products, reduced packaging; and
- codes of conduct relating to animal care and food production.
- Horkesley Park shall give priority to local producers and suppliers. Horkesley Park shall work with such producers and suppliers whenever possible to source its range of requirements, from woodchip supplies for the biomass boiler to animal feed and merchandising items.
- Horkesley Park buyer(s) responsible for the foregoing will be required to give priority to:
- liaising with local and regional producers and suppliers to build relationships and negotiate terms, etc.;
- promoting to visitors the supplier sourcing requirements such as sustainability, eg recycled products, minimal packaging etc, low food miles, local produce;
- liaising with local suppliers regarding transport with a view to establishment of shared transportation for deliveries;
- promotion at Horkesley Park of local producers as part of show case demonstrations to help build brand recognition in the wider area;
- assisting and working with wider initiatives which may be promoted by ECC and CBC such as "buy local";
- liaising with local businesses including hotels and B&Bs; and
- co-ordinating supplier network service.

## **26: TRAVEL PLAN (FOR WHEN HORKESLEY PARK IS OPEN TO THE GENERAL PUBLIC)**

The Travel Plan shall encourage the use of more sustainable modes of transport by staff and visitors (to conform with County and DfT Best Practice guidance).

A transport liaison group shall be implemented (details of its membership, first meeting, and timing of subsequent meetings to be agreed with Essex County Council

Highway Authority) and regular meetings will be attended by key stakeholders (including representatives from the local planning and highway authorities and public transport operators, etc.) to meet in accordance with the agreed timetable to review the following matters, but shall not be limited to, best practice and improvements to the Travel Plan. Minutes of these meetings will be taken and circulated to the attendees.

Formal travel plan targets shall be presented to Essex County Council Highway Authority for agreement following an 'inaugural' travel survey.

The Travel Plan shall include a £3,000 contribution to cover the cost of the local planning/highway authorities approving, reviewing and monitoring the Travel Plan.

Travel Plan measures, to encourage the use of more sustainable modes of transport by staff and visitors, shall include but not be limited to the following:

- Provision of a dedicated staff shuttle bus service, which shall be either free of charge or subsidised (depending on individual employment packages provided), between Horkesley Park and the local area, based on staff shift patterns. The staff shuttle bus service shall be operated on a demand responsive basis unless otherwise agreed with the local highway authority in consultation with CBC. The actual size of the bus(es) and the provision of the service shall be closely monitored as part of the operational Travel Plan to ensure that it is operated in the most efficient and environmentally friendly manner.
- The existing local bus service(s) between Horkesley Park, Colchester North Station (rail) and Colchester town centre shall be extended, possibly by being combined with a dedicated Horkesley Park branded passenger transport service, to provide all together a 15 minute average frequency during the time Horkesley Park is open to the general public, and (for staff in particular) during certain periods before and after such time of being open to the general public. The extra buses required to provide the extended service shall be funded by Horkesley Park. The extension shall be added to the current rural service to provide for local people as well as for Horkesley Park visitors and staff. The extended service shall be provided and its provision shall be monitored with annual reviews including the provision of evidence and management of services and this shall form part of the Travel Plan. Details shall be shared between Horkesley Park and the local bus service operator(s), CBC and the Highway Authority. The extended service shall be operated on a demand responsive basis unless otherwise agreed with the local highway authority in consultation with CBC. The actual size of the buses and the provision of the service shall be closely monitored as part of the operational Travel Plan to ensure that it is operated in the most efficient and environmentally friendly manner.
- In the event a dedicated Horkesley Park branded passenger transport service is provided to extend the existing local bus service(s) between Horkesley Park and Colchester North Station (rail) and Colchester town centre it shall be combined with the existing local bus service(s) to provide all together a 15 minute average frequency during the time Horkesley Park is open to the general public, and (for staff in particular) during certain periods before and after such time of being open to the general public.
- Details relating to the provision of free of charge facilities at Horkesley Park for use by local bus service drivers, shall be shared with the local bus service operator(s), in liaison with the local planning authority and highway authority.
- A dedicated Horkesley Park branded hopper bus service shall be provided between Horkesley Park and the Dedham Village Coach Park to link with the

“Dedham Vale Hopper” bus service (and any potential successor of it) when in operation. The dedicated Horkesley Park branded hopper bus(es) between Horkesley Park and Dedham Village Coach Park shall tow especially fitted out trailers to carry cycles which will enable linkage to nearby places of interest in the Stour Valley, particularly around the Dedham Vale. The provision of the hopper bus service shall be monitored with annual reviews, including the provision of evidence and management of services, as part of the Travel Plan. This service shall be provided as part of a Horkesley Park ticket admission charge.

- The service shall be operated on a demand responsive basis unless otherwise decided in liaison with the highway authority in consultation with CBC. The actual size of the bus(es) and the provision of the service shall be closely monitored as part of the operational Travel Plan to ensure that it is operated in the most efficient and environmentally friendly manner.
- Travel by rail shall be encouraged for both staff and visitors through ticketing incentives, linked with the bus services. Staff shall be given the opportunity to have reduced or interest free loans for staff travel cards.
- Car sharing schemes shall be encouraged.
- Secure cycle parking and other facilities for cyclists (eg. lockers, showers and electric bike charge points) shall be provided.
- Staff shall be encouraged to use the Horkesley Park showers, changing rooms and lockers to avoid unnecessary trips to and from the Site.
- A free ride home service shall be available in the event of personal emergency befalling staff who car share, use public transport, cycle or walk to work at Horkesley Park
- Staff shall be encouraged to cycle by providing incentives, including; low cost loans for bike purchases, Horkesley Park negotiated discounts with local suppliers, and payment of cycling business mileage allowance at the prevailing minimum tax free rate.
- Information, incentive schemes and other encouragement to staff and visitors regarding modes of sustainable transport shall be provided.
- Cycle hire “Park and Pedal” opportunities shall be provided for visitors to Horkesley Park to enable them to explore the surrounding areas.
- Incentives shall be provided, such as reduced price refreshments, to encourage visitors to walk or travel by cycle to/from Horkesley Park.
- Awareness shall be raised of environmental issues relating to the use of fossil fuel for transport and the effects on climate change. Horkesley Park shall provide exhibits and information on carbon offsetting and sustainable practices and constantly operate as a working demonstration of good practice.

A Travel Plan Co-ordinator(s) shall be employed and CBC and ECCHA shall be kept informed of name of designated person(s) and any change in personnel.

Role of Travel Plan Co-ordinator(s) shall include:

liaising with local planning and highways authorities;

liaising with local bus operators with a view to establishing contracts for transporting staff and visitors;

liaising with local rail operators with a view to establishing ticketing initiatives and regular pick-ups for both staff and visitors;

liaising with taxi operators to encourage an incentive scheme enabling taxis to charge a reduced rate for shared journeys to and from Horkesley Park;

organising and collating traffic data for staff (including a staff questionnaire to establish travel patterns) and visitors in order to review and update the travel plan; implementing and promoting Travel Plan objectives; and maintenance of all necessary systems, data and paperwork

## **27: PROVISION OF THE PERMISSIVE PATH IN PERPETUITY**

### **28: PARKING AREAS**

- the main car park and overflow car parks to be provided in phases in accordance with a phasing plan submitted to and agreed in writing with the lpa prior to the commencement of development. the parking provision to be subject to regular review
- the 44 car parking spaces shown adjacent to the London Road frontage shall be omitted and this area utilized for additional planting

### **29: REMOVE PERMITTED DEVELOPMENT RIGHTS**

- remove permitted development rights to erect walls, fences and all other means of enclosure to retain the open quality of the AONB
- remove permitted development rights to erect any buildings or structures, plant/ machinery in the AONB

**Once a satisfactory section 106 agreement has been signed The Head of Planning and Protective Service be authorized to grant planning permission subject to the following conditions**

#### **1. ZAA - Time Limit for Full Permissions**

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings and the drawing submitted to satisfy the requirements of the section 106 agreement unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### **3. ZCC - Non-Residential BREEAM (Part 1 of 2)**

Prior to the commencement of development, evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

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

#### **4. ZCD - Non-Residential BREEAM (Part 2 of 2)**

Within 3 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

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

#### **5. ZCE - Refuse and Recycling Facilities**

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

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

#### **6. ZCH - Litter**

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

#### **7. ZFB - \*Full Landscape Proposals TBA\***

Prior to the commencement of development, full details of all landscape works for the whole site, including the additional areas where car and coach parking was originally indicated, shall have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

#### **8. ZFF - \*Landscape Maintenance Schedule\***

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

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

#### **9. ZFG - Earthworks**

Prior to the Commencement of development, details of all earthworks shall have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings

#### **10. ZFH - Advance or Screen Planting**

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

#### **11. ZFI - Tree or Shrub Planting**

Prior to the commencement of development, 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.

#### **12. ZFS - Tree and Hedgerow Protection: General**

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

agreed, in writing, by the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

### 13. ZFV - Retention and Protection of Water Features

Prior to the commencement of development, all aquatic features and associated vegetation on site shall be retained and appropriately protected from physical disturbance or pollution in accordance with details that shall have previously been submitted to and approved, in writing, by the Local Planning Authority. Any agreed scheme shall thereafter be retained in accordance with the approved details during all works on site.

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. Prior to the commencement of development approved by this planning permission (or such other date or stage in 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 site investigation results and the detailed risk assessment (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 (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.

**Informative/ advice to LPA:** This condition has been recommended as the Environment Agency is satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing.

15. Prior to commencement of 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.

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. 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 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.

17. 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, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

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.

18. Prior to occupation of the development the following shall be provided or completed to the satisfaction of Essex County Council Highway Authority

- Details of existing vehicular accesses to the proposed site to be permanently removed shall be agreed in writing with Essex County Council Highway Authority
- A right turn lane at the A134 Nayland Road/London Road junction with central islands, the southernmost one being a pedestrian central island.
- A minimum 120 x 4.5 x 120 metre visibility splay maintained clear to the ground at all times at the A134 Nayland Road/London Road junction.
- Widening of the London Road carriageway between the A134 Nayland Road/London Road junction and a suitable point west of the proposed site access
- A priority junction with right turn lane in London Road to provide access to the proposal site with a minimum 120 x 4.5 x 120 metre visibility splay maintained clear to the ground at all times. Right turn lane shall have 2 no. pedestrian central islands.
- A minimum 2 metre wide footway along the south side of London Road between the A134 Nayland Road and the westernmost pedestrian access to the proposed site.
- A minimum 2 metre wide footway along the west side of the A134 Nayland Road between London road and the bus stop mentioned below.
- A minimum 2 metre wide footway along the east side of the A134 Nayland Road between the A134 Nayland Road/London Road junction right turn lane pedestrian central island and the footway which currently terminates at the 'Rose & Crown' Public House access. Footway shall include a link to the bus stop mentioned below.
- New and improved footway along the east side of the A134 Nayland Road/Boxted Church Road/Tog Lane junction.

- Relocated and improved to current Essex County Council specification (to include but shall not be limited to real time passenger information) of the two bus stops nearest the A134 Nayland Road/London Road junction. Relocation shall be agreed with the local bus service operators.
- details of a wheel cleaning facility shall be submitted and approved.

Any gates proposed adjacent existing or proposed highway shall open towards the proposal site only

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. Any pedestrian access proposed adjacent existing or proposed highway shall have pedestrian barriers and appropriately dimensioned pedestrian visibility splays

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

20. The proposed gates at the site access off London Road shall be a minimum 20metres from the carriageway edge and open towards the proposal site only

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

21. Any bus stops proposed within the proposal site shall be provided in accordance with current Essex County Council specification (to include but shall not be limited to real time passenger information)

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

## **22. ZNN - Archaeological Watching Brief TBA**

Prior to commencement of development, details of a watching brief to be carried out by a suitably qualified archaeologist (during construction works) shall be submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with these agreed details. In the event that any significant archaeological features or remains are discovered which are beyond the scope of the watching brief (and require fuller rescue excavation) the construction work shall cease immediately and shall not recommence until a revised programme of archaeological work including a scheme of investigation has been submitted to, and approved in writing, by the Local Planning Authority.

Reason: To enable the inspection and recording of any items of archaeological importance

23. 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). No noisy machinery shall be operated or noisy process carried out outside the hours of 09:00 to 17:00 Monday to Friday, with no working of any kind permitted on Sundays, Saturday after 13:00 hours, or any Public/Bank Holidays.

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.

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.

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

Prior to the commencement of any piling works that may be necessary, an agreed method of installation which minimises noise and vibration to nearby residents will be agreed in writing with the Planning Authority in consultation with Environmental Control.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

24. No fires to be lit on site at any time.

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 and for the avoidance of doubt as to the scope of this permission.

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

PA systems within buildings should have the volume set so it is inaudible outside the building

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

26. All PA systems/all speakers are to be directional and the noise generated shall not exceed 0dBa at the boundary with the AONB. In accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority prior to the commencement of development.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

Informative: Please note that a competent person is defined as "someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience".

27. A noise barrier shall be erected along the north and west boundaries of the overflow car park to reduce the impact of vehicle noise on the AONB, this could be a combination of bunding and planting in accordance with a scheme devised by a competent person. The location, extent, design and timetable for the erection of this barrier shall be submitted to and agreed in writing with the local planning authority prior to the commencement of development and the approved barrier shall be erected in its entirety in accordance with the approved timetable and shall thereafter be retained.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

Informative: Please note that a competent person is defined as “someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience”.

28. Prior to the commencement of development details of the surface material for the on site road surfaces and main car park surface shall be submitted to and approved in writing with the local planning authority. The surface shall comprise noise absorbing materials in accordance with a scheme devised by a competent person. The development shall be carried out using the approved material and shall thereafter be retained as such.

Informative: Please note that a competent person is defined as “someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience”.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

29. Prior to the commencement of development an amended plan showing the relocation of the 6 coach parking spaces (adjacent to the AONB) shall be submitted to and agreed in writing with the local planning authority. The area of these 6 spaces shall be incorporated in the landscape scheme. The approved plan for the coach park shall constructed in accordance with a timetable to be submitted to and approved in writing with the local planning authority.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

30. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) Order 2005 the coach house to The Chantry shall be used for B1 studios purposes only and shall not be used for any other purpose.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

31. Prior to the commencement of development details of a 2m high acoustic barrier on the North and North East sides (facing the AONB) of the outdoor display ring shall be submitted to and agreed in writing with the local planning authority. The scheme shall be devised by a competent person and shall include a timetable for its construction. The approved details shall be erected in accordance with the approved timetable and shall therefore be retained in its entirety

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

32. No idling of engines signs shall be erected in clear view of the coach park

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area, in particular, the adjacent AONB, by reason of undue noise emission and/or unacceptable disturbance

### **33. Sound Insulation on Any Building**

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.

Informative: Please note that a competent person is defined as “someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience”.

34. No deliveries shall take outside of the following times;

Weekdays: 07.00-18.00

Saturdays: 07.00-13.00

Sundays and Bank Holidays: At no time

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

### **35. Light Pollution for Major Development**

Prior to the first USE of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures specified in the current ‘Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light’ for zone E1 AONB , shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

### **36. No External Light Fixtures**

No external lighting fixtures shall be constructed, installed or illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

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

### **37. No Floodlighting**

No floodlighting shall be constructed, installed or illuminated at any time unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

### **38. Illuminated Signs**

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

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

39. All external lighting shall be directional and shielded 180 degrees where appropriate and timers are to be used, a scheme shall be submitted and agreed, in writing, by the Local Planning Authority.

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

#### **40. Food Premises (Control of Fumes and Odours)**

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

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

#### **41. Grease Traps Required**

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

#### **42. Oil Interceptor Required**

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

#### **43. No Discharge to Ground or Watercourses**

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

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

#### **44. Groundwater Protection**

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

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

#### **45. Storage of Oils etc.**

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls where the volume of the bund compound shall be at least equivalent to 110% of the capacity of the tank. If there is a multiple tankage, the compound volume shall be at least equivalent to 110% of the capacity of the largest tank or 110% of the combined capacity of any interconnected tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses shall be located within the bund and the drainage system of the

bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent unnecessary pollution of the groundwater or nearby water courses.

#### **46. Scheme for Removal of Manure**

Prior to the first use of the development hereby permitted, a scheme for the storage of manure within the site, and its subsequent disposal, shall be submitted to and agreed, in writing, by the Local Planning Authority. The storage and disposal of manure shall be carried out in accordance with the approved scheme at all times thereafter unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: To ensure satisfactory provision is made for the storage and disposal of manure.

#### **47. Contaminated Land Part 1 of 4 (Site Characterisation)**

Prior to the commencement of development, 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,

archaeological sites and ancient monuments;

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

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

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

#### **48. Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)**

Prior to the commencement of development, 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

#### **49. Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

Prior to the commencement of development other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved, 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/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

#### **50. Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 47, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 48, 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 49.

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

#### **Long Term Monitoring and Maintenance**

51. Prior to the first occupation of development, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of INSERT years, and the provision of reports on the same must be prepared, both of which are subject to the approval, in writing, of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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.

#### *Soil Gas Investigation and Remediation Scheme (Lower Risk)*

52. Prior to the commencement of the development, site investigations shall have been conducted by competent persons to assess any possible risks associated with the production of hazardous ground gas. A detailed remediation scheme shall be submitted to :

Remove the source of the hazardous gas; and/or

Incorporate into the proposed building necessary design or mitigation measures as required by the risk assessment

This shall have been approved, in writing, by the Local Planning Authority prior to the commencement of construction works. 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

#### **\*Validation Certificate\***

53. Prior to the first use of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 48, 49 and 50 .

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

54. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order no substations or other ancillary structures shall be erected without the prior approval of the local planning authority.

Reason: To ensure all development is appropriate to its location within the countryside and the AONB.

### **Pollution Prevention**

#### **Advice to Applicant:**

##### *Oil Storage*

Any facilities, above ground, for the storage of oils, fuels or chemicals shall be provided with adequate, durable secondary containment to prevent the escape of pollutants. The bunded area shall be designed, constructed and maintained in order that it can contain a capacity not less than 110% of the total volume of all tanks or drums contained therein. All filling points, vents, gauges and sight glasses should be bunded. Any tank overflow pipe outlets shall be directed into the bund.

Associated pipework should be located above ground and protected from accidental damage. There shall be no gravity or automatic discharge arrangement for bund contents. Contaminated bund contents shall not be discharged to any watercourse, land or soakaway. The installation must, where relevant, comply with the Control of Pollution (Oil Storage)

(England) Regulations 2001 and the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991 and as amended 1997.

Site occupiers intending to purchase or install pollutant secondary containment (bundling) should ensure that the materials are not vulnerable to premature structural failure in the event of a fire in the vicinity.

All drums and small containers used for oil and other chemicals shall be stored in banded areas which do not drain to any watercourse, surface water sewer or soakaway.

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 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.

Recommended conditions include details of all the PA systems to be submitted and agreed, noise attenuation fences along some boundaries of the overspill car park boundaries and the out door arena; and the surface material of the main car park to be agreed. Environmental Control Officers consider the location of the coach park next to the AONB has the potential to cause noise and it should be re-located close to the road frontage. In addition conditions regarding noise are recommended so there would be no increase in ambient noise at the AONB boundary. A range of other conditions are also requested relating to the café and delivery area. A restriction of the number, location and time of the parkwide events is also proposed.

## **Demolition/Construction**

In order to ensure the works cause the minimum of disturbance to nearby existing residents through noise and dust, a method statement will need to be provided by the applicant or their demolition contractors.

The following scheme is suggested as a basis for a suitable noise control schedule: -

### Highway Notes:

The above conditions are required to ensure the proposal complies with the Highway Authority's

Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate

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 or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)

All highway related details should be agreed with the Highway Authority

The proposal should accord with the Parking Standards Design and Good Practice

Supplementary Planning Document dated September 2009

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River

If the applicant believes they need to apply for consent, further information and the required application forms can be found at [www.essex.gov.uk/flooding](http://www.essex.gov.uk/flooding). Alternatively they can email any queries to Essex County Council via [watercourse.regulation@essex.gov.uk](mailto:watercourse.regulation@essex.gov.uk)

Planning permission does not negate the requirement for consent and full details of the proposed works will be required at least two months before the intended start date

### **Statement of Positivity**

The Local Planning Authority has acted positively and proactively in determining this application.

Prior to the submission of the planning application the subject of this decision the Council as local planning authority entered into a Planning Performance Agreement (PPA) with the applicant. Amongst other things this PPA identified the key planning issues likely to require careful consideration in any subsequent submission. These included the sustainability of the proposed development, its viability, its impact on the AONB and landscape, highways and traffic along with an appraisal of any new proposal against the reasons for refusal of an earlier unsuccessful proposal reference: 090231. The PPA identified how both parties would work collaboratively and how Community Engagement would be achieved.

The local planning authority has had detailed negotiations over the entire PPA period which has taken the proposal from pre-application through to presentation to the Council's Planning Committee. The local planning authority has proactively sought views and explored issues raised by the public and statutory consultees directly with the applicants and has sought clarification, explanation, additional material and amendments where appropriate to respond to such contributions.

Whilst some material submitted with the application was provided to the local planning authority on a confidential basis by the applicants (as it contained sensitive financial details) the Authority has employed relevant independent expert advice to review this material in respect of those matters where such information is relevant to consideration of the merits of the proposal. The Council as local planning authority has also employed independent consultants to review other aspects of the proposal in order to provide additional perspective unrelated to that provided by the applicant, their supporters and those opposing the application.

In assessing the merits of the proposal the Council has had regard to all relevant material considerations, including planning policies and representations received and subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

**To:** Development Management  
Sue Jackson

**From:** Planning Policy  
James Firth

**Application No:** 120965

**Date of Response:** 11/01/2013

**Proposal:** Change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park' comprising a country park; art and craft studios ('The Chantry'); public gardens; a central building complex to provide an indoor display ring, 'suffolk punch breeding centre', entrance building, shop, cafe, 'field to fork', 'farming through the ages', 'active learning', 'nature watch', and retained greenhouse as a 'demonstration nursery and gardens', and energy centre; main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision. The application includes an Environmental Statement.

**Location:** Land & other property North of London Road & West of the A134 Including, The Chantry, The Chantry Lodge, Hillside & Nursery Site, Great Horkesley

**Planning Policy comments:**

**1. Introduction**

1.1 This planning policy response sets out the relevant planning policy context for the application. The application has been assessed as a new revised proposal in light of the latest policies. As, however, the application is a resubmission and the site has considerable planning history the later section of this response also includes consideration of whether the previous reasons for refusal are addressed by this latest application. Additionally consideration will also be given to whether any new issues are now raised by the revised scheme and the revised mix of uses proposed for the site. A conclusion section is provided at the end of the response.

1.2 This response has been updated to take into account the ministerial statement issued on 11 December 2012 announcing that an order had been laid before parliament to revoke the East of England Plan. The order came into effect on the 3 January 2013. The response has also been updated in light of the additional reports produced by Britton McGrath Associates in December 2012.

**2. Implications of the revocation of the East of England Plan**

2.1 The written ministerial statement issued on 11 December 2012 states that the Coalition Government has laid in Parliament an Order to

revoke the Regional Strategy for the East of England. The order came into effect on 3 January 2013.

- 2.2 As quoted in the Collins and Coward Ltd letter dated 13 December 2012 paragraph 14 of the NPPF states that:

*14. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking...*

*For **decision-taking** this means:<sup>10</sup>*

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted.<sup>9</sup>*

*footnote 9: For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.*

*footnote 10: Unless material considerations indicate otherwise.*

- 2.3 As made clear by paragraphs 11, 12 and 17 of the NPPF the planning system remains plan-led and applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Section 38(6) of the Planning and Compulsory Purchase Act 2004 is not altered by the Localism Act or by the publication of the NPPF. In the absence of the East of England Plan the development plan consists of Colchester's Adopted Local Development Framework and the proposal must be assessed against these policies. If it accords with the development plan it should be approved without delay as stated in NPPF paragraph 14, and development that conflicts with the Local Plan should be refused as set out by paragraph 12 of the NPPF which states that:

*“Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.”*

- 2.4 The second part of paragraph 14 of the NPPF only comes into consideration where the development plan is absent, silent or relevant policies are out-of-date.
- 2.5 Colchester has an adopted Core Strategy, a Site Allocations and a Development Policies DPD which form the development plan for the area and the development plan therefore cannot be considered to be absent.
- 2.6 Paragraph 211 of the NPPF states that “For the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this framework”. Colchester’s Local Policies are therefore not out-of-date.
- 2.7 When considering if the development plan is silent it is relevant to consider if there are a lack of relevant policies against which to assess the proposal.
- 2.8 The Collins and Coward Ltd letter dated 13 December 2012 states that “In this case the Colchester LDF has no policies to consider a regional tourism facility”.
- 2.9 It is correct that Colchester’s LDF does not include a policy titled ‘regional tourism facility’ or a policy dealing exclusively with this form of development. This does not mean, however, that there are no policies against which such a development can be assessed.
- 2.10 Colchester’s Core Strategy and Development Policies DPDs both consider policy issues on a thematic basis. This includes Development Policy DP10 which deals with Tourism, Leisure and Culture. This policy is applicable to all scales of development and amongst other matters states that “Proposals for tourism, leisure and culture development should promote accessibility by a choice of means of transport and must not cause significant harm to the amenity of people living and working nearby”. The policy also states that “Urban areas of Colchester will be the focus for larger scale tourist, leisure and culture facilities and accommodation in line with the need to concentrate development at the most sustainable and accessible locations”. The wording of the policy is clearly applicable to large scale tourist facilities. Other policies are similarly applicable to all scales of development.
- 2.11 The East of England Plan was first revoked by the Secretary of State for Communities and Local Government on 6 July 2010. This occurred during the examination of the Colchester Development Policies and Site Allocations documents. The hearing sessions had previously closed in April 2010, however, as the examination was still on going the revocation was taken into account by the Council and minor changes were proposed to the Development Policies document as appropriate. The later stages of the examination and preparation of the inspector’s report were carried out in the knowledge that the East of England Plan

had been revoked. It is therefore not correct to assert that the absence of the regional plan was not taken into account in the preparation of these documents. The Secretary of State's decision to revoke was later subject to successful legal challenge, however following Strategic Environment Assessment the East of England Plan has now been revoked with effect from 3 January 2013.

- 2.12 The application must be assessed against the development plan having regard to material considerations. The applicant's planning policy statement at paragraph 2.70 acknowledges the status of the Local Development Framework as part of the development plan and appears to also accept that is relevant to the assessment of the application. The applicant's planning policy statement states that "the local LDF must be read together with the regional plan and they provide a basis to allow the development. The balance of all the policies taken together provides a presumption in favour of the development". In the absence of the regional plan the development plan consists of Colchester's Local Development Framework. The revocation of the East of England Plan obviously removes this part of the development plan, however, why the applicant also now states that none of Colchester's policies can deal with the proposal is not clear. This is especially the case when it appears to have previously been accepted that policies in the Local Development Framework are relevant to the determination of the application.
- 2.13 The site was not put forward by the applicant for consideration in the Site Allocations DPD and therefore there is accordingly no allocation or accompanying policy for a regional tourist facility in the Site Allocations DPD or on the adopted proposals map.
- 2.14 The development plan should therefore not be considered absent, silent or relevant policies are out-of-date and the application should be determined against the development plan unless other material considerations indicate otherwise as set out by paragraph 12 of the NPPF. The material considerations include the NPPF and therefore both Colchester's locally adopted policies (the development plan) and any relevant paragraphs of the NPPF (a material consideration) should be taken into account. The second bullet point in NPPF paragraph 14 does not apply.
- 2.15 As set out above the last bullet point of NPPF paragraph 14 dealing with where the development plan is absent, silent or out-of-date is not considered to apply. Even if, however, it was accepted that the development plan was silent on a particular issue it is not considered that the presumption in favour of sustainable development set out by the NPPF paragraph 14 would necessarily apply in this case. In most circumstances the first sub-point would apply which states that this means granting permission unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole". The

second sub-point, however, states that this means granting permission unless “specific policies in this Framework indicate development should be restricted”. The NPPF then refers the reader to footnote 9.

2.16 Footnote 9 has been reproduced in full at the start of this note. The footnote gives the example of designated areas such as Areas of Outstanding Natural Beauty. The footnote, therefore, makes clear that in case where the development plan is *absent, silent or relevant policies are out-of-date* the presumption in favour set out in the first bullet point does not apply in designated areas where policies indicate development should be restricted.

2.17 A relevant appeal decision in this respect is APP/B1605/A/11/2164597 in Cheltenham, Gloucestershire, decision date 20 June 2012. Paragraph 56 of this appeal decision states that (emphasis added):

*"56. However, whilst I accept that Paragraph 49 casts a wide net, even if Green Belt policies were to be deemed 'Relevant policies for the supply of housing.....', **the final part of Paragraph 14 makes it clear that** (again, unless material considerations indicate otherwise) **where specific policies, including Green Belt policies, indicate that development should be restricted then the presumption in favour of granting permission does not apply.** That is the case here."*

2.18 The NPPF does include a specific policy dealing with major development in designated areas at paragraph 116. This indicates that planning permission should be refused except in exceptional circumstances. The paragraph sets out the issues that should be considered and further commentary on the NPPF is provided later in this response. The key point here, however, is that rather than being a presumption in favour of sustainable development, the starting point for major development in designated areas is that permission should be refused unless it is demonstrated otherwise.

2.19 If the development was not in a designated area or there was no specific policy in the NPPF indicating that development should be restricted or the development demonstrates that it meets the requirements of such policies then the first sub-point of NPPF paragraph 14 would apply. This means assessing the development against the framework as a whole as set out by NPPF paragraph 6 including the economic, social and environmental aspects of sustainability. The national policy section below provides commentary on the relevant parts of the NPPF.

### **3. Planning Policy context**

#### **3.1 Development Plan - Local Planning Policy**

- 3.1.1 Given that the East of England Plan has now been revoked as outlined above the development plan consists of locally adopted policy in the Core Strategy, Site Allocations and Development Policies Development Plan Documents (DPDs).
- 3.1.2 Despite the publication of the National Planning Policy Framework (NPPF) in March 2012, the Council's Adopted Core Strategy and Development Policies documents remain relevant. As there is generally no more than a limited degree of conflict with the NPPF it is considered that full weight can continue to be attached to the majority of the Council's policies as set out by paragraph 214 of the NPPF. Even where there is some greater conflict, weight should be attached that is appropriate to the case according to the degree of consistent with the NPPF (NPPF para 215). Significant weight should continue to be attached to the Council's adopted policies. The most relevant local policies are adopted Core Strategy (2008) policies SD1, CE1, UR1, UR2, TA1, TA2, TA3, TA3, TA5, ENV1, ENV2 and ER1; and Development Plan Policies (adopted 2010) DP1, DP5, DP7, DP9, DP10, DP14, DP17, DP20, DP21, and DP22.
- 3.1.3 Colchester's most relevant adopted Development Plan Documents (DPDs) are the Core Strategy (2008) and the Development Policies DPD (2010). The Site Allocations DPD was also adopted in 2010. These adopted local policies cover all types of development and are capable of being used as the basis to assess all types of proposal. Should a particular proposal represent a departure from local policy then the exceptional circumstances and other material considerations that may justify such a departure would need to be made clear and justified.
- 3.1.4 Notwithstanding that it is argued by the applicant that the proposal represents a regionally significant proposal, local policies form the development plan against which the application must be assessed. As set out in the NLP report there is doubt that the development represents a regionally significant proposal. Even if it is accepted as a development of regional scale it is not correct to assert that the LDF is not able to deal with such a development (applicant's planning policy statement). Large or 'regional' scale developments can be assessed against all of the development plan including adopted local policies. Such proposals are directed towards the town centre in accordance with the Council's approach to sustainable development.
- 3.1.5 The most relevant local policies for this proposal are set out below.

### **Core Strategy (Adopted December 2008)**

#### **Policy SD1 (Sustainable Development Locations) –**

- 3.1.6 This policy states that *'...Throughout the Borough, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy below and the Key Diagrams.*

*Development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land. Proposals should seek to promote sustainability by minimising and/or mitigating pressure on the natural, built and historic environment, utilities and infrastructure, and areas at risk of flooding....The Council will also seek to sustain the character and vitality of small towns, villages and the countryside, and development will be expected to achieve a high standard of design, sustainability and compatibility with local character.'*

- 3.1.7 This policy provides the overarching spatial policy for the Borough and ensures that new development is located in sustainable locations to minimise the need to travel and to avoid negative environmental impacts.
- 3.1.8 The applicant's planning policy statement states that Policy SD1 does not preclude other opportunities coming forward for development and that there are instances where these opportunities will be outwith the urban area.
- 3.1.9 Policy SD1 sets out a clear settlement hierarchy and spatial policy for development in the borough with which the large scale Horkesley Park proposal does not accord. The policy requires priority be given to accessible and sustainable locations. The application site has been shown in the Vectos report to be unsustainable for a development of this scale. The proposal fails to accord with Core Strategy Policy SD1.

**Policy CE1 (Centres and Employment Classification and Hierarchy) –**

- 3.1.10 This policy sets out a clear hierarchy for development in Colchester directing larger scales of development towards the urban areas. It is stated that '*...Development scales will need to be consistent with the Hierarchy and larger scale development should be focussed on the Town Centre, Urban Gateways and Strategic Employment Sites. Employment developments that conflict with the Centres and Employment Classification and Hierarchy will not normally be supported. Small scale developments may be acceptable in residential or countryside locations if they have low travel needs and low impacts, such as:*

*-small shops and facilities providing for the daily needs of a local residential catchment*  
*-rural businesses, recreation and tourist developments to meet local needs and support rural economies'*

- 3.1.11 The applicant's planning policy statement states that rural tourism under CE1 is supported to meet local needs and economies. It is stated the LDF can only deal with local scale tourism projects because Policy C2 of the regional plan provides the development criteria for regional scale projects. In their letter dated 13 December 2012 Collins & Coward Ltd argue that the revocation of East of England Plan results in a policy vacuum.

3.1.12 Notwithstanding the comments in the applicant's planning policy statement and the letter dated 13 December 2012 it is considered that Policy CE1 is relevant to this proposal as the LDF can deal with all scales of development. The Council's adopted approach is to direct larger scale proposals to the urban areas. Policy CE1 supports small scale development in countryside locations which is consistent with the Council's approach to sustainability and the protection of the character of the countryside. The policy seeks to achieve a balance in rural areas between economic benefits and environmental disbenefits by supporting developments that are small scale and of local benefit. The Horkesley Park proposal cannot be considered to have low travel needs or low impacts given 316,250 visitors per annum are predicted by the applicant and that it is stated 82% of these visitors will arrive by car.

**Policy UR1 (Regeneration Areas) –**

3.1.13 *'To enhance Colchester as a prestigious regional centre, the Borough Council is committed to regeneration in rundown areas, deprived communities and key centres, with the purpose of building successful and sustainable communities. Regeneration will also enhance Colchester's attractiveness as a visitor destination.'*

3.1.14 The Core Strategy identifies five Regeneration Areas to serve as a focus for new development, and in particular, to 'enhance Colchester's attractiveness as a visitor destination'. The main new cultural and tourist attractions for Colchester to 2021 are directed to these areas in accordance with the Council's spatial strategy, including Firstsite, the Cultural Quarter, and the Community Stadium. The proposed development is not located in or near to any of these Regeneration Areas, nor is it within or adjoining the urban area of the town. The proposal would introduce a large scale new development in the countryside and therefore does not accord with the approach promoted by adopted local policy.

**Policy UR2 (Built Design and Character) –**

3.1.15 This policy seeks to secure high quality and inclusive design in all developments. *'Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported'*.

3.1.16 The involvement of Hopkins Architects is clearly beneficial in promoting the best possible design for a scheme. The proposal aims to improve disabled access to the countryside which also accords with the objectives of this policy to achieve inclusive design in all developments. The compatibility of a large scale development such as that proposed within a countryside area adjacent to designated landscape will require consideration with regards to this policy requirement.

**Transport and Accessibility Policies**

3.1.17 The proposal refers back to the Transport Assessment (TA) produced February 2009 for the original application. The applicant has produced a Supplementary Transport Assessment (May 2012).

3.1.18 Section 3.6 of the February 2009 TA refers to the Core Strategy policies on Transport and Accessibility. However there is no analysis on how this site meets the key policy of TA1 in particular, “*future development will be focused on highly accessible locations such as centres, to reduce the need to travel*”.

3.1.19 Section 9 of the Supplementary Transport Assessment (May 2012) fails to acknowledge the existence of the LDF Core Strategy Transport and Accessibility Policies that sit between the NPPF and the adopted development policies.

3.1.20 The proposal makes claims in a number of supporting documents as to its sustainability. However some of these claims appear misguided and contradictory:

*Tourism Evaluation Report – Demonstration of Need (section 2.3)  
Underperformance of the local tourism industry*

3.1.21 The 5 historic towns listed in this section are destinations in their own right and are accessible by a range of transport modes, including coach, train and car/bus by park and ride systems. Once visitors are in these towns many attractions are then accessible by foot or bike. They are not isolated remote attractions.

*Interpretation and visitor management within the Vale*

3.1.22 The applicant claims that the proposed Horkeley Park concept will address a number of the issues highlighted in the Dedham Vale section by:

- providing an alternative location to offer scope to absorb some of the existing visitor pressures within the Stour Valley;
- helping to create a car and coach free environment by providing landscaped parking for visitors arriving by car and coach, introducing, ‘Green Lanes’, footpaths, cycle hire and environmentally friendly ‘people movers’ such as horse drawn vehicles and offsite, electric Hopper buses;

3.1.23 The main access from the A134 runs through the Vale and the AONB. To be economically sustainable the proposal will need a large number of visitors who will undoubtedly arrive by car, drawing traffic along the A134. Hiding parking through landscaping does not make this a car and coach free environment. To be sustainable and viable in the long term it will draw more traffic to the Vale and even though the applicant is promoting measures to provide alternative access into the Vale they will have no power to force people to use the alternative measures.

*The Proposal Document*

3.1.24 From the main proposal document the following statements demonstrate that inadequate consideration has been given to sustainable travel.

*The Location plan (page 3)*

3.1.25 Sets out how ideal it will be to travel to the site by road from the A12 along the A134. Except a reference to pedestrian access there is no information on how it is located in reference to bus and train services.

*Renewable Energy Centre (page 31, second paragraph)*

3.1.26 “The Renewable Energy Centre will offer a practical demonstration of sustainability encouraging visitors to consider their impact on the environment through stimulating information about energy, climate change, water and travel.”

3.1.27 82% of the people visiting the proposed development are predicted to come by car. Locating such a development as this location creates contradictory messages about travel and its impact.

**Policy TA1 (Accessibility and Changing Travel Behaviour) –**

3.1.28 This policy states that ‘...*Future development in the Borough will be focused on highly accessible locations, such as centres, to reduce the need to travel. Developments that are car-dependent or promote unsustainable travel behaviour will not be supported*’.

3.1.29 The Horkesley Park proposal still clearly fails to meet the requirement of policy TA1 that developments should not be car-dependent, given that 82% of the 316,250 visitors would be expected to arrive by car, and the level of parking provision would remain the same as that proposed in the previously refused application.

3.1.30 Although the projected number of visitors has been reduced from 485,000 in the previous application to 316,250 in the current application, it is stated that it is anticipated that the average dwell time per visitor would increase and as such the proposed level of parking remains the same as for the previous scheme. The proposed car park does not constrain the demand.

3.1.31 The planning policy statement states that a Travel Plan has been developed for Horkesley Park that meets the objectives of these policies. A supplementary addendum to the 2009 travel plan has been provided which states that although elements of the scheme have been changed or removed the previous travel plan is considered to remain valid. The projected number of visitors who would travel to the site by car would remain at 82%.

**Policy TA2 (Walking and Cycling) –**

3.1.32 Requires new development to contribute towards new walking and cycling improvements where appropriate.

- 3.1.33 The location of the proposal makes it very difficult to serve by sustainable transport and relies very heavily on access by the private motor vehicle as it made clear in the Vectos report.
- 3.1.34 The proposed location makes it very difficult to encourage walking and cycling on a regular basis.
- 3.1.35 However, if this development was to proceed there are a number of walking and cycling measures which have been identified that should be introduced to attempt to stimulate leisure based walking and cycling. Changes to the design are required and investment in a range of initiatives. This includes using walking and cycling as ways to access the Dedham Vale and the Stour Valley especially to the east of the A134. Although such measures may help access the surrounding areas for leisure based walking and cycling, they would not provide a realistic method of travelling to the development in the first place due to the location of site as made clear in the Vectos report.
- 3.1.36 A circular walking, cycling, or horse drawn cart trail route around the site, similar to the route around sites such as Alton Water or Carsington Water, could be considered subject to impacts on the AONB.

**Policy TA3 (Public Transport) –**

- 3.1.37 This policy states the Council's commitment to increase modal shift towards sustainable modes and focuses on Colchester's role of a Regional Transport Node.
- 3.1.38 The modal split values for coaches are too high. Research based on the Visit England 2005 visitor survey confirms that 2% of trips made to Countryside, National Parks or Open Access Land are made by coach. The Queen Elizabeth Country park in Hampshire attracted 328,000 visitors in 2008/09 but only 3% arrived by coach<sup>1</sup>. Further details are provided in the Vectos review of the latest application which with reference to other similar developments finds that "the coach modal share for the development has been overstated and, given the absence of any other realistically available modes of transport that a higher car usage for visitors than suggested in the Supplementary Transport Assessment would result".
- 3.1.39 The proposal also includes a number of measures to encourage the use of public transport e.g. improved regular service to the railway station, links into the Dedham Vale, discounted travel for staff. However, there is a lack of incentive to use such modes of travel over the private car and no certainty that such measures would be financially viable in the long term, demonstrating that the location is unsustainable.

**Policy TA5 (Parking) –**

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<sup>1</sup> SBA Horkesley Park Planning Application Review, November 2010

- 3.1.40 This policy states that car parking will be managed to support the economy and sustainable communities. It is stated that provision for disabled, cycle and motorcycle parking will need to be provided where appropriate.
- 3.1.41 The applicant's planning policy statement states that the parking levels at Horkesley Park are informed by the maximum standard and visitor numbers.
- 3.1.42 The amended transport assessment states that following revisions to the scheme there would be a reduction in the annual visitor numbers from 485,000 as set out within the planning application to 316,250. Due to these changes to the scheme it is anticipated that the average dwell time per visitor would increase and as such the proposed level of parking remains the same as for the previous scheme (220 formal car parking spaces with 400 to 500 overflow spaces).
- 3.1.43 The Council commissioned work from Savell Bird & Axon (November 2010) on the transport aspects of the previous proposal. With regards to parking it was concluded that on balance, given that the development does not assist in delivering any objectives of the Development Plan, it is reasonable to conclude that there is no case to relax the maximum provision allowed for in the Essex County Council Adopted Parking Standards. The Vectos report on the current revised application reaches similar conclusions and finds that free unconstrained car parking does not help achieve the objectives of sustainable travel. The total 720 spaces (including 'overspill' car park) does not constrain the demand to promote sustainable transport.
- 3.1.44 The proposed floor area for the current planning application (including the retention of existing buildings) is 9650sqm. The Parking Standard set out in the Adopted Parking Standards SPD for D2 (other uses) is 1 space per 20sqm. This gives a maximum parking standard of 483 spaces. This is the method of calculating maximum car parking supported in adopted policy.
- 3.1.45 An alternative method of calculating the parking requirement would be based on the visitor numbers contained in the Tourism Evaluation Report. The Tourism Evaluation Report for the revised scheme (page 80) states that on Sundays in August the peak attendance will be 1,144 during the peak 4 hours (2,284 per day). The addendum to the Transport Assessment states that 82% will arrive by car with an occupancy of 2.8 per car. This results in a total maximum number of cars of 335 on site. Whilst this is lower than the parking standard suggested by the Parking Standards SPD (2009), this is still higher than the 220 formal car parking spaces proposed.
- 3.1.46 As already noted the addendum to the travel plan submitted with the application states that there will continue to be 220 formal parking spaces with 400 to 500 overflow spaces. The above calculation and the

Vectos report therefore suggest that the overflow parking will be in regular use. The impact of this additional car parking on the footprint of activity on the site and the impact on the countryside and AONB should therefore be given due consideration.

3.1.47 The design and layout of the parking areas proposed does not give any priority to alternative modes of transport. The main entrance is surrounded by car parking. For the proposal to be credible in promoting sustainable transport it needs to rearrange the cycle, bus/coach and car parking and drop off.

**Policy ENV1 (Environment) –**

3.1.48 This policy states *'The Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The Council will safeguard the Borough's biodiversity, geology, history and archaeology through the protection and enhancement of sites of international, national regional and local importance. In particular, developments that have an adverse impact on Natura 2000 sites or the Dedham Vale Area of Outstanding Natural Beauty will not be supported.'*

3.1.49 The policy seeks to protect and where possible enhance unallocated greenfield land outside of settlement boundaries. Where development needs or is compatible with a rural location the policy also sets out seven criteria that must be demonstrably satisfied. This includes that it should be in accord with all relevant policies; be appropriate in terms of its scale, siting and design; protect, conserve or enhance the interests of natural and historic assets; and provide for any necessary mitigating or compensatory measures.

3.1.50 The applicant's planning policy statement states that no new built development will be within the ANOB and the design of the scheme is stated to improve the setting of the AONB. In particular it is stated that the development complies with the section of ENV1 which states *'Development will be supported at appropriate locations to improve public access, visual amenity and rehabilitate the natural environment'*. As stated earlier in this policy response concerns remain over the appropriateness of the location for a development of this scale and nature. Whilst improving public access and understanding of the countryside is a key benefit, the scheme involving paid access would not provide free open access to the natural landscape and there are concerns over the impact of the scale of the attraction. The proposal therefore does not appear to accord with all relevant policies, there remain concerns over the scale and siting of the proposal.

**Policy ENV2 (Rural Communities) –**

3.1.51 *'Outside village boundaries, the Council will favourably consider small-scale rural business, leisure and tourism schemes that are appropriate to local employment needs, minimise negative environmental impacts*

*and harmonise with the local character and surrounding natural environment.'*

3.1.52 The Horkesley Park proposal is not small-scale and on that basis cannot be seen to satisfy the criteria for location outside village boundaries.

**Policy ER1 (Energy, Resources, Waste, Water and Recycling) –**

3.1.53 This policy sets out the Council's commitment to carbon reduction. New development is encouraged to provide over 15% of energy demand through local renewable and low carbon technology (LCT) sources. Non-residential developments are encouraged to achieve a minimum BREEAM rating of 'Very Good'.

3.1.54 The applicant's planning policy statement states that the Horkesley Park development will include an eco-energy centre with demonstration projects to show how commercial and domestic measures can assist in carbon reduction and energy efficiency. It is stated there will be an ambition to achieve good or very good BREEAM ratings.

3.1.55 A commitment in the scheme to promote carbon reduction measures is in line with the objectives of the Core Strategy. At present it is not clear if the proposed scheme would provide over 15% of energy demand through renewable technology or if it would achieve the 'ambition' of a good or very good BREEAM rating. The applicant has, however, indicated that they believe this matter can be adequately addressed by condition.

**Development Policies (Adopted October 2010)**

**Policy DP1 (Design and Amenity) –**

3.1.56 This policy provides that all development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability.

3.1.57 As noted above the involvement of Hopkins Architects is considered a key benefit. The scale of the proposed visitor attraction in this location, however, would not appear to meet these sustainability requirements as set out elsewhere in this response and in the Vectos report.

**Policy DP5 (Appropriate Employment Uses and Protection of Employment and Existing Businesses) –**

3.1.58 This policy directs employment uses to designated employment zones and sets out acceptable uses. The policy also deals with the protection of land currently used for employment purposes. This policy is listed as relevant in the applicant's planning policy statement but is not commented on in any detail. The existing site is not allocated for employment purposes and this policy is not considered to raise any significant issues.

**Policy DP7 (Local Centres and Individual Shops) –**

3.1.59 This policy sets out that proposals for new retail units will be expected to be provided within designated shopping centres in the first instance in line with the sequential test. Elsewhere, proposals for new retail uses would have to demonstrate that they are of an appropriate scale for the local area they would serve and would represent no threat to the viability and vitality of existing centres and shops or retail uses planned to serve a new community and identified in a masterplan or planning permission.

3.1.60 The applicant's supporting statement states that the shop and restaurant would be ancillary to the overall delivery of the visitor centre. It is stated the amount of floorspace would be significantly below the threshold which would trigger an assessment of the impact on existing centres. The NLP report also provides commentary on this issue and confirms that the scale of retail (A1) and café/restaurant (A3) floorspace is considered to be broadly reasonable for such an attraction. As currently proposed, therefore, the development would not appear likely to result in adverse impact on town centres as a result of the retail part of the scheme. It is accepted that some form of ancillary shop and/or café is a common and acceptable feature in most visitor attractions.

3.1.61 It is considered necessary that the users of such facilities are only able to gain access having purchased a general entrance ticket, as is currently proposed. The absence of such a requirement may lead to unacceptable town centre retail in the countryside not related to the rest of the visitor attraction. In such circumstances an individual sequential test would be appropriate. The potential relationship with the other display or exhibition areas of the attraction is a potential area of concern if these areas are to be used for display or advertising in association with the retail operation. Additional information provided indicates that this would not be the case, however, the degree of control that can be exerted on retail sales and entrance ticket requirements through planning conditions or legal agreements requires careful consideration.

**DP9 (Employment Uses in the Countryside) –**

3.1.62 *'Employment development proposals within the countryside must contribute to the local rural economy and help sustain rural communities. The proposed use should be of a small scale that does not harm the rural character of the area either by the nature and level of activity (including the amount of additional traffic generation on rural road) or any other detrimental effects such as noise and pollution.'*

3.1.63 The applicant's planning policy statement states the visitor centre will create 150 much needed jobs in the countryside. It is stated the project is not small scale but a regional attraction. The existing agricultural use is stated to be dormant due to market considerations and the site has

always been occupied by a number of related agricultural and non-agricultural activities. It is stated there will be no increase in built form.

3.1.64 Policy DP9 accords with the rest of the Council's spatial strategy and with the East of England Plan in directing larger scale development towards town centres. Small scale proposals are supported where these contribute to the local community and help sustain rural communities. The Horkesley Park proposal does not accord with this approach. If successful the proposal would clearly have benefits in terms of job creation. The direct benefits to the local rural community are less clear given workers may travel from the wider area including surrounding towns. The policy is also consistent with the sustainability objectives of the NPPF. Whilst if successful the proposal would deliver economic, employment and leisure benefits, the proposal does not appear to comply with this adopted policy by virtue of its large scale.

**Policy DP10 (Tourism, Leisure and Culture) –**

3.1.65 *'In rural areas, locations suitable for tourism development should help to support existing local community services and facilities. The proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites. It is recognised that not all rural locations are readily accessible by public transport. Where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation'.*

3.1.66 The applicant's original planning policy statement states that this policy should be read alongside regional policy C2. It is also stated that the proposal will create jobs and will have improved accessibility through public transport and non-motorised uses. It is stated that it will not cause significant harm to the amenity of those living nearby. The East of England Plan is to be revoked as of 3 January 2013.

3.1.67 The proposal, whilst reduced in scale from that previously proposed, is still a large scale proposal (316,250 visitors per annum) within a rural area. The use is therefore not considered to comply with the above criteria. Accessibility is poor and as set out in the Vectos report this does not appear to be possible to overcome through the proposed travel plan measures. The proposal is not small scale and therefore does not accord with this policy.

3.1.68 It is noted that in the applicants planning policy statement it is stated that (paragraph 3.6) DP10 deals with small scale tourist facilities. It should be noted that this policy covers all tourism development in the borough not just for 'small scale' tourist facilities. It directs larger facilities to the town and supports appropriate small scale tourist developments in the rural areas.

**Policy DP14 (Historic Environment Assets) –**

3.1.69 *'Development will not be permitted that will adversely affect a listed building, a conservation area, historic park or garden or important archaeological remains.'*

3.1.70 The applicant's statement argues that the Horkesley Park development will improve the setting for the Grade I listed church of All Saints. There are no detailed planning policy comments on this issue, however, it is considered important to consider expert conservation advice on this issue.

**Policy DP17 (Accessibility and Access) –**

3.1.71 DP17 requires all development to seek to enhance accessibility for sustainable modes of transport as well as including requirements for Travel Plans and Transport Assessment. This includes requirements for incorporation of satisfactory and appropriate provision for pedestrians and cyclists as well as protection for the public rights of way network.

3.1.72 Despite the reduction in the scale of the proposal the proposed Travel Plan remains largely unaltered. The previous concerns regarding the sustainability of this location for a large scale tourist attraction therefore do not appear to have been presently adequately addressed as already noted in the TA policies section above. The development remains car dominated and therefore does not appear successful in giving priority to sustainable modes.

**Policy DP19 (Parking Standards) –**

3.1.73 Although not mentioned in the earlier application or in the applicant's statement this policy is relevant in so far as it provides the policy basis for the Adopted Parking Standards Supplementary Planning Document (SPD) which sets parking standards for all types of uses.

3.1.74 The proposed floor area for the current planning application (including the retention of existing buildings) is 9650sqm. The Parking Standard set out in the Adopted Parking Standards SPD for D2 (other uses) is 1 space per 20sqm. This gives a maximum parking standard of 483 spaces. This is the method of calculating maximum car parking supported in adopted policy. The 720 spaces provided is therefore in excess of the maximum standard and conflicts with locally adopted policy.

3.1.75 The applicant's revised transport assessment states that following revisions to the scheme although the number of visitors has reduced it is anticipated that the average dwell time per visitor would increase. As such the proposed level of parking remains the same as for the previous scheme (220 formal parking spaces with 400 to 500 overflow spaces). The calculations carried out in response therefore suggest that due to the unsustainable location and the high level of car use the overflow parking may be in regular use and the impact of this should be carefully considered as already noted above.

- 3.1.76 As noted in the TA policies section the design and layout of the parking areas does not give any priority to alternative modes of transport and greater priority should be given to promoting sustainable transport.
- 3.1.77 For cycle parking the adopted Parking Standards SPD requires 10 spaces plus 10% of the car parking standard. Based on a car provision of 483 spaces the cycle provision should therefore be 58 spaces. According to the application form 60 cycle spaces are now provided by the proposed scheme, which meets the required minimum standard.
- 3.1.78 The provision required for Powered Two Wheelers (PTW) is a minimum provision of 1 space, + 1 per 20 car spaces (for 1st 100 car spaces), then 1 space per 30 car spaces (over 100 car spaces). Based on the above calculated car parking requirement of 483 spaces this would give a minimum PTW provision of  $1 + 5 + 13 = 19$  PTW spaces. The 18 spaces that it is stated will be provided on the application form is therefore slightly substandard but broadly in line with the required level of provision for PTW.
- 3.1.79 The Parking Standards SPD states that with all end destination use classes (i.e. non-dwelling) being maximum standards, the disabled parking provision should be included within the appropriate vehicle parking standard. The approach taken by the applicant of including the disabled provision within the total car parking on the application form is therefore correct.
- 3.1.80 The approach taken to disabled parking provision in the Parking Standards SPD is consistent in requiring that for 200 vehicle bays or less there should be provision of 3 bays or 6% of total capacity, whichever is greater, or for Over 200 vehicle bays there should be a provision of 4 bays plus 4% of total capacity. Based on the above calculated car provision of 483 car parking spaces this would give a minimum disabled provision of  $4 + 19$  bays = 23 bays. The application form states that 22 spaces will be designated for disabled use which again is slightly substandard but broadly in line with the requirements of the Parking Standards SPD.
- 3.1.81 It should be noted that these calculation have been based on the floorspace of the proposed buildings and therefore do not make allowance for the parkland or other open areas of the site. It is noted that coach parking will also be provided as stated on the application form.

**Policy DP20 (Flood Risk and Management of Surface Water Drainage) –**

- 3.1.82 This policy covers flood risk considerations. All development is required to incorporate measures for the conservation and sustainable use of water.

3.1.83 The applicant states that flood risk is not an issue and the Environment Agency has previously been satisfied. It is stated that SUDs measures are incorporated into the proposal which complies with the requirements of DP20.

**Policy DP21 (Nature Conservation and Protected Lanes) –**

3.1.84 Policy DP21 provides that Protected Lanes, which are shown on the Proposals Map, should 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.

3.1.85 There are a number of protected lanes in the area, including Holt Road, Workhouse Road and Fishpond Hill. The potential for additional development in the area to put pressure on these adjacent roads is a relevant consideration. It may be appropriate to require an agreed monitoring regime to assess the impact on these lanes and any mitigation measures introduced if it was found that traffic from this development was having a physical impact on these lanes.

**Policy DP22 (Dedham Vale Area of Outstanding Natural Beauty) –**

3.1.86 This policy requires that a proposal in or near the Dedham Vale AONB:

- (i) *Makes a positive contribution to the special landscape character and qualities of the AONB*
- (ii) *Does not adversely affect the character, quality views and distinctiveness of the AONB or threaten public enjoyment of these areas;*
- (iii) *Supports the wider environmental, social and economic objectives as set out in the Dedham Vale AONB and Stour Valley Management Plan; and*

3.1.87 The applicant states that the scheme aims to enhance the AONB and will be of the highest design and quality. They also stated that the location of buildings would be outside of the AONB; the ethos of the scheme is to show the best of the AONB; and that there will be significant opportunity to assist in the delivery of wider AONB management objectives.

3.1.88 Whilst these points are noted, the wording of the policy applies to proposals in or near the AONB and therefore a major scheme that crosses the boundary of the AONB would be covered by these policy requirements. The scale of the proposed attraction and its location in relation to the surrounding area and AONB raise concerns over its impact on the tranquillity of the existing AONB. The proposal is stated to attract 316,250 visitors a year the majority of which will travel to the area in a car. This increases the risk of dispersal tourism including to hotspots in the AONB which on some occasions could not cope with more cars.

3.1.89 The proposal, therefore, may not comply with the above criteria to make a positive contribution to the AONB and to avoid adverse effects

on its character. It would also appear to conflict with many of the objectives of the *Dedham Vale AONB and Stour Valley Management Plan* which seeks to ensure development is of an appropriate scale and protects tranquillity. Whilst the plan encourages sustainable business, tourism and transport opportunities, the objectives particularly support quieter informal recreation. Given that Horkesley Park is an entry-paying attraction, it would not appear to accord with the intent of furthering 'public enjoyment' and 'informal recreation' which imply free access.

### *Summary of local policy issues*

3.1.90 In summary, the applicant's statement makes the case that the strategic policies of the Development Plan support the project as it will be fully sustainable, both supporting and enhancing the countryside. As set out above, the Council's locally adopted policies remain relevant and applicable to this proposal. Whilst there is support under some policies there are significant areas of conflict with the proposed development particularly as a result of the scale of the proposal and unsustainable location.

## **3.2 National planning policy**

3.2.1 The National Planning Policy Framework (NPPF) was published on the 27 March 2012 and is now the relevant national planning policy material consideration replacing the Planning Policy Statements and Guidance notes referred to in the previous reason for refusal.

3.2.2 The planning policy statement provided by the applicant states at paragraph 3.4 that 'in all respects the NPPF supports the application proposals' and attention is drawn to the presumption in favour of sustainable development as a golden thread running through the NPPF.

3.2.3 The planning policy statement provided by the applicant does not go into detail on the NPPF but the Council considers the following elements to be especially relevant when considering this proposal. This is not necessarily exhaustive and other sections of the NPPF may also be relevant. The following areas, however, may particularly assist in the determination of the application:

3.2.4 The 'Achieving Sustainable Development' section at the start of the NPPF sets out the economic, social and environmental aspects of sustainability. Paragraphs 11 and 12 reconfirm the primacy of the Development Plan and make clear that development that accords with it should be approved, and that development that conflicts with it should be refused unless material considerations indicate otherwise. This section also confirms that the policies in the rest (paragraphs 18 to

219) of the NPPF taken as a whole constitute the Government's view of sustainable development in England in practice.

- 3.2.5 The *Core Planning Principles* set out in the NPPF (pages 5 and 6) emphasise that the planning system should be genuinely plan-led, empowering local people to shape their surroundings through the use of local and neighbourhood plans. Planning should “proactively drive and support sustainable economic development”. Proposals that would deliver sustainable economic development should therefore be supported. If viable and successful the proposed development would create a new visitor attraction, deliver jobs on and off site, and help deliver educational facilities in particular. The applicant's justification statement includes reference to a number of potential economic and social benefits. These include the need for countryside education to benefit the wider population. The scheme also seeks to make provision for improved disabled access to the countryside which would be beneficial and would accord not only with the NPPF but also with the Council's objectives for inclusive access. The economic benefits are stated to include not only the jobs referred to above but are also stated to include ‘spin-off’ economic benefits to other businesses in the area.
- 3.2.6 The NPPF also states that planning should “take account of the different roles and character of different areas, promoting the vitality of our main urban areas... ...recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”. The natural environment should be preserved and enhanced and allocations directed to land of lesser environmental value.
- 3.2.7 Planning should “contribute to conserving and enhancing the natural environment” and “encourage the effective use of land by reusing land that has been previously developed”. The *Core Planning Principles* also set out that planning should “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”.
- 3.2.8 Neither the planning policy statement nor the addendum to the travel plan provided by the applicant address the core planning principles in detail. Whilst economic development should be supported, the principles also seek to ensure development is sustainable in social and environmental terms. A development that is claimed to attract 316,250 visitors per annum will generate a significant need to travel. The site is located in a countryside location approximately 6km from Colchester station. Growth in this area could not be adequately served by walking and cycling due to the distance from main urban areas, other attractions, and transport interchanges such as Colchester Station, and also the lack of suitable routes. Public transport is addressed later in this response in more detail, however, the proposed modal split to coach services is also considered high given the typical modal share achieved at other attractions.

3.2.9 Paragraph 19 of the NPPF states that ‘significant weight should be placed on the need to support economic growth through the planning system’. The applicant’s supporting statements provide a clear summary of the stated significant economic benefits of the scheme. In particular it is stated that the proposal would employ 106.5 full time equivalent staff. These benefits support economic development in the borough, although the extent of benefits to the immediate rural area are less clear given that employees may travel to the site from surrounding towns. The proposal would support tourism contributing to economic growth which accords with the NPPF and other development plan policies covered later in this response. This is an important issue and considerable weight is attached to this point in the NPPF. The application states that the proposed development would also have a focus on education and would therefore be a benefit to schools and young people in the area. The NPPF does, however, also include other requirements regarding sustainability and the protection of designated areas against which a balanced assessment must be made. It would appear the scheme would bring important economic benefits which should be given significant weight, however, the Britton McGrath report<sup>2</sup> provided November 2012 casts some doubt over the viability of the business model as set out in the application and therefore there is also doubt over the ability of the scheme to deliver and sustain the proposed visitor numbers and other associated benefits in the future. Should it be demonstrated that a viable business model can be achieved, the economic benefits of the proposal should be given significant weight as set out by paragraph 19 of the NPPF. The scheme must still be assessed based on a balanced assessment of the economic, social and environmental aspects of sustainability.

3.2.10 Paragraph 173 of the NPPF recognises the importance of viability and states ‘Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking.’ Similar advice exists in the document ‘Viability Testing of Local Plans’ (also known as The Harman Report) which states ‘Developers and landowners seeking to bring forward development should also consider this advice and the approach it promotes.’ The RICS document ‘Financial Viability in Planning’ also recognises that ‘Financial viability has become an increasingly important material consideration in the planning system.’ It goes on to say that ‘The NPPF sets out to achieve growth through attracting investment and implementing plans. This guidance note starts from the premise that the private sector will continue to be relied upon to deliver the majority of commercial, residential and mixed-use developments, together with consequential planning obligations. It (the NPPF) further recognises that development for which there is no plausible business case, on viability grounds or for other reasons, will not take place which is clearly recognised in the NPPF. A shared

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<sup>2</sup> Britton McGrath Associates, Stour Valley Visitor Centre Horkesley Park: Independent Project Review, prepared for Colchester Borough Council, November 2012

understanding of development viability for planning purposes by all those involved is, therefore, essential to achieve consistency in both approach and assessment. ... Financial viability assessments for planning purposes should be approached on an objective and best practice basis to the extent that the conclusions are capable of unbiased objective scrutiny. This may occur during all stages of the development management process, including to an appeal at a public inquiry, or, in the case of policy making, through to an examination in public.'

3.2.11 Viability is therefore a relevant material consideration and the applicant has provided a business plan to the Council in order to demonstrate the viability of the visitor centre. Paragraph 2.39 of the applicant's planning statement states that "The planning application includes the Business Plan for the scheme for the consideration of the Council. This will demonstrate the short and long term viability of the scheme." The submitted business plan also states at paragraph 1.1 that "CBC needs to satisfy itself that the Stour Valley Visitor Centre at Horkesley Park as proposed in the Planning Application is financially viable and sustainable."

3.2.12 In accordance with paragraph 24, a sequential test should be applied to applications for main town centre uses that are not in an existing centre or in accordance with a development plan. The applicant has carried out a sequential test for the site as a whole. The application does not include a sequential test applied to the proposed main town centre uses on an individual basis. The NPPF requires applicants and Local Planning Authorities to show flexibility in terms of format and scale. The wording of the NPPF, the Nathaniel Lichfield & Partners (NLP) report<sup>3</sup> provided to the Council, and Dundee legal decision (2012) highlight the need to consider sites that are suitable for the development proposed so in this respect consideration of the site as a whole may be appropriate. There is however a need to show realism and flexibility in the proposals as highlighted in the Dundee decision and in the NPPF. It may therefore not be appropriate to require disaggregation of the uses with regards to the sequential test. With regards to sustainability considerations, however, the proposed attraction does consist of a number of 'main town centre' uses, as set out in the NPPF, which are intensive in their nature and as a result attract a large number of visitors to this unsustainable location. This is highlighted by the Tourism Evaluation Report (page 80) which makes clear that the "vast majority" of visitors will not visit the open countryside elements of the attraction. The scale of the attraction and the nature of the uses therefore add to the harm in sustainability terms by resulting in a high number of visitors travelling to this car dependent unsustainable location. In this respect it is notable that the applicant does not appear to have explained or carried out detailed analysis of

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<sup>3</sup> Nathaniel Lichfield & Partners, Horkesley Park Planning Appraisal, 9 November 2012

why a smaller scale tourist attraction incorporating fewer main town centre uses could not be a viable proposal for this site.

3.2.13 Paragraph 28 of the NPPF is identified in the applicant's planning policy statement as being particularly relevant and provides support for economic growth in rural areas. The third bullet point of this paragraph states that local and neighbourhood plans should '*support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres*'. The proposal, if successful, would help to support economic growth in this rural area and provide a new visitor attraction. Alongside this general support for rural economic development, however, are policy requirements that rural tourism development must be sustainable, must respect the character of the countryside, and must be sited in appropriate locations where identified needs are not met. The scale of the current application and location of the site continues to raise concerns over the level of conformity with these policy requirements as already set out above.

3.2.14 The applicant's Tourism Evaluation Report provides information on the need for the proposal. The NLP and Britton McGrath from November 2012 reports both include detailed information on need and therefore it is not proposed to repeat this information in this response. The NLP and Britton McGrath reports do, however, highlight numerous tourist attractions spread across the region including attractions with similar types of facilities to those proposed at Horkesley Park. The Britton McGrath report on the regional status of the proposal (18 December 2012) states there is no firm definition of what can be considered regional. It is correct that there is no definition of this in the Development Plan but neither is there particular policy significance to whether the development could be termed 'regional' or not. The application of the term 'regional' to the attraction does not make it any more or less acceptable when judged on its merits against the policies in the development plan and against all of the relevant material considerations.

3.2.15 With regards to the significance of the proposal the most relevant factors would be whether the scheme would successfully provide a large scale tourist attraction, and also whether it would generate sufficient visitor numbers in order to make it viable and successful and address the concerns raised in the first Britton McGrath report (November 2012). This is particularly important if significant weight is to be given to the economic benefits of the proposal. If the proposal is not viable then the benefits would not be delivered and consequential changes to the nature of the proposal may result.

- 3.2.16 The Britton McGrath report (18 December 2012) refers to the Chinese Garden, the Constable Experience, and Suffolk Punches elements of the proposed scheme and concludes that the proposal has the potential to become a 'regional attraction' provided certain conditions are met. This appears to be based on significant investment in the Chinese Garden which has not been detailed in the written supporting information provided with the application. It is also based on at least a few authentic Constable paintings being exhibited in the Chantry. It is stated that discussions are on going but there would appear to be no certainty in this being achieved. The Suffolk Punch element is considered to be strong by Britton McGrath but they also refer to evidence that Shire Horses do not tend to attract high numbers of visitors at another attraction.
- 3.2.17 The latest report from Britton McGrath associates (18 December 2012) also considers aggregation in relation to likely penetration rates and forecasting visitor numbers. The report highlights that comparators, such as Hop Farm in Kent, also offer visitors a multi-faceted offer. This is reflected in the higher penetration rate that such attractions achieve. Given that the Britton McGrath analysis of the likely penetration rate at Horkesley Park has been based on such comparator examples, the effect of a multi-faceted offer has already been taken into account. The report states that Britton McGrath associates "stand by the analysis presented in the previous document with regard to penetration rates".
- 3.2.18 The report concludes that the previous anticipated figures for visitor numbers provided by Britton McGrath associates remain valid. In the 18 December report from Britton McGrath it is stated that the visitor figures may reach the upper ends of the 90,000 to 130,000 visitors per year estimate and could potentially reach 150,000 per year.
- 3.2.19 The position on the likely numbers of visitors that the scheme would attract, therefore, appears to be largely unchanged by this latest Britton McGrath report. The Britton McGrath report from November 2012 provided detailed analysis and concluded that with this number of visitors the attraction would not be viable. The latest reports do not include any information to alter these conclusions.
- 3.2.20 Paragraph 30 states that encouragement should be given to solutions which support reductions in greenhouse gas emission and reduce congestion. The generation of a high level of need to travel (316,250 visitors per year) to this relatively remote location and the proposed high numbers of visitors accessing the site by private car (82%) would not assist with these objectives.
- 3.2.21 Paragraph 32 highlights the need to provide a transport statement or transport assessment for all developments that generate significant amounts of movement.

3.2.22 Paragraph 34 requires that *'plans and decisions ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However, this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas'*. If the proposal is viable the development would rely on a high level of car based movement given the proposed scale of the attraction and stated numbers of visitors. A brief addendum to the Travel Plan has been provided by the applicant and states that, in the main, the plan provided with the earlier application remains relevant. Given the reliance on the same travel planning measures and that the previous application report found that the location could not be made sustainable, this is considered to remain a fundamental issue with the application. There is, as noted in the NPPF, a need to have regard to the need to support for the rural economy, however, as noted above paragraph 28 of the NPPF also requires schemes to be sustainable, respect the character of the countryside, and be sited in appropriate locations where identified needs are not met. Given the scale of the proposal in this countryside location and the noted problems with the sustainability of the location it would appear there is conflict with these requirements. Although the proposal has been reduced in scale from the previous application it remains large scale. It is therefore not clear that sufficient flexibility in the scale and format of the proposal has been shown, nor has it been demonstrated why a smaller scale proposal without significant 'town centre uses' would not be viable and successful. This is significant given these uses are intensive uses that attract high volumes of visitors to the site, and at least some of these visits may be for a primary purpose that is not directly required in the countryside such as the cook school, food or nursery elements. These elements serve to increase the scale of the attraction and therefore further increase the harm associated with the high level of use of unsustainable modes of transport to access the site. Despite the proposed travel plan measures the information submitted confirms 82% of the 316,250 visitors would travel to the site by car. This fact itself suggests that the site cannot be made sustainable, as was indeed stated in the Committee report for the previous refused application.

3.2.23 *Section 7* of the NPPF places great importance on the design of the built environment in general. It is noted that Hopkins Architects have been commissioned for this scheme and that a high quality of built design is desired by the applicant. There are no detailed planning policy comments on this issue as this is considered to be a matter for expert design advice. A high quality design would however accord with the policy objectives of the NPPF and in this regard the involvement of a respected architect is clearly beneficial.

3.2.24 Paragraph 75 states that planning policies should protect and enhance public rights of way and access. There are a number of footpaths within the application site which it is proposed to enclose in a wide green lane

flanked by 1.4 metre high hedges and fencing. The impact of this on the public rights of way will therefore need careful consideration.

3.2.25 Paragraph 95 states that new development should be planned '*in locations and ways that reduce greenhouse gas emissions*'. Whilst the applicant claims the potential for combined trips makes the proposal sustainable, the transport information submitted by the applicant shows that 82% of the proposed 316,250 visitors would arrive by car. The actual level of car use may be higher than this if the bus / coach modal share has been overstated given it is estimated to be much higher than that normally achieved in other similar attractions as set out in the Vectos report<sup>4</sup>. In addition to the location, the scale and mix of intensive uses on the site adds to the travel demand and the potential for a smaller scale of proposal in overall terms does not appear to have been adequately explored. The development is therefore not planned in a location or in a way that reduces greenhouse emissions.

3.2.26 *Section 11* of the NPPF (conserving and enhancing the natural environment) is particularly relevant given the location of the proposal within the countryside on the boundary of the Area of Outstanding Natural Beauty (AONB).

3.2.27 Paragraph 109 states that the planning system should protect and enhance valued landscapes. A proposal of this scale has potential to impact on the local rural area and potentially on the AONB.

3.2.28 Paragraph 110 requires that plans should allocate land with the least environmental and amenity value. Whilst the location close to the AONB may be desirable from the applications business point of view this may increase the potential for harm to this valued landscape.

3.2.29 Paragraph 111 states that planning decisions should encourage the effective use of land that has been previously developed and is not of high environmental value. Previously developed land is defined in NPPF as "*land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.*"

3.2.30 Agriculture is defined in section 336 of the 1990 Act as including "horticulture, fruit growing, seed growing, dairy farming, the breeding

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<sup>4</sup> Vectos, Planning Application Review, October 2012

and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purposes of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly." It is therefore considered that horticultural nursery uses should normally be considered to come within the definition of agriculture. The applicant has not provided detailed information on the previous uses of the site but having regard to the above it is likely that glasshouses used previously for growing of tomatoes would not fall within the definition of previously developed land. It is noted that in the supporting information the applicant makes reference to the definition of previously developed land provided in the glossary to the LDF. Whilst this is a useful simple definition it is not exhaustive and there is further detailed interpretation provided by national policy and legislation on this issue as set out above.

3.2.31 Paragraph 115 states that '*great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty*'. Part of the application site is within the Dedham Vale AONB. This section is therefore especially relevant and it is important the development does not negatively affect the AONB. It is not only the impact of the built development itself that has the potential to impact on the AONB but also the associated activities around and outside of the site.

3.2.32 Paragraph 116 deals with major developments in AONBs and states that planning permission should be refused for major developments except in exceptional circumstances where it can be demonstrated they are in the public interest. The proposed new built development would be outside of the AONB, however, much of the application site is within the AONB. The land within the AONB would be changed in use from agricultural to a country park use as part of a large scale tourist attraction. It is therefore considered that the criteria set out in paragraph 116 are relevant criteria against which the proposals should be assessed. This includes consideration of the need for the development, the scope for locating it elsewhere or meeting the need in another way, and any detrimental effect on the environment. The scale of the proposal and activities associated with it would appear to have the potential to impact on the local environment in the surrounding AONB. The justification statement provides some details on the claimed need for a proposal of this type and scale, however, the application does not address the above policy criteria in detail as the built development is stated to be outside of the AONB. It is clear that the tourist attraction as a major development as a whole would include land within the AONB and therefore it is considered that this paragraph of the NPPF is relevant to this proposal.

3.2.33 Paragraph 125 states that planning policies and decisions should limit the impact of light pollution for artificial light on local amenity, intrinsically dark landscapes and natural conservation. This may be an issue if any operations associated with the site would be carried out in the hours of darkness.

3.2.34 *Section 12* of the NPPF (conserving and enhancing the historic environment) is relevant given All Saints Grade I Listed church is adjacent to the application site. There are no particular planning policy comments on this issue.

#### *Summary of national policy issues*

3.2.35 In summary, the recently published NPPF is a significant material consideration for this application. The focus on sustainability runs throughout the whole NPPF and the application must therefore be assessed against all of the above identified areas when considering if the proposal represents sustainable development. As set out above there are conflicts with many of the objectives of national policy.

### **3.3 Other material policy considerations**

#### DCLG Good Practice Guide on Planning for Tourism (2006)

3.3.1 The External Review of Government Planning Practice Guidance carried out by Lord Taylor (December 2012) notes that this document explains the planning system in the context of tourism. The review found that the guidance provided helpful background but as local authorities who have tourist assets understand the issues and plan for them accordingly it was recommended that the document could be cancelled. The guidance, however, remains helpful as noted by the in the Taylor report and it is therefore summarised below.

3.3.2 The tourism good practice guide emphasises the importance of tourism to the national economy. The guidance follows the plan-led system but also includes key planning considerations for tourism development. These are:

- *where the development is located* – developments need to be located where they are accessible to visitors (and for many, but not all developments, by means other than just by private car) and where they do not have an adverse impact upon sensitive environments;
- *how they are designed* – developments should be attractive to users, they need to work well in functional terms and they need to use natural resources in an efficient manner; and
- *how they fit into their surroundings* – developments need to respect their environs and complement them rather than detract from them. They should be designed to have a positive impact upon landscape, the historical setting and upon ecology.

- 3.3.3 When considering the location of proposals, paragraphs 5.4 and 5.5 are particularly relevant. Paragraph 5.4 acknowledges that there may be a case for small scale tourism schemes that meet functional need in less accessible locations. This approach is consistent with the Council's locally adopted policy which supports small scale rural tourism. The Horkesley Park proposal, however, is large scale and remains in conflict with this paragraph.
- 3.3.4 Paragraph 5.5 states that in all cases, planners will need to weigh up the other benefits of a tourism proposal against any disadvantages arising from its location. Some of the key considerations will be the extent to which the proposal:
- Helps to protect or improve a specific site or general location
  - Contributes to tourism in the locality
  - Provides a new facility for the local community as well as visitors
  - Assists more generally with diversification of rural economies; and, where appropriate
  - Impacts on the vitality and viability of town centres
- 3.3.5 The Good Practice Guidance, whilst supportive of tourism in general also seeks to ensure that proposals should result in levels of tourism that are appropriate and sustainable for a given area. As noted in the planning policy response to the earlier application, in 'honeypot' areas such as the Dedham Vale, this means that visitor numbers must be carefully managed to ensure that the environmental capacity of the area is not overstretched.

#### Dedham Vale AONB Management Plan 2010 - 2015

- 3.3.6 As required by Section 85 of the Countryside and Rights of Way Act 2000 this plan formulates policy for AONB local authorities relating to the management of the Dedham Vale AONB.
- 3.3.7 The strategy plan contains 5 key themes and a number of management objectives. The applicant's planning policy statement also identifies a number of these objectives as particularly relevant. All of the objectives which may be relevant are not reproduced in this planning policy response, however, it is considered that the following objectives may be of particular relevance to the latest proposal:

***LFB4*** *Seek to protect the tranquillity of the area, including its setting, from intrusive communication and utility infrastructure; noisy recreational pursuits; air traffic; some forms of national scale renewable energy facilities and light pollution.*

- 3.3.8 It is therefore important that the proposed uses at Horkesley Park do not harm the tranquillity of the surrounding area.

***SP7*** *Ensure that development does not detract from the area's character and that they meet sustainability principles.*

3.3.9 The impact of a proposal of this scale on the character of the area is likely to be an area of concern. There are also concerns regarding the sustainability of the scale, location and mix of uses as already noted above.

**OB4** *Development should be of an appropriate scale and take into account the landscape qualities of the area, from Local Landscape Character Assessments and should not adversely affect the integrity of any European site.*

**OB9** *Maintain and protect the tranquillity of the area, particularly in the AONB.*

3.3.10 The proposal is large scale and there are concerns regarding the impact of the proposal and associated activities.

**OB10** *Encourage sustainable businesses, tourism and transport opportunities to the area.*

**OB11** *Improve popular understanding of the area, in particular the AONB designation, its purpose and its heritage features.*

3.3.11 The proposal would aid popular understanding and supports this objective. As already noted above, however, there are concerns regarding the schemes sustainability.

**EtA1** *Continue improvements to the public rights of way network and identify opportunities to improve access facilities.*

**EtA2** *Where new visitor facilities are provided within and/or affecting the area they are of appropriate scale and nature to the AONB and Stour Valley and will not adversely affect the integrity of any European site.*

**EtA3** *Support the work of the Visitor Management Group and implement the sustainable tourism action plan for 2009 to 2012.*

**EtA4** *Support the work of Managing a Masterpiece: The Stour Valley Landscape Partnership and its projects relating to visitor enhancements and increased understanding of the special qualities of the area.*

**EtA5** *Identify opportunities to increase quiet informal recreation and public access that do not compromise the tranquillity and natural beauty of the area and will not adversely affect the integrity of any European site.*

**EtA6** *Raise awareness of the importance of the AONB and Stour Valley to visitors, businesses and residents.*

**EtA7** *Information, promotion and interpretation about the AONB and Stour Valley should promote its special qualities.*

3.3.12 The scale of the proposal raises concerns over the ability of the scheme to avoid adverse effects on the character of the area. Given that Horkesley Park is an entry-paying attraction, it would not appear to accord with the intent of furthering 'informal recreation' which imply free access.

#### Haven Gateway Green Infrastructure Study

3.3.13 Colchester is covered by a sub-regional study, the Haven Gateway Green Infrastructure Study (2008) which identified Abbots Hall (next to the Blackwater Estuary in Essex), Rendlesham and Tunstall Forests (Suffolk) and Alton Water (south of Ipswich) as potential sites which

could serve as a regional level Accessible Natural Greenspace (ANG). No regional level sites were identified for the Stour Valley area given its designated status. Instead, the document states that 'it is vital that great care is given to siting, scale and detailed design of new development to reflect local character and maintain the distinctiveness of the Areas of Outstanding Natural Beauty.' The Colchester Borough Green Infrastructure Strategy (August 2011) may also be a relevant material consideration for the application. This analysis, however, also excluded spaces with known access restrictions (e.g. entrance fee, restricted opening hours) or where there was no right of access and the proposal at Horkesley Park would fail to meet these criteria.

- 3.3.14 The open areas of the site would continue to only be accessible on a fee-paying basis which limits the extent to which the proposal can be seen to enhance the character of surrounding local spaces or enhance informal enjoyment of the countryside. The impact of the proposals on public rights of way also needs consideration.

#### Landscape Character Assessment

- 3.3.15 Colchester's Landscape Character Assessment (2005) characterises the site as B6 Great Horkesley Farmland Plateau and A7/A7a Stour River Valley Slopes. The Landscape Character Assessment notes under B6 the issue of potential new development at the northern edge of the Great Horkesley Farmland Plateau which may be visually intrusive within views from the adjacent Stour Valley slopes landscape character area. The landscape planning guidelines seek to conserve panoramic and framed views into the Stour River Valley corridor to the north of this character area. Under A7/A7a (Stour River Valley Slopes) the suggested landscape planning guidelines state that it should be ensured that any new development on valley sides is small-scale, responding to historic settlement pattern, landscape setting and locally distinctive building styles.

- 3.3.16 The above policy considerations are considered to be some of the most relevant and significant material policy considerations in the determination of the application and have therefore been highlighted in this response but the list is not exclusive.

## **4. Planning policy issues**

- 4.1 As the application is a resubmission of the previous refused application, the following comments have been based around the previous reasons for refusal to establish if these issues have now been overcome. Appropriate consideration will also be given to whether any new issues are now raised by the revised scheme proposed for the site.

### **4.2 *Project scale, location and justification***

- 4.2.1 The reasons for refusal for the earlier application noted that *EEP policies SS1, SS2, SS3, SS4 and SS6 and Core Strategy Policies SD1 and CE1 direct significant development proposals to existing settlements (notably town centres and the identified regeneration areas / key gateways) and/or allocated sites.*
- 4.2.2 It was stated that:  
*“The Horkesley Park development proposal conflicts with these policies as the site is not identified for significant development and is set in open countryside, divorced from existing settlements. It has not been demonstrated that there is a requirement to locate this development at this site or that there are other material planning considerations that would justify a departure from the development plan.”*
- 4.2.3 The scale of the proposed development has been reduced from that previously submitted and the mix of uses has changed. In particular it is highlighted that in terms of retail content a total floorspace of 1,368 sqm is now proposed (590sqm A1 and 778sqm A3) (A3 including The Chantry Team Room, 38sqm, and Active Learning Children’s Café, 150sqm). It is stated there has therefore been a 78% reduction in overall retail content, an 86% reduction in A1 and 58% reduction in A3, when compared with the previous application.
- 4.2.4 The supporting information states that the market penetration rate is now 1.04 equating to 310,000 annual visits. It is stated that the figure is realistic and substantially lower than the proposed development refused in June 2011.
- 4.2.5 The total footprint of new buildings now proposed is 8910 sqm (95906 sqft). The footprint of new buildings proposed in the previous application was 9686 sqm (104255 sqft) ground level footprint. The earlier application also included underground footprint and the total new ground floor and underground footprint when combined was 11226 sqm (120,831 sqft). Given the projected number of visitors the current scheme nonetheless remains a large development proposal and the supporting information states that the proposal is of a regional scale. Although the retail elements of the scheme have been reduced, the scheme also includes many other uses which should in policy terms be considered ‘main town centre uses’ as made clear by the NPPF (page 53). These include the museum and exhibition elements, arts, retail and restaurants. It is not considered that the classification of such uses as ‘town centre uses’ is a ‘quirk’ of government guidance as argued by paragraph 3.5 of the applicant’s planning policy statement but rather because there is an acknowledgement in national policy that such uses are more sustainably located in the town centre. It is argued by the applicant that the uses require a countryside location and that there is a requirement for all of the uses to be located together. A sequential test for development as a whole has been carried out by the applicant. The NPPF requires at paragraph 24 that proposals show

flexibility in terms of format and scale. Whilst the NPPF includes no specific requirement for disaggregation it does suggest that flexibility should be shown in terms of the uses for the site and the scale of the proposal.

- 4.2.6 It is stated that the site is 'Rural and suitable for a countryside heritage and conservation centre' (paragraph 2.17 planning policy statement). Given the theme of the attraction it is stated at paragraph 3.44 justification statement that 'it has to be located in the open countryside and ideally close to the Stour Valley'. 'It is incomprehensible that such a countryside themed attraction can be developed in an urban location'. Paragraph 3.45 of the justification statement lists why the proposed site is considered particularly attractive for developing the visitor attraction. The points identified are based on the need for an attraction of the type and mix of uses that is currently proposed. It is argued that locating the proposed uses together is highly sustainable as it avoids the need for many individual trips. It is also stated that the concept of delivering so many activities and rural features in one location makes the scheme important in meeting the clear deficiency of provision in the region.
- 4.2.7 A potential demand for additional tourist or visitor facilities in the area does not in itself justify a large scale proposal with the particular mix of various uses that are now proposed. There are diverse ways of broadening access and understanding of the countryside including more traditional low key and small scale activities which are likely to be more in keeping with the character of the countryside and have greater support from adopted local planning policy. The mix of uses proposed on the site is stated to attract 316,250 visitors per year. The scale of the attraction and its unsustainable location conflict with the adopted policies as set out in the previous section above.
- 4.2.8 Many of the uses proposed are those which would be traditionally found in the town centre or in market towns even if they involve the processing of goods or food grown within the countryside. It is therefore not considered that adequate consideration has been given to flexibility in the scale of the proposal given the policy requirements for flexibility and that proposals are required to be of appropriate scale and impact. The unsustainable location and scale of proposal currently means there is conflict with adopted policy as set out above.
- 4.2.9 Whilst if successful the scheme would bring a number of benefits as set out in the justification statement, as set out above the scale and nature of the development proposed on this site remains in conflict with adopted policy. The proposal remains for a large scale development in the countryside and remains in conflict with Core Strategy Policies SD1 and CE1, and Development Policy DP10 in particular.

### **4.3 Retail**

- 4.3.1 The reasons for refusal of the previous application stated that;;  
*'The Horkesley Park development is promoted as a regional tourist attraction and should therefore constitute an excursion destination, the primary purpose of which is to allow public access for entertainment. The scale of the PPS 4 elements (Food and Garden Centre) are significant and are not considered to be truly ancillary to the tourist element of the proposed development. The PPS 4 elements should be subject to the PPS 4 sequential tests. The amount of retail development proposed is significant and the case has not been made to show it is essential in terms of being enabling development to justify the scale of the town centre type uses in this countryside location. The PPS4 requirement is not overcome by the claimed relationship to those elements that are appropriate to a countryside location either in terms of ancillary or enabling development so as not to justify their location in a sequentially preferable site. Furthermore, it is not considered that there is an appropriate planning mechanism by which the extent of retail sales can be appropriately controlled to prevent intensification of these uses or would be reasonable and/or practical for the Local Planning Authority to enforce.'*
- 4.3.2 The A1 shop and A3 café have now been reduced from that in the earlier application. The proposed garden centre has been removed and it is now proposed to be a 'demonstration nursery'. The total retail floorspace is now proposed to be 1,368 sqm (590sqm A1 and 778sqm A3) (A3 including the 590sqm café, the Chantry Team Room, 38sqm, and Active Learning Children's Café, 150sqm). It is stated there has therefore been a 78% reduction in overall retail content, an 86% reduction in A1 and 58% reduction in A3, when compared with the previous application. By way of comparison the Tesco recently granted permission on appeal at Cherry Tree Garage, Mersea Road, Blackheath has a Gross External Area of 407sqm. The Co-Op store on Nayland Road, Colchester has an A1 trading area of 174sqm. The Waitrose store on St Andrew's Avenue has a net A1 area in the region of 2300sqm. The recently approved Tesco at Butt Road has a sales area of 1,328sqm.
- 4.3.3 No retail impact assessment has been carried out as the development is below the threshold set in the NPPF of 2500sqm.
- 4.3.4 It is stated in the applicant's supporting information that the proposed retail element is clearly ancillary to the function of the whole visitors centre. The information provided by the NLP report (paragraph 4.3 in particular) suggests the amount of floorspace provided is commensurate with an attraction of this scale and therefore could be considered ancillary. As set out by the examples above however, the NLP report also notes that the retail element would not be small scale and therefore there would be a concern if access was not successfully restricted to paying customers of the tourist attraction only.

- 4.3.5 Whilst the retail element now appears ancillary in floorspace terms there does appear to be a strong focus on food and drink through elements such as the proposed 'field to fork' elements and cooking school in the proposed scheme. The consumption of produce or the purchasing of produce from the retail shop could therefore be considered a key part of the function of the proposed tourist attraction. The nature of these uses in practice may therefore go beyond simply purchasing refreshments or a souvenir, as may be commonly the case with many other tourist attractions, to instead becoming one of the main reasons why people visit the site. It is therefore particularly important to control the access to these areas to ensure these 'town centre uses', as defined in the NPPF, cannot be visited independently of the rest of the attraction.
- 4.3.6 The applicant has provided additional information on the operation of the various parts of the proposed attraction in response to Council questions during the application process. This has confirmed that there are proposed to be no retail sales from any areas of the attraction other than the retail shop. It is stated that visitors would not, for example, be able to purchase goods directly from suppliers or exhibitors who may have stalls in the attraction and would only be able to purchase the goods from within the shop itself.
- 4.3.7 The degree of control that could be exerted on retail sales through planning conditions or legal agreements was an issue of concern under the earlier application. Although entrance fees are proposed to be charged to those visiting the retail elements the degree of control the planning authority has over these charges should be given careful consideration. Lower entrance charges combined with discounted goods on sale, for example, could quickly make the site a more attractive retail destination in its own right. This was also an issue of concern with the previous application. Advice at that time from the Council's barrister indicated that they were "of the view that it will be extremely difficult to devise an enforceable s.106 scheme to ensure that the retail and other PPS 6 uses do not operate independently".

#### **4.4 Economic benefits and viability**

- 4.4.1 The reasons for refusal of the previous application stated that:  
*'The key economic benefits put forward as a part of the Horkesley Park development proposal are dependent upon the attraction achieving 485,000 visitors per annum. The Local Planning Authority has not been convinced that the attraction will sustain 485,000 tourist visitors in the long-term and this calls into question not only the deliverability of the claimed economic benefits of this proposal but also the overall viability of the attraction.'*
- 4.4.2 The financial sustainability and ongoing viability of the proposed development remains a relevant consideration as set out in more detail

in paragraphs 3.2.10 and 3.2.11 above. The applicant has provided a business plan to the Council in order to demonstrate the viability of the visitor centre.

- 4.4.3 The annual projected number of visitors has now been revised to 316,250. The Tourism Evaluation Report in section 4.1 deals with attendance potential. Initial comments from the Council's Enterprise and Tourism Development Officer which have been fed into this report, however, raises issues with the Annual Attendance Potential figure of 1.04%. The Enterprise and Tourism Development Officer whilst considering the tourism offer to be improved, also notes that Colchester Zoo's penetration rate (of potential visitors to actual visitors) is 2.54% and that it has taken 50 years to get there with more than £20m investment in continually improving the visitor experience there. It would be expected to see a fall over the years in penetration rate as this has been the experience at Colchester Castle Museum (hence the £4.2m HLF grant to redesign and redisplay the Museum in 2013). This is a known pattern in visitor attractions, people like something new but it quickly fades away if there is no innovation or something new. Even the Eden Project is now looking at other ways to generate income and has had a significant event programme to add value to the visit in recent years.
- 4.4.4 The Council's Enterprise & Tourism Development Officer states that it is beneficial that the proposal would be an all year, all weather attraction as this would help to spread the visitor impact through the year and not just focus it on the peak summer season.
- 4.4.5 Both the Council's Enterprise Officer and the Enterprise & Tourism Development Officer consider it beneficial that the proposals have included scenario testing in the business plan.
- 4.4.6 The Enterprise Officer also notes that a proposal of this scale would seem capable of generating the onsite jobs as planned. It should be noted that of the 155 FTE jobs the number taken by Colchester residents may only be between 25 – 40%, given that employment benefits would be obtained by surrounding local authorities, too.
- 4.4.7 The product offer detailed in section 3.8 of the tourism evaluation report focuses on what *could* happen on the site rather than defining what will happen. It appears, therefore, that there may be some lack of certainty over what exactly will go ahead on the site which in turn also leads to some uncertainty about the visitation levels, the viability of the proposal and wider impacts of the proposal on the surrounding area.
- 4.4.8 The Council's Enterprise & Tourism Development Officer also notes references to average spend of £36.53 per day spent by visitors to Colchester are correct however, it should be noted that this happens only where there is opportunity to spend. Other research carried out on spend in the Dedham Vale takes this daily rate down to under £10

due to there being fewer opportunities to spend and larger numbers of day trippers compared to higher spending staying visitors.

4.4.9 The independent project review prepared for the Council by Britton McGrath Associates (November 2012) provides detailed commentary on the viability of the attraction and therefore whether the economic benefits will be delivered. The report finds there is no reason to doubt that if successful the proposal would aid in increasing the performance of the local tourism economy, deliver a new attraction in visitor attraction markets, improving access to the countryside, allowing visitors to gain greater education and knowledge of food growing, and providing employment in the local economy. If these benefits are to be delivered, however, then the proposal must be viable and economically sustainable. This issue is then considered in detail in the Britton McGrath Associates report. The report states that the catchment area for visitors has been overestimated and therefore the total visitor numbers are significantly overestimated. The dwell time is considered to be excessive and the proposed admission pricing 'extraordinarily high'. The catering turnover is considered to be very ambitious and the retail spend assumptions 'extremely ambitious'. The report concludes that even with the most positive interpretation of revised estimates the business as currently proposed would be unviable.

4.4.10 This is considered to be a very important material consideration given the scale and sensitive location of the development proposed. If the proposal is not viable then the benefits of the proposed scheme would not be delivered. Should the scheme proceed and quickly become unviable this may result either in additional disused buildings and development in a sensitive rural location or proposals to change the nature of the attraction to include further travel intensive uses or to allow visitor access to elements without paying a general admission charge. The Council's Enterprise & Tourism Development Officer, for example, raises the possibility for a facility such as this seeking to raise income by offering meeting space / conferencing. This was raised as an issue of concern on the previous application. It appears that this has now been omitted from the plans but if unviable there is concern that there may be pressure to allow diversification of the business to this type of facility in the future. This would lead to greater harm in sustainability terms and would further conflict with adopted planning policy.

4.4.11 Britton McGrath Associates have produced two further addendums to their November 2012 report. These addendums give further consideration to the importance of Colchester as a short break destination in their assessment of Horkesley Park, the second addendum bringing in extra sources of data and information where possible. The reports both conclude that the anticipated visitor numbers would remain at 100,000 to 130,000 visitors per year. The latest report from Britton McGrath associates (18 December 2012) also gives further consideration to aggregation in relation to likely

penetration rates and forecasting visitor numbers. The report highlights that comparators such as Hop Farm also offer visitors a multi-faceted offer. This is reflected in the higher penetration rate that such attractions achieve. Given that the Britton McGrath analysis of the likely penetration rate at Horkesley Park has been based on such comparator examples, the effect of a multi-faceted offer has already been taken into account. The report states that Britton McGrath associates “stand by the analysis presented in the previous document with regard to penetration rates”. The report concludes that the previous figures for visitor numbers provided by Britton McGrath associates remain valid. It is stated that the visitors figures may reach the upper ends of the 90,000 to 130,000 visitors per year estimate and could potentially reach 150,000 per year. The position on the viability of the proposal would therefore appear to be unchanged and the concerns raised in the Britton McGrath report and detailed in the paragraphs above remain unaddressed.

#### **4.5 Impact on the countryside**

- 4.5.1 The previous reasons for refusal noted that:  
*‘Development Plan policy DP9 states that employment development proposals in the countryside should be of a small scale and should not harm the rural character of the area either by the nature and level of activity or any other detrimental effects such as noise and pollution. Development Plan policy DP10 states that proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites. Where accessibility is poor, proposals should be of a small scale and/or comprise the conversion of suitable rural buildings. Policy DP10 states that the urban areas of Colchester will be the focus for larger scale tourist, leisure and cultural facilities and accommodation in-line with the need to concentrate development at the most sustainable and accessible locations. The proposed development, by virtue of its scale, location and design is considered to conflict with these policies.’*
- 4.5.2 The applicant’s new supporting statement argues that local policies such as DP9 and DP10 are only capable of dealing with small scale proposals. Notwithstanding this argument, these policies were considered relevant to the previous application and were included in the previous reason for refusal as can be seen above.
- 4.5.3 As is noted above the scale of the proposal has decreased from that proposed previously with projected annual visitors of 316,250 now proposed in the current application. The proposal nonetheless remains of a large scale as noted in the policy analysis section. The scale of activity associated with such an attraction would have impacts in terms of the high level of unsustainable travel and the potential for negative impacts on the countryside and the AONB.

## **4.6 Transport and Accessibility**

4.6.1 In terms of transport and accessibility, the previous reasons for refusal stated that:

*'PPS 13 focuses on the importance of providing new development in accessible and sustainable locations so that it minimises reliance on the private car. PPS4 supports more sustainable patterns of development and highlights the importance of reducing the need to travel, especially by car. Core Strategy Policies SD1, TA1, TA2, TA3, TA4 and TA5 and Development Plan Policies DP17 and DP18 reinforce the need for sustainable developments and reducing dependency on the car. The proposed development, by virtue of its rural location, is not sited in a sustainable location and will not reduce car dependency. Paragraph 37 of PPG 13 advises that when determining the acceptability of developments involving leisure, tourism and recreation which generate large amounts of traffic and which will not be well served by public transport, consideration should be given to the extent to which the proposal needs to be in the proposed location, including whether the development has a meaningful link with the particular location or attraction. In seeking compliance with PPG 13, the onus is on the applicant to demonstrate the need for the development and that there is a meaningful link between the development and the proposal site. It is considered that the applicant has not adequately demonstrated a need for the development in this location or that the development as a whole has a meaningful link with the site.'*

4.6.2 This issue has already been covered in some depth in the policy context section above.

4.6.3 The NPPF has now replaced PPG13 and contains the relevant national policy considerations alongside the locally adopted Core Strategy and Development Policies documents.

4.6.4 In assessing the previous proposal the Council rightly had regard to the full range of transport and accessibility policies. Sustainability includes not only road capacity but the need to locate development in sustainable locations, reduce the overall need to travel, promote the use of sustainable modes of travel, and reduce impacts on the environment.

4.6.5 The NPPF supports sustainable rural tourism and leisure developments in appropriate locations. Elsewhere it emphasises the need to ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Whilst reference is also made of the need to take into account policies on rural areas these also seek to ensure development is sustainable and appropriate for the character of the countryside. Given the scale of the proposal in

this countryside location and the noted problems with the sustainability of the location as set out in the Vectos report it would appear there is continuing conflict with these policy requirements.

#### **4.7 Parking**

- 4.7.1 *Development Plan Policy DP19 requires parking provision to be provided in accordance with Essex Planning Officers Association Vehicle Parking Standards which was adopted by the Council as SPD in November 2009. The size of the proposed parking bays do not conform to the standards set out in the SPD. The proposal also fails to provide adequate parking provision for disabled and motorcycle parking or for cycle parking.*
- 4.7.2 This issue has already been addressed in some detail above with regard to policies TA5 and DP19.
- 4.7.3 The policy analysis section and Vectos report suggests that the overflow car parking may be in regular use and the impact of this on the extent of activity in the countryside should be considered. The total of 720 spaces proposed exceeds the maximum provision in the adopted Parking Standards SPD.

#### **4.8 Design**

- 4.8.1 The reasons for refusal of the earlier application stated that:  
*'PPS1 seeks to promote high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but over the lifetime of the development. PPS 1 advises that design, which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. Core Strategy Policy SD1 states that development proposal will be expected to achieve a high standard of design, sustainability and compatibility with local character. Core Strategy policy UR2 also promotes high quality design, stating that development that is discordant with their context and fail to enhance the character and quality of an area will not be supported. Development Policy DP1 require all new development to be designed to a high standard and that it should respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, scale, form, massing, proportions, materials and/or landscape setting. The proposed development, and in particular that of the Main Building, is considered by virtue of its size, scale, mass and general design to be wholly inappropriate for this sensitive countryside location.'*
- 4.8.2 As set out above Section 7 of the NPPF places great importance on the design of the built environment in general. The Council's locally adopted policies remain relevant. There are no further comments from planning policy on this issue.

## **4.9 Heritage assets**

- 4.9.1 The reasons for refusal of the earlier application stated that:  
*'PPS 5, Core Strategy Policy UR2 and Development Plan Policy DP14 require development proposals to preserve or enhance listed buildings and their setting. The development proposal, and in particular the intensity of use generated by it, is considered to have an adverse impact on the setting of the Church of All Saints, a grade I listed building.'*
- 4.9.2 Section 12 of the NPPF (conserving and enhancing the historic environment) is now the relevant national consideration and expert advice should be sought on the impact of the development on the listed building.

## **4.10 Area of Outstanding Natural Beauty**

- 4.10.1 The previous reasons for refusal included the following:  
*'Core Strategy Policy ENV1 and Development Plan Policy DP22 state that development proposals will only be supported in or near to the Dedham Vale Area of Outstanding Natural Beauty that make a positive contribution to the special landscape character and qualities of the area; do not adversely affect the character, quality of views and distinctiveness of the AONB or threaten the enjoyment by the public of the area and support the wider requirements of the Dedham Vale AONB & Stour Valley Management Plan. The submitted Landscape and Visual Assessment fails to analyse the proposed development in the context of the proposal to reduce the height of the belts of Hybrid Black Poplar trees (as recommended in the arboricultural assessment). In view of this, the true impact of the development on the wider landscape setting has not been adequately demonstrated and it cannot therefore be determined whether the proposal will have an adverse visual impact on the surrounding area and, in particular, in views from the AONB. The applicant has also failed to satisfactorily demonstrate that the proposed development would not have a detrimental impact on the tranquillity of the AONB.'*
- 4.10.2 *PPS7 provides that major developments should not take place in designated areas, including Areas of Outstanding Natural Beauty (AONBs), except in exceptional circumstances. Consideration of major applications should include assessments of the need for the development; the cost of and scope for developing elsewhere outside the designated area or meeting the need for it in some other way; and any detrimental effect on the environments, the landscape and recreational opportunities and the extent to which that could be moderated. The Warren Building is considered to constitute major new development within the AONB. The onus is on the applicant to demonstrate the need for the development and the scope for providing the development in some other way or outside the site. It is considered*

*that the applicant has not adequately demonstrated a need for the development in this location or assessed the potential for providing the proposed development in some other way.*

4.10.3 *The Colchester PPG17 Study and the Haven Gateway Green Infrastructure Study (HGGIS) indicate that there is not a requirement for a new regional level Accessible Natural Green Space (ANGS) within the Stour Valley given its designated status. Instead, HGGIS states that it is vital that great care is given to the siting, scale and detailed design of new development to reflect local character and maintain the distinctiveness of the Areas of Outstanding Natural Beauty. Furthermore ANGS in the context of the PPG17 study and the Haven Gateway Infrastructure Study is defined as sites that are free at the point of entry for the public. The proposal is accordingly not considered to be in accord with PPG17.'*

4.10.4 The NPPF has replaced PPS7 and PPG17 as the relevant national policy consideration. The NPPF continues to give a very high degree of protection to Areas of Outstanding Natural Beauty. In particular, paragraph 115 states that *'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty'*. Colchester's locally adopted policies remain relevant and DP22 specifically refers to *'development in or near to the Dedham Vale Area of Outstanding Natural Beauty'* and sets a number of requirements that developments must meet. Notwithstanding that the scale of the built development on the site has been reduced in the current application and that it is stated the new built development itself would be outside of the AONB boundary, there are concerns related to the large scale of proposal in this unsustainable countryside location as already set out in detail above.

#### **4.11 Nature Conservation and Protected Lanes**

4.11.1 *Policy DP21 requires development proposals to be accompanied by sufficient information to assess the effects of the development on designated sites or protected species together with any proposed prevention, mitigation or compensation measures. A Great Crested Newt, which is a protected species, has recently been discovered in the vicinity of the application site. The submitted protected survey strategy is now considered out of date and fails to provide an up-to-date mitigation strategy in respect for the Great Crested Newt.*

4.11.2 Policy DP21 remains a relevant consideration. There are no further planning policy comments on this issue.

## 5. Conclusions

- 5.1 If successful and viable the proposal would deliver a number of benefits which would help to meet the objectives of national and local policy. The proposal would, in particular, deliver a new tourist attraction; contribute to increasing the performance of the local tourism economy; would improve inclusive access to the countryside; would allow visitors to gain greater education and knowledge of food growing, and would of course provide additional employment in the local economy both on and off site. These benefits would help to achieve the economic and social objectives of the NPPF. NPPF paragraph 19 in particular also weighs in favour of the proposal which states that 'significant weight should be placed on the need to support economic growth through the planning system'. The proposal would help support tourism consistent with the broad objectives of the NPPF, the Core Strategy's general support for tourism and Development Policy DP10 in particular. The supporting documentation submitted by the applicant provides full details of these benefits which are also summarised in the NLP and Britton McGrath Associates reports commissioned by the Council.
- 5.2 The Britton McGrath report on the regional status of the proposal (18 December 2012) states there is no firm definition of what can be considered regional. It is correct that there is no definition of this in the Development Plan and as set out already in this report there is no particular planning policy significance to whether the development could be termed 'regional' or not. The application of the term 'regional' to the attraction does not make it any more or less acceptable when judged on its merits against the policies in the development plan and against all other relevant material considerations. This report is however of use in demonstrating the potential nature of the proposed tourist attraction that would be provided and what benefits it may have in terms of the tourism offer in the area. The Britton McGrath report (18 December 2012), however, looks solely at the potential 'regional status' of the proposal and does not consider the application as a whole or assess the proposal against the development plan and other material considerations. The report states that assuming conditions are met Colchester Borough Council should support the applicant's proposal. This appears to be based on an assumption that if a proposal is 'regional' this has a significant bearing on the acceptability of the scheme in principle. As set out above, regardless of whether or not a proposal is described as 'regional' the application must be assessed on its merits against the development plan and other material considerations. Whilst a scheme that attracts visitors from a wider area may deliver greater tourism benefits that should be weighed in favour of the proposal, the fact a scheme may have 'regional' attraction does not remove the need to properly consider the application against the development plan and material planning considerations, taking into account the economic, social, and environmental aspects of sustainable development.

- 5.3 The benefits outlined above will, of course, only be delivered if the proposal is viable and economically sustainable. The independent project review prepared for the Council by Britton McGrath Associates (November 2012) provides detailed commentary on the viability of the attraction and therefore whether the economic benefits will be delivered. The November 2012 formal report concludes that based on a revised forecast of 130,000 visitors the business as proposed would be unviable (page 6). The report is now supported by two addendums from Britton McGrath (produced December 2012) and a report on the potential 'regional status' of the proposal (Britton McGrath Associates, 18 December 2012). This report concludes that the visitor numbers would be in the upper reaches of the estimate 90,000 to 130,000 per annum, with potential to reach 150,000. This remains consistent with the earlier findings in the November 2012 report and it would therefore appear that the proposal remains unviable. The benefits of the proposed scheme would therefore not be delivered. This is considered to be an important material consideration given the scale and sensitive location of the development proposed. Should the scheme proceed and quickly become unviable this may result either in additional disused buildings and development in a sensitive rural location or proposals to change the nature of the attraction, the access and ticketing arrangements, or the uses on the site. In addition to the stated benefits of the scheme not being delivered, this would also be likely to lead to greater harm in sustainability terms and would further conflict with adopted planning policy. It is therefore important that there is sufficient certainty that the proposal is a viable proposition. If the proposal is shown to be viable as proposed then the benefits outlined in the application and the supporting reports will clearly weigh in favour of the proposal.
- 5.4 As a result of the scale and location of the proposal there are, however, a number of areas where there remains conflict with adopted policy.
- 5.5 The adopted Development Plan and the NPPF require development to be directed to sustainable locations. NPPF paragraph 28 provides support for sustainable rural tourism in appropriate locations. The proposed development would not appear to be a sustainable or an appropriate location for this scale of development as set out by the Vectos Report in particular.
- 5.6 Adopted Local Policy in Core Strategy policy SD1 (Sustainable Development Locations) provides that growth will be located at the most accessible and sustainable locations and requires compatibility with local character. Core Strategy policies CE1 and ENV2 state that in countryside locations small scale tourism or business proposals would be favourable considered if they have low travel needs and low impacts and if they are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment . Development Policy DP10 deals

specifically with tourism and requires that *where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation*. The proposal for a large scale tourist attraction in a rural unsustainable location would therefore not comply with these policy requirements.

- 5.7 The development would result in high levels of unsustainable travel as a result of its scale, mix of uses, and unsustainable location. The applicant states that 82% of the 316,250 visitors would arrive by car. The Vectos report provided to the Council raises doubts over coach mode share in particular and it is considered likely the car share could be higher than the 82% suggested by the applicant, especially in the absence of any practical constraints on parking. Even if the level of car use is accepted to be 82% as the applicant suggests, this shows the proposal would still be a car dominated development as set out in detail in the Vectos report. NPPF paragraph 34 requires that development that generates significant movement should be located where need to travel can be minimised and use of sustainable travel maximised, taking account of policies elsewhere, particularly rural areas. Such other policies, as already set out above, however, also require tourism development to be sustainable and in appropriate locations. NPPF paragraph 95 states that new development should be planned in locations and ways that reduce greenhouse gas emissions. Core Strategy Policy TA1 (Accessibility and Changing Travel Behaviour) states that development will be focused on highly accessible locations and that developments that are car-dependent or promote unsustainable travel behaviour will not be supported. The proposal includes no constraints on car parking in line with Core Strategy Policy TA5 (Parking). The proposal would also appear to conflict with the objectives of Policy DP17 (Accessibility and Access). Whilst the proposal includes some proposed measures for walking, cycling and public transport, the development remains car dominated and therefore does not appear successful in giving priority to sustainable modes. The proposal also conflicts with Policy DP19 (Parking) and the Adopted Parking Standards SPD in that it exceeds maximum parking standard due to its unsustainable location. The Vectos report provides details on the unsustainable location and confirms the conflict with adopted policy.
- 5.8 The proposal is of a large scale and consequently is considered to have an unacceptable impact on a sensitive rural area. The supporting information submitted with the application predicts 316,250 visitors per year. The scale of the attraction, the mix of uses including many intensive 'main town centre uses', combined with the unsustainable location in a sensitive area on the edge of the Area of Outstanding Natural Beauty, results in greater impacts in terms of unsustainable travel as well as potential harm to the AONB and countryside more generally. The scale therefore drives the impact and results in greater harm when considered against adopted policy. National and local

policies all place requirements on the development to be of appropriate scale and impact. NPPF paragraph 24 requires flexibility in terms of format and scale of proposals. NPPF paragraph 115 states that great weight should be given to conserving the landscape and scenic beauty of the AONB. NPPF paragraph 116 states that permission should be refused for major development in AONBs except in exceptional circumstances where it can be demonstrated they are in the public interest. Core Strategy Policy CE1 (Centres and Employment Classification and Hierarchy) supports small scale developments in the countryside if they have low travel needs and impacts. Policy ENV1 (Environment) seeks to protect and enhance unallocated greenfield land outside of settlement boundaries. Policy ENV2 (Rural communities) supports small scale schemes that are appropriate to local employment needs, minimise negative impacts and harmonise with the local character and surrounding natural environment. Policy DP9 (Employment Uses in the Countryside) requires proposed uses in the countryside to be of small scale. Policy DP10 (Tourism, Leisure and Culture) also seeks to achieve a balance in rural areas between economic benefits and environmental disbenefits by supporting developments that are small scale and of local benefit. The policy states that accessibility is poor proposals should be small scale. The Horkesley Park proposal cannot be considered to have low travel needs or low impacts and is large scale. The proposal also appears to conflict with other guidance including DCLG Good Practice Guide on Planning for Tourism (2006). Paragraph 5.4 of this guidance recognises that small scale developments are appropriate in less sustainable locations. The Dedham Vale AONB management plan also seeks to ensure development is of appropriate scale and protects tranquillity.

- 5.9 Whilst if successful the proposal would deliver a number of benefits, and this is supported under planning policy, the proposal would also conflict with numerous policies as set out above. The Britton McGrath Associates report states the proposal is not considered viable as currently proposed and therefore there is considerable uncertainty as to if these benefits would be delivered. Should the proposals be shown to be viable then the benefits of the proposal in economic and social terms should be given significant weight in line with the NPPF and support under local policies. The Vectos report, however, concludes the site cannot be made highly accessible and it is contrary to national and local policy. There is also conflict in terms of tourism and countryside policies where the development plan supports smaller scale developments to achieve a balance between economic and social outcomes whilst seeking to protect and preserve the character of the countryside and designated areas such as the AONB. The proposal by virtue of its scale and location does not accord with this approach and there remains conflict with adopted policy in this respect. Notwithstanding whether the proposals are viable, there remains considerable conflict with local and national policy as set out above in particular with regards to the proposal's unsustainable location for a

major development, the high levels of unsustainable travel, and the scale and impact of the development proposed.

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# **AMENDMENT SHEET**

**Planning Committee  
28 February 2012**

## **AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED**

- 7.1 120965 – Land and other property to the North of London Road and West of the A134 including The Chantry, The Chantry Lodge, Hillside and Nursery Site, Great Horkesley

Comment was received from the applicant dated January 2013 regarding the planning policy response to the application. Planning Policy has subsequently submitted further comment responding in part to this letter with particular regard to policy DP10. The comment from Planning Policy is produced in full in Appendix 1 to this amendment sheet.

Since the report was published 39 representations raising objection to the application have been received no new issues are raised. Three representations supporting the application have been received again no new issues are raised.

Bernard Jenkin MP for Harwich and North Essex commented on the application on the 26<sup>th</sup> February 2013. The letter is produced in full as Appendix 2 to this amendment sheet and the applicant's response is produced in Appendix 5.

The applicant has sent a copy of a recent appeal decision to Members of the planning committee and officers. The appeal relates to an application in Wakes Colne and proposes the 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. The appeal was allowed.

Development Policy 24 Equestrian Activities sets out the criteria for assessing whether or not equestrian related development can be supported. Criteria (iv) states "is the development related to an existing dwelling within the countryside or will not lead to pressure for the development of a new dwelling"

The Planning Inspector considered “that there is a conflict between Policy DP24 (iv) and the NPPF because Policy DP24(iv) takes a restrictive approach specifically in relation to equestrian projects which may result in the need for a dwelling whereas the Framework has a single policy test for all proposals involving dwellings for rural workers. The Inspector stated “In the circumstances of his case, I do not consider that the degree of conflict can be characterised as “limited”. This conclusion increases the weight to be attached to the Framework in the overall balance of planning issues.

The Inspector also refers to the appellant’s business plan and states “I consider that the business plan is based on estimates which are reasonable. ...In such cases there will always be a degree of risk. The Framework seeks to support the growth of all types of business, not just well established enterprises”.

***Officer comment: In this particular case the Inspector considered the appellants business case in the context of whether or not a mobile home should be permitted for a temporary period to allow the appellant to develop the equestrian business in accordance with his business plan. This is not comparable to the Horkesley Park proposal. Planning policy has submitted a detailed response regarding the appeal decision and this is included in full as Appendix 3 to this amendment sheet.***

The Stour Valley Action Group has responded to the latest report from Britton McGrath Associates and this is produced in full in Appendix 4 to this amendment sheet.

CPRE has emailed to say their response does refer to tranquillity. ***Officer comment whilst the responses do refer to tranquillity they do not refer specifically to the CPRE tranquillity maps.***

#### Amendments to the Committee Report

1. Alphamstone and Lamarsh Parish Council is in Braintree District Essex not Suffolk.
2. Section 6 of the section 106 to restrict the country park area to open space and agricultural use only. Permitted development rights for all temporary uses to be removed.
3. Section 7 of the Section 106 agreement shall include a provision requiring An Art Liaison Group to be set up. The main function of the group to determine that the art displayed at The Chantry meets agreed criteria and CBC’s expectations (the criteria to be determined by the lpa). The membership of the group to be agreed but to include (but not be limited to) the Head of Museum Services, Director of Firstsite, Portfolio Holder for Planning, Community Safety and Culture, Borough Councillors for Fordham and Stour, officer/s from the Planning Service.

4. Additional clauses in the section 106 requiring agreement to a lighting strategy for the whole site, no lighting to be installed other than that approved as part of the strategy, details of all PA systems to be agreed with lpa and no amplified music.
5. Members should be aware that if planning permission is granted and implemented the area of the new buildings would then constitute previously developed land. Any change of use would require planning permission and would be judged against relevant policies at the time however the fact the land was classed "as previously developed "would be a material consideration.
6. Several of the representations, including the Dedham Vale and Stour Valley Partnership JAC and refer to 91% of the application site being within the AONB. The committee report refers to approx 75% being within the AONB. The figures have been rechecked and the area of the site within the AONB is 76% and the area outside is 24%.

**Clarification of the status of Development Policy DP10 in relation to the Stour Valley Visitor Centre planning application**

**Policy DP10**

Development for new and extended visitor attractions, leisure and cultural facilities, along with visitor accommodation (including hotels, bed & breakfast accommodation, self-catering accommodation, holiday lodges, static and touring caravans and tenting fields) will be supported in suitable locations.

Proposals for tourism, leisure and culture development should promote accessibility by a choice of means of transport and must not cause significant harm to the amenity of people living and working nearby.

In rural areas, locations suitable for tourism, leisure and culture development should help to support existing local community services and facilities. The proposals must be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside or designated sites. It is recognised that not all rural locations are readily accessible by public transport. Where accessibility is poor, proposals should be small scale and/or comprise the conversion of suitable existing rural buildings or limited extension to existing visitor accommodation. In locations where residential uses would be inappropriate, developments of visitor accommodation will be limited to holiday use only and/or certain periods of the year in order to prevent permanent or long-term occupation.

Urban areas of Colchester will be the focus for larger scale tourist, leisure and culture facilities and accommodation in line with the need to concentrate development at the most sustainable and accessible locations. The Council will also support proposals for a youth hostel, the preferred location being within Colchester Town Centre in line with the sequential approach, although proposals elsewhere will also be supported where appropriate.”

**Interpretation of DP10**

The policy response is justified in maintaining the relevance of DP10 as there is no obvious conflict with the NPPF. The Policy is consistent because it supports tourism in suitable rural locations. Suitable locations should be accessible and the development should not cause undue harm.

Colchester urban area is expected to be the focus for larger scale tourism, leisure and cultural facilities. The application proposals are not considered to be small-scale and the majority of the development does not involve the conversion of suitable existing rural buildings, therefore large scale tourism development in a rural location with poor levels of accessibility would not be justified by Policy DP10.

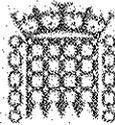
However, consideration also needs to be given to the following:

1. DP10 does not prohibit large scale proposals in the countryside but identifies the urban areas of Colchester as the focus for such development. It allows for exceptional proposals in the countryside if a site is considered a suitable location and the development is compatible with the rural character of the surrounding area and avoids causing undue harm to the open nature of the countryside. Members therefore need to consider what (if any) harm results to the open nature of the countryside and whether accessibility is poor.
2. Even if there is conflict with DP10 the benefits of the scheme ie job creation and the tourism benefits could outweigh the conflict.

### **Conflict with policies directing development to urban areas**

The proposed development is for a visitor centre of some 47 hectares. The Country Park element extends to 41 hectares. NLP are of the view that uses should not be disaggregated (based on 300,000 visitors) and stated that 'We have seen no evidence to suggest that a sequentially preferable location exists that is suitable, viable and available for the proposed tourist attraction.' This does not however mean that there is not a more suitable site.

The assertion that the type of development proposed ie a country park, cannot be accommodated in or on the edge of an urban area, is not strictly correct. Highwoods Country Park (150 hectares), Gosbecks (65 hectares), Westlands (16 hectares) all exist within or on the edge of an urban area. 70 hectares of land is allocated in Stanway for public open space, recreational and leisure uses.



HOUSE OF COMMONS

LONDON SW1A 0AA

APPENDIX 2

26<sup>th</sup> February 2013

Councillor Theresa Higgins  
Colchester Borough Council  
Town Hall  
Colchester  
Essex CO1 1FR

Our ref: BJ/TF/BF1

*Dear Cllr Higgins*

**RE: Planning Application No 120695: Horkesley Park  
FOR CIRCULATION TO THE PLANNING COMMITTEE PRIOR TO DECISION**

As I indicated to Sue Jackson, Chief Planning Officer of Colchester Borough Council (CBC), I was waiting to see her report to your Committee before giving my view about the above application which will be before you on Thursday (28<sup>th</sup> February). This letter is intended to be seen by members of your committee before they make a decision. I have therefore copied this to the Chief Planning Officer and to Adrian Pritchard.

I wrote prior to consideration of the previous Horkesley Park application making it clear that I would call for a public inquiry into that application, if it had been approved. Since then, the applicants have given me a presentation on their new proposals. The revised application would have less visual impact than the previous application, and other measures have been adopted designed to ameliorate the effects of the proposed development on the AONB and the surrounding area. My Colchester colleague, Sir Bob Russell MP, indicated to me that he supports the application. I have also received many representations from those opposed to the new application, including from local councillors; Tim Yeo MP; the Stour Valley Action Group; the Dedham Vale Society; and from many others. However, given that it had become clear that CBC Planning Officers were minded to recommend approval of the new application, I determined to remain open-minded until I had seen the quality of their recommendation in their report.

The CBC Planning Officers' report to your Committee does not represent an unqualified endorsement of the merits of this application. On the contrary, I am surprised that such a report can be used as evidence in favour of the recommendation at all. (I have found this long and complex document difficult to read, which reinforces the requirement for a synopsis, but this is given as a reason for there being no synopsis.)

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The Conclusions of the paper attached to the main report, dated 11.1.13, headed "Planning Policy Comments" (from James Firth - Planning Policy, to Sue Jackson - Development Management) do not support the thrust of the main report. Apart from the first paragraph of the Conclusions (5.1), the remaining conclusions condemn this application again and again:

- Para 5.2: dismisses the significance of "regional status" of the proposal;
- Para 5.3: the scheme "would be unviable" on the basis of the Britton McGrath Associates forecasts for visitor numbers;
- Para 5.4: "there remains conflict with adopted policy" in a number of areas;
- Para 5.5: the development "would not appear to be sustainable";
- Para 5.6: "The proposal for a large scale tourist attraction in a rural unsustainable location would therefore not comply with these policy requirements";
- Para 5.7: "high levels of unsustainable travel";
- Para 5.8: "is considered to have an unacceptable impact on a sensitive rural area".
- Para 5.9: "conflict with numerous policies"... "not considered viable"...[this paragraph merits being read in its entirety].

The main report seeks to address these fundamental objections. It does not succeed. It attempts to defeat these objections on the basis of assertions which are frequently unsupported by any hard evidence.

I shall not rehearse all the grounds upon which this application could reasonably be rejected, but I am most struck by the following points arising from the Planning Officers' report:

1. **Planning:** The application does not conform to national planning policy, or to the Local Development Plan.
2. **AONB:** The application does not conform to national or local policy on the AONB.
3. **Wrong in Law:** In respect of the advice being given to the Planning Committee, it is exceptional for Leading Counsel to state the following: "The approach to the issues that those officers have indicated that they intend to adopt is wrong in law and that advised by the Council's own policy team" [ie. whose conclusions I have referred to above] "and their independent planning consultants is correct." While planning officers have included a rebuttal of this Opinion in their report, they do not address the point that they are "wrong in law" in their whole approach. This raises the risk of judicial review in the event of approval.

4. **Visitor numbers:** The visitor numbers upon which the viability of the proposal is based are not achievable, according to Britton McGrath Associates (BMA) initial reports, which were commissioned by CBC for assessing that issue. (Why did CBC keep commissioning more reports? BMA's February report is no more independent than if it had been commissioned by the applicant, since CBC's planning officers had already declared their report would recommend approval of the application. In any case, its conclusions are highly conditional.) This undermines the credibility of the claimed benefits of the application, as well as representing substantial risk to the viability of the whole project. The Planning Committee is not in a position to second guess these assessments, because neither members of the Committee nor the public have been allowed to see the sensitivity analysis provided in confidence by the applicants, which nevertheless constitutes key information upon which their recommendation for conditional approval appears to be based.
5. **Jobs:** There is no overriding economic need for such a development which would justify the detriment to which approval of this application will lead. There is nothing to support the applicants' claim it could create 170 jobs. BMA suggests only 60 at most. Colchester is already an area of high employment (at 87,900, or 70.5 per cent in 2011-12) (Source: ONS Annual Population Survey via Nomis data base), so 60 new jobs, which are merely speculative, is a relatively insignificant contribution to the overall growth of employment in Colchester (up 8,300 since 2006/7).
6. **Danger of further planning applications:** I have no doubt of the applicants' good intent, but in the event of failure of the scheme, perhaps under alternative ownership, the possibility of less attractive schemes, or further applications for change of use, or for increased retail space, or for more new buildings, will become difficult to resist, once this application is approved.
7. **Sustainability:** The proposal does not meet the requirement of sustainability.
8. **Conditions:** The sheer number and significance of the caveats and conditions which would be attached to any approval of this application suggests, at the very least, that approval should be withheld until it is clear that such conditions will be met. I am surprised that such a significant application should be recommended for approval on such a range of wide and ill-defined conditions, such as "a revised Business Plan", acquisition of original Constable artworks, and "approval of the Art Strategy" (whatever that means). The Planning Committee has little or no information about the six pre-conditions and is therefore in no position to give approval.

There are other factors to which I have not alluded, which also militate against approval. I am always loath to interfere in local decision-making so it is therefore with some reluctance that I have to write again as before to express my doubts about development on this critical site. I would feel compelled to press the Secretary of State to "call in" the application for a full public inquiry if you give it your approval, but it would not be acceptable for this application to be approved without such a full public inquiry.

Yours sincerely



**Bernard Jenkin MP**

cc. Adrian Pritchard, Chief Executive, Colchester Borough Council  
Sue Jackson, Principal Planning Officer, Colchester Borough Council  
Cllr Anne Brown, Essex County Council  
Cllr Nigel Chapman, Colchester Borough Council  
Mr Frank Reddy, Clerk, Great Horkelesley Parish Council  
Mr R Drury, Clerk, Little Horkelesley Parish Council  
Sir Bob Russell MP  
Tim Yeo MP  
Stephen Bunting Esq, Bunting & Sons  
Robert Erith, President, Dedham Vale Society  
Will Pavry, Chairman, Stour Valley Action Group

## APPENDIX 3

### Stour Valley Visitor Centre at Horkesley Park - Application No 120965

#### Spatial Policy Response to email from Stephen Bunting to all Councillors dated 22.2.13

The email refers to an appeal decision dated 14.01.13 in respect of Meadow Green Farm, Wakes Colne. The appeal was allowed and planning permission granted for 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 manège, minor extension of existing access track and the siting of a temporary mobile home for a Stud Farm Manager and diversion of Public Footpath No 34.

The Inspector concluded that 'there is a conflict between Policy DP24(iv) and the Framework because Policy DP24(iv) takes a restrictive approach specifically in relation to equestrian projects which may result in the need for a dwelling whereas the (National Planning Policy) Framework (NPPF) has a single policy test for all proposals involving dwellings for rural workers. In the circumstances of this case, I do not consider that the degree of conflict can be characterised as "limited". This conclusion increases the weight to be attached to the Framework in the overall balance of planning issues.'

The decision notice makes it clear that the conflict between the NPPF and adopted Policy DP24 relates solely to one criterion within the policy which is concerned with new dwellings related to equestrian projects. The appeal decision does not undermine the remainder of the Local Plan.

As the proposal for the Stour Valley Visitor Centre does not include a new dwelling for occupation connected to the equestrian activities, there seems to be no relevance whatsoever between the appeal decision and the current planning application.

The Inspector also notes that 'the nub of the dispute between the Council and the appellant was whether there was clear evidence that the enterprise had been planned on a sound financial basis.' In this instance a business case was submitted and in the public domain and the contents are discussed in the appeal decision.

Despite what is stated in Mr Buntings email there is no reference in the appeal decision about the National Planning Policy Framework (NPPF) being more up to date than the Local Development Framework (LDF). It is simply a matter of fact that it was published later than the adoption of the Council's Local Plan (see para. 211 below from the NPPF).

If the Meadow Green Farm appeal has created a precedent it is solely in relation to criterion iv of policy DP24. It has not weakened the Local Plan/LDF as detailed in the Implementation section of the NPPF copied below.

**To clarify the role of the Local Plan since the NPPF was published in March 2012 the following extracts are taken directly from the NPPF;**

**The presumption in favour of sustainable development**

11. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

12. This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making.

13. The National Planning Policy Framework constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining applications.

**Local Plans**

150. Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities. Planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

**Determining applications**

196. The planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. This Framework is a material consideration in planning decisions.

197. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

**Annex 1: Implementation**

210. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

211. For the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this Framework.

212. However, the policies contained in this Framework are material considerations which local planning authorities should take into account from the day of its publication.

214. For 12 months from the day 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.

215. In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

**Britton McGrath Associated (BMA) Supplementary Review for  
Horkesley Park to achieve on-going viability.**

**Report dated 12<sup>th</sup> February 2013**

**Application 120965**

**Response to Colchester Borough Council**

Our comments on the above report are as follows:

**1 Preamble:**

The above report, dated 12<sup>th</sup> February 2013, was lodged on the CBC web site late on February 15<sup>th</sup>, some four days after the closure of public consultation, and was not given any prominence by the Council in spite of its potential importance.

This is the fifth report to be prepared by BMA on the Horkesley Park project.

In para 1.1 of this report they say that they have been commissioned by CBC to carry out an **independent** review of the current proposal and list the areas they are expected to cover. These include a review of and, where relevant/pertinent, comment on the objections of the Stour Valley Action Group (SVAG); such review to focus on Tourism and Visitor Numbers, Viability and Job Numbers.

They go on to say that:

"a number of meetings have been held between Colchester Borough Council, BMA and Bunting and Sons plus their advisors, Sykes Leisure Projects and agent Mr Tony Collins."

Further they say:

"CBC, Bunting and Sons and BMA participated in a workshop to consider the project's ability to achieve on-going financial viability should a reduced business case manifest itself."

Whilst there might have been reason for one such meeting with CBC to review the brief, we cannot accept the reasons for meetings with the applicant and his agents. Such meetings, with no minutes in the public domain, tend to undermine public confidence in the concept of impartiality and independence of BMA. It would appear that they have been placed under substantial pressure to find every possible reason to give credibility to an otherwise flawed application as they found in their first report which was truly independent. They have compromised their position in the public eye as credible independent consultants by their involvement with the applicant.

Furthermore, the Planning Officers responsible for these meetings have compromised their credibility to be acting on behalf of the Borough constituents for whom they ultimately work and who pay their salaries. It would appear that the Planning Officers are doing everything in their power to justify the unjustifiable and give the impression they are working on behalf of the applicant.

## **2 Viability and visitor numbers:**

BMA do not withdraw their conclusion in their first report that Horkesley Park would lose money at the rate of £1.8m per annum after depreciation based on the original business plan and visitor numbers from the applicant.

They say that this Supplementary Review should be read in and reviewed in the context of the previous reports and that, in and of itself, it does not constitute a full review of the Horkesley Park proposition and Business Plan.

At no stage do they conclude that Horkesley Park could reach the same level of visitor numbers annually as proposed by Sykes. They say that:

"We have not shifted fundamentally in our view that 310,000 visitors per annum is overly ambitious. However, the investment in the Chinese Garden in particular, could, if exploited correctly, enable the development to reach the upper rather than the lower limits of our estimate of 100-150,000 visitors per annum."

Their absolute maximum is 150,000 compared with the Sykes figure of 316,250. We fully support their view and this has been set out in our letters to the Council dated February 7<sup>th</sup> 2013. Furthermore, in our letter of February 13<sup>th</sup> 2013 we have shown that Sykes has no credibility and that he uses references that are unsound in reaching his conclusions. BMA also say that his assumptions on penetration rates are unsound even if one accepts his ridiculous estimates of market size. It also appears that BMA question his assumptions on income from gate money and from retail and catering spend as being overly optimistic. We cannot see the actual figures as they have been redacted but this conclusion is supported by our own research as included in our letter of July 26<sup>th</sup> 2012.

They go on to say that :

"Despite this, we have been able to demonstrate, in full collaboration with Bunting and Sons, that, with prudent management, it is possible to create a viable and sustainable business at this level"

This statement has a number of problems:

(i) This viability is only at the trading profit level before interest, depreciation and tax. No business can reasonably operate without accounting for obsolescence through depreciation and providing a return on capital to the

providers of such capital. No mention is made of interest costs on capital employed in operating the venture. No mention is made of tax liability.

These figures must be taken into consideration and that the venture is almost certainly not viable when all such costs of operating a business are considered.

(ii) The collaboration with Buntings stated above implies collusion or, at the very least, straining to arrive at the desired answer.

(iii) We note that BMA are now talking of 50-60 FTE jobs for the **region**. How many are they talking of for the site? If this is meant to be for the site then it is clearly very different from the 106.4FTE jobs in the application. If the numbers are for the site only, claims by the applicant for wider job creation in the region in his original submission are vastly overstated and must be set to one side.

**In considering the new BMA Horkesley Park we are now looking at an attraction employing only 50-60 people in the region with 150,000 visitors per annum at maximum. This is completely different from the original application which claimed 316,215 visitors per annum and 106 FTE jobs on site.**

### **3. Conditions:**

We note that in this Supplementary Report, BMA have not varied their conditions for Horkesley Park to become a quality attraction from those in their second report.

#### **3.1 Chinese Garden:**

In their conclusion section 7 BMA require that:

“the investment in the Chinese Garden is forthcoming to the levels indicated and is executed to a high quality.”

We doubt the applicant's ability to do this and suggest that this should be clearly demonstrated as a prerequisite to any favourable consideration of the application. Since the proposal is an exception to policy the Council should ensure that the proposals are fully described within the application and that their funding is demonstrably secured before they could begin to consider any element of them in a favourable light.

We note that the opening paragraph of the BMA section 3.2 covers the structural issues raised in Mrs Ramsay's letter of January 25<sup>th</sup> 2013. All of these structures would be in the AONB. No details have been provided and one of the reasons for rejection of 090231 in 2011 was the new building within the AONB. Why should it be allowed this time? Full details must be provided.

In para two, Bunting's connections with the Far East surely relate to their lily business with Japan and not China? They are very different cultures. What

evidence is there that Colchester as a town has been developing strong links with China? This is the first time we have seen this assertion and it needs to be justified with evidence if it is to be believed. We note that they have now dropped the link between Essex CC and Jiangsu Province now that Essex CC has withdrawn their support.

In their third paragraph we note that funding is not yet in place for this development. The "advanced discussions" quoted to be taking place in China can take months, if not years.

In the last paragraph, no evidence is given for assertion that the Chinese Garden could draw visitors from up to two hours away.

### **3.2 The Constable Experience:**

In their conclusion section 7 BMA require that:

"The Constable Country offer is further developed and defined and includes the exhibition of a number of authentic Constable paintings in the Chantry."

Surely it is essential that the applicant demonstrates **how** the further development of the 'offer' is to be achieved before planning consent can even be contemplated?

In the second para of the BMA section 3.4, the assertion that the existing Constable Country offer is weak, is specious and without foundation. Constable Country speaks for itself without the embellishment of these proposals. The life and times of the artist himself is properly recorded at Flatford Mill Centre and his original paintings are available locally at Christchurch Mansion in Ipswich, Dedham Church and Nayland Church. We would also note that Christchurch Mansion is due to open a new gallery for its Constable paintings in March 2013.

The fifth paragraph of this section reveals the applicant's true intention which is to capitalize for their own profit on the Constable heritage and offer a Constable experience that 'is easier to consume' than the current product on offer..." We are sure that Constable would be turning in his grave if he could read such overt exploitation of his name in the name of mammon. The whole idea of 'consuming' Constable is offensive in the extreme.

In para 10 we note that the Bunting family state they are now in discussion with a number of galleries and private collectors with a view to exhibiting (presumably: original) Constable paintings in the Chantry. Previously the indications had been that they already had access to such works. Now we know that they don't and the authoritative and well-researched letter from Georgina Harding of February 12<sup>th</sup> 2013 makes it clear that they will almost certainly be unsuccessful in their endeavour to source such paintings. A collection of reproductions or paintings without provenance would be of little value.

This further demonstrates the inchoate nature of the proposals some three years after the previous application, of which this is a re-submission, was made. It is clear from the BMA reports that no favourable consideration could be given to this aspect of the application unless and until it has been conclusively demonstrated that the project will proceed in the sense of being able to show original works by John Constable.

### **3.3 Suffolk Punches:**

We note that BMA are not convinced that the Suffolk Punch element would be sufficient to draw significant numbers of visitors from outside the region. They make the point that they cost a lot to keep (feed and veterinary costs) and there are restrictions on how they can be used in terms of proximity between them and visitors due to health and safety reasons.

### **3.4 Link between elements:**

We note that there is no link whatever between the three elements of the Chinese Garden, the Constable experience and Suffolk Punches other than the fact that they would be on the same site. No evidence is given to show why the 'pulling power' of the mix is greater than the individual elements.

### **3.5 Other preconditions:**

These are listed in section 7 of the BMA report. They are:

"That the development will be of high quality:

That the balance of investment between 'content' and infrastructure is managed carefully with the emphasis on elements that add to the visitor experience;

That the promised programme of events is forthcoming."

The applicant gives no indication as to how he would meet these conditions. They are very subjective and the Council would find it hard to monitor them through an s106 agreement.

In conclusion BMA strongly recommend that the applicant undertakes independent market research among potential consumers in order to fully assess potential. This research should be conducted at a point when the concept is further developed in terms of design and branding, **but before it is too late to change in response to research findings.**

**BMA's comment clearly shows the massive amount of work that remains to be done before this collection of half-formed concepts could seriously be considered as reasonably likely to be a viable regional tourist attraction. The fact that this work still requires to be done demonstrates most clearly that BMA have no confidence in the current application and significant work needs to be done both to define the**

**terms of the proposal and to test its credibility in the market place. Manifestly it is far from a proposal which could be the subject of a grant of planning permission.**

Buntings have had twelve years to do this work and BMA have pointed out that they have singularly failed to do it.

#### **4. Conclusion:**

Our conclusions are:

- The fifth BMA report has been compromised in terms of its independence by the collusion with the applicant and the Council.
- The Planning Officers have not been acting in the interest of the Colchester Borough electorate.
- BMA have **not** withdrawn their earlier conclusion that Horkesley Park would make a loss before interest and tax of £1.8m per annum based on the applicant's visitor numbers and revenue projections.
- BMA stick by their projection of 150,000 as being the absolute maximum number of visitors per annum compared with 316,250 forecast by the applicant.
- BMA say that Horkesley Park could be viable at the operating level at 150,000 visitors, subject to the criteria they lay down. We do not have sight of the figures used in this prediction. They do however take no account of depreciation, interest and tax. These must be considered and the business, even at 150,000 visitors, is almost certainly unviable.
- We note that BMA are now predicting 50-60 employees in the **region**. This is vastly reduced from the 106.4 FTE jobs **on site** predicted in the application.
- The Chinese Garden requires new build within the AONB. No details for this have been given and no permission sought.
- The funding for the Chinese Garden has only just been put into the subsidies plan at £1.5 to £2.0m at the eleventh hour and is not yet in place.
- The report states that there is an opportunity to "capitalize" on the Constable heritage. This is an extremely offensive concept.
- We note that the applicants still do not yet have access to genuine Constables. Our research shows that this is very unlikely to be achieved. We agree with BMA that without them demonstrably in place this part of the proposal would fail.
- No evidence is given to show that the combined 'draw' of the Chinese Garden, the Constable Experience and the Suffolk Punches is any greater than the individual elements.
- The Suffolk Punch is not a great 'draw'.
- No indication is given as to how the applicant would meet the other pre-conditions set out by BMA.
- BMA recommend further definition of the project and further **independent** market research. This must be carried out before the application can even be considered.

**What comes out of this report most clearly is that the applicant has tacitly accepted that he will not achieve the visitor numbers forecast or the levels of income originally predicted. We are now talking of an application with a maximum of 150,000 visitors at the absolute maximum generating only 50-60 new jobs in the region and almost certainly operating at a loss after interest and tax.**

**This is a new application and must be the subject of a new submission. 120965 must be rejected before it comes to Committee.**

**Whilst this paper is a response to the 5<sup>th</sup> report from BMA and deals with viability and visitor numbers, the application remains in an unsustainable location and is contrary to national and local policy.**

**W L Pavry**

**Stour Valley Action Group**

**18<sup>th</sup> February 2013**



APPENDIX 5

APPLICANTS RESPONSE TO THE LETTER FROM BERNARD JENKIN MP

Dear Cllr Higgins

**Re: Planning Application No. 120965: Horkesley Park  
FOR CIRCULATION TO THE PLANNING COMMITTEE PRIOR TO DECISION**

It was not my intention to write to you but I feel I must following the letter from Bernard Jenkin MP to you of 26 February 2013, which was copied to me and others. My Partners, our professional advisers and myself are surprised that Bernard Jenkin has not followed the normal protocol of submitting his comments in a timely manner as required under planning procedures and followed by his colleagues Sir Bob Russell MP and Tim Yeo MP. This very late intervention has given me and my team no opportunity to fully respond to concerns raised in his letter. However, it is important to address a couple of matters.

It is surprising that Bernard Jenkin has not considered your Officers' Report against section 38(6) of the Planning and Compulsory purchase Act 2004 which confirms that the decision should be taken in accordance with the Development Plan unless material considerations indicate otherwise. This is exactly what your Officers have done in coming to their recommendation. It would seem that Bernard Jenkin and those who advise him are not fully cognisant of all the application material, and errors in his representations would have been avoided had he clarified matters with either ourselves/our professional team or your Officers before making his submissions.

It is quite frankly astonishing that Bernard Jenkin gives such scant disregard to job creation. NLP the Council's own consultants confirm that 170 new jobs would be created and these would be a significant contribution to those without a job in Colchester. There were 3,100 without a job in December 2012 in Colchester alone.

It is also clear Bernard Jenkin is seeking to interfere with the Council's decision making by stating he will seek to get the application called-in for a public inquiry. That is a matter for the National Planning Policy Unit only, based on the facts of the case, should your Council be minded to recommend planning permission is granted. Bernard Jenkin was rebuffed by the Government Office when he tried to do this in relation to a previous Horkesley Park application.

Yours sincerely

**Stephen Bunting**



## **Colchester Borough Council Development Control**

### **Advisory Note on Parking Standards**

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

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

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

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

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



## Colchester Borough Council Environmental Control

### Advisory Notes for the Control of Pollution during Construction & Demolition Works

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

#### Best Practice for Construction Sites

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

#### Noise Control

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

#### Emission Control

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

## **Class A2. Financial and professional services**

Use for the provision of —

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

## **Class A3. Restaurants and cafes**

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

## **Class A4. Drinking establishments**

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

## **Class A5. Hot food takeaways**

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

## **Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

**Sui Generis Uses**

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

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

**Interpretation of Class C3**

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

**Interpretation of Class C4**

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