

Planning Committee

Council Chamber, Town Hall
20 March 2014 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.

Material Planning Considerations

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

The following approach should be taken:

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

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

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

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

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

- land ownership issues including private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses
- matters specifically controlled through other legislation
- unless they are “exceptional”, personal circumstances, including hardship

Strong opposition to a particular proposal is a common feature of the planning process. However, in the absence of substantial evidence of harm or support from the Development Plan is unlikely to carry much weight. The same principles apply in reverse where there is strong support for a proposal that is contrary to the Development Plan and there is harm (or lack of substantially evidenced benefit).

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions and Considering Reasons for Refusing Applications

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

In terms of the Planning Committee, Circular 03/2009 makes it clear that “*Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority*”.

The power to impose conditions is an important material consideration in any determination. Circular 03/2009 states that “*Whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed*”. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. *The Circular adds that “A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.”* Advice on the need to consider whether conditions may make a proposal acceptable which would be otherwise unacceptable is also to be found in Circular 11/95.

Any planning condition imposed on a development must be necessary, relevant to planning, relevant to the development to be permitted, reasonable, precise and enforceable. Unless conditions fulfil these criteria, which are set out in Circular 11/95, they are challengeable at appeal as *ultra vires* (i.e. their imposition is beyond the powers of local authorities). If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted.

In considering the reasons for that refusal, Circular 03/2009 makes it clear that planning authorities must “*properly exercise their development control responsibilities, rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason*”. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that public authorities act fairly and reasonably in executing their decision making functions, and that it is evident to all that they so do.

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
20 March 2014 at 6:00pm**

Members

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

Substitute Members

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

Agenda - Part A

(open to the public including the media)

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

An Amendment Sheet is available on the council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Pages

1. Welcome and Announcements

1

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

6. Minutes

2 - 10

To confirm as a correct record the minutes of the meetings held on 13 February 2014 and 27 February 2014.

7. Planning Applications

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

1. 111672 Cannock Mill House, Old Heath Road, Colchester (Harbour) **11 - 47**

Mixed residential development of 23 2, 3 and 4 bedroom houses with associated amenity and parking.
2. 132235 Cosway Holiday Park, Fen Lane, East Mersea (Pyefleet) **48 - 64**

Extension of existing and erection of new building to provide A3 (Restaurant), A5 (Hot Food Takeaway), B1 (Business), B8 (Storage) and A1 (Shop) uses with ancillary facilities; together with Childrens Play Equipment, associated access and parking facilities.
3. 140327 Tesco Stores Ltd, Highwoods Square, Colchester (Highwoods) **65 - 84**

Home shop (dot com) canopy extension and extension to store and associated works to existing retail store. Click and collect canopy and associated parking amendments.

4. 130107 High Trees Farm Barn and Outbuildings, Lexden Road,
West Bergholt
(West Bergholt and Eight Ash Green) **85 - 91**
- Change of use to separate residence including live / work arrangement and holiday let permission 081300.
5. 132224 High Trees Farm Barn and Outbuildings, Lexden Road,
West Bergholt
(West Bergholt and Eight Ash Green) **92 - 104**
- Change of use of existing buildings: the main barn to a dwelling, the small barn to an office, the existing cart lodge to parking, and the outbuildings to a holiday let and garden storage and the erection of a cart lodge and brick wall.
- 8. Discharge of Planning Obligation** **105 - 123**
(Mile End)
- North Growth Area Urban Extension - Application 121272 // Endorsement for amendment of published Planning Committee Minutes.
- See report of the Head of Commercial Services (attached).
- 9. Amendment to Deeds of Variation // Garrison Urban Village Development** **124 - 126**
(Berechurch)
(Christ Church)
(New Town)
- See report of the Head of Commercial Services (attached).
- 10. Amendment Sheet** **127 - 131**
- See Amendment Sheet (attached).
- 11. 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).

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

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

Audio Recording, Filming, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops and other such devices is permitted at all meetings of the Council, with the exception of Committee members at all meetings of the Planning Committee, Licensing Committee, Licensing Sub-Committee and Governance Committee. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Where permitted, Councillors' use of devices is limited to receiving messages and accessing papers and information via the internet. Viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

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

Facilities

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

Evacuation Procedures

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Colchester, CO1 1JB
telephone (01206) 282222 or textphone 18001 followed by the full number you wish
to call
e-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

PLANNING COMMITTEE 13 FEBRUARY 2014

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Peter Chillingworth*, Sonia Lewis*,
Cyril Liddy*, Jackie Maclean, Jon Manning,
Philip Oxford and Laura Sykes*

Substitute Members :- Councillor Colin Mudie for Councillor Helen Chuah
Councillor Julie Young for Councillor Stephen Ford

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

111. Minutes

The minutes of the meetings held on 16 January 2014 and 30 January 2014, subject to the removal of Councillor Manning from the list of attendees, were confirmed as a correct record.

112. 132031 - 2 Portland Road, Colchester

The Committee considered an application for the change of use of 2 Portland Road, Colchester from doctor's surgery to single residential dwelling. The Committee had before it a report in which all the information was set out.

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

113. 131538 - Hunters Rough, 18 Chitts Hill, Colchester

Councillor Chillingworth (in respect of his membership of the Campaign to Protect Rural Essex) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of two residential units at Hunters Rough, 18 Chitts Hill and the erection of 16 detached dwellings, garages and an access road. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr David Whybrow, Principal Planning Officer, presented the report and amendment sheet and assisted the Committee in its deliberations. Mr Andrew Tyrell, Planning Manager, also assisted the Committee in its deliberations.

Mr Harvey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He highlighted the special character of Chitts Hill, which would be negatively impacted by the proposed development. Mr Harvey suggested that an increase in housing by 50% was

unacceptable and would result in a loss of amenity for the entire area. He emphasised the loss of green space, trees and hedges and believed that the felling of such was unnecessary. Mr Harvey went on to consider the additional noise created from the site, not background noise, but specific noise associated with additional households. He believed the development added nothing to the community and urged the committee to refuse the application.

Mr Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the site fell within the village boundary and was considered a 'wind fall' site. The development, he claimed, was sustainable and should therefore attract the presumption of development under the National Planning Policy Framework. Mr Pomery emphasised to the Committee that no objection had been raised from the Highways Authority and that a full tree survey and acoustic assessment had been carried out, neither of which caused any concern. He understood that the proposal would not be welcomed by everyone but stressed that careful consideration had gone into the application.

A Member of the Committee asked for clarification regarding the status of highway maintenance in relation to flooding and over hanging vegetation. The Principal Planning Officer explained that such maintenance was already being managed by the Highway Authority. However, as an existing problem, it had no bearing on the proposed development.

The Committee were pleased to hear that officers were in discussion with the Highway Authority. Several Members, however, requested to be made aware of such discussions in the future as they would have liked to have put forward the idea of a slow sign and a 20 mph restriction.

It was requested by the Committee that the original entrances to the Hunters Rough site be blocked off. It was further suggested that any hard surfacing be made from permeable materials. The Committee discussed the noise levels expected from the proposal. It was noted that there would be several gardens as a buffer between the proposed developments and the A12 and, as such, it was considered that acoustic fencing would be unnecessary. It was understood that dwellings would be fitted with double or triple glazed windows where appropriate.

The Committee questioned the size of the garages proposed on the site and further questioned whether the future development of garages into extra living space could be restricted. The Principal Planning Officer advised that permitted development rights had been removed within the proposal and suggested that conditions could be amended to cater for such further restrictions.

The Committee were concerned about the parking of contractor vehicles on the road and requested that an additional condition be agreed to deal with this potential problem. Discussion was had regarding the nature of any street lighting on the development and how this should be LED lighting. The Principal Planning Officer advised that this would be a matter for the Highway Authority, but the request would be passed on.

Several Members of the Committee expressed a desire to have £88,000 of the funding from the Section 106 Legal Agreement allocated to education. The Principal Planning Officer and Planning Manager advised that the Committee was entitled to alter the Section 106 Agreement requirements if they wished to and a strong case for education contributions had been put forward, however the matter had been considered in great detail by the Corporate Development Team and it was concluded by them that, in line with Council priorities, the funding would be most appropriately allocated towards affordable housing.

RESOLVED (EIGHT voted FOR, TWO voted AGAINST) that –

(a) subject to the completion of the Section 106 Legal Agreement within six months of the date of the Committee meeting to provide to following –

- Index-linked contribution towards off-site affordable housing provision as indicated in the report.

authority be delegated to the Head of Commercial Services to approve the application, subject to the conditions set out in the report, amendment sheet and –

- conditions 14 and 15 to be reworded to retain the parking spaces for parking,
- an additional condition to cover off-road parking of contractors vehicles, and
- an additional condition to cover the blocking off and satisfactory maintenance of the old access land.

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

114. 131463 - Proposed Footbridge, Cowdray Avenue / Castle Park, Colchester

The Committee considered an application to construct a new foot / cycle bridge over the River Colne in Castle Park and the demolition of the existing footbridge located 10 metres west of the proposed bridge. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Carl Allen, Planning Officer, presented the report and assisted the Committee in its deliberations.

Mr Graham Carrington, of the Riverside Residents' Association, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that residents were regular users of the bridge and that the river was the only obstacle restricting a through road to the residential area. Mr Carrington believed that the proposal was inappropriate as there had been no assurance that a highway would not follow the introduction of the bridge. He also suggested that no proper consultation had been carried out and that a large

bridge would encourage cyclist to travel faster, thus decreasing safety. Mr Carrington believed that the public's money could be better spent on a facility that was more greatly needed.

Mr Paul Avison, of the Colchester Cycling Campaign, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He believed that the current bridge was inadequate and created obstacles for pedestrians and cyclist, especially those with pushchairs. He suggested this conflict needed to be minimised. The cycle way in question was of great national and international importance and any improvements made to it would bring significant benefits. Mr Avison believed the new bridge would reduce conflict and encourage more people to take up cycling.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. He suggested that the Riverside Residents' Association should have been consulted. He believed that the barriers included in the application, along the river, were inappropriate and not in keeping with the area. Councillor Barlow requested clarification on what type of bollards would be used to restrict traffic and how secure they would be. He further suggested that a condition be added to allow vehicle use of the bridge for specific services only, as this would alleviate residents' concern.

The Planning Officer explained that surrounding paths would have to undergo significant works to become a vehicular highway. The Parks and Recreation Team were keen to retain access control of the bridge and would only use the access themselves in specific situations. He was hesitant to recommend a condition that was too restrictive, as emergency use may be required. He clarified that the barriers running alongside the river were subject to the Council's acceptance and would be short in length.

The Planning Officer apologised for not initially consulting the Riverside Residents' Association, however, he believed that all their comments had been taken on board.

The Committee discussed the nature of the funding for this proposal. Several other projects had been identified which, a Member of the Committee believed, were more in need. The Planning Officer clarified that the funding for the development came from a Section 106 Legal Agreement from a development in Cowdray Avenue, which required local investment.

A Member of the Committee expressed concern about the replacement of the two trees to be felled and requested that these be replaced by mature trees.

RESOLVED (NINE voted FOR, ONE ABSTAINED from voting) that the application be approved, subject to the conditions set out in the report and an additional condition concerning details of bollards to restrict vehicle use of the bridge.

**PLANNING COMMITTEE
27 FEBRUARY 2014**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Helen Chuah*, Sonia Lewis*, Cyril Liddy*,
Jon Manning and Laura Sykes*

Substitute Members :- Councillor Mark Cable for Councillor Peter Chillingworth
Councillor Michael Lilley for Councillor Stephen Ford
Councillor Marcus Harrington
for Councillor Jackie Maclean*

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

115. 140043 5 Lexden Park House, Lexden Road, Colchester

The Committee considered an application for the removal or variation of a condition following the grant of planning permission (F/COL/00/1007) to use part of the roof area as a roof terrace. The Committee had before it a report and amendment sheet in which all the information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Councillor Lewis believed that all the concerns raised by objectors had been suitably addressed.

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

116. 136177 Outdoor Adventure, The White Hart, 342 London Road, Stanway

The Committee considered an application for the change of use from Class A1 (Shops) to Class A3 (Restaurant). The Committee had before it a report in which all the information was set out.

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

117. 140001 66a London Road, Lexden, Colchester

The Committee considered an application for the change of use of 66a London Road, Lexden from A1 (Shops) to private members social club. Alterations to the building included the changing the front door from uPVC to wooden / traditional looking, changing the rear double doors (wooden / glazed) to single metal security / fire exit style and changing the (first floor) double doors (uPVC) to single metal security / fire exit style. Changes that are internal only were the replacement of the

existing toilet area to include two separate toilets and one shower, to be connected to the existing plumbing, the replacement / moving of the internal studwork walls to suit new use, adding new internal doors to create additional soundproof and rewiring the building to bring up to date. The Committee had before it a report and amendment sheet in which all the information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mr Peter Hill, Planning Officer, presented the report and assisted the Committee in its deliberations. Mr Andrew Tyrrell, Planning Manager, and Mr Simon Cairns, Planning Project Manager, also assisted the Committee in its deliberations.

Mr Nigel Taylor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He suggested that there were 14 separate planning objections to this application. He highlighted the inadequate parking for likely demand. The surrounding streets were inappropriate for parking and there was no public transport available late at night. Mr Taylor believed that there would be noise and disruption in the area when individuals left the club, as London Road was very quiet at night. He suggested that there was a valid fear of increased crime. He further believed that the proposal was fundamentally wrong for the area, a view that was supported by Sir Bob Russell MP. Mr Taylor indicated that local retail units did serve the needs of the immediate and wider community, and that there was a clear conflict with policy. He urged the Committee to reject the application in its entirety.

Mr Jason Woolf addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He thanked officers for their work and appreciated that the conditions proposed were sensible and addressed objections raised. He believed that a 0 decibel noise level could be achieved. Mr Woolf believed that there was ample parking for the capacity of the proposal, although it was unlikely that the proposal would reach full capacity each night. Mr Woolf had conducted a survey to establish the proportion of smokers with the potential customer base and believed that marketing the business as 'non-smokers only' would be an appropriate course of action. He intended to be a responsible operator.

The Planning Officer emphasised that the success of this proposal would largely rely on the quality of its management and, as such, a temporary permission had been recommended. He further clarified that although minor physical alterations were described in the application description, no drawings were provided of these and it seemed likely that they did not constitute development. Conditions had been included to require precise details of such physical alterations to be submitted before commencing them, in case they were development.

A member of the Committee questioned whether it was justified to accept the proposal in a Neighbourhood Centre. It was additionally suggested that, as the Neighbourhood Centre in question was so small, it had been protected for a purpose and granting permission for this proposal would open the flood gates for such

development in other areas.

The matters of insufficient space for deliveries and taxi drop-offs were raised. It was further identified that buses stopped serving the area after 11pm. The fact that many residents currently regularly used the public car park overnight was raised by a member of the Committee.

The Committee discussed Development Policy 7 (DP7) and whether the objections raised from within the direct locality identified that there was no need within the local community to be met. It was suggested that the noise and disturbance of individuals leaving the premises and walking to the car park at 2am would cause significant harm.

A member of the Committee questioned whether, as there was no minimum parking requirement for businesses, parking could be considered at all. Clarification was sought as to whether surrounding takeaways would need to apply for planning permission to extend their operation hours. It was also asked whether the safety of individuals leaving the premises at night without street lighting was a planning consideration.

The Planning Officer explained that DP7 required ventures within Neighbourhood Centres to provide for the needs of residents in the immediate neighbourhood and the district settlement. It was considered that support raised by individuals within the Borough indicated such a need. The Planning Officer further identified that the Spatial Policy Team had not raised any objection, as it was not believed the aims of the policy were being undermined. Regarding the opening times of surrounding takeaway business, whether they would need to apply for planning permission to extend their opening hours would depend on the conditions they were already subject to. The Planning Officer suspected that the numbers generated by the proposal would not be sufficient to trigger such expansions.

It was not advised by the Planning Officer that lack of street lighting was a material consideration. Although there were no minimum parking standards required for the proposal, parking was still a material planning consideration. However, it was emphasised that promoting sustainable forms of travel was to be encouraged.

The Planning Officer suggested that although buses did not run after 11pm, members may be leaving before this time. The lack of official taxi drop off or room for delivery vehicles would be the same for any business use. It was also noted that the car park in question was an existing 24 hour car park.

The Planning Project Manager clarified that DP7 pre-dated the National Planning Policy Framework (NPPF). He went on to explain that the NPPF created a more flexible approach to Neighbourhood Centres. It was the Government's intention to encourage vitality and vibrancy. The restrictive approach detailed in DP7 may not be in accordance with NPPF.

There was discussion within the Committee as to what grounds could be used to refuse the application, contrary to the Officer recommendation. The Planning Officer considered that a Planning Inspector may not find a refusal of this application on the

grounds impact on residential amenity unreasonable.

RESOLVED (SIX voted FOR, THREE voted AGAINST) that the application be approved, subject to the conditions set out in the report.

118. 132816 Warriors Rest, Maypole Road, Tiptree

Councillor Harrington (in respect of his support of Colchester United Football Club) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the construction of a steel framed, fabric covered sports building to enclose the Multi Use Games Area at Warrior's Rest. The Committee had before it a report and amendment sheet in which all the information was set out.

Mr Simon Cairns, Planning Project Manager, presented the report and amendment sheet, and assisted the Committee in its deliberations. He explained that an additional representation had been received from Tiptree Parish Council regarding a Community Use Agreement. He clarified that a satisfactory draft Community Use Agreement had been received from the applicant. It was recommended that, if the proposal were to be agreed, this was subject to the applicant signing this Agreement.

A further representation had been received, which raised concerns regarding adherence to conditions, loss of pitches, highways and floodlights. The Planning Project Manager identified that the conditions attached to the recommendation were enforceable, Sport England had been consulted on the removed pitches and did not raise an objection, the Highway Authority raised no objection and that floodlighting had been dealt with under condition 3.

Mr Steve Bays, of Tiptree Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the Parish Council only objected to the validity of the usage agreement. He was pleased to hear that the Community Use Agreement was now included in the application. He was concerned that the commercial usage of the site would be greater than that of the community, regardless of the site being considered public open space. Mr Bays drew the Committee's attention to a letter from Adrian Pritchard, indicating that the usage of the site would be investigated.

Mr Peter Tanner, Chairman of Jobserve Sport and Social Club charity, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He addressed concerns regarding the access of local communities to the facilities, stating that there was a desire to increase community use. He believed that local youth groups used the facilities as much as, or more than, Colchester United Football Club and that the local Bowls Club used the facilities in the daytime. Shared use was at the heart of the charity's plan. Jobserve had received significant funding from the Aspire Media Group to provide facilities for the local community.

Councillor Martin attended and, with the consent of the Chairman, addressed the Committee. He suggested that there were 13 additional hectares of open space adjoining the sports area on the site. He believed that previous applications of this nature had not resulted in any realistic benefit to the community. Councillor Martin believed the Community Use Agreement should contain a public booking system and suggested the inclusion of an additional condition in relation to vehicular access. He would like to see Thurstable School consulted on any future applications.

The Planning Project Manager suggested that condition 7 be amended to specify that the building should not be illuminated after the hours specified.

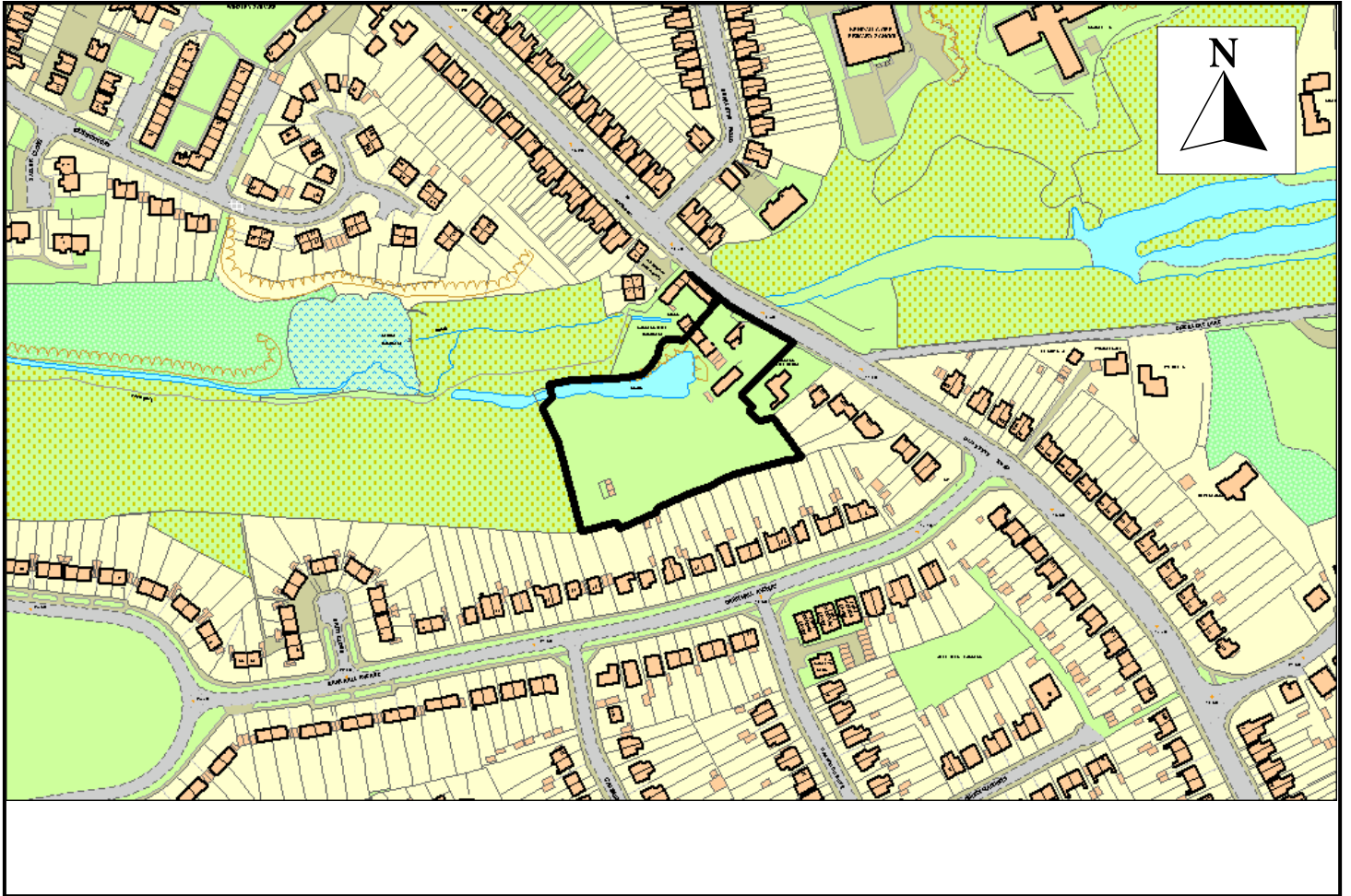
The Committee was pleased to see that sport facilities in the Borough were being improved and believed that enabling use of sports facilities in all weather was good progress.

A member of the Committee expressed disappointment with some objections, as the proposal clearly benefitted the local community.

The Committee reaffirmed the benefit of consultation between the football club and Thurstable School regarding rights of access.

RESOLVED (UNANIMOUSLY) that the application be approved, subject to the signing of the Community Use Agreement, the conditions set out in the report and amendment sheet, and the following alteration to condition 7:

- The building shall only be available for use during the hours of 8.30 until 22.30. Outside this period the building shall not be illuminated.



Application No: 111672

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

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **20 March 2014**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Sue Jackson

MAJOR

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

Application No: 111672

Date Received: 12 September 2011

Agent: Hall Duncan Associates

Applicant: Mr Paul Lock

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

Ward: Harbour

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

1.0 Introduction

1.1 This application was reported to the Planning Committee on 5 July 2012 and deferred for a legal agreement to secure

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

1.2 The agreement has not been signed and in October 2013 a viability appraisal was submitted. this appraisal has been independently verified by the District valuation Office and the conclusions are set out at the end of this report.

1.3 The previous report to members is set out below with the new text **in bold**

2.0 Introduction

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

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

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

3.0 Synopsis

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

4.0 Site Description and Context

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

4.2 There are commercial properties scattered along Old Heath Road but concentrated at the junction with Cavendish Avenue, some 400 metres from the site, where there is a Co op store and post office and the junction with Wimpole Road, some 650 metres from the site, where there are doctors and dentists surgeries.

4.3 Old Heath Road is a classified, secondary distributor road and is a major route into Colchester from the South East. The site is some 1.5 kilometres from the town station and town centre. Old Heath Road is on a bus route with regular buses to and from the town centre.

- 4.4 The application site has an area of approximately 0.67hectares, a depth of approximately 120metres and a frontage of approximately 35 metres onto Old Heath Road. The site is at the bottom of Bourne Valley. The land rises from front to back and side to side. Whilst this provides an opportunity for innovative design it also means the site section and level details are important to enable a proper assessment of the impact of the development. Whilst the site contains established trees and hedges these are not protected by a preservation order.
- 4.5 Opposite the site is Distillery Pond a local wildlife site, open space and green link. To the rear and on the north side is the open space of Bourne Valley also a local wildlife site and green link through which runs Bourne Brook leading to Bourne Pond. The Bourne Valley path runs through the open space and continues along part of the sites north boundary to Old Heath Road. It is possible to then walk along Distillery Lane, past Distillery Pond to Haven Road although this is not a PROW. These landscaped areas of open space, water and nature conservation have good visual links to the site which also contains a number of mature trees and hedgerows and part of the overgrown pond located to the rear of Cannock Mill.
- 4.6 The larger site contains Cannock Mill, Cannock Mill House and a range of outbuildings, car ports and other small domestic structures. The outbuildings are of a mix of blockwork, timber and rendered elevations with mainly fibre cement roofs.
- 4.7 Cannock Mill is a grade 2 listed building. The following information has been provided:-
“There has been a Mill on the adjacent site since the 14th century which was associated with St Botolphs Priory. The Mill has had several guises over time and was re built in 1835 – 1875 when it was fed from pipes from the higher mill pond. It was restored in 1973 and has subsequently been used for storage and as a shop for the sale of tropical fish. The current building is Listed Grade II and included the following listing:-
“Picturesque weather-boarded building, rebuilt in 1835, 3 storeys and hoist loft, the roofs of slates. Old tiled outbuilding on the east.”
- 4.8 No mention is included within the listing of the current attached cart port and outbuildings which are of a much later date and are proposed to be removed. It is understood that the Mill wheel to which water was fed via iron pipes from the elevated mill pond stood to the southern end of the Mill building in an area now covered by a more recent open cart port construction. Cannock Mill is 3 storey weatherboard construction. Puddleducks Day Nursery occupies outbuildings on the road frontage formerly associated with the Mill.
Members should note Cannock Mill is not part of this application.
- 4.9 Cannock Mill House sitting on the slope to the south of the Mill completes the group. Cannock Mill House is included in the recently approved list of buildings of local importance. It is an attractively detailed traditionally formed brick dwelling with a slate roof. It has a raised position on the site due to the contours of the ground and is set in open grounds. **Members should note Cannock Mill House is not part of this application.**

- 4.10 The application documents include a Site Analysis Document, Design and Access Statement (and revisions), Heritage Statement, Tree Survey and Arboricultural Impact Assessment, Contaminated Land Assessment and Ecological Assessment.

5.0 Description of the Proposal

- 5.1 **This outline application proposes 23 units comprising 10no 2bed, 10no 3bed and 3no 4bed in a variety of forms providing a density of 38 units per hectare. Affordable Housing of 8 units would be required in proportion to the overall mix of units in accordance with Policy H4.**
- 5.2 Vehicular access to the site will be in a similar location along the Old Heath Road frontage but will be upgraded to meet the requirements of the Highway Authority a layout with a Type 7 Mews combined vehicular/pedestrian access is proposed.
- 5.3 The existing outbuildings between Cannock Mill and Cannock Mill House will be demolished. **Members should note these outbuildings are classed as curtilage buildings to the listed Cannock Mill. Listed Building consent will be required for their demolition.**
- 5.4 Two buildings are proposed along the site frontage and are located between the Mill and Mill House. A 1 ½ storey car port building is proposed adjacent to the Mill replacing an existing cart port structure. To the other side of the access mews is proposed a small block of 3 units fronting Old Heath Road. These units are set back from the road.
- 5.5 Other buildings at the lower levels are 2 storey with varying roof forms and include single storey elements to break the scale and provide the gaps between buildings.
- 5.6 To the rear elevated southern boundary of the site the buildings have been arranged to reflect the existing contours and 4 buildings (a total of 16 dwellings are proposed). These buildings step with the slope of the site and have undulating roofs. The floor plate will step approximately 1.35m along their centre line. Their rear elevation is two storeys to the boundary with a ground floor level approximately 1-2m lower than the ground level at the boundary itself. The front elevations of these blocks will have stepped elevations of 2 and 3 storeys.
- 5.7 The application is for outline planning permission only and the appearance of the units will be subject to a reserved matters application however, massing, scale, typical elevations and material palettes are included to support the proposals and provide guidance upon the final design proposals. This information is provided in the form of sketch elevations, 3D views and the design and access statement.
- 5.8 This supporting information indicates a mixture of building forms, scales and massing. “Traditional materials should be used drawn from the local context including painted timber boarding, facing brickwork, colour washed render and slate roof finishes. Roof forms will reflect the mixture of pitches within the surrounding context and including steeply pitched roofs on some of the smaller scale blocks and shallower pitches used to provide undulating articulated roof forms to the larger blocks”. “The overall concept of the layout and massing suggests that the approach to the appearance of the blocks should be of a contemporary nature but reflecting the surroundings by the integration of traditional materials as described above. The typical elevations included suggest

appropriate approaches to design. Positions and design of windows should reflect the location of the units and be arranged to minimize any potential overlooking of adjacent amenity areas whilst maximising views of the Mill and open space. First floor balconies / terraces should be carefully integrated to take advantage of the context and to maximise private amenity areas”.

- 5.9 To the northern edge of the site a publicly accessible open space is shown with a path linking the site to the Bourne Valley path. The supporting information indicates this open space could include a reformed mill pond and this could be used as part of a sustainable drainage proposal for the site as well as for amenity. This amenity area will be managed by an appropriate management group.
- 5.10 The trees within the site include a mixture of Silver Birch, Cherry and Walnut. There are Lime trees along the southern boundary and Sycamore trees to the northern edge adjacent to the Bourne Valley path along with some Willow in the area of the old mill pond. A Tree Survey and Arboricultural Impact Assessment has been submitted. This indicates the retention of the majority of B category trees. The application includes additional tree planting within the site and hedges to define some plot boundaries.
- 5.11 The frontage of the site will include new boundary treatment incorporating railings and hedging. The information indicates public art can be incorporated into the proposals and an entrance space created with appropriate consideration and detail to reflect the importance of the heritage assets on the site.
- 5.12 Parking provision is 2 spaces per unit plus one space for every 4 units for visitor parking. Parking will be on plot or in adjacent parking courts. Cycle parking will be provided within garages where provided alternatively external storage sheds will be provided of sufficient size to accommodate cycles along with general garden storage.

6.0 Land Use Allocation

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

7.0 Relevant Planning History

- 7.1 None relevant

8.0 Principal Policies

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

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

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

9.0 Consultations

Environmental Control

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

Planning Projects Team

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

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

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

No objection in principle but following concerns identified:

- Development between the Mill and the Mill House and the area of car parking could undermine the existing openness of the site and destroy the historic relationship between the Mill and the Mill House to the detriment of the setting of these listed building. *Officer comment in subsequent discussions it has been agreed that the contemporary design approach suggested for the site is not appropriate here and a traditional design is required. There is already an area of hard surface to front of the Mill and if sensitively treated a further area would not detract from the listed building.*
- The existing courtyard of the mill is shown retained in its present form. The indicative drawing shows two parking spaces for the mill but does not address the parking requirements of the nursery building. *The nursery have rights of access and parking facilities in front of the Mill.*
- The retention and enhancement of the former mill pool to the rear of the mill is welcome. Areas of open space occupied as pasture, to north and south of the mill pool; trees each side of the mill pool; and a tree belt along the southern boundary are also shown retained on the indicative layout drawing, which is again welcomed.

- The application is silent on the future proposal for Cannock Mill, although it is implied that this building is to be converted to residential use. In view of the fact that the mill building falls outside the current application site, it is considered prudent to ensure that the mill is provided with sufficient land to accommodate to future conversion in a satisfactory manner. *Officer comment clarification on the intended use of the mill has been submitted (and is set out later in this report) this confirms the proposed use is as a single dwelling..*
- Regarding the indicative layout, the siting of the 4 blocks (units 8-21) adjacent to the southern boundary is considered unlikely to have a significant impact on the general setting of the listed buildings.”

Urban Designer

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

Natural History Curator

- 9.9 “The site was visited and a walk over indicated a number of habitats present which may be capable of supporting protected species.
- Mature trees particularly those with broken branches and rot holes that may be used by bats and also nesting birds. The tree survey does not cover the possible wildlife value of any of the trees
 - Dead Wood/felled trees should be retained on site or stacked (by agreement with CBC) on adjoining land to benefit Stag Beetle and other dead wood invertebrates.
 - Pond believed to be formed from remains of the old mill channel. Much choked with vegetation. Possibility of (Great Crested Newt) as well as other amphibians and Grass Snake needs surveying at the appropriate time of year (spring). Amphibians may also use other parts of the site in the terrestrial phase of their life cycle.
 - Bourne Brook (and possibly other water bodies) Possibility of Water Vole (*Arvicola terrestris*) needs surveying. Adverse effects of run-off from any

development should also be assessed with regard to all water bodies on or adjacent to the site. Water vole has recently been reported from Bourne pond and both otters and water vole have been recorded from relatively nearby Salary Brook recently.

- Hedges and trees around the perimeter Nesting birds and perhaps even Dormouse could be present.
- Patch of rough grassland Rather small and isolated, but should be checked for reptiles as a precautionary measure
- Outbuildings, sheds etc Nesting birds including Barn Owl, Housemartin, Swallow and Swift. Bat roosts possible
- Lawn and other areas May provide foraging areas for badgers which are known to occur in the vicinity.
- Adjacent areas The Bourne Valley, a Local Wildlife Site (CO121) lies on the opposite side of the footpath to the Mill. This wet area, together with Blythe Pond (recently restored), are known to be rich in wildlife. An area of woodland with a damp flush, also in CBC ownership, abuts the site and has considerable biodiversity potential. Across Old Heath Road the LOWS continues toward Distillery Pond, a large area of water with several species of waterfowl and other aquatic life.
- Wildlife Corridor/ Green Link From Bourne pond in the west to Distillery Pond in the east, the Bourne Valley constitutes an important wetland green link across a predominantly urban area. This is cut at Cannock Mill by Old Heath Road and existing buildings both of which cause a 'pinch point' in this corridor, which could be exacerbated by further development. Planting of more trees and shrubs closer to the road, around the area of a large Lombardy Poplar, for example, might facilitate, at least smaller birds, in crossing the road effectively. The Museum holds records of Common Lizard, Slow Worm, Common Toad from within 1Km of this site and bats are known to be present in the Bourne Valley. There are two records of Badger from the same 1Km square as the site. Both water vole and otter are being increasingly recorded locally from rivers streams and ponds.

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

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

Natural England

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

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

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

Natural England's advice is as follows:

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

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

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

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

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

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

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

Highway Authority

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

- visibility splay with dimensions of 2.4 metres by 90 metres to the north west and 2.4 metres by 90 metres to the south east, as measured from and along the nearside edge of the carriageway
- 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on
- Provision of vehicular parking and turning facilities
- No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary
- The gradient of the proposed access be not steeper than 4% (1in 25) for the first 6 metres from the highway boundary and not steeper than 8% (1in 12.5) thereafter.
- Submission of details showing the means to prevent the discharge of surface water from the development onto the highway
- Details of the estate roads and footways to be submitted and approved in writing by the Local Planning Authority
- The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

- All independent paths to be a minimum of 2 metres wide, with details of lighting and drainage
- Minimum dimensions for all vehicular hardstandings and garages
- Provision and implementation of a Residential Travel Information Pack for sustainable transport,
- Provision of the new footway link onto the Bourne Valley footpath.

10.0 Representations

10.1 22 letters of objections have been received in respect of this scheme, a 5 further letters were received after neighbours were informed additional information had been received There are no letters of support.

10.2 The letters of objection raise the following main areas of concern (summarised) :

Traffic /Highway Issues

- The proposed development will further exacerbate an existing parking problem in Old Heath Road and Scarletts Road. Parking is already at a premium on Old Heath Road with both sides of the road used to their capacity - an extra "estate" placed on the doorstep would just make things even worse.
- Has anyone from ECC visited the area and stood on the Old Heath Road. If they had they would have recognised that the proposed entrance to the site comes out onto a very narrow, stressed piece of highway. Massive lorries from the Whitehall Industrial Estate and at least 20 buses an hour during daytime head up and down the hill. This road is already under strain. There are frequent bottlenecks as one tries to negotiate up Old Heath Hill. This road will get even busier when the large Rowhedge development is completed.
- The road still regularly floods following heavy rain. It has a childrens nursery on the doorstep. The number of cars attached to the properties proposed, together with visitors and service vehicles will make a difficult junction much worse.
- Old Heath Road connects two schools and is used by children walking to other schools using Bourne Mill and Distillery Lane as a cut through. This footpath is very well used and an important part of the green link, cited in the masterplan for the area.
- The road towards town narrows to essentially a single lane due to residents parking their cars, this is compounded by access to Scarletts Road and the existing flats at Cannock Mill Court.
- The entrance to the proposed development seems to be the existing entrance. This is used by both Dolphin Aquatics and Puddleducks Day Nursery - the amount of extra traffic 23 properties would produce would impact on the children. The entrance is already busy, and it is very difficult to see when exiting due to the sign placed outside by the council.

Impact on Wildlife/Green Corridor

- The site together with Bourne Mill, the Distillery Pond and the River form an important green corridor in the built up area. This green corridor, which is popular with children, walkers and cyclists fulfils an important function as a green lung and has already been eroded by the development around the Distillery Pond. The site in question provides a much needed haven for wildlife. With a proven link between

green spaces and health and emotional benefits in children and adults, it is vital that we safeguard green and open spaces like these, punctuating as they do the built up area and offering character to the environment as well as an important view.

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

Impact on Listed Buildings/Historic Areas

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

Impact on Residential Amenity

- Invasion of residents' privacy as the design of the homes and their proximity would give them full view into gardens and direct eye line into homes.
- Although the plans state that the tree line of limes will maintain natural privacy, this will only be for half of the year, there is no guarantee that when any work starts that these trees will not be damaged to the point of making them unsafe, and in-turn

them being removed. They should have a preservation order put on them to avoid this happening.

- The plans submitted all place the proposed buildings close (within 15 mtrs) of all the existing Barn Hall Avenue property boundaries, which concerns us as our garden would directly border the proposed new properties. There is land designated 'conservation area' to the north of the plot is not being utilized.
- Noise pollution that any development will create especially one built on a hill which will need serious foundations constructed. Also in an area where structural slippage has already caused concern for some residents this work may have other consequence
- The area has been a green belt of land with a line of Lime trees mixed with other species. These magnificent trees which offer so much situated along the southern boundary are the property of the residents of Barnhall Avenue and not the owners of the site. How could a tree survey be conducted without consulting the tree owners? I was under the impression that the lime trees with the other species had a preservation order on them. Although according to the report/drawings about the trees this appears not to be the case.
- The land that they wish to develop was thought to have been green belt. This appears to have been moved over a period of time
- In the tree report compiled by Hayden's it states that, "Of the trees surveyed at total of fourteen individual trees, T008 ? T016 and T027 ? T031, one group, G002 and the woodland W001 have been categorized as BS5837:2005 Category B, namely, trees of moderate quality and value in such condition as to make a significant contribution. The most notable of these trees are the line of Lime trees on the southern boundary which are a key landscape feature, being on raised ground creating a skyline feature." statement in such a way as to imply that the neighbours cannot see out at the moment is inaccurate. Trees lose their leaves at various times of the year and do not solidly block out light and views even when in full leaf. The buildings proposed will solidly and immovably block light and divert wind.
- Concerned that the three story homes will not be in keeping with the area and will also overlook and overshadow many homes. It seems they have been used to shoehorn in more homes than the land allows.

Design

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

Drainage/Flooding

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

- Every new development in this area inevitably affects water run-off and drainage issues, these being delicately balanced. Concern that the increase in hard surfacing associated with development will further increase drainage issues.

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

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

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

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

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

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

- Can we please ensure that any new cycle path and all parts of the footpath on the developers' land are dedicated as shared use, and are a minimum of 3m, preferably 4m wide. They should not include steps, and asphalt should be machine laid. Finally, the developer should pay for cycle route signage as part of the scheme.

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

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

A letter has recently been received querying the position of the site boundary in relation to adjoining properties, this is a private matter between the site owner and resident.

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

1. Who will maintain the pond and the public open space
2. Can the refuse lorry access the site
3. The protection of the Lime trees at the rear of houses in Barn Hall Avenue which I am told are not on mill land and will provide privacy to the residents from the new development.
4. Will this have any effect on the nursery.
5. Slab levels the land rises to the rear of the site how will this be addressed.
6. The area tends to flood at times when water comes from Bourne Pond through the valley and floods the road near the mill.
7. With at least 23 extra vehicles using the site some form of traffic calming is needed at this junction traffic speeds up and down the hill in both directions there are also parked cars on both sides of the entrance
8. Who will be responsible for the affordable housing.

11.0 Parking Provision

11.1 The adopted parking standards require a minimum of 2 spaces for 2+ bedroom units plus 0.25 spaces per unit (rounded up) for visitor parking.

11.2 Two spaces have been provided for each dwelling plus visitor parking. Parking is provided in the form of integral garages or in adjacent parking courts. Cycle parking will be provided within garages where provided or external storage sheds will be provided of sufficient size to accommodate cycles along with general garden storage.

11.3 Parking provision meets the councils adopted standards and the size of the garages and parking spaces conditioned to meet the Council's preferred dimensions.

12.0 Open Space Provision

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

13.0 Air Quality

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

14.0 Report

Principle of Development

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

Layout Design Scale Height Massing

- 14.2 Although this is an outline application it seeks permission for a specific number of units and layout. The layout proposes a single unit adjacent to the Mill and a group of three units next to Cannock Mill House a mews between them serves the site with units overlooking the new open space. Groups of trees are retained within the development. Some units include small terraces as well as private gardens.
- 14.3 The majority of the development is comprised within 4 buildings a total of 16 units backing onto Barn Hall Road. These properties are cut into the site contours 2 storeys at the rear and a mix of 2 and 3 storey to the front. Due to the site levels there is the potential for overlooking within the site from these units (new dwellings to new dwellings not new to existing dwellings) this will require careful fenestration at the reserved matters stage.

- 14.4 The Design and Access Statement and typical elevations, which will form part of any planning permission indicate 2-storey and one and a half storey buildings with 2/3 storeys facing into the site. Whilst the application documents indicate buildings with a contemporary style their height and massing are typical of domestic forms and reflect those of the existing residential buildings.
- 14.5 The contemporary approach has been negotiated by the Councils Urban Designer. The site will have its own character and identity using traditional materials in a contemporary form. The use of timber cladding in natural colours, slate and timber terraces could produce exciting designs appropriate to and blending into this landscaped setting.
- 14.6 As discussed earlier in the report the contemporary style is not considered appropriate for the frontage plots between the Mill and Mill House which need to take their references from and be sympathetic to these listed buildings. This will be secured by condition. Whilst the contemporary design of the frontage units is not acceptable their location set back from the road is well related to Cannock Mill and Cannock Mill House and retains their outlook and focus in the street scene. A change in level will ensure the Mill House retains its elevated position and the new houses will appear subservient to it .
- 14.7 Officers have negotiated amendment to the layout for the front of the site with the new units now set back further into the site and also set at the lower level to maintain views to and from Cannock Mill and so that Cannock Mill House retains its elevated presence. The rear blocks have also been amended to provide greater gaps between buildings.

Impact on Neighbouring Properties

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

- 14.10 The majority of these properties satisfy the councils privacy standards the exception is plots 10 -13 which have gardens between 11- 15 metres which are 20 degrees to existing however the distance between building is in excess of 40 metres (the EDG suggests where the angle is 30 degrees this distance can be 15 metres).
- 14.11 It is considered acceptable levels of privacy are achieved.

Impact on the Surrounding Area and Listed Building

- 14.12 The application documents include a Design and Access Statement, Site Analysis and Heritage Statement.
- 14.13 Cannock Mill is a grade 2 listed building Cannock Mill House is included on the recently approved list of buildings of local importance. On the opposite side of the road is the edge of the Distillery Pond Conservation Area
- 14.14 The application proposes the demolition of an open garage structure attached to the south east side of the mill, a building described as a scaffold store and a garage south of the mill. It is considered the removal of these buildings will enhance the setting of the Mill and the area in general.
- 14.15 The new buildings on the frontage, 4 dwellings, are set back from the road so that views of the Mill and Cannock Mill House are retained, the Mill House will also retain its elevated position. The importance of the appearance of these units has been discussed earlier in this report. The contemporary design proposed is not considered appropriate and an appropriately worded condition will secure revisions at the reserved matter stage.
- 14.16 There are currently views into the site through to the landscaped backdrop of the Bourne Valley Open Space. Some views would be lost or changed. For example views of the Mill are currently of the building with a backdrop to the south of the garden to Mill House. However the land immediately to the rear of the Mill and Bourne Valley will remain as a landscaped area. The site layout also retains some views by providing blocks of buildings with gaps between them where the existing landscape features can either remain or be seen. This landscaping will be enhanced by the addition of new tree planting and by the provision of hedges to define some plot boundaries. To the rear elevated southern boundary of the site the blocks have been arranged to reflect the existing contours of the site and so maximise the potential for landscaping.
- 14.17 Whilst the application does not include the Mill the following information has been provided by Fenn Wright Surveyors “We have reviewed the options in relation to the future use and occupation of The Mill and have reached a conclusion that conversion to a single dwelling is likely to prove the most cost effective form of development. We confirm we will be recommending to our client conversion of the building to create a single 3-4 bed house together with perhaps the installation of a mezzanine in the second floor to take advantage of the views from the gable window/loading platform”.
- 14.18 The use of the Mill as a single dwelling will require planning permission and listed building consent. Residential use would be acceptable in principle.
- 14.19 The proposal would have limited impact on the conservation area

Impact on Trees

- 14.20 A Tree Survey and Arboricultural Impact Assessment have been submitted. The Tree Survey assesses trees in terms of their quality and value. Category A - high quality and value, Category B - moderate quality and value, Category C - low quality and value and Category R should be removed. The survey indicates there are a total of 38 trees, 4 groups, 1 hedge, 2 areas and 1 woodland on the site. There are no Category A trees. Fourteen individual trees, one group, and the woodland have been categorized Category B. The most notable of these trees are the line of Lime trees on the southern boundary which are a key landscape feature, being on raised ground creating a skyline feature. Other notable trees are along the northern boundary forming part of the adjacent public land, and the woodland on the western boundary.
- 14.21 The report recommends there is adequate space for development on the site without compromising Category B trees and features and all but one will be retained.
- 14.22 Since the submission of the ecological survey a revised Tree Survey document has been submitted showing the retention of the tree to the rear of the site which has been identified as having high bat potential.
- 14.23 Whilst the proposal does result in the loss of trees these are mainly ones identified as low quality. The application proposals indicate replacement planting, in particular along the site frontage.
- 14.24 The Council's specialist Arboricultural and Landscape Officers have considered the application information and are happy with their conclusions and have raised no objection subject to conditions.

Impact on Ecology

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

The report concludes

- No part of the proposed development site has any conservation designation
- A small section to the rear of the site is included within the Habitat Inventory under The National Inventory of Trees and Woodlands. This designation has limited value in relation to the sites actual conservation value
- Most of the proposed development site is managed amenity grassland with no conservation value and very limited biodiversity. There is a small area of less frequently mown grassland; although it has a little more conservation potential than the mown areas it does not have sufficient structure/content to provide a viable reptile habitat
- There is no badger sett of any type within or adjacent to any part of the wider site
- There is no bat or bat roost of any species within any of the sites buildings. However it is probable that bats from nearby roosts will forage over the site and particularly along the tree-lined boundaries. These boundaries may also be used by bats commuting from roosts at the cemetery near Bourne Mill to the woodlands around the Distillery Pond to the east. To retain bat activity at the

site, no artificial lighting should be allowed to illuminate the boundaries. If this is achieved, then the use of the site by bats would be expected to continue. The recommendation is that no lighting is allowed to illuminate the boundaries of the site during construction and occupation of the development. *Officer comment this will be secured by condition*

- There is a single tree towards the rear of the site that has been identified as having bat potential *Officer comment this tree is retained*
- A suitable amphibian presence or absence survey is only required to the area of the Mill Pond as other areas do not represent a suitable habitat. The survey is not planned to be undertaken at this time as it is outside the area for development however it should be conditioned to take place at a later appropriate time.

14.26 It is concluded the proposed development will not have an adverse impact on protected species. As this is an outline application condition can be imposed requiring the reserved matters to include an appropriate survey of the pond area. This pond is unaffected by the built development and part lies outside the application site. However there is a suggestion the pond will be cleared as part of the open space proposals and it may form part of a sustainable drainage scheme. The site it plays an important role in providing a green link between the Bourne Valley to the west and Distillery Pond to the east. The development proposal retains green areas along the north and south boundaries. Whilst existing trees on the frontage are to be removed new tree planting is proposed which will assist as a crossing point as advised by the Natural History Curator. A condition requiring of an ecological management including stag beetles will be imposed.

Highway Issues

14.27 There is an existing access to the application site which provides currently access to the Mill and Puddleducks Day Nursery. Cannock Mill House has its own separate access which will be retained. There is a hard surfaced area in front of the Mill and the adjacent outbuildings.

14.28 Members will be aware that many of the objectors have expressed their strong objections about highway issues stating that the existing road is already busy, that parking takes place along the road and poor visibility.

14.29 It is accepted that the proposed scheme will generate additional traffic however the Highway Authority has recommended permission subject to conditions. These include improvements to the position of the entrance and to visibility at the site entrance. In highway terms this is a sustainable location with frequent bus services along Old Heath Road. There are shops, schools and health facilities nearby. The site is 1.5 kilometres from Colchester town centre where there is access to a wide range of transport, leisure, retail and employment opportunities.

14.30 The proposal meets the Councils adopted parking standards as explained in the parking section above.

14.31 The applicant is aware of the comments made by Puddleducks Day Nursery. These concerns are a private matter between the two parties.

Drainage/Flooding

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

Sustainability

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

Footpath /Cyclepath

- 14.35 The Colchester Cycling Campaign and Sustrans have both commented on the application and request the following
- a 3 or 4 metre wide path for shared use,
 - section 106 contribution or CIF money to connect Distillery Lane with the Garrison cycle route
 - upgrade the footpath to Bourne Road and Barnhall.
- 14.36 The application includes a footpath connecting the site to the Bourne Valley path.
- 14.37 Condition required by the Highway Authority states all independent paths to be a minimum of 2 metres wide and a new footway link onto the Bourne Valley footpath to be provided entirely at the Developer’s expense. The proposed development has been considered by the Council’s Development Team and the Highway Authority on several occasions. However, the applicant has agreed the new path through the new open space will be 3-4 metres wide. This will be secured by condition.
- 14.38 The applicant had previously agreed to all the section 106 requirements requested by the development team including 35% affordable housing. The provision of affordable housing is a key priority for the Council.

Section 106 Agreement Contributions

14.39 The application documents state

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

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

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

Following the submission of a viability assessment, which has been independently assessed by the District Valuer Service (DVS), the development has been shown to be unviable should all these contributions be adhered to. The DVS assessment indicates that against the benchmark land value and a developer profit of 17.5% on GDV the scheme should be able to viably provide in the region of £144,000 of S.106 but no Affordable Housing. This figure has been contested by the applicant’s agent who suggests that a ‘competitive return’ of a further 20% uplift on land value should be permitted in conformity with paragraph 173 of the NPPF. This would result in a reduction in the surplus available for s.106 contributions to £39,000. The DVS advises that this is a flawed approach that would be inappropriate given that the land value has been assigned residential development value as opposed to current use value and thus any further incentives would be inappropriate.

The assessment concludes that it is clear that viability is marginal for the proposed scheme leaving to the conclusion that the scheme is only able to provide a total S.106 contribution of £144,000 and no Affordable Housing.

The NPPF states that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

The development team has reconsidered the application and the DVS report and has agreed that £144,000 be sought as developer contributions for the delivery of affordable housing in the Borough.

A legal agreement will be attached to the decision that will secure a commuted sum of £144,000 to be provided to the Borough Council for the provision of affordable housing across the Borough. The agreement will also require a revised viability assessment to be undertaken and further contributions to be paid should the scheme become more viable at a later date subject to change in market forces through a review mechanism.

14.41 Other Matters

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

15.0 Conclusion

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

16.0 Recommendation

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

Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 - Non-Standard Condition

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

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

7 - Non-Standard Condition

Any garage hereby permitted shall be retained as such at all times and shall at no time be physically altered in a manner which would prevent its use as a car parking space [except where the local planning authority have given their written approval for a replacement car parking space and that replacement space has been constructed as approved].

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

8 - Non-Standard Condition

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

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

9 - Non-Standard Condition

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

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

10 - Non-Standard Condition

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

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

11 - Non-Standard Condition

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

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

12 - Non-Standard Condition

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

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

13 - Non-Standard Condition

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

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

14 – Non Standard Condition

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

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

15 - Non-Standard Condition

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

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

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

No work shall commence on site until all trees, shrubs and other natural features shown to be retained, including the tree identified as having potential as a bat roost, on the approved plans, are safeguarded behind protective fencing to a standard to be agreed by the Local Planning Authority (see BS 5837). All agreed protective fencing shall be maintained during the course of all works on site. No access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

17 - C10.16 Tree & Natural Feature Protection: Entire Site

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

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

18 - Non-Standard Condition

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

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

19 - C11.11 Landscape Design Proposals

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

Existing and proposed finished contours and levels.

Means of enclosure.

Car parking layout.

Other vehicle and pedestrian access and circulation areas.

Hard surfacing materials.

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

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

Retained historic landscape features and proposals for restoration.

Soft landscape details shall include:

Planting plans.

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

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

Planting area protection or decompaction proposals.

Implementation timetables.

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

20 - C11.12 Landscape Works Implementation

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

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

21 - C11.17 Landscape Management Plan

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

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

22 - Non-Standard Condition

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

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

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

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

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

24 - Non-Standard Condition

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

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

25 - Non-Standard Condition

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

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

26 - Non-Standard Condition

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

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

27 - Non-Standard Condition

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

Reason: To protect the ecological importance of the site.

28 – Non Standard Condition

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. construction vehicle and access management plan
- iv. storage of plant and materials used in constructing the development
- v. the erection and maintenance of security hoarding
- vi. wheel washing facilities
- vii. measures to control the emission of dust and dirt during construction and the transit of materials to / from the site
- viii. a scheme for recycling/disposing of waste resulting from demolition and construction works.
- ix. Hours of work

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

29 - Non-Standard Condition

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

Reason: In order to protect local amenity.

30 - Non-Standard Condition

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

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

31 - Non-Standard Condition

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,

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

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

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

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

32 - Non-Standard Condition

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

33 - Non-Standard Condition

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

34 - Non-Standard Condition

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

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

35 - Non-Standard Condition

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

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

36 - Non-Standard Condition

Prior to occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the north west and 2.4 metres by 90 metres to the south east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

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

37 - Non-Standard Condition

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

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

38 - Non-Standard Condition

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

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

39 - Non-Standard Condition

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

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

40 - Non-Standard Condition

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

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

41 - Non-Standard Condition

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

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to accord with policy DM1 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

42 - Non-Standard Condition

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

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

43 - Non-Standard Condition

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

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

44 - Non-Standard Condition

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

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

45 - Non-Standard Condition

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

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

46 - Non-Standard Condition

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

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

47 - Non-Standard Condition

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

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

48 - Non-Standard Condition

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

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

49 - Non-Standard Condition

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

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

50 - Non-Standard Condition

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

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

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

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

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

52 – Non Standard Condition

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

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

53 - Non-Standard Condition

Prior to the commencement of development, evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings shall have been submitted to and agreed, in writing, by the Local Planning Authority.

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

54 – Non Standard Condition

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

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

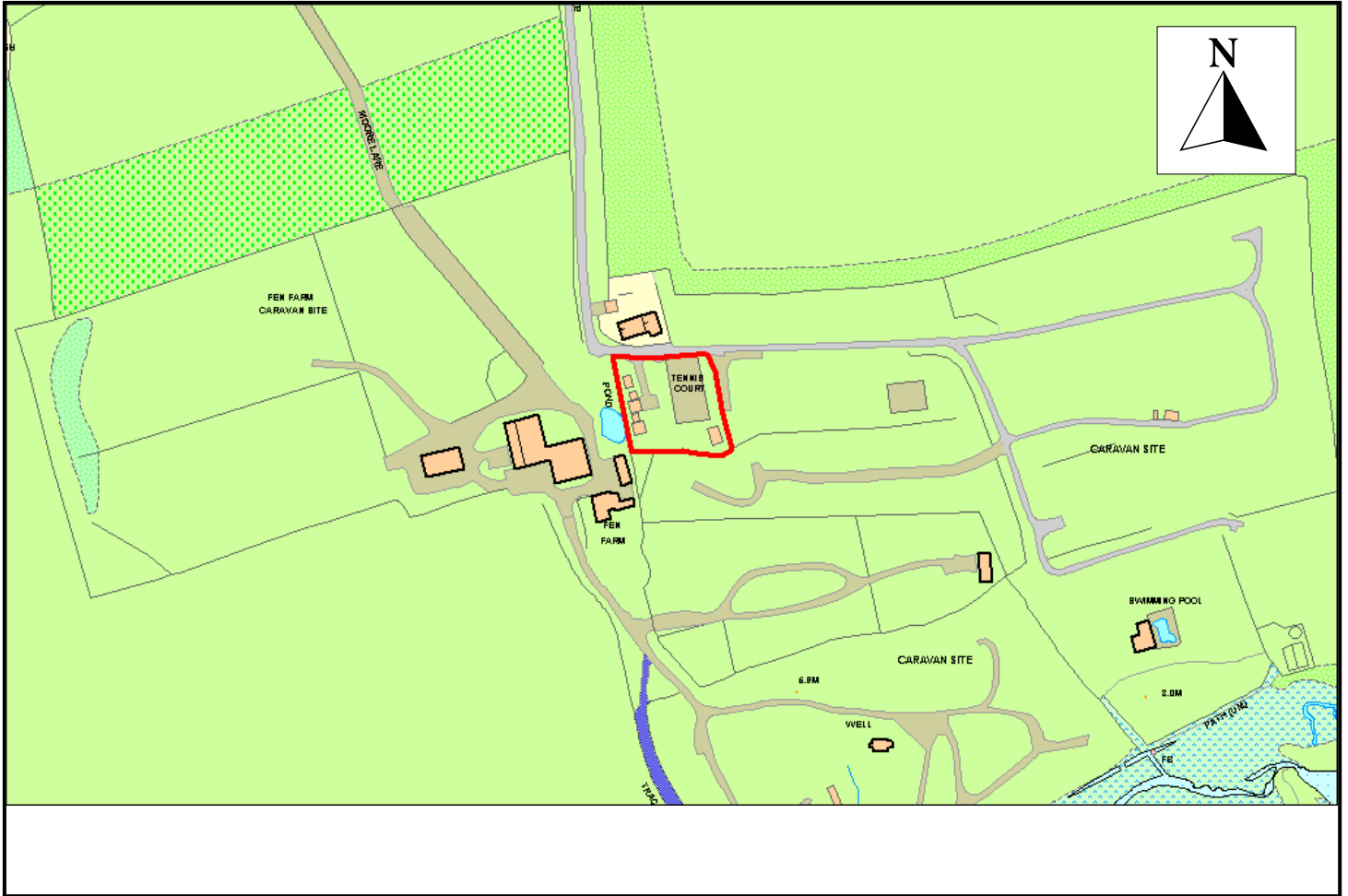
Informatives

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

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

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

(4) All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.



Application No: 132235

Location: Cosways Holiday Park, Fen Lane, East Mersea, CO5 8UA

Scale (approx): 1:2500

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7.2 Case Officer: Sue Jackson

MINOR

Site: Cosways Holiday Park, Fen Lane, East Mersea, CO5 8UA

Application No: 132235

Date Received: 13 November 2013

Agent: Mr Ian Butter Bsc FRICS MRTPI

Applicant: Cowsays Holiday Park Ltd

Development: Extension of existing and erection of new building to provide A3 (Restaurant), A5 (Hot Food Takeaway), B1 (Business), B8 (Storage), A1 (Shop) uses with ancillary facilities; together with Childrens Play Equipment, associated access and parking facilities.

Ward: Pyefleet

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in by Councillor Sutton for the following reason:-

“These facilities will have a detrimental effect on the quiet countryside area they are to be located in. If allowed a condition should be placed on the facilities to allow occupiers of Cosways site to use them. Should this not be allowed it would have a traffic movement impact and cause harm to the already sparse amenities within East Mersea”.

2.0 Synopsis

2.1 The key issues explored below relate to central and local policy, which are addressed in the response from Spatial Policy, and impact on local amenity which is considered in the report section.

3.0 Site Description and Context

3.1 The application site is the site of an existing shop, storage buildings and associated land forming part of the Cosways Holiday Park Fen Lane East Mersea. This is an established site situated at the eastern end of Mersea Island. It is accessed via Fen Lane, a private road off East Road. The site adjoins the Fen Farm Holiday Park. The application site area is given as 0.26ha.

3.2 The buildings are located at the end of the private road and are at the entrance to the main area of the holiday caravan site.

4.0 Description of the Proposal

- 4.1 The application proposes extending the existing shop building by approx 100%. The extended building will measure approx 23m x 5.5m and will be clad with black stained timber with a small area of render and with a pitched slate roof. The building will contain a sales office and reception and offices the retail area including storage is 50% of the floorspace. The existing shop building also includes a small office /reception area. Storage buildings opposite the shop will be demolished and replaced with a new building to provide an A3 Restaurant, A5 Hot Food Takeaway, B1 Business, B8 Storage uses . This building will measure approx 16m x 5.5m of a style and materials to match the shop. It will include a narrow link to a retained storage barn. The space between the 2 buildings will be used as an open seated area.
- 4.2 A number of issues were raised with the applicant and the following response received (this is the additional information referred to in the Spatial Policy comment).

The proposed opening times; during the day and throughout the year

Given the extended season consents recently achieved the intention is to be open between 09.00 a.m. and 10.00 p.m. daily throughout the year. It may be preferable to say 'throughout the season' in the event there is a reversion to a lesser period.

The number of employees

Including chefs, waitresses and cleaning staff; 10 anticipated.

The loss of the storage space and whether this is no longer needed or if it is to be accommodated elsewhere on the site

A general storage facility remains available as illustrated on the plans. Storage space within the existing buildings for the shop etc is also provided.

Confirmation that the B1 business and B8 storage uses relate to caravan site uses and not independent business use

These are in effect the uses of the buildings as shown on the drawings and are directly related to the operation of the holiday park.

Will the shop, restaurant and takeaway be available for Cosway holiday makers only if so how will be this controlled? If not an assessment of the additional traffic movements and parking provision is required

The facilities are sought to provide for holidaymakers and their bona fide guests. These facilities are typical on holiday parks generally (and are already provided on the applicants other park at Waldegraves and others locally) without any controls.

The fact that existing independent businesses remain open in addition to the facilities on local holiday parks suggests that objections are more about commercial protectionism than planning merit. I am not aware of any material business closures resulting directly from the opening of holiday park facilities in the area.

In terms of control, Circular 11/95 is rather silent on the matter and a trawl of similar decisions does not reveal anything helpful. However, in order to provide some means of control for the Council it may be reasonable to impose a condition akin to the following:-

The development hereby approved shall only be used as ancillary to the operation of the holiday park, for holidaymakers and their bona fide guests."

Will alcohol be sold in the shop or restaurant?

The intention is that alcohol sales would be sought in due course, related principally to the restaurant use, but this is a matter for licencing control. It would not be an off-licence in the sense of a separate business use but here again ancillary sales.

How will refuse and litter be dealt with?

In exactly the same way as now, being part of the commercial collection for the park as a whole.

Members should reflect on Local Plan Policy DP10 and associated policies. As the plan notes, *'the future development of tourism and related leisure and cultural facilities is a key issue for the Local Authority. In both urban and rural areas, tourism provides jobs, brings in visitors to the area and provides facilities, attractions and environments that enhance the quality of life for local residents.'*

The proposal seeks to upgrade and improve the existing facilities at this long-standing holiday park – in line with the significant investment in upgrading measures already being made on the park as a whole – in the interests of ensuring the business is sustainable for the long term.

The holiday park is a local rural business and employer which generates material revenue into the local economy. Unreasonable fetters on the proper operation of this holiday park in comparison with its neighbouring parks would be contrary to adopted policy and the aims and objectives of the NPPF.

5.0 Land Use Allocation

5.1 The site is identified as a caravan park.

6.0 Relevant Planning History

6.1 111597 – application submitted for the retention of new extension to reception/shop and enlargement of adjacent service vehicle parking area. This was a retrospective application received following complaints that unauthorised work was taking place. The application was approved subject to conditions. A condition limited the opening times of the shop to coincide with months the caravans can be occupied which at that time was 10 months. A temporary planning permission has since been approved which allows the caravans to be occupied throughout the year.

6.2 132233 - Use of land for the stationing of static holiday caravans and childrens' play area. Approved January 2014

6.3 132270 - Variation of holiday occupancy period from 1st March - 31st December to allow for a 12 month year round holiday season. Approved January 2014

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

Department for Communities and Local Government Good Practice Guide on Tourism 2006

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
SD3 - Community Facilities
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP9 Employment Uses in the Countryside
DP10 Tourism, Leisure and Culture
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP23 Coastal Areas

8.0 Consultations

- 8.1 Natural England comments as follows:-

Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

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

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

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

Protected species

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

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted. If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at consultations@naturalengland.org.uk.

Officer comment: the site comprises hard surfaced land already used for parking and manoeuvring vehicles, the buildings to be demolished are weatherproof and it is considered unlikely any protected species will be present however an informative is suggested.

Local sites

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

Biodiversity enhancements

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

Officer comment: Whilst Cosways Holiday Park is adjacent to a local wildlife site the specific part of the site the subject to this application is not and a condition relating to biodiversity is not considered appropriate.

Landscape enhancements

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

Officer comment: The application site is visible from the PROW and a condition requiring the submission and approval of a landscaping scheme is recommended.

8.2 Environmental Protection made the following comments:-

NOTE: Demolition and Construction

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

ZGG - Site Boundary Noise Levels

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

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

ZGI - 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.

ZGO - Food Premises (Control of Fumes and Odours)

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

8.3 Spatial Policy comments as follows:-

"The proposal will result in the expansion of Cosway's Caravan Park in East Mersea and improve the facilities available to visitors using the caravan park and therefore accords with the broad objectives of Paragraph 28 of the NPPF and Development Policy DP10. No information has been provided about whether the proposals will result in any new jobs being created locally therefore it is not possible to assess any economic benefits that will be delivered by the scheme. The proposal involves the demolition and replacement of existing garages with a new restaurant/café to the west of the development site and the extension of an existing building on the eastern boundary to accommodate an enlarged on-site shop and staff/sales offices. The proposed extension to the shop effectively doubles the footprint of the existing building however once finished the new shop will still only be 134.80m² which equates approximately to the size of a small convenience shop.

Even though the footprint of the new shop/office is twice as large as the current shop on site, it will be located close to a cluster of buildings i.e. Fen Farm and will mainly be viewed by visitors to the site. Its impact on the wider surrounding landscape is not expected to be great and as such the proposal is not considered to conflict with policy ENV2, DP1 (i) with respect to protecting landscape character. No information has been provided about the proposed opening times for the restaurant, café and shop on site. It is not clear if these facilities are intended for use mainly by visitors or members of the public too. This could increase traffic levels on the local road network in East Mersea over longer time periods if there are more cars travelling to and from the restaurant late at night. Any significant increase in traffic locally could also impact on residential amenity and if this is the case, the proposal would not accord with policy DP10, DP1 or ENV2 with respect to minimising increases in traffic generation levels and protecting amenity.

The lack of information about opening times has made it difficult to assess traffic and amenity impacts. More information should be obtained about this issue from the applicant to enable a proper assessment of these issues to be made.

There is support in the adopted East Mersea Village Plan and Design Statement for the expansion of local businesses which do not detract from the rural character of East Mersea and which generate jobs locally. Despite acknowledging the importance of tourism locally on Mersea and the fact they the caravan parks provide local alternative community facilities, there is strong community opposition against the expansion of the caravan parks at this end of Mersea. The restriction of the growth of rural businesses would not accord with the current approach in the NPPF which places emphasis on the need to support sustainable rural businesses including tourism enterprises. Prior to demolition of the garages on site, an ecological survey should be undertaken to establish whether the existing garages are used by bats. The need for the survey should be added as a condition and undertaken by a qualified ecologist.”

8.4 Additional Spatial Policy comments:

“In response to the initial application the Spatial Policy team requested more information about the following issues:

- 1) employment generated by the proposal.
- 2) Opening times and potential users of the facilities
- 3) Residential impacts
- 4) The need for a bat survey in the barns prior to construction.

Additional information has now been provided and the Spatial Policy team has the following comments to make regarding the proposal.

From the new information submitted in 5 February 2014 the proposal will generate employment. It will support 10 jobs but it not clear if these are new jobs in addition to the existing staff employed at the caravan park. Despite this as the proposal will provide employment on Mersea it supports the broad rural employment objectives of the National Planning Policy Framework and therefore is not considered to conflict with this aspect of national planning policy.

The Spatial Policy team had raised concerns about potential impacts on residential amenity from the proposed extension to facilities at Cosway Caravan Park. The applicant has now provided details of opening times (9am -10pm daily) and confirmed that the extended facilities are being provided principally for holiday makers and their guests. Both the NPPF and DP10 support the expansion of tourism initiatives that benefit both visitors and the local communities living close to tourist attractions. There are only a small number of properties located along East Road and following a review of the additional information provided, Spatial Policy is of the opinion that the proposal accords with the objectives of DP10, DP1 or ENV2 with respect to protecting residential amenity and with the NPPF AND DP10 in terms of supporting the rural economy.”

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

9.0 Parish Council Response

9.1 The Parish Council have stated that 132235 East Mersea would like to make the observation that this work appears to have started already. That said, we have no objections but would request that a condition is made that only Cosways camp site people can use these amenities otherwise the existing local businesses such as restaurant, shop and pub will be greatly affected. We would also request further clarification on B1 (Business) and B8 (Storage). We understand that this has also been 'called in' by the Borough Councillor.

10.0 Representations

10.1 Seven letters of objection have been received on behalf of 5 properties there are no letters of support.

10.2 Some of the objections raised relate to applications 132233 and 132270 and raise concern that these residents were not notified of the applications and were only aware they had been submitted after they had been determined. A meeting, to discuss the concerns raised, has been held with the residents attended by Councillor Sutton and the Major Development Manager.

10.3 Objections which relate to this application are set out below

- increased traffic in a quiet rural area
- litter from the takeaway who will clean this up?
- where will customers take their food will they eat it in cars if so where will they park?
- insufficient information the type of restaurant opening times ,
- sale of alcohol should not be allowed
- music should not be permitted
- residents of Bromans Lane already experience light pollution from the tall lights and extensive construction work
- is there a need for a restaurant and a fast food outlet
- detrimental affect on local businesses local PH village shop Bromans Farm accommodation and sales of refreshments at Cudmore Grove during the summer months.
- The pub is already operating on a very low profit margin and could cause closure of this local amenity and the loss of employment
- there is no economic value to the application
- the NPPF does not apply a there is no indication of local jobs
- the uses should be restricted to caravan owners and their guests
- trees have been grubbed up on the site
- the creation of storage seems contrary to the needs of the site and constitutes development of a rural area to an industrial area and there is no demand for this
- as a small business who trades on quiet, nature and the beauty of the area a restaurant with accompanying noise smell and traffic will take away the secluded and beautiful.
- nature of the area
- the environmental report indicates no effect on the Colne estuary environment; a full report is required.

- clarification is required on the usage of these amenities and the policing of usage as external users will cause infrastructure problems.
- the condition on the previous planning permission for the shop limiting it to the caravan site resident had not been adhered to and has proved to be unenforceable

10.4 In addition to the above objections the following letter has been received The purpose of this letter is to propose the conditions which we all believe should be applied to any Approval granted to the owners of Cosways Caravan Site in respect of Planning Application 132235. These proposals are submitted without prejudice to our previous objections to this proposal and our wish for the application to be rejected outright. The conditions we propose should be read in conjunction with our previous letters of objection. The following proposed conditions aim to minimise/mitigate the adverse effects of any development in terms of:

- light pollution;
- increased noise and general disturbance;
- increased traffic;
- adverse effect on local businesses.

Our specific proposals are as follows:

1. **Opening Hours.** Any restaurant/cafe ('the Facility') should only be permitted to open between 12:00-1400 and 17.00-1900, Monday to Saturday only, not Sunday. *Reason: all caravans have kitchens and food including takeaway can be purchased locally.*
2. **Use of the Facility** to be restricted to Cosways residents with enforcement by means of an ID card. No Waldegraves' residents or the general public. Any infringement should result in a substantial financial penalty on the Owners with persistent infringement resulting in the closure of the Facility. *Reason: to minimise noise and general disturbance, increased traffic, damage to the local environment (litter) and the negative impact on local businesses.*
3. **Food Sales** to be consumed only on the premises with no takeaway sales permitted. If takeaway food sales are permitted, all takeaway food to be sold in biodegradable packaging in line with government guidelines. *Reason: to minimise damage to the rural environment.*
4. **No Sale or Consumption of Alcohol** with any infringement to lead to the immediate closure of the Facility. *Reason: there is an existing licensed bar on Cosways site for use by Residents.*
5. **All foods for the cafe to be sourced locally** *Reason: to prevent adverse effects on the sustainability and development of local business.*
6. **Refuse and Swill Disposal** weekly by Friday at 14:00 *Reason: to ensure safety of people travelling to and from site and changeover on site.*
7. **Litter Collection.** All litter outside the Cosways site and attributable to the Facility to be collected by Cosways on a daily basis. All food packaging to be over-printed with 'Cosways' to ensure clarity regarding the source of any litter. Any infringement to result in an immediate financial penalty. *Reason: to minimise damage to the local environment.*

8. **Minimum Noise** (zero decibels) to be allowed from the Facility with persistent infringement to lead to the immediate closure of the Facility. No power generators to be used. *Reason: to minimise noise disturbance in a rural area.*
9. **Maximum-level silent extractor system** to be required. Persistent infringement to lead to immediate closure of the Facility. *Reason: to minimise noise disturbance and smells from cooking in the Facility.*
10. **Lighting.** All outside lighting to be low-level (knee height) in line with current best practice for similar facilities. All lighting to work from an environmentally clean system e.g. PTC. *Reason: to minimise light pollution in a rural area.*
11. **Parking** to be limited to 2 disabled places only with vehicles to be parked inwards to the Facility to minimise light pollution. *Reason: if only residents will use the Facility no further parking places are required.*
12. **'Special Events'** not to be permitted outside normal permitted opening hours. *Reason: to minimise noise pollution and general disturbance.*
13. **Storage provision** to be for 2 x tractors or site vehicles only. *Reason: a storage facility for vehicles already exists at the adjoining Fen Farm.*
14. **Music** no live or piped music. *Reason: effect of untoward noise on the local environment and a club already exists for that purpose on site.*

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

11.0 Parking Provision

- 11.1 The site has ample space for vehicles to park. As the proposal is for use by caravan owners and their visitors an additional parking area is not required.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Policy Issues

- 15.1 Spatial Policy has been consulted their comments set out above; in their response they confirm the proposal satisfies policy in the NPPF and local development plan.

Design and Layout

- 15.2 The buildings will be located just within the entrance to the site where there are existing buildings. They will be opposite a 2-storey house.
- 15.3 The new and extended buildings reflect the appearance of the existing shop in terms of height and materials.

Use

- 15.4 The facilities proposed are commonly found on caravan sites. The applicant has confirmed the shop and restaurant/takeaway are for caravan owners and their genuine guests. The office and storage uses are also related to the caravan site use and a condition is proposed to prevent separate unrelated business use.

Impact on the Surrounding Area

- 15.5 The buildings will be visible from a PROW which runs alongside the access road but will be seen against the back drop of the caravans. The PROW also passes a range of buildings, higher and larger, on the adjacent Fen Farm caravan site.

Impacts on Neighbouring Properties

- 15.6 The residents who have objected to the application live in Bromans Lane. The closest of these properties is separated from the site by a field and is over 300m from the site of the proposed buildings and just under 300m from the north boundary of the caravan site. Any vehicle coming to the caravan site from Colchester or West Mersea would reach Fen Lane, the access to the site, before Bromans Lane. Delivery vehicles would therefore not need to drive down Bromans Lane.
- 15.7 Environmental Control is recommending a range of conditions to control odour and noise.
- 15.8 Residents have submitted a list of conditions which they consider should be imposed. As members are aware any condition has to meet the 6 tests set out in Circular 11/95 and be:
- (i) Necessary;
 - (ii) Relevant to planning;
 - (iii) Relevant to the development to be permitted;
 - (iv) Enforceable;
 - (v) Precise; and
 - (vi) Reasonable in all other respects
- 15.9 Several of the conditions suggested do not satisfy these tests some are unreasonable, some unenforceable and others relate to non planning matters. The conditions recommended below include those suggested by Environmental Control other conditions control the use of the buildings require the submission of a landscape scheme and agreement on any external lighting on the application site.

Highway Issues

15.10 The site has ample space for vehicles to park.

16.0 Conclusion

16.1 The proposal will provide new facilities which are considered appropriate to the holiday caravan use. Subject to conditions it is considered the buildings and uses will not have a significantly adverse impact on either residential amenity of the landscape

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers Proposed Plot Plan Layout 2006/02, Proposed Elevations2006/02 and Proposed Plan Layout 2006/04.

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

3 - Non-Standard Condition/Reason

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

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

4 - Non-Standard Condition/Reason

Notwithstanding the details shown on the submitted application form, this permission expressly excludes the use of the Marley Ludlow interlocking concrete roof materials. No works shall take place until details of an artificial slate have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials.

Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

5 - Non-Standard Condition/Reason

The B1 and B8 uses hereby permitted shall only be used for purposes ancillary to the use of the Cosways Holiday Park.

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.

6 - Non-Standard Condition/Reason

The shop, restaurant, takeaway uses and the external seated area shall only be open to and used by customers between the hours of 09.00 to 22.00 and these facilities shall only open during the period the occupation of the holiday caravans is permitted.

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.

7 - Non-Standard Condition/Reason

The shop, restaurant and takeaway uses hereby permitted shall only be ancillary to the main use of the site for holiday caravan purposes and the permission does not authorise separate retail restaurant/takeaway uses unconnected to the holiday caravan site use. Customers to the retail restaurant/takeaway uses are restricted to occupiers of caravans on Cosways Holiday Park and their visitors.

Reason: In order to comply with policy, as the site lies within the countryside where there is a presumption against unsustainable development and this permission is granted because of the individual circumstances presented within the submitted application.

8 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) Order 2005 the floor area shown on the approved drawings shall be used solely for the use specified i.e the A1 retail area shall only be used for retail purposes, the A3 restaurant only used for restaurant purposes and the A5 takeaway only used for takeaway purposes.

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 change to the floor area of the uses would need to be given further consideration at such a time as it were to be proposed.

9 - External Light Fixtures TBA

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

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

10 - Site Boundary Noise Levels

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

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

11 - 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.

12 - 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.

13 - Tree or Shrub Planting

No works shall take place until details of tree and/or shrub planting and an implementation timetable have been 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.

20.0 Informatives

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

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

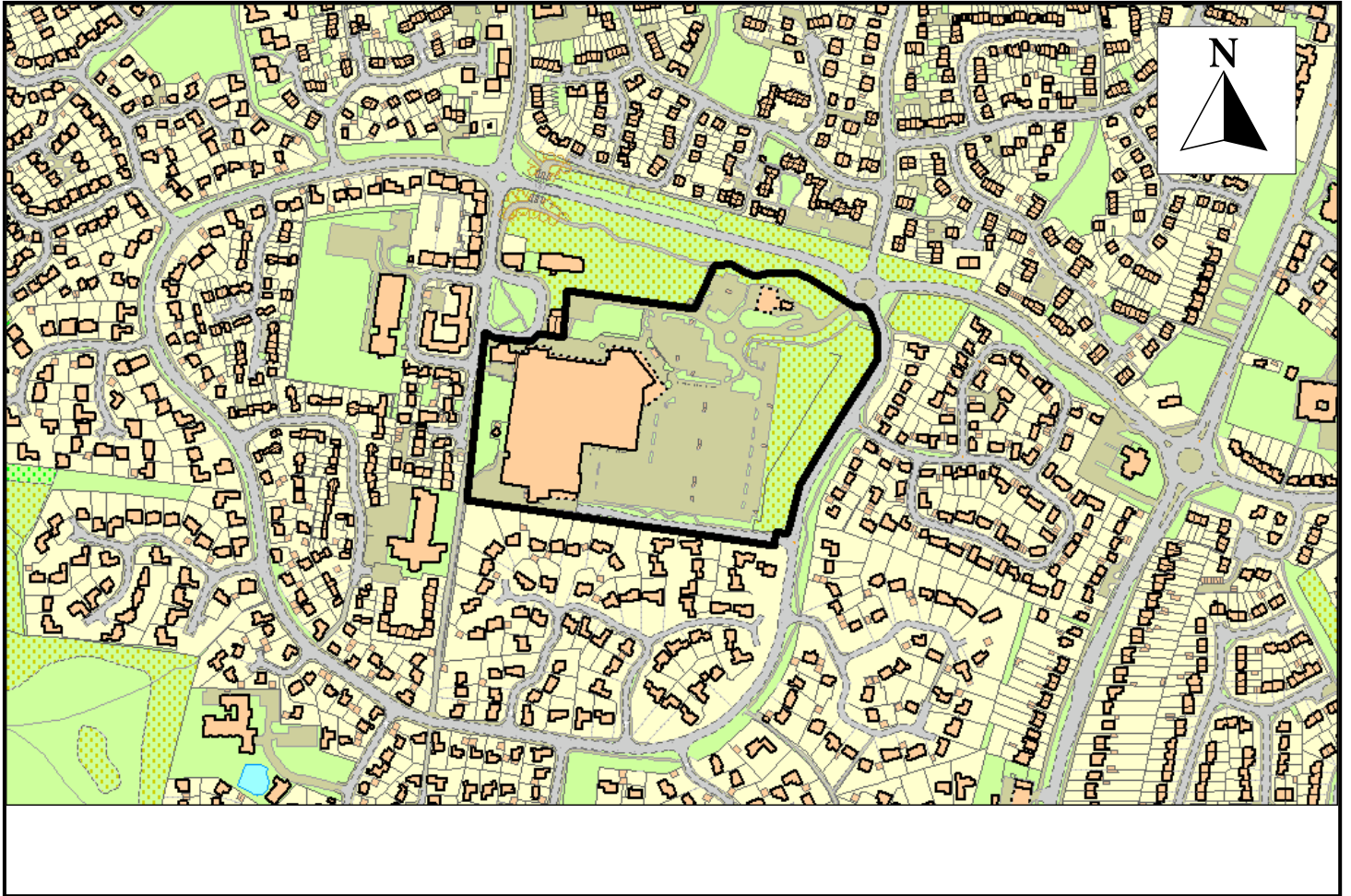
(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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

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

(5) PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as 'someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience'.

(6) PLEASE NOTE: It is likely that a protected species may be present at the site, which are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Harbour House, Hythe Quay, Colchester CO2 8JF, Tel. 01206 796666.



Application No: 140327

Location: Tesco Cafe, Tesco Stores Ltd, Highwoods Square, Colchester, CO4 9ED

Scale (approx): 1:1250

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7.3 Case Officer: Nadine Calder

Due Date: 21/03/2014

MINOR

Site: Tesco Stores Ltd, Highwoods Square, Colchester, CO4 9ED

Application No: 140327

Date Received: 24 January 2014

Agent: Woods Hardwick

Applicant: Tesco Stores Ltd

Development: Home shop (dot com) canopy extension and extension to store and associated works to existing retail store. Click and collect canopy and associated parking amendments

Ward: Highwoods

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee at the request of Cllr Gerard Oxford and for the following reasons:

The proposal is detrimental to Highways, Environment, visual amenity, over development of the site and breaches Article 8 of the HRA peaceful enjoyment of one's own property. Add the loss of about 20 parking spaces and the loss of one quality tree.

2.0 Synopsis

2.1 This site has an established use as a large retail development. The proposed "Click and Collect" facility serves as a point for customers who have purchased their groceries online to pick them up while the extension of the existing loading area from 5 to 8 bays would allow for an expansion of the home delivery service. The key issues of this development are the impact on the appearance of the site, the impact on parking provision resulting from lost parking spaces and the impact of the proposed development on the amenities of adjacent residential properties. The detailed assessment of this proposal has resulted in clear evidence that the proposal would support economic growth while at the same time aiding in mitigating and improving on existing issues relating to noise and disturbance to the residential amenities on neighbouring properties. The proposal is therefore recommended for approval subject to appropriate conditions.

3.0 Site Description and Context

- 3.1 This application relates to the Tesco superstore in Highwoods and specifically to the home delivery service which is located to the rear of the store at the south-western corner of the site. The existing home delivery has been operating for around 10 years and comprises a loading/unloading bay with capacity for 5 vans situated just inside the gates to the service yard facing the southern boundary fence. The home delivery vehicles share the use of the main store delivery yard and service road which runs along the southern boundary of the site and backs onto the rear gardens of properties in Pinecroft Gardens and Langham Place.
- 3.2 The site where the “Click and Collect” facility is proposed currently contributes towards the provision of parking spaces within the main car park for the store as well as 8 spaces where delivery vans are charged. This is located at the southern end of the car park in an area where the car park is less well-used.

4.0 Description of the Proposal

- 4.1 This proposal seeks the expansion of the home delivery service by an increase in the number of dedicated loading area from 5 to 8 bays and the erection of a ‘Click and Collect’ facility at the premises. Associated works include an extension to the non food bulk store into the car park which will involve relocation of the entrance gates into the service yard, the loss of 4 trees and additional planting and the implementation of measures to reduce noise and disturbance to the residential amenities of the neighbouring properties.
- 4.2 The proposed extension would measure approximately 170 square metres and includes a canopy structure of 95 square metres for the proposed “Click and Collect” facility. Information supplied with the application advises that customers would collect their goods during a pre-allocated timeslot. The application forms submitted with the proposal advise that 33 car parking spaces would be lost as a result of this proposal, leaving 615 available for the actual store. The expansion of the existing home delivery service from the current 12 to the proposed 20 vans would be implemented over a course of 5 years.

5.0 Land Use Allocation

- 5.1 The site is allocated as an Urban District Centre and is used for local shopping.

6.0 Relevant Planning History

- 6.1 F/COL/03/1900 – Erection of internet loading area and additional storage area. Approved 28 May 2004
- 6.2 F/COL/04/1565 – Extend loading bay and create new lay by parking for home shopping vehicles and extension to acoustic timber fencing. Approved 2 December 2004
- 6.3 071025 – New non food bulk store extension and canopy extension to be used for Tesco home delivery service. Approved 18 July 2008

6.4 130721 – Dot com Extension with Loading Canopy and Click and Collect facility to existing Store. Withdrawn 22 July 2013

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP17 Accessibility and Access
DP19 Parking Standards

8.0 Consultations

8.1 Environmental Health have the following comments to make:

“Environmental Health is currently dealing with complaints regarding noise from the Dot.com facility and the service road. The application will intensify the use of both complaint aspects and so attention to noise control is paramount.

The Dot.com facility proposal encloses three aspects of the loading bays for the existing and proposed bays and the enclosure is to be clad with acoustic absorbing material as specified in Mr Robert Turnbull's e mail dated 12 February 2014. The proposed enclosure and cladding should improve the situation even with the addition of 3 bays.

Tesco has attempted to remedy the service road noise issues by resurfacing the road and extending the acoustic fencing which has improved the situation. However the replacement acoustic material has not been replaced further along the service road and lorries are still parking on the service road regardless of the double yellow lines and are leaving their engines and or refrigeration running regardless of the signs. To prevent the intensification of the service road negatively impacting on the residents further measures will need to be put in place.

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

Prior to the first use of the extended Dot.com facility as hereby permitted, the new loading bays and the existing loading bays shall have been constructed and modified to provide sound insulation against internally generated noise in accordance with or better than the details supplied in the application and Mr Robert Turnbull's email dated 12 February 2014. The insulation shall be maintained 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.

No vehicles shall be parked or wait along the fence adjacent to residential properties in the Dot.com yard from the new gate to the rear of the bulk store located behind the compactor.

All Dot.com vans must use hook ups to power refrigeration and engines must be switched off once vehicles are in the unloading position.

All delivery lorries and Dot.com vans must leave directly from the gated yard and not stop on the service road.

All delivery lorries and Dot.com vans must switch off engines and refrigeration while waiting on the Service Road and no delivery vehicles may wait on the service road between 22.00 and 07.00 hours.

In-house noise awareness training will be undertaken by all relevant store staff. Regular training will also be undertaken for drivers and night staff.”

- 8.2 The Highway Authority does not wish to submit a formal recommendation for this application.
- 8.3 The Arboricultural Officer has no objection to this proposal subject to conditions relating to the safeguarding of existing trees.
- 8.4 Natural England does not object to this proposal.

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

9.0 Parish Council Response

- 9.1 This area is non-parished.

10.0 Representations

- 10.1 Seven letters of objection have been received, in summary, raising the following concerns:
- Existing outstanding noise complaints

- The erection of an acoustic fence, the resurfacing of the road and the introduction of yellow lines along the service road have improved the noise issue but the root cause has not been eliminated.
- To grant permission for this proposal will not encourage the store management to address the root cause and we do not want an increase in noise from queuing cars waiting to collect their orders or an increase in Dot Com or click and collect vans.
- Increase in noise and disturbance
 - The proposal shows an increase in loading bays and the vehicle flow of the customer cars all of which is within metres of residential homes and this leads us to believe there will be a considerable increase in noise.
 - There will be an increase in noise levels arising from the proposed development affecting properties in Langham Place that are adjacent to the Goods Service Road and certain houses in Eastwood Drive from cars using the proposed Click and Collect facility as this area is not currently used by customers, the additional Dot.Com delivery loading bays and higher Dot.Com delivery van traffic using Eastwood Drive and the Goods Service Road following the increase in the number of delivery vans.
 - Emissions and noise pollution from increased intensification of traffic will inevitably increase.
- Overdevelopment of the site
 - Tesco have surely now expanded to and beyond the limits that could be considered reasonable, given their location.
 - Both the store and the car park have doubled in size over the last thirty years. The additional buildings, fencing and a loss of customer car parking places will increase the density of an already overcrowded site. The new Click and Collect facility will be in a part of the site that is presently used for Dot.Com delivery vans and staff parking with little customer use. The Proposed Store Plan shows a repositioning of the existing Dot.Com van parking spaces, but there is no allowance for the 8 extra vans that will be required over the next five years due to customer demand for the home delivery service. In addition, these proposed parking spaces will be situated either side of a pedestrian crossing without any comment on the impact on customer safety.
- Highways and Parking Concerns
 - It is stated that the level of car ownership in Colchester is higher than the national average. Therefore, why is the number of customer car parking spaces being reduced as further large scale residential developments are planned for Mile End and the Severalls Hospital site?
 - The synopsis in the Design and Access Statement substantiating the loss of parking spaces when the Click and Collect Service is operational is purely hypothetical as no data is held.
 - The stated quiet area of the car park, which abuts the residential area, will change into a focussed lane of traffic collecting from the dot com service.
 - Traffic generation (increase of Tesco vans down Eastwood Drive and consumers to the site) all converging on the small roundabout at the end of Eastwood Drive. This is likely to cause a bottleneck effect and congest Ipswich Road and the surrounding area further still. The report that accompanies the application makes no mention of the additional traffic (heavy goods lorries, vans, etc) that will be necessary to deliver stock to Tesco in order for it to fulfill their 'click and collect' facility and additional home delivery service.
- Service Road

- The Design and Access Statement mentions that there are currently 12 Dot.Com home delivery vans with a proposed increase to 20 vans over the next five years. Based on the figures quoted in this Statement (each van does three trips per day and a 60% operating capacity), the Goods Service Road is currently being used 44 times per day by the Dot.Com delivery vans. The volume will increase to 72 times per day when the van fleet increases to 20. Therefore, the Dot.Com van traffic flow for the Goods Service Road and Eastwood Drive will increase by 67%. The Goods Service Road is used by many pedestrians (school children, mothers with pushchairs/young children, pensioners) and cyclists. The volume of pedestrians/cyclists has greatly increased over the years following the full development of the surrounding residential areas as has the vehicular use of the Goods Service Road. However, the road and pavement layout has not changed in over thirty years.
- Problems are also caused by some commercial vehicles reversing down the Goods Service Road into Eastwood Drive (which is a busy road served by two bus routes). I have seen instances of this in recent weeks which is also evidenced by damage to the grass verge. There is a small “no reversing” sign to advise drivers, but this is hidden by vegetation. The proposed increase in traffic volumes by the Dot.Com delivery vans will add to the difficulties faced by pedestrians/cyclists crossing the Goods Service Road and using the pavement that runs along this road.
- This dangerous increase in trucks and vans exiting this road completely contradicts claims made in the Design and Access statement where it is stated that the new dot com facility will result in “a reduction in traffic volumes on the surrounding areas”.
- The walkway through the pedestrian entrance to Tesco via the service road is used by many school children going to the Gilberd School and mothers with pushchairs and toddlers going to Highwoods Primary School at the beginning and end of each day. Elderly frail people who live locally use this route as a path to the Community centre, Post Office and GP surgery. Increased traffic in this previously quiet area will cause decreased safety to these vulnerable pedestrians. In particular vans will be reversing in and out of a pedestrian area in the bays near the click and collect area. The blind spots on these vans make a particular risk for small children and the elderly.
- The number of vehicles using the service road will increase for two reasons. Firstly more delivery trucks and lorries will be delivering items for click and collect. Secondly more vans will be used for the increased home delivery service. In addition the traffic around Highwoods Tesco is already congested and the increased number of online customer cars arriving to collect their goods will be a hazard. There are currently numerous truck tracks across the grass and pavement on the pedestrian area at the entrance to the access road. This is adjacent to the bus stop where children and families stand waiting for the bus.
- Landscaping
 - The Design and Access Statement mentions that “one existing tree and some planting need to be removed” to allow the Click and Collect facility to be built. However, there is no tree in this area. It is pleasing that Tesco will now start to replace the trees.
 - Mention is also made in the Design and Access Statement that “three existing trees and some planting need to be removed” to accommodate the proposed relocation of the Dot.Com delivery van parking area. Hopefully, more trees will not need to be removed bearing in mind that a high fence is to be erected

- behind the proposed Dot.Com delivery van parking area. I could not find any mention of electrical charging points being installed within the proposed relocation of the Dot.Com delivery vans parking spaces. If installed, what impact will this have on the existing trees/ vegetation?
- The Design and Access Statement also says that the trees to be removed will be “replaced within the site.” However, no mention is made of the size or type of the replacement trees.
 - The site’s proximity to the Country Park should be remembered. Highwoods is fast losing its original identity through loss of trees/poor maintenance. Planting saplings “in a more convenient location within the site” in place of trees that have taken years to grow is not a viable option.
 - The huge car park was once dotted with large Standard Oaks and Chestnuts. These have now all gone and we are left with a large, unattractive tarmac desert.
- Unsuitable Location
 - There are far more suitable locations for such large commercial business adventures away from people’s houses, the Authority should recommend this alternative, long before even considering altering and destroying the environment where people have chosen to live and raise families.
 - The original Tesco food and grocery store has dramatically enlarged and grown out of proportion for its location over the years.
 - There would be unacceptable levels of pollution, noise, added risks imposed to the location and roads, which were not built to carry such high volumes of trucks and vans. There will also be further customers using local roads visiting the store. Already, the roundabout and adjoining roads become severely congested.
 - To be aware, children attending junior and senior schools, a number of whom ride bicycles using the same roads as the commercial vehicles, this is very worrying for parents. Local residents use this area to walk to the local community centre, post office, bus stops and Doctor’s surgery. Residents, including the elderly and small children enjoy the area to move around and go about their daily lives.
 - Inaccuracies on submitted Drawings
 - The Existing Site Plan shows there are seven Dot.Com van parking spaces (each with an electrical charging point), but there are actually eight such parking spaces and charging points. Incidentally, the Design and Access Statement states there are eight such parking spaces.
 - Both Site Plans show there are 25 trees situated within the parking bays in the main car park. However, there are only 13 such trees. Some of the “missing” trees were never planted. In addition, 6 trees have been vandalised/died and the growing areas have been covered with concrete or tarmac.
 - Both Site Plans do not show the recently installed large illuminated advertisement sign that protrudes at a right angle at the main entrance to the store.

- Other considerations
 - The proposed development will result in additional lighting which will have an adverse visual impact on the houses in Eastwood Drive that are situated near the Goods Service Road. The woodland strip in the front of these houses between the car park and Eastwood Drive provides little protection during the Winter and Spring from the existing Tesco buildings and site lighting as the vegetation is not very dense. The lighting issue is made worse when the street lights are switched off at night. This will be exacerbated when additional lighting is installed for the proposed Click and Collect service as there is currently little lighting in this area.
 - The grocery store will change into a distribution hub for an online shopping business. Permission would be unlikely to be granted to a competitor opening a distribution centre in this residential area.
 - With decreased parking spaces there is no contingency plan for overspill parking at busy seasonal times, and cars are likely to park in adjacent residential areas such as Langham Place. With no contingency plan in place we are concerned that Tesco will then use this as a reason to resubmit their heavily criticised plans to increase access by the service road.
 - Additionally, I fully expect that if this joint application is successful, it's likely to result in further applications for additional signage/advertising and potentially full public access to the current service road.

10.2 Where the above are planning matters, these are addressed within the assessment below.

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

11.0 Parking Provision

- 11.1 The application would result in a loss of 33 standard parking spaces leaving 615 car parking spaces (comprising of 554 standard parking bays, 26 parent and toddler bays and 35 disabled/special needs parking bays) for the existing store. Policy DP19 of the Development Policies document sets out how the Council will refer to adopted parking standards. That document sets out maximum parking provision but does not set out a minimum provision. However, it would not be in Tesco's interests to reduce parking requirements below what the store needs as this would harm custom.
- 11.2 In any case, the proposal reduces overall parking requirements by providing an alternative to the traditional 'park and shop' system. It is furthermore noted that the site is located within one of the furthestmost points away from the store's entrance and consequently in one of the least popular parking areas. In this context, the proposal complies with adopted policy requirements and will not result in parking problems.

- 11.3 Notwithstanding the above, the Design and Access Statement (DAS) that has been submitted together with this application attempts to demonstrate that the proposal to expand the Dot Com business plus “Click and Collect” facility can offset the loss of the 33 parking spaces as follows:

Click and Collect

Although there are no firm data regarding customer uptake, the “Click and Collect” service was designed to serve up to 8 customers per hour, therefore on a weekday the facility could serve 96 customers (8am to 8pm), equalling in 96 customers per day that do not have to park up at the store to do their shopping.

Dot Com Operations

Given the lack of data held on the Dot Com operation, the following calculation is indicative only. The calculation is based on a full 20 van operation working at full capacity 6 days a week (Sundays discounted):

1 van makes 3 delivery trips per day, delivering to 8 customers per trip. Therefore, 1 van x 8 customers x 3 trips = 24 customers a day.

24 deliveries per day x 20 vans = 480 deliveries a day x 6 days a week = 2,880 customers a week.

However, all vans working at full capacity 6 days a week is unrealistic. If Dot Com were operating at 60% capacity, this would equate to 1,728 customers a week.

If 1,728 customers comprise 50% existing store users who would normally visit the store to do their shopping and 50% were new customers, this equates to 864 customers a week (144 customers a day) who would not have to travel to the store.

Together, this could result in approximately 250 customers not having to travel to the store and/or find a parking space to visit the store. Therefore, the loss of 33 parking spaces in order to accommodate this service is considered to be justified in this instance.

- 11.4 On the basis of the above, whilst it is acknowledged that the development would result in the loss of 33 spaces, it is considered that the remaining spaces are adequate for the supermarket use. It is also noted that the location of the building further away from the store itself would mean that it is not located within a busier area of the car park. In light of adopted parking standards, which set out maximum parking requirements, it is therefore concluded that the loss of the spaces in favour of the proposed development is acceptable in this instance.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 Principle of Development

15.1.1 The existing use of the site as a superstore and associated facilities is within Use Class A1. The proposed development also falls within the same A1 use class. Generally speaking, the principle of development would therefore be acceptable as it would reflect the existing use of the site. This is subject to other considerations which are examined below.

15.2 Design, Layout and Impact on Surrounding Area

15.2.1 Core Strategy Policy UR2 states that the Borough Council will promote and secure high quality and inclusive design in all developments to make better places for both residents and visitors. Developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported while Development Policy DP1 requires that all development should respect the character of the site, its context and surroundings. Proposals must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Such requirements are reflective in core planning principles and guidance contained in the NPPF.

15.2.2 In this instance, the design and appearance of the proposed development is very simple and one that is considered to reflect the existing functional design of facilities at the Tesco superstore site. The simple design of development is considered to be appropriate to its layout. The size and scale of the development is also considered to be modest and would not have a detrimental visual impact on the locality. This unobtrusive design is supported by the proposed location to the rear of the site away from the main activity of the superstore and parking area.

15.2.3 Furthermore, the design of the proposed development adjacent to residential properties along the southern boundary of the application site is not considered to cause harm to the occupiers of these properties or their residential amenities. The proposed development is considered to respect the character of the site and would not result in an unacceptable impact on the residential amenities as a result of its design or layout. On this basis, it is concluded that the design of the proposed development is acceptable in this instance.

15.3 Sustainability/Economic Benefit

- 15.3.1 Planning permission has previously been granted on this site for a non- food bulk store extension and canopy extension to be used for Tesco's home delivery service in 2008 (reference 071025). However, this permission has not been implemented and has since lapsed. The principle of such an extension has therefore been established although it is recognised that since granting consent for this development in 2008, both local and national policies have changed through the introduction of the Council's Local Development Framework (2010) and the National Planning Policy Framework (2012).
- 15.3.2 The development therefore has to be assessed in light of the new legislation while only limited weight can be given to the fact that a similar proposal on this site has previously been approved.
- 15.3.3 The NPPF at paragraph 19 sets out that "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 20 goes on to state that local planning authorities, in helping to achieve economic growth, "should plan proactively to meet the development needs of business and support an economy fit for the 21st century".
- 15.3.4 In light of the above, the main issues to consider are firstly the likely sustainability benefits of an expansion of the home delivery service and the provision of a Click and Collect facility with regard to a reduction in shopper visits by car to the store and secondly the potential economic benefit this development could bring with it.
- 15.3.5 With regard to the sustainability benefits of the proposed development, as set out above, attempts have been made to quantify this to a certain degree in that each van makes 3 deliveries on average per day and each delivery is to approximately 8 customers. A fleet of 20 vans working at an estimated capacity of 60% therefore potentially save up to 144 car trips a day or 864 trips a week (on a basis that 50% of the customers using this service would be new customers).
- 15.3.6 Whilst the Click and Collect facility would be erected straight away, the increase in the fleet from the existing 12 to the proposed 20 vans would be taking place over a course of 5 years. It has to be taken into account that this would not only result in a potential economic benefit to the applicant in terms additional revenue, it would also benefit the wider community as it would create local job opportunities. Overall, it is expected that the proposed expansion would result in the creation of at least 30 local jobs. Whilst this number is not guaranteed, it is an estimate that is based on previous experience of such an expansion in other areas.

15.3.7 Having regard to the above, it is evident that this proposal brings a clear sustainability and economic benefit with it. It would therefore be contrary to the guidance set out within the NPPF to resist and/or delay such sustainable growth. The application clearly demonstrates a development need and the proposed development would support an economy that is fit for the 21st century, as it is requested by the NPPF. This clear evidence is a material consideration that weighs heavily in favour of the proposed development.

15.4 Impact on Neighbouring Amenities

15.4.1 Notwithstanding the above, the sustainability and economic benefits that have been identified need to be considered against possible impacts of the expansion on the residential amenity of neighbours. The existing home delivery service has generated complaints about noise impacts from neighbours which are currently being dealt with by the Environmental Health Officer, and the potential to exacerbate such problems cannot be ignored. Officers have therefore worked closely with Environmental Health and the agent for this scheme to come up with measures to deal with the existing operation of the home delivery services as part of the planned expansion.

15.4.2 Officers are in principle supportive of the home delivery service and its proposed expansion is indicative of its success and the role it is playing in reducing car based visits to the store. It is evident that its current operation is in excess of the capacity of the loading bays leading to the problems due to vans being loaded outside of the bay area. The proposals would resolve this by providing more bays and a commitment to stop this practice as well as the running of engines to keep food refrigerated. The current situation should therefore improve with the implementation of these measures. The restricted hours of operation of the service as proposed can be enforced by condition.

15.4.3 An application for the same proposal has been withdrawn last year (reference 130721) due to a lack of mitigation of the increased noise and disturbance on the amenities of the adjoining residential properties. The current application has introduced various measures that attempt to limit the impact on the residential properties and these are discussed below.

15.4.4 The proposed expansion of the existing home delivery service includes an additional 3 loading bays to the 5 bays that currently exist along the southern elevation of the existing store. Their enclosure is to be clad with acoustic absorbing material. In conjunction with the Environmental Health Officer's advice, it is considered that the proposed enclosure and cladding should improve the current situation even with the addition of 3 bays as the proposed measures should greatly reduce noise escaping from the loading bays.

15.4.5 Environmental Health suggest that in the event consent is granted for the proposed development, the following should be restricted via condition:

- No vehicles shall be parked or wait along the fence adjacent to residential properties in the Dot.com yard from the new gate to the rear of the bulk store located behind the compactor.
- All Dot.com vans must use hook ups to power refrigeration and engines must be switched off once vehicles are in the unloading position.

- All delivery lorries and Dot.com vans must leave directly from the gated yard and not stop on the service road.
- All delivery lorries and Dot.com vans must switch off engines and refrigeration while waiting on the Service Road and no delivery vehicles may wait on the service road between 22.00 and 07.00 hours.

15.4.6 It is considered that these conditions are reasonable and given the existing problems with regard to noise and disturbance to the adjacent residential properties, these conditions are necessary as they are considered to provide improvement on the existing situation. Furthermore, such conditions enable the Council to carefully monitor the activity on site and, in the event that these conditions are not adhered to, they would allow for the Council to take action against the applicant.

15.4.7 It has to be noted that the increase in the vehicle movements as a result of a growing fleet of delivery vans (up to a maximum of 20 vans) would take place over a period of 5 years, thus allowing for a smoother transition while there would be no increase in delivery vans for the “Click and Collect” facility as this service would pick up the requested shopping from within the existing store rather than expecting deliveries.

15.4.8 It is acknowledged that residents are concerned that the increased use of the service road as a result of the expansion of the delivery van fleet would result in increased noise and disturbance. However, Officers consider that the current application has given due consideration to the outstanding complaints and valuable attempts have been made to incorporate measures that would reduce the existing noise and disturbance even if the number of delivery vans increases.

15.4.9 One of these measures is a 3 metre high acoustic fence that has previously been extended and almost covers the entire length of the service yard. In addition to that, the service road has also recently been resurfaced, taking away the noise and disturbance that was caused in relation to the potholes and double yellow lines have been introduced along the service road.

15.4.10 Another measure would be the erection of a 3 metre high timber fence that would be placed at the rear of the 7 new van parking bays that are proposed within the main car park which would provide on-site parking for vans when all loading bays are full. Furthermore, the existing fence is expected to have acoustic lining installed which again would aid in reducing the impact of the existing and proposed operation on the residential amenities of the neighbouring properties.

15.4.11 In response to vehicles (delivery vans as well as non Tesco vehicles) awaiting their turn within the service road while continuing to run their engines, and in order to control the intensification of the service road, the Environmental Health Officer has suggested that a barrier or gate be installed at the start of the service yard access road. However, this has been rejected by the applicant, agent and their risk assessor as such a gate or barrier at the start of the road could lead to vans, LGVs and HGVs backing up on Eastwood Drive, thereby causing an obstruction to other highway users and annoyance to local residents. Such a measure has therefore not been incorporated into this scheme. However, in light of other measures that have been/are proposed to be put in place to mitigate existing noise and disturbance to the adjacent residential properties, the lack of such a gate/barrier does not in itself make the proposal unacceptable.

15.4.12 Having regard to the above, it is considered that the measures that have been put in place to mitigate any potential negative impact on the residential amenities of the adjacent properties outweigh the increase in the use of the service road that this proposal would bring with it.

15.4.13 Furthermore, the vehicle movements that the proposed "Click and Collect" facility would bring with it is not considered to result in a materially harmful impact considering that this part of the site is already used as a car park for the existing store. Instead of parking their car and visiting the store, customers would drive through the car park and into the facility which would be covered by a canopy in order to reduce any negative impact in terms of noise and disturbance on the neighbouring amenities. Given that customers would be allocated a timeslot in which they can pick up their shopping, the traffic flow that this facility would generate can easily be controlled. The proposed operation hours (Mondays to Saturdays 08:00 to 20:00 hours and Sundays 10:00 to 15:00 hours) would further limit any harm that would be caused to the surrounding area as these hours are considered to be adequate for such an operation. On this basis, it is considered that the proposed "Click and Collect" facility would not result in a significant increase in vehicle movements compared to the current use of the site, nor would it have a materially harmful impact on the amenities of the adjoining dwellings in terms of noise and disturbance.

15.5 Access, Parking and Highway Safety

15.5.1 As stated above, it has been concluded that the loss of 33 parking spaces in favour of the proposed development is acceptable in this instance, as the proposed development is likely to result in a decrease of customers having to travel to the store in order to get their shopping done.

15.5.2 Delivery vans would continue to gain access to the site via the existing service road off Eastwood Drive while the Click and Collect facility would be accessed via the existing access to the car park. The facility would be located towards the end of the car park in a position where it would not disturb the highway safety of road users. Whilst the Highway Authority did not wish to submit a formal recommendation for this proposal, it has to be noted that they did not raise an objection to the previous proposal (reference 130721) as they considered it to be in compliance with the Highway Authority's Development Management Policies regarding Safety, Accessibility, Efficiency/Capacity, Road Hierarchy and Parking Standards. The current proposal has not made any amendments in relation to highway matters nor has the proposed use of the site increased since the last application and it is therefore considered that the proposed development is acceptable on highway safety grounds.

15.6 Loss/Maintenance of Existing Trees

15.6.1 The proposal would result in the loss of four trees and some planting. Whilst three of these four trees are covered by a Tree Preservation Order, the Council's Arboricultural Officer has not raised an objection to their removal. Careful consideration should however be given to the retention of the remaining trees along that stretch of the site as it is considered that these provide the residential properties along the southern boundary of the site with valuable screening. In the event that consent is granted for this development, it is therefore necessary that suitable measures are in place to protect these trees during the construction of the proposed development. Subject to

such conditions, the Arboricultural Officer does not object to the proposed development.

15.7 Other Considerations

- 15.7.1 It is appreciated that some objectors suggest that the grant of this permission may lead to an application for the use of the existing service road as an additional access to the car park. However, this application must be determined for what is currently proposed. Any application for further development in the future will be judged in light of relevant policies at the time of submission. The same applies for any subsequent advertisement consent or lighting that may be required.
- 15.7.2 Reference has been made to the proposal leading to overdevelopment of the site. Whilst it is accepted that the size of the store has significantly increased since it was first built, it has to be taken into consideration that extensions to such a retail store follow the demand the store gets. As set out in the above assessment, national policies require local planning authorities not to act as an impediment to sustainable growth. In this instance it is considered that the proposal follows an increased demand for the home delivery of groceries and an alternative form of shopping that the Click and Collect facility offers to the traditional visit to the store. The application site itself would not be enlarged, the use of the site would simply be remodelled and a small extension would be added in order to cater for the additional facilities. On this basis, it is considered that the proposed development does not constitute overdevelopment of the site.
- 15.7.3 It is appreciated that residents are concerned about the safety of pedestrians, however, this proposal is not considered to have a direct impact on this matter. Whilst it is acknowledged that the vehicle movements along the service road will increase over time as a result of the expansion of the fleet, it is considered that there are adequate measures in place for the safety of all users of this service road and walkways and it is in the interest of all users to adhere to these rules. Furthermore, the Highway Authority has not raised an objection to this proposal and as stated above, it is therefore concluded that the proposed development would not have a negative impact on the safety of highway users and pedestrians using these roads.
- 15.7.4 Finally, whilst the comments with regards to the inaccuracies on the submitted drawings are noted, these are not considered to impact on the main issues regarding this proposal which have adequately been assessed above.
- 15.7.5 Consideration has been given to all other matters raised by third parties, however, none of them outweigh the Officer's conclusion that the proposed development, despite representing an increase in activities along the service road, would result in an improvement on the current situation, thus aiding in reducing the noise and disturbance that is caused to the adjacent neighbouring properties.

16.0 Conclusion

- 16.1 Having regard to the above, Officers recommend that planning permission is granted for this development, on the basis of the implementation of all the measures requested by the Environmental Health Officer, the majority of which would be covered by planning conditions. These conditions are enforceable and Environmental Health retain powers under Environmental Protection Legislation to act against noise and

disturbance deemed to be a statutory nuisance. The proposed development complies with national and local policies and in any case, it is considered that this natural expansion of a successful business has implemented satisfactory measures that would not only limit the impacts of the increase in vehicle movements along the service road due to the expansion of the fleet but would also aid in mitigating existing complaints in terms of ongoing noise and disturbance issues.

17.0 Recommendation

17.1 APPROVE subject to conditions.

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 15889-200, 15889-201, 15889-202, 15889-203, 15889-204, 15889-205 Rev A and 15889-206.

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

3 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

4 - Non-Standard Condition/Reason

Prior to the first use of the extended Dot.com facility as hereby permitted, the new loading bays and the existing loading bays shall have been constructed and modified to provide sound insulation against internally generated noise in accordance with or better than the details supplied in the application and Mr Robert Turnbull's email dated 12 February 2014. The insulation shall be maintained 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.

5 - Non-Standard Condition/Reason

The hours of use of the home delivery loading bay for the purposes of loading and unloading home delivery vehicles shall be limited to between the hours of 07:00 and 23:15 on Mondays to Fridays, between 07:00 and 22:15 Saturdays and between 10:00 and 15:00 as well as 18:00 and 22:15 on Sundays and Bank Holidays.

Reason: To protect the amenities of adjoining residents.

6 - Non-Standard Condition/Reason

No vehicles shall be parked or wait along the fence adjacent to residential properties in the Dot.com yard from the new gate to the rear of the bulk store located behind the compactor.

Reason: To protect the amenities of adjoining residents.

7 -Non-Standard Condition/Reason

All Dot.com vans must use hook ups to power refrigeration and engines must be switched off once vehicles are in the unloading position.

Reason: To protect the amenities of adjoining residents.

8 - Non-Standard Condition/Reason

Loading and unloading of the home delivery vehicles shall only take place in the designated loading bay areas.

Reason: In order to restrict loading activities to within the loading bay areas in the interests of safeguarding the amenities of neighbours.

9 - Non-Standard Condition/Reason

All delivery lorries and Dot.com vans must leave directly from the gated yard and not stop on the service road.

Reason: To protect the amenities of adjoining residents.

10 - Non-Standard Condition/Reason

All delivery lorries and Dot.com vans must switch off engines and refrigeration while waiting on the Service Road and no delivery vehicles may wait on the service road between 22.00 and 07.00 hours.

Reason: To protect the amenities of adjoining residents.

11 - Non-Standard Condition/Reason

The hours of use of the Click and Collect facility hereby approved shall be limited to between the hours of 08:00 to 20:00 on Mondays to Saturdays and between 10:00 and 15:00 on Sundays and Public Holidays.

Reason: To protect the amenities of adjoining residents.

12 - External Light Fixtures TBA

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

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

13 - Tree and Natural Feature Protection: Protected Areas

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

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

14 - Tree and Hedgerow Protection: General

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

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

15 - Non-Standard Condition/Reason

No works or development shall be carried out until a site specific Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

16 - Tree Canopy Hand Excavation

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

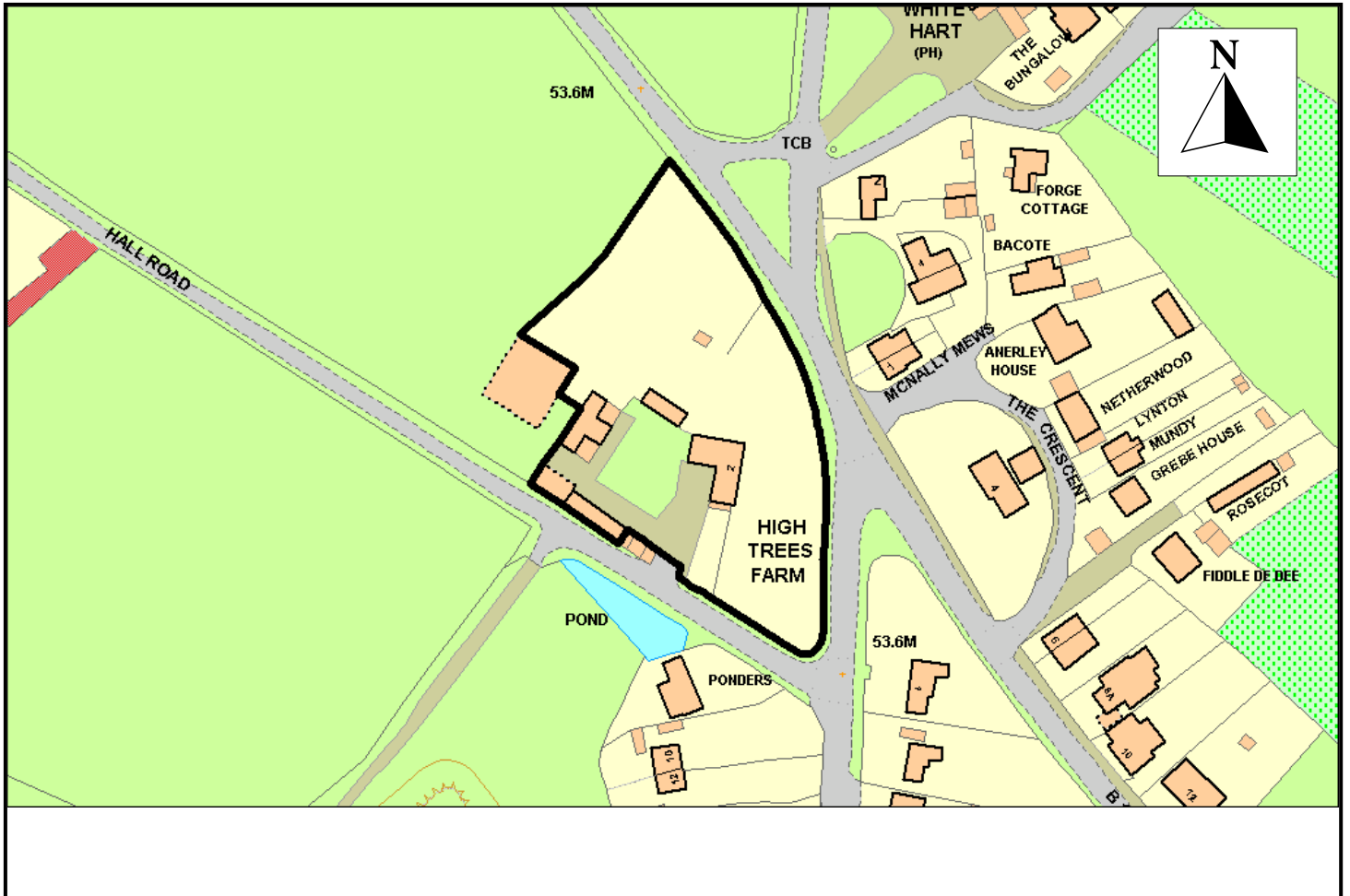
Reason: To protect trees on the site in the interest of visual amenity.

20.0 Informatives

(1) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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

(2) In-house noise awareness training will be undertaken by all relevant store staff. Regular training will also be undertaken for drivers and night staff.



Application No: 130107

Location: High Trees Farm Barn & Outbuildings, Lexden Road, West Bergholt, CO6 3BT

Scale (approx): 1:1250

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7.4 Case Officer: Mark Russell

OTHER

Site: High Trees Farm Barn & Outbuildings, Lexden Road, West Bergholt, CO6 3BT

Application No: 130107

Date Received: 22 January 2013

Agent: Mr John Inkpen

Applicant: Mr Joe Geddis

Development: Change of use to separate residence including live/work arrangement and holiday let

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This Listed Building application is referred to the Planning Committee because it accompanies planning application 132224 which includes the conversion of a barn to a dwelling outside of the West Bergholt village envelope, which is contrary to Policy.

2.0 Synopsis

2.1 The key issue explored below is the impact of the proposed works on the application buildings which are deemed to be listed.

2.2 It is considered that the works are acceptable and approval is recommended.

3.0 Site Description and Context

3.1 High Trees Farm is a Grade II* listed building with a range of traditional outbuildings which are considered to be within the curtilage of the listed building. It is situated on the junction of Lexden Road and Hall Road, West Bergholt. Currently part of a range of outbuildings along the Hall Road frontage are utilised as offices for the applicants' business. The other buildings in this range are used as garaging and storage. The two barns are used in association with the residential occupation of the house. The large traditional barn has had a number of inappropriate alterations in past decades. These are believed to have taken place before the applicants' occupation of the site.

3.2 The application proposes the following conversion works:

- Conversion of the traditional barn into a dwelling (with associate works to remedy the inappropriate alterations);
- Conversion of the small barn into office;
- Conversion of an outbuilding (currently used as an office) into a holiday let.

4.0 Description of the Proposal

4.1 The application proposes works to convert: the traditional barn into a dwelling (with associate works to remedy the inappropriate alterations); the conversion of the small barn into office; the conversion of an outbuilding (currently used as an office) into a holiday let. These buildings are deemed to be listed as they are within the Curtilage of a Grade II* listed building and they predate 1948. Amendments suggested by the Historic Buildings and Areas Officer have been incorporated into the scheme.

5.0 Land Use Allocation

5.1 No Notation

6.0 Relevant Planning History

6.1 Planning (102695) and Listed Building (102696) applications for a scheme similar to that proposed by this current application were withdrawn in January 2013. This was due to Policy concerns relating to the conversion of the barn to a dwelling. There were also issues relating to the principle of the subdivision of the curtilage, however these were resolved following discussion with the Council's then Conservation Consultant.

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP14 Historic Environment Assets

8.0 Consultations

8.1 The Historic Buildings and Area Officer commented as follows:

“The most significant alterations proposed are to the barn. This has been badly treated in the past and currently has an inappropriate roof and ugly fenestration. The proposal to improve its appearance is welcomed in principle as a means of enhancing the setting of the listed building. The amended drawings vastly improve the appearance of the barn and will have a far smaller impact on the setting of the listed building than the previous iteration.

The proposed cart-lodge is on the site of a building that once stood and, as revised, there is no objection.

The proposed sub-division of the site is unfortunate and removes a large proportion of the grounds from the house. Without the conservation benefit that will be derived from improvements to the appearance of the barn there would be little justification for this. However, as the barn’s appearance will be improved substantially, this benefit outweighs the harm of the division since there is precedent for this approach to sub-division from Victorian modernisation of farmsteads.

Conditions are recommended”

8.2 .English Heritage comment as follows:-

“No objection in principle; concerned about the proposed glazing in the front elevation of the barn and its impact on the setting of the Grade II listed building (NB this detailing has been removed from the scheme)”*

OFFICER NOTE – The required changes have now been received.

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

9.0 Parish Council Response

9.1 The Parish Council has stated that:

“The application has previously been considered and is not materially different to the previous application. The Parish Council is not concerned about the technical infringement of the village envelope, since the boundary is an historic anomaly in this location and the former farm buildings have clearly been part of the village environs for many, many years”.

10.0 Representations

10.1 Two objections were received (details on the Committee report for the Planning application 132224), but no material objections were received to the Listed Building application.

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

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A.

13.0 Air Quality

13.1 N/A

14.0 Development Team and Planning Obligations

14.1 N/A .

15.0 Report

Listed building and conservation issues

15.1 The buildings which are the subject of this application are within the curtilage of High Trees Farm house, which is a Grade II* listed building. As these buildings predate 1948 they are deemed to be listed as curtilage buildings. Works carried out to the large barn on the site, at an undetermined date in the past, have significantly and detrimentally impacted on the building and, as a consequence, the setting of the Grade II* listed building. This application includes works to the barn to reinstate the traditional roof form and replace inappropriate windows which will improve the setting of the listed building.

15.2 The proposed works have been considered by the Historic Buildings and Area Officer who has suggested a number of amendments which have been incorporated into the scheme. English Heritage has supported the scheme but requested changes, which have now been secured. Accordingly it is considered that the works are acceptable.

16.0 Conclusion

16.1 It is considered that the proposed works are acceptable, and therefore the grant of listed building consent is warranted.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

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

19.0 Conditions

1 - Time Limit for LBCs

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

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

2 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings A-100-PL-11/F/12A/13B and 14B 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 - Hitherto unknown

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority.

Reason: To secure the proper recording of the listed building.

4 - Listed Building Materials

No works shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the works hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: In order to preserve the historic character of the listed building.

5 - Details of Brickwork, Mortar Mix Bond, Joint Profile etc

Prior to the commencement of the development, full details of all new brickwork, including the bond, mortar mix and joint profile shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be constructed in accordance with the agreed details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and appearance of the building where there is insufficient information within the submitted application.

6 - Sample Panel

Prior to the commencement of any works a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to ensure that the brickwork can be satisfactorily considered on site with regard to preserving the character of the listed building.

7 -Additional Detail on Windows & Doors etc

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8 - Rooflights

The rooflights hereby approved shall be of the "conservation" type with a single vertical glazing bar and mounted flush with the roof slope.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

9 - Only Works Shown Within Application

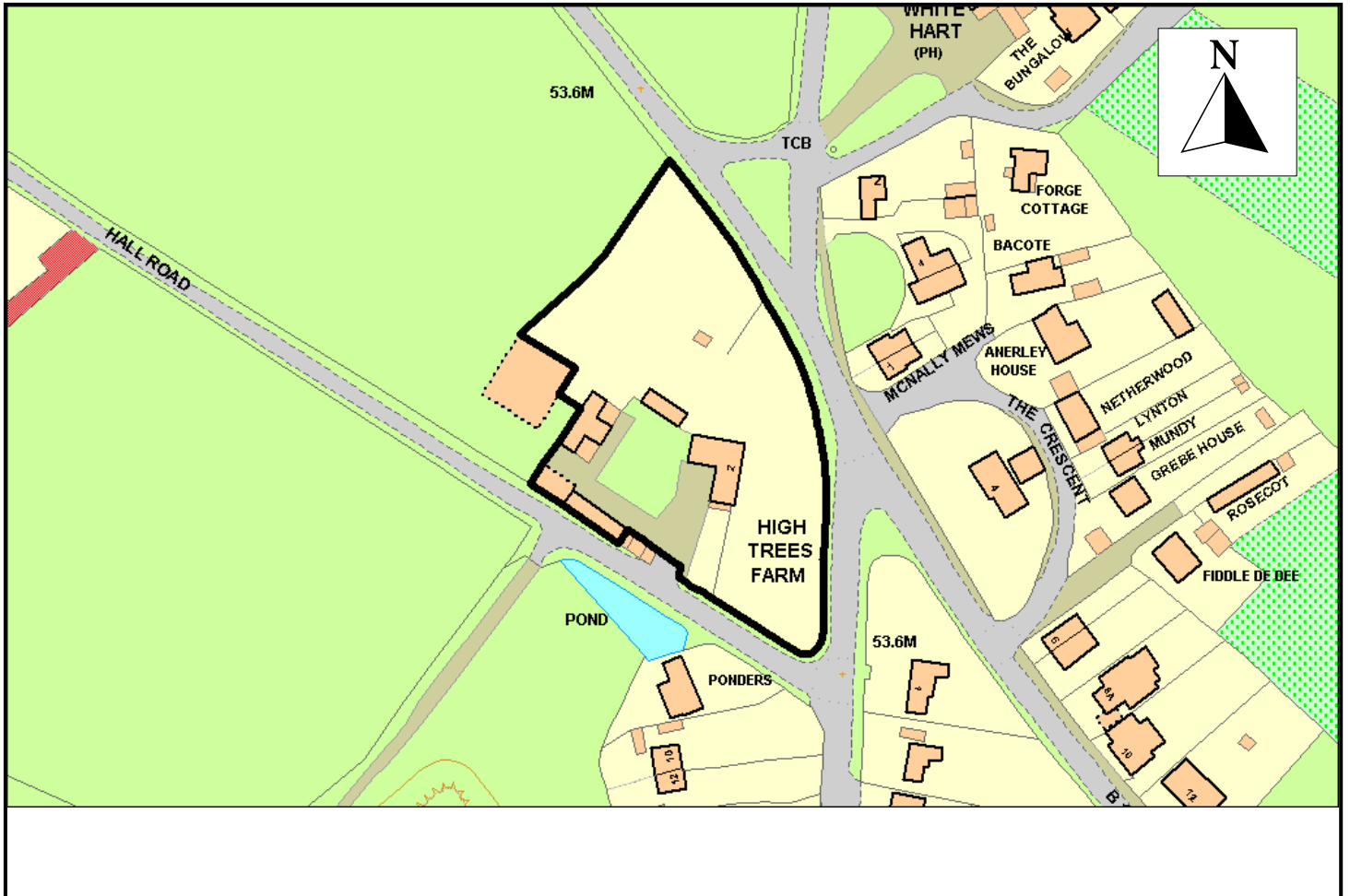
This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved, in writing, by the Local Planning Authority prior to any works commencing.

Reason: For the avoidance of doubt as to the scope of the permission and to ensure that the historic building is preserved from any other potentially harmful works.

10 - Non-Standard Condition/Reason

Prior to the commencement of any works, additional drawings showing details of all insulation and internal finishes to be submitted and agreed in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: In order to preserve the historic character of the listed building.



Application No: 132224

Location: High Trees Farm Barn & Outbuildings, Lexden Road, West Bergholt, CO6 3BT

Scale (approx): 1:1250

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7.5 Case Officer: Mark Russell

OTHER

Site: High Trees Farm Barn & Outbuildings, Lexden Road, West Bergholt, CO6 3BT

Application No: 132224

Date Received: 8 November 2013

Agent: Mr John Inkpen

Applicant: Mr Joe Geddis

Development: Change of use of existing buildings: the main barn to a dwelling, the small barn to an office, the existing cart lodge to parking, and the outbuildings to a holiday let and garden storage and the erection of a cart lodge and a brick wall

Ward: W. Bergholt & Eight Ash Green

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the proposed conversion of the barn to a dwelling outside of the defined settlement limit is contrary to Policy.

2.0 Synopsis

2.1 The key issues explored below are the policy issues relating to the conversion of a barn deemed to be listed which is outside of a defined settlement boundary, the proposed alterations to the building and the subdivision of the existing curtilage, and the impact of the development on residential amenity.

2.2 It is considered that there is, on balance, sufficient justification for accepting the residential conversion and the details of the scheme and its impact on the locality are acceptable and approval is recommended.

3.0 Site Description and Context

3.1 High Trees Farm is a Grade II* listed building with a range of traditional outbuildings which are considered to be within the curtilage of the listed building. It is situated on the junction of Lexden Road and Hall Road, West Bergholt. Currently part of a range of outbuildings along the Hall Road frontage, they are utilised as offices for the applicants' business. The other buildings in this range are used as garaging and storage. The two barns are used in association with the residential occupation of the house. The large traditional barn has had a number of inappropriate alterations in past decades. These are believed to date back to a time before the applicants' occupation of the site.

3.2 Vehicular access to the whole site is currently from Hall Road. An access to Lexden Road is evident and there are gates in place, but this access has not been used for many years. The frontage round the junction with Hall Road has conifers and there is hedging along the Lexden Road frontage which continues round to the north of the site along the junction with and along Colchester Road. The land to the north of the building is residential curtilage. The western boundary has hedging along the side of the garden. The traditional barn is on the boundary with agricultural land to the west (which includes a mid 20th century farm building in close proximity to the site).

4.0 Description of the Proposal

4.1 The application proposes the conversion of the traditional barn into a dwelling (with associated works to remedy the inappropriate alterations) and the transfer of the existing business use into the small barn – this would, in effect, be a live-work arrangement. The existing office would be converted to a holiday let and the other buildings retained for their current use (garaging/storage). These buildings/uses would be accessed off of the existing vehicular access. The existing house would not be used in association with the proposed uses. A new cart lodge on the site of existing parking area would be erected for use of the occupiers. Access to the house would be via the currently unused access on to Lexden Road. The application includes proposals for subdividing the curtilage of the buildings to create a separate domestic curtilage for the existing house and the proposed dwelling (and associated uses). Amendments suggested by the Historic Buildings and Areas Officer have been incorporated into the scheme.

4.2 A Member call in request was received requiring the current applications to be referred to Planning Committee if these were to be recommended for refusal. The reason for this request was: “This application site is within the village of West Bergholt but appears by a quirk of geometry to be outside the village envelope. The application has the support of the Parish Council, is within the spirit of the Village Design Statement and has no objections. There are other examples in the vicinity, of developments much less pleasing to the eye, obviously outside the village envelope. This application should be approved.”

5.0 Land Use Allocation

5.1 No Notation

6.0 Relevant Planning History

6.1 Planning (102695) and LBC (102696) applications for a scheme similar to that proposed by this current application were withdrawn in January 2013. This was due to Policy concerns relating to the conversion of the barn to a dwelling. There were also issues relating to the principle of the subdivision of the curtilage, however these were resolved following discussion with the Council’s then Conservation Consultant.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
SD3 - Community Facilities
UR2 - Built Design and Character
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing
DP9 Employment Uses in the Countryside
DP10 Tourism, Leisure and Culture
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP19 Parking Standards
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
Vehicle Parking Standards
The Essex Design Guide
External Materials in New Developments
- 7.5 The West Bergholt Village Design Statements see [Adopted Guidance - Colchester Borough Council](#)

8.0 Consultations

8.1 Spatial Policy comments:

“The application site is outside, but adjacent to, the West Bergholt settlement boundary. It is common for dwellings and established properties to be found outside of the defined settlement boundary.

High Trees Farm is an established property with the main farm house being listed as a grade II historic asset. The existing outbuildings provide the setting for the farm house as well as making up part of the residential curtilage.*

The proposal lacks justification for the introduction of a new residential unit within the area.

The Colchester Local Plan policies are clear that residential development outside of defined settlement boundaries and allocations is to be restricted unless exceptional circumstances dictate. There are no such circumstances relating to this proposal – the existing farm house is currently occupied and will remain as a residential dwelling and there has been no information presented to demonstrate the specific housing need within the village.

Paragraph 49 of the NPPF highlights that housing applications should be considered in the context of the presumption in favour of sustainable development and local policies should be considered up to date if a five-year housing land supply can be demonstrated. Colchester Borough Council has a good record of housing delivery in recent years and as shown on the most recent Housing Trajectory published as part of the 2013 Annual Monitoring Report the Council has clearly identified a five- year supply of specific, deliverable sites. In light of this evidence it is appropriate to maintain the settlement boundaries.

The holiday let accommodation and office facilities are broadly considered to be in accordance with Core Strategy Policy ENV2 and Development Policy DP10. As these proposals are making use of the buildings currently found on the site, their redevelopment is considered to be small scale and their conversion is compatible with the rural character of the area and will promote economic activity within the village.

The West Bergholt Village Design Statement (adopted by the Council in December 2011 only favours future housing provision of warden-controlled homes for the elderly, small family homes and retirement homes and a need for affordable housing.

The Village Design Statement also lists a number of planning guidance points which the dwelling fails – it is backland development and introduces urbanising walls into the curtilage of the listed building.

The proposal would set a dangerous precedent for residential conversion of similar sites adjacent to settlement boundaries.”

8.2 The Tree Officer has advised that tree protection methodology will be required and can be conditioned.

- 8.3 The Highway Authority has no objection subject to conditions
- 8.4 Environmental Protection does not consider that it is appropriate to impose noise conditions on a holiday let. If there are noise problems these can be dealt with through Environmental Protection law.
- 8.5 The Contaminated Land Officer suggests conditions.
- 8.6 The Historic Buildings and Area Officer comments as follows:-

“The most significant alterations proposed are to the barn. This has been badly treated in the past and currently has an inappropriate roof and ugly fenestration. The proposal to improve its appearance is welcomed in principle as a means of enhancing the setting of the listed building. The amended drawings vastly improve the appearance of the barn and will have a far smaller impact on the setting of the listed building than the previous iteration.

The proposed cart-lodge is on the site of a building that once stood and, as revised, there is no objection.

The proposed sub-division of the site is unfortunate and removes a large proportion of the grounds from the house. Without the conservation benefit that will be derived from improvements to the appearance of the barn there would be little justification for this. However, as the barn’s appearance will be improved substantially, this benefit outweighs the harm of the division since there is precedent for this approach to sub-division from Victorian modernisation of farmsteads.

Conditions are recommended”

- 8.7 English Heritage did not object to the development in principle, but objected to the large area of glazing over the landing on the south-east elevation as this would cause harm to the setting of the Grade II* listed building.

OFFICER COMMENT – This amendment has now been received.

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

9.0 Parish Council Response

- 9.1 The Parish Council has stated that:

“The application has previously been considered and is not materially different to the previous application. The Parish Council is not concerned about the technical infringement of the village envelope, since the boundary is an historic anomaly in this location and the former farm buildings have clearly been part of the village environs for many, many years.”

10.0 Representations

10.1 Two letters of objection were received and covered the following points:

- The site access. There has been a business on site for a number of years transferring it into the small barn would not make much difference to traffic;
- The 4 bedroom house and the holiday let together with the farm house traffic must increase the number of vehicles in and out;
- Hall Road outside the site is not speed restricted and vehicles leaving the site have a very poor visibility;
- Suggest alterations to access to improve the situation. It is suggested that the gates be repositioned further back on the site to allow a vehicle to park before opening the gate;
- Concerns about possible noise from holiday lets.

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

11.0 Parking Provision

11.1 Parking for the existing house is provided in the proposed cart lodge and new driveway accessed from Lexden Road. Two parking spaces are identified for the holiday let and 2 for the barn conversion. Provision is made for use of an existing building for cart lodge parking. There is additional hard surfacing within the site which is available for parking.

12.0 Open Space Provisions

12.1 Not applicable to this site, although a unilateral undertaking has been provided to ensure the necessary open contributions to Sports, Open Space and Recreation.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of the Development

- 15.1 The application site is outside of the West Bergholt Settlement Boundary. Planning policies give support to the reuse of buildings in countryside locations for tourist facilities and employment generating uses. Accordingly these elements of the proposed development are in line with Policy requirements.
- 15.2 The use of the traditional Essex barn as a separate dwelling does conflict with the Policy. The barn, alongside the other buildings on the site, is within the curtilage of High Trees Farm house which is a Grade II* listed building. Any of these buildings built prior to 1948 are, therefore, deemed to be listed and listed building consent is required for any alterations. Works carried out to the barn at an undetermined date in the past have significantly and detrimentally impacted the building and, as a consequence, the setting of the Grade II* listed building. This application includes works to the barn to reinstate the traditional roof form and replace inappropriate windows which will improve the setting of the listed building.
- 15.3 Whilst employment generating and community uses are the preferred option for barns, exceptions have been made for residential conversions if the barns are listed or deemed to be listed buildings. In this case the residential curtilage would bring about positive improvements to the building which would improve the setting of the Grade II* listed building. It is also recognised that the barn is in close proximity to the settlement boundary and to established housing outside of the boundary line. In addition the residential use would be directly related to the business uses which already exist on the site and which would transfer to the small barn. The occupation of the main barn would be linked, by condition, to the business use of this smaller barn. Accordingly, and on balance it is considered that there is justification for supporting the residential conversion

Design and Layout

- 15.4 Most of the proposed works involve the conversion of existing buildings. A new cart lodge is proposed on the site of a previous building. The Historic Buildings and Areas Officer is not raising any concerns.
- 15.5 The layout of the scheme will involve the subdivision of the site. The existing house and the new cart-lodge would be accessed from an existing, but unused, access and the rest of the development would be accessed from the existing access off Hall Road. This would require the creation of a boundary across the existing group of buildings. It is proposed to mark this boundary with a brick wall which is a method of subdividing farmsteads which was used in the Victorian era. Whilst the Historic Buildings and Areas Officer has expressed some concerns regarding this subdivision it has been concluded that the improvements to the barn, which the grant of this permission would facilitate, outweigh any the harm created by the subdivision of the curtilage.

Impact on the Surrounding Area

- 15.6 The development is, in the main, confined within the courtyard of buildings. However the new cartlodge would be visible from parts of Hall Road and Lexden Road. The position of the building would ensure that it appeared as part of the existing group of buildings. The presence of hedging along the road frontage would minimise the visual impact in the street-scene.
- 15.7 The opening up of the access would have some impact on Lexden Road, mainly due to construction of a driveway to the proposed cart lodge. However, as gates already exist the visual appearance would not be significantly altered.

Amenity Provisions

- 15.8 The business use for the small barn is in effect the relocation of the use already operating out of the site. This use is currently unauthorised. The applicants intend to live in the large barn and run the business as currently operating. The use is a B1 office use which provides the administration for a carpentry and building business. There is no suggestion that it currently creates any amenity problems. The access for the business would remain, as now, from Hall Road. This access currently serves High Tree Farm and this would be replaced by access for the residential barn conversion. There would be an increase in traffic as this access would also serve the holiday let. It is not considered that this intensification in the use would create any undue amenity issues. It is considered expedient to condition the B1 business use to the occupation of the barn as if the business use were operated independently there would be the potential for overdevelopment and associated amenity problems.
- 15.9 Concerns about noise from the holiday let have been discussed with Environmental Control. This type of use is not considered likely to create any undue noise nuisance.

Highway Issues

- 15.10 The Highway Authority has not raised any objections and is satisfied with the existing visibility splays for both vehicular accesses.

16.0 Conclusion

- 16.1 It is considered that, on balance, there is adequate justification to support this application and to set aside normal policy restraints regarding housing outside of the defined settlement boundary. In addition, the detail of the scheme and its impact on the listed building and the locality are acceptable. Therefore the grant of planning permission is recommended.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Positivity Statement

18,1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings A-100-PL-11/F/12A/13B and 14B 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 - Tree and Natural Feature Protection: Protected Areas

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

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

4 - Tree and Natural Feature Protection: Entire Site

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

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

5 - 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.

6 - Non-Standard Condition/Reason

The holiday unit hereby approved shall not be occupied at any time between 9th January and 9th February each year, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To prevent the use of the unit as permanent residential accommodation.

7 - Non-Standard Condition/Reason

The small barn shall be used for office purposes only as defined in the Use Class Order and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

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, including residential conversion, would need to be given further consideration at such a time as it were to be proposed.

8 - Non-Standard Condition/Reason

The residential occupation of the Main Barn shall not be occupied other than by a person solely or mainly employed, or last employed in the business occupying the business floorspace of the Small Barn or, a widow or widower of such a person, or any resident dependants.

Reason: For avoidance of doubt as to the scope of this permission as this is the basis on which Planning permission has been granted.

9 - Non-Standard Condition/Reason

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

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

10 - Non-Standard Condition/Reason

The vehicular hardstandings shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space.

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

11 - Non-Standard Condition/Reason

In the event that contamination is found at any time when carrying out the approved development, 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 the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and 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 the approved remediation scheme. 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: Whilst there is no indication of contamination, the site does lie on agricultural land and Environmental Protection wishes to ensure that development only proceeds if it is safe to do so.

12 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

13 - Non-Standard Condition/Reason

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for the new driveway accessed from Lexden Road and all other new hardsurfaces within the site shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

14 - Non-Standard Condition/Reason

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: To ensure the detailing of the building is appropriate for its location within the setting of a Grade II* listed building.

15 - Non-Standard Condition/Reason

Prior to the commencement of any works a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: To ensure the detailing of the building and wall is appropriate for its location within the setting of a Grade II* listed building.

16 - Non-Standard Condition/Reason

There shall be no expansion joints within the brickwork of the hereby approved brick wall.

Reason: To ensure the detailing of the wall is appropriate for its location within the setting of a Grade II* listed building.

20.0 Informatives

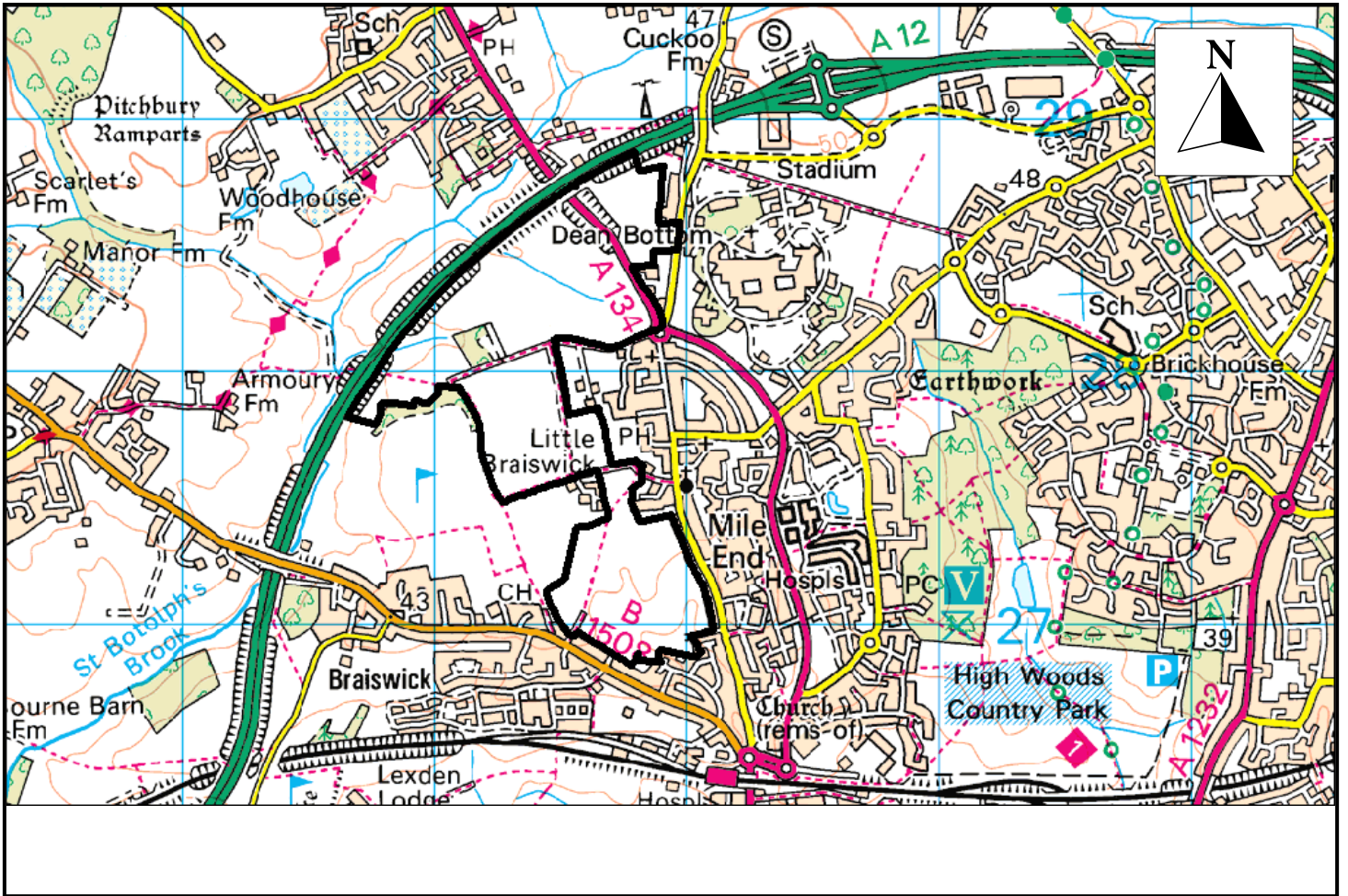
(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require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

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

(3) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

(4) The applicant is advised that the site to which this planning permission relates is recorded as being located on land used for farming purposes. Prior to commencement of the permitted development the applicant is therefore advised to satisfy themselves that there are no unacceptable risks to the permitted development from land contamination associated with this former use.

(5) The applicant is reminded that Planning permission does not imply permission for works to a Listed Building. For these works, Listed Building Consent is required and you are advised to refer to the details of Listed Building Consent 130107.



Application No: 121272

Location: North Colchester Urban Ext, Mile End Road, Colchester

Scale (approx): 1:1250

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Date 20 March 2014

Report of	Head of Commercial Services	Author	Karen Syrett & Alistair Day ☎ 01206 282479
Title	Northern Growth Area Urban Extension - Application 121272		
Wards affected	Mile End		

This report seeks Members' endorsement for amendment of the published Planning Committee Minutes relating to outline planning application (ref: 121272) for the development of the Northern Growth Area Urban Extension (NGAUE). The report also provides Members with an update in respect of the s106 legal agreement

1 Decision(s) Required

- 1.1 Members are asked to endorse the amendment of the Planning Committee Minutes published in respect of application 121272 so that they reflect the officer recommendation as set out in the committee report of 26 September 2013 and agreed by the Planning Committee. Members are also asked to note that the s106 legal agreement is likely to be signed after the six month period from the date of the Committee Resolution.

2. Reasons for Decision(s)

- 2.1 Following a review of the Committee Minutes for application 121272 it has been noted that the published minutes do not precisely reflect the recommendation as set out in the officer's report and that agreed by the Planning Committee at its meeting on 26 September 2013. To ensure that there is consistency between the resolution made by the Planning Committee and the published Committee Minutes, Members are asked to endorse the amendments to the published Minutes set out in this report.
- 2.2 The current scheme of delegation provides the Head of Commercial Services with powers to enter into a s106 legal agreement within six months of the date of the Planning Committee resolution. A combination of the time taken for the Secretary of State to notify the Council that he does not wish to call this application in for his determination and the complexities of the legal agreement has meant that it is unlikely that the legal agreement will be signed within a six month period.

3. Alternative Options

- 3.1 Members could decide not to agree to the amendment of the Committee Minutes. This would result in a discrepancy between the resolution of the Planning Committee to grant outline planning permission in-line with the Officer's recommendation and the published Committee Minutes. The failure to address this discrepancy could result in a legal challenge to the provisions of the s106 contributions.

4. Report

- 4.1 The planning application for the development of the NGAUE was considered by the Planning Committee at its meeting on 26 September 2013. The Planning Committee resolved to grant a conditional planning approval subject to: a) the Secretary of State confirming that he does not wish to call the application in for his own determination; and b) the signing of a s106 legal agreement. On completion of the legal agreement, the Planning Committee authorised the Head of Commercial Services to grant planning permission subject to the conditions in the report and amendment sheet.
- 4.2 The existing scheme of delegation states that the Head of Commercial Services has authority to refuse planning applications where a proposed s106 agreement remains uncompleted for six months from the decision regarding its provision. This is to ensure that legal agreements are actively worked-on from the date of the committee resolution.
- 4.3 Members will appreciate the strategic significance of NGAUE development to the Borough and the complexities surrounding the drafting of the legal agreement. Despite positive progress being made on the drafting of the agreement, Members are advised that this is unlikely to be completed within six months of the date of the Planning Committee, i.e. by 26 March. It is envisaged, however, that the legal agreement will be signed by all parties within the next couple of months. In order to avoid any ambiguity in respect of delegated powers, Members are asked to endorse the ability of the Head of Commercial Services to sign the s106 agreement on a date more than six months after the date of the committee resolution.
- 4.4 The Committee Minutes relating to planning application 121272 were approved by the Planning Committee on 31 October 2014. Having reviewed the committee resolution within the published minutes, it has been noted that these do not accurately reflect Committee's endorsement of the Officer recommendation as set out in the report and amendment sheet. These discrepancies mainly relate to terminology and typographical errors; however to avoid any ambiguity as to the intention of the Planning Committee the amendments set out below are recommended to the published resolution. (The incorrect sections are shown in italics and proposed changes to the relevant paragraphs are underscored)

1. Resolution

Existing minutes:

The Head of Commercial Services be authorised to complete the *Agreement (including authority to undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement and amend the mechanism for delivery the required outcomes)* to provide the following:

Amended minutes:

The Head of Commercial Services be authorised to complete the s106 legal agreement and undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement and also authorised to amend the mechanism for delivering the required outcomes to provide the following:

2. Viability

Existing minutes:

Viability to be tested prior to the commencement of the 455th unit and again prior to 855th and finally 1255th unit to ascertain if future reserved matter applications can support an increased affordable housing percentage up to a maximum of the *10 percent* current policy target.

Amended minutes:

Viability to be tested prior to the commencement of the 455th unit and again prior to 855th and finally 1255th unit to ascertain if future reserved matter applications can support an increased affordable housing percentage up to a maximum of the then current policy target

3. School Land

Existing minutes:

The school land is shown on drawing [xx] (both primary and secondary shown separately).

Amended minutes

The school land is shown on drawing [xx] (both primary (including the provision of early years) and secondary shown separately).

4. Allotments

Existing minutes:

Allotments are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the *sport pitches* with a commuted sum of £6,700 per hectare. In the event Colchester Borough Council declines to adopt the allotments or the commuted sum offer is less than £6,700 per hectare a management company or other suitable organisation is to maintain them.

Amended minutes:

Allotments are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the allotments with a commuted sum of £6,700 per hectare. In the event Colchester Borough Council declines to adopt the allotments or the commuted sum offer is less than £6,700 per hectare a management company or other suitable organisation is to maintain them.

5. Play Areas

Existing minutes:

The developers' total obligation for the scheme with regard to equipped play area construction and their adoption is capped at £700,00. Colchester Borough Council to be offered the play areas. In the event that Colchester Borough Council declines to adopt the play areas a management company or other suitable organisation is to maintain them.

Amended minutes:

The developers' total obligation for the scheme with regard to equipped play area construction and their adoption is capped at £700,000. Colchester Borough Council to be offered the play areas. In the event that Colchester Borough Council declines to adopt the play areas a management company or other suitable organisation is to maintain them

6. Additional text to be inserted into minutes:

To pay primary school contributions of £500,000 prior to the occupation of the 1,000th units and a further £500,000 prior to the occupation of the 1,150th unit

- 4.5 The full text of the officer recommendation to the Planning Committee, the amendment sheet and the resolution published in the Committee Minutes are set out in the appendix to this report.
- 4.6 To ensure that there is consistency between the resolution made by the Planning Committee and the published Committee Minutes, Members are asked to endorse the above changes the Committee Minutes.

5. **Strategic Plan References**

- 5.1 The redevelopment of the NGAUE is an important corporate objective within the Strategic Plan. In particular;
- Regenerating our borough through buildings, employment, leisure and infrastructure
 - Providing sport and leisure for all, alongside good quality green spaces and play areas
 - Providing more affordable homes across the borough

6. **Consultation**

- 6.1 None directly arising from this report

7. **Publicity Considerations**

- 7.1 None directly arising from this report

8. Financial Implications

- 8.1 None directly arising from this report. The endorsement of the amendment to the committee minutes and by agreeing to the extension of time to sign the s106 agreement will however reduce the potential for any legal challenge in respect of administrative procedures associated with this application and the cost of defending any such challenge.

9. Equality, Diversity and Human Rights Implications

- 9.1 None directly arising from this report

10. Community Safety Implications

- 10.1 None directly arising from this report

11. Health and Safety Implications

- 11.1 None directly arising from this report

12. Risk Management Implications

- 12.1 None directly arising from this report

Officer's Report Recommendation

It is recommended that:

1. the Secretary of State is advised that this Council is minded to grant a conditional planning approval subject to i) his confirmation that he does not wish to call the application in for his own determination; and ii) the signing of a s106 legal agreement.
2. the Head of Commercial Services is authorised to complete the s106 legal agreement and undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement.

The Head of Commercial Services is authorised to complete the agreement to provide the following:

- Affordable Housing
 - 15% minimum affordable housing contribution on each phase of the scheme
 - A minimum of 10% to be provided as affordable rent unless otherwise agreed with LPA. A maximum of 5% to be Intermediate tenure such as Shared Equity, Shared Ownership or Shared Equity Percentage Commuted Sum. For Commuted Sums the Market value of the properties being offered will be ascertained by an RICS redbook valuation.
 - Other form of rented tenure types may be acceptable if proposed by the Developer and accepted by the LPA.
 - Viability to be tested prior to the commencement of the 455th unit and again prior to 855th and finally at 1255th unit to ascertain if future reserved matter applications can support an increased affordable housing percentage up to a maximum of the then current policy target percentage.
 - Viability test to be based on agreed model with land costs fixed and index linked and profit percentages fixed and criteria so that if the parties do not agree it can be referred to an independent expert to adjudicate.
 - The assessments shall be submitted not earlier than the 355th, 755th and 1155th occupation unless otherwise agreed with LPA.
 - The type & size of Affordable Housing units in each phase to be guided by the SHMA that is relevant at the time and agreed by the Council
 - No more than 40% of the private dwellings on each phase to be occupied prior to contracts signed with RP for 50% of AH dwellings in that phase
 - No more than 80% of the private dwellings to be occupied prior to contracts signed with RP for 100% of AH dwellings in that phase
 - No future phase completions will be allowed until 100% of the previous phase affordable housing is delivered.
- Highway Improvements (on and off site)
 - Bus stops and upgrading of footpaths as identified
 - The works at Essex Hall Roundabout, Station Way and Colne Bank Roundabout (shown on drawing numbers VN20059-711-B and VN20059-710-C) to be capped at £4,475,000 (index linked). In the event that the capital cost of these works exceeds £4,475,000, the developer is to work with Essex County Council to find additional funding to enable the works to proceed or identify an alternative scheme.

- Bus Strategy
 - To pay bus subsidy to a bus operator to facilitate a bus route to run through the length of the primary street in instalments up to a maximum contribution of £325,000
 - The bus subsidy is subject to the bus route not being viable prior to any payment. Payments will cease in the event that the bus service becomes viable. Provisions will set out the frequency, timings and route the service will take.
 - Developer to provide evidence to show £325,000 Index Linked has been spent on bus service. If less than any balance shall be utilised on sustainable transport initiatives agreed by the Council

- Travels Plans and Travel Co-coordinator
 - Developer to pay LPA a total of £70,000 in equal instalments at the first occupation and the [xx]th occupation. The contribution is to be used to implement the measures in the approved travel plans.

- Land to facilitate footbridge over the A12
 - To procure that the land shown on drawing xx is set aside for 10 years after the completion of the 900th unit for the construction of a footbridge over the A12.

- Education
 - The school land is shown on drawing xx (both primary and secondary shown separately).
 - Both school sites shall be set aside for a maximum of [ten years] from commencement of development in which time ECC must serve written notice within seven years that either/both part of the land are required to mitigate the primary or secondary educational impacts of development.
 - The developer is to undertake a scheme of noise mitigation prior to the transfer of the school land. The noise mitigation measures are not to form part of the school land. Arrangement for the maintenance and management of the noise mitigation measures are to be submitted.
 - Once the notice is served and serviced land is transferred for £1.
 - ECC have a further [3 years] from the date of completion of the transfer to construct the relevant school otherwise the relevant land is transferred back to the developer.
 - A community plan to be submitted setting out the arrangement for sharing the sports facilities
 - If the school site is returned to the Developer the Developer may apply for a change of use on this part of the site but serviced land will be reserved [xxha] for indoor sports provision for the scheme and offered to the Council for £1 or provide a financial contribution.
 - To pay primary school contributions of [£500,000] prior to the occupation of the 1,000th units and a further £500,000 prior to the occupation of the 1,150th unit

- Strategic Landscape Provision & Play Areas
 - The public realm shall be provided broadly in accordance with Landscape Framework Drawing with additional open space within the residential parcels.
 - The Developer will be able to either manage the open space via a suitable Management Company or may ask CBC or a 3rd party to adopt the land by

paying a commuted maintenance sum £40,000 per hectare. CBC will not adopt incidental open space which is less than [0.02ha] in size.

- Sports pitches are to be laid out to an agreed specification and made available prior to [xxth unit]. CBC to be offered the sport pitches with a commuted sum of £87,700 per hectare. In the event that CBC declines to adopt the sport pitches or the commuted sum offer is less than £87,700 per hectare a management company or other suitable organisation is to maintain them
 - Allotments are to be laid out to an agreed specification and made available prior to [xxth unit]. CBC to be offered the allotments with a commuted sum of £6,500 per hectare. In the event that CBC declines to adopt the allotments or the commuted sum is less than £6,700 per hectare a management company or other suitable organisation is to maintain them
 - The developers' total obligation for the scheme with regard equipped play area construction and their adoption is capped at £700,000. CBC to be offered the play areas. In the event that CBC declines to adopt the play areas a management company or other suitable organisation is to maintain them.
 - The public realm is to be available to all
- Community Centre
 - By the 750th unit carry out a consultation with the local community to ascertain what type of building they would like within the available parameters.
 - By the 950th unit gain reserved matters consent, construct and handover a community facility with a maximum size of [1,000m²] and a maximum all in cost of [£1,495,000].
 - Developer to provide evidence to show £1,495,000.00 Index Linked has been spent on community facility. If less then any balance shall be utilised on education or indoor sports facility as agreed by the Council
 - Employment and Training Plan
 - Plaza Access and Management Plan
 - Miscellaneous
 - Provision within the neighbourhood centre for a doctors surgery
 - Indexation will be applied to sums from the date of signing the s106 agreement
 - Mechanism for review of viability (including the reasonable costs of CBC seeking independent advice)
 - Pre adoption management and maintenance scheme
 - Monitoring & Legal fees

On completion of the legal agreement, the Head of Commercial Services be authorised to grant planning permission subject to conditions.

Committee Amendment Sheet

Heads of Terms Update

The Heads of Terms in relation to Bus Strategy should refer to a maximum contribution of £330,000 (index linked) and not £325,000.

The Transportation Policy Manager has commented that the Bus Strategy and Travel Plan / Travel Plan Co-ordinator sections of the s106 Heads of Terms will need further refinement to ensure the delivery of appropriate bus services (trigger points, frequency, timings and routes etc) and that the developer should appoint a travel plan co-ordinator to deliver the approved measures in accordance with the requirements of the travel plan; this should include travel packs, movement surveys and a review process.

In view of the above suggestions, it is recommended that that the requirement to prepare and implement a Travel Plan is made part of the s106 agreement rather than a planning condition.

The Education Authority has commented that the suggested Heads of Terms in relation to Education will need to refer to primary, secondary, post 16 and/or Early Years & Childcare provision, the land will need to be appropriately serviced (including noise mitigation) and greater flexibility should be provided in the trigger points for the transfer / delivery of the schools. The Education Authority has raised a point of caution in respect of the proposed community plan noting that this should not prejudice the primary function of the school and that charges (to cover running costs etc) will need to apply. ECC also note that the school Governing Body would ultimately be responsible for negotiating the community plan. The Education Authority has requested that the education contribution is paid prior to commencement of development for on or off site education and/or childcare provision within three miles of the development. They have also asked that the developer does not make any public reference to the reserving of land for education purposes unless and/or until a decision has been taken by the appropriate authority to proceed with a new school.

Officer comment:

Payments and timing of the education contribution need to be in-line with overall viability of the development. The full payment of the education contribution prior to the commencement of the development would have an adverse effect on cash flow of this scheme and thus put in jeopardy other s106 obligations. The request not make any public reference to the reserving of land for education purposes or the potential delivery of a school on the development unless and/or until a decision has been taken by the appropriate authority to proceed with a new school would not meet the s106 tests. This could however be added as a planning informative.

The Heads of Terms in planning committee reports do not usually providing details of trigger points or the mechanism for delivering agreed contributions. This is due to the fact that such specific details are frequently not agreed until the agreement has been substantially drafted as they can affect its operation. In the case of the NGAUE development, it was considered appropriate to provide a more detailed framework from which to 'hang' the s106 obligations. While this remains the case, it is important recognise that the triggers points and/or the mechanism for delivering of the planning obligations may require adjustment to enable the legal agreement to operate effectively. In view of this, it is recommended that the Head of Commercial Services has the

authority to amend the mechanism for delivering the required outcomes. This is consistent with the existing scheme of delegation whereby the Head of Commercial Service is authorised to agree to the alteration of a s106 agreements (including changes to triggers, phasing and timing) provided the outcomes remain the same.

Committee Resolution in Published Committee Minutes

RESOLVED (EIGHT voted FOR, TWO voted AGAINST) that –

- (i) The Secretary of State be advised that this Council is minded to grant a conditional planning approval subject to a) his confirmation that he does not wish to call the application in for his own determination; and b) the signing of a S106 Legal Agreement.
- (ii) The Head of Commercial Services be authorised to complete the Agreement (including authority to undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement and amend the mechanism for delivery the required outcomes) to provide the following:
 - Affordable Housing
 - 15% minimum affordable housing contribution on each phase of the scheme.
 - A minimum of 10% to be provided as affordable rent unless otherwise agreed with the Local Planning Authority. A maximum of 5% to be Intermediate tenure such as Shared Equity, Shared Ownership of Shared Equity Percentage Commuted Sum. For Commuted Sums the Market value of the properties being offered will be ascertained by an RICS redbook valuation.
 - Other form of rented tenure types may be acceptable if proposed by the Developer and accepted by the Local Planning Authority.
 - Viability to be tested prior to the commencement of the 455th unit and again prior to 855th and finally 1255th unit to ascertain if future reserved matter applications can support an increased affordable housing percentage up to a maximum of the 10 percent current policy target.
 - Viability test to be based on agreed model with land costs fixed and index linked and profit percentages fixed and criteria so that if the parties do not agree it can be referred to an independent expert to adjudicate.
 - The assessments shall be submitted not earlier than 355th, 755th and 1155th occupation unless otherwise agreed with the Local Planning Authority.
 - The type and size of Affordable Housing units in each phase to be guided by the Strategic Housing Market Assessment that is relevant at the time and agreed by the Council.
 - No more than 40 percent of the private dwellings on each phase to be occupied prior to contracts signed with Registered Providers for 50 percent of Affordable Housing dwellings in that phase.
 - No more than 80 percent of the private dwellings to be occupied prior to contracts signed with Registered Providers for 100 percent of Affordable Housing dwellings in that phase.

- No future phase completions will be allowed until 100 percent of the previous phase affordable housing is delivered.
- Highway Improvements (on and off site)
 - Bus stops and upgrading of footpaths as identified.
 - The works at Essex Hall Roundabout, Station Way and Colne Bank Roundabout (shown on drawing numbers VN20059-711-B and VN20059-710-C) to be capped at £4,475,000 (index linked). In the event that the capital cost of the works exceeds £4,475,000, the developer is to work with Essex County Council to find additional funding to enable the works to proceed or identify an alternative scheme.
- Bus Strategy
 - To pay bus subsidy to a bus operator to facilitate a bus route to run through the length of the primary street in instalments up to a maximum contribution of £330,000.
 - The bus subsidy is subject to the bus route not being viable prior to any payment. Payments will cease in the event that the bus service becomes viable. Provisions will set out the frequency, timings and route the service will take.
 - Developer to provide evidence to show £330,000 Index Linked has been spent on bus service. If less then any balance shall be utilised on sustainable transport initiatives agreed by the Council.
 - Details to be subject to further discussion.
- Travel Plans and Travel Co-ordinator
 - Developer to pay Local Planning Authority a total of £70,000 in equal instalments at the first occupation and the [xx]th occupation. The contribution is to be used to implement the measures in the approval travel plans.
 - Details to be subject to further discussion.
 - To prepare and implement a Travel Plan.
- Land to facilitate footbridge of the A12
 - To procure that the land shown on drawing xx is set aside for 10 years after the completion of the 900th unit for the construction of a footbridge over the A12.
- Education
 - The school land is shown on drawing xx (both primary and secondary shown separately).
 - Both school sites shall be set aside for a maximum of [ten years] from commencement of development in which time Essex County Council must serve written notice within seven years that either / both part of the land are required to mitigate the primary and secondary educational impacts of development.

- Once the notice is served and serviced land is transferred for £1.
 - Essex County Council have a further [3 years] from the date of completion of the transfer to construct the relevant school otherwise the relevant land is transferred back to the developer.
 - A community plan to be submitted setting out the arrangement for sharing the sports facilities.
 - If the school site is returned to the Developer the Developer may apply for a change of use on this part of the site but serviced land will be reserved [xxha] for indoor sports provision for the scheme and offered to the Council for £1 or pay financial contribution.
 - The requirement for the land to be appropriately serviced (including noise mitigation) and trigger points for the transfer / delivery of the schools to be subject to further discussion with the Education Authority and the Developer.
- Strategic Landscape Provision and Play Areas
 - The public realm shall be provided broadly in accordance with Landscape Framework Drawing with additional open space within the residential parcels.
 - The Developer will be able to either manage the open space via a suitable Management Company or may ask Colchester Borough Council or a 3rd party to adopt the land by paying a commuted maintenance sum of £40,000 per hectare. Colchester Borough Council will not adopt incidental open space which is less than [0.02ha] in size.
 - Sports pitches are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the sport pitches with a commuted sum of £87,700 per hectare. In the event Colchester Borough Council declines to adopt the sport pitches or the commuted sum offer is less than £87,700 per hectare a management company or other suitable organisation is to maintain them.
 - Allotments are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the sport pitches with a commuted sum of £6,700 per hectare. In the event Colchester Borough Council declines to adopt the allotments or the commuted sum offer is less than £6,700 per hectare a management company or other suitable organisation is to maintain them.
 - The developers' total obligation for the scheme with regard to equipped play area construction and their adoption is capped at £700,00. Colchester Borough Council to be offered the play areas. In the event that Colchester Borough Council declines to adopt the play areas a management company or other suitable organisation is to maintain them.
 - The public realm is to be available to all.

- - Community Centre
 - By the 750th unit carry out a consultation with the local community to ascertain what type of building they would like within available parameters.
 - By the 950th unit gain reserved matters consent, construct and handover a community facility with a maximum size of [1,000m²] and a maximum all in cost of [£1,495,000].
 - Developer to provide evidence to show £1,495,000.00 Index Linked has been spent on community facility. If less then any balance shall be utilised on education or indoor sports facility as agreed by the Council.
 - Employment and Training Plan
 - Plaza Access and Management Plan
 - Miscellaneous
 - Provision within the neighbourhood centre for a doctor's surgery.
 - Indexation will be applied to sums from the date of signing the S106 Agreement.
 - Mechanism for review of viability (including the reasonable costs of Colchester Borough Council seeking independent advice).
 - Pre-adoption management and maintenance scheme.
 - Monitoring and Legal fees.
- (iii) On completion of the Legal Agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions and informatives outlined in the report and amendment sheet.

Amended Committee Resolution

RESOLVED (EIGHT voted FOR, TWO voted AGAINST) that –

- (i) The Secretary of State be advised that this Council is minded to grant a conditional planning approval subject to a) his confirmation that he does not wish to call the application in for his own determination; and b) the signing of a S106 Legal Agreement.
- (ii) The Head of Commercial Services be authorised to complete the s106 legal agreement and undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement and also authorised to amend the mechanism for delivering the required outcomes to provide the following:
 - Affordable Housing
 - 15% minimum affordable housing contribution on each phase of the scheme.
 - A minimum of 10% to be provided as affordable rent unless otherwise agreed with the Local Planning Authority. A maximum of 5% to be Intermediate tenure such as Shared Equity, Shared Ownership of Shared Equity Percentage Commuted Sum. For Commuted Sums the Market value of the properties being offered will be ascertained by an RICS redbook valuation.
 - Other form of rented tenure types may be acceptable if proposed by the Developer and accepted by the Local Planning Authority.
 - Viability to be tested prior to the commencement of the 455th unit and again prior to 855th and finally 1255th unit to ascertain if future reserved matter applications can support an increased affordable housing percentage up to a maximum of the then current policy target.
 - Viability test to be based on agreed model with land costs fixed and index linked and profit percentages fixed and criteria so that if the parties do not agree it can be referred to an independent expert to adjudicate.
 - The assessments shall be submitted not earlier than 355th, 755th and 1155th occupation unless otherwise agreed with the Local Planning Authority.
 - The type and size of Affordable Housing units in each phase to be guided by the Strategic Housing Market Assessment that is relevant at the time and agreed by the Council.
 - No more than 40 percent of the private dwellings on each phase to be occupied prior to contracts signed with Registered Providers for 50 percent of Affordable Housing dwellings in that phase.
 - No more than 80 percent of the private dwellings to be occupied prior to contracts signed with Registered Providers for 100 percent of Affordable Housing dwellings in that phase.
 - No future phase completions will be allowed until 100 percent of the previous phase affordable housing is delivered.

- Highway Improvements (on and off site)
 - Bus stops and upgrading of footpaths as identified.
 - The works at Essex Hall Roundabout, Station Way and Colne Bank Roundabout (shown on drawing numbers VN20059-711-B and VN20059-710-C) to be capped at £4,475,000 (index linked). In the event that the capital cost of the works exceeds £4,475,000, the developer is to work with Essex County Council to find additional funding to enable the works to proceed or identify an alternative scheme.
- Bus Strategy
 - To pay bus subsidy to a bus operator to facilitate a bus route to run through the length of the primary street in instalments up to a maximum contribution of £330,000.
 - The bus subsidy is subject to the bus route not being viable prior to any payment. Payments will cease in the event that the bus service becomes viable. Provisions will set out the frequency, timings and route the service will take.
 - Developer to provide evidence to show £330,000 Index Linked has been spent on bus service. If less then any balance shall be utilised on sustainable transport initiatives agreed by the Council.
 - Details to be subject to further discussion.
- Travel Plans and Travel Co-ordinator
 - Developer to pay Local Planning Authority a total of £70,000 in equal instalments at the first occupation and the [xx]th occupation. The contribution is to be used to implement the measures in the approval travel plans.
 - Details to be subject to further discussion.
 - To prepare and implement a Travel Plan.
- Land to facilitate footbridge of the A12
 - To procure that the land shown on drawing xx is set aside for 10 years after the completion of the 900th unit for the construction of a footbridge over the A12.
- Education
 - The school land is shown on drawing xx (both primary (including the potential provision for early years) and secondary shown separately).
 - Both school sites shall be set aside for a maximum of [ten years] from commencement of development in which time Essex County Council must serve written notice within seven years that either / both part of the land are required to mitigate the primary and secondary educational impacts of development.
 - Once the notice is served and services land is transferred for £1.

- Essex County Council have a further [3 years] from the date of completion of the transfer to construct the relevant school otherwise the relevant land is transferred back to the developer.
- A community plan to be submitted setting out the arrangement for sharing the sports facilities.
- If the school site is returned to the Developer the Developer may apply for a change of use on this part of the site but serviced land will be reserve [xxha] for indoor sports provision for the scheme and offered to the Council for £1 or pay financial contribution.
- The requirement for the land to be appropriately serviced (including noise mitigation) and trigger points for the transfer / delivery of the schools to be subject to further discussion with the Education Authority and the Developer.
- To pay primary school contributions of £500,000 prior to the occupation of the 1,000th units and a further £500,000 prior to the occupation of the 1,150th unit
- Strategic Landscape Provision and Play Areas
 - The public realm shall be provided broadly in accordance with Landscape Framework Drawing with additional open space within the residential parcels.
 - The Developer will be able to either manage the open space via a suitable Management Company or may ask Colchester Borough Council or a 3rd party to adopt the land by paying a commuted maintenance sum of £40,000 per hectare. Colchester Borough Council will not adopt incidental open space which is less than [0.02ha] in size.
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Planning Committee

Item
9

Date 20 March 2014

Report of	Head of Commercial Services	Author	Alistair Day ☎ 01206 282479
Title	Garrison Urban Village Development - Affordable Housing Review Mechanism		
Wards affected	Bererchurch, Christ Church and New Town		

This report concerns a proposed amendment to the Deeds of Variation to s299a agreement relating to the affordable housing review mechanism on the Colchester Garrison Urban Village development.

1. Decision(s) Required

- 1.1 Members are asked to endorse the proposed amendment to the review mechanism which facilitates the provision of an increased level of affordable housing in the event the Garrison development becomes more viable owing to significant improvements in the housing market.

2. Reasons for Decision(s)

- 2.1 The Deed of Variations that have been signed in relation to the provision of affordable housing on Area L&N, Area H and Area A1 contain a technical error which has the effect that no account is made of the change of construction costs. It was the intention of the review mechanism to take account of the effect of construction cost changes as the scheme progresses. The BCIS index costs have, however, been applied twice with the effect that any change in the construction cost is cancelled out.

3. Alternative Options

- 3.1 Members can decide not to endorse the proposed amendment to the affordable housing review mechanism. Taylor Wimpey can appeal against the Council's decision not to support the amendment to the relevant Deed of Variations. The viability consultants are however in agreement in respect of the technical error and this acknowledged error was corrected before the Deed of Variation for Area S2North was signed. Given this, it is not considered that the Council would be in a strong position to defend an appeal.

4. Supporting Information

- 4.1 Outline planning permission (ref: O/COL/01/0009) was granted for the Garrison Urban Village Development in June 2003 and remains extant. The permission is accompanied by a s299a legal agreement, which has been subject to a number of variations (the 'Agreement'). The Agreement provides for the payment of financial contributions on a phased basis and also, the mechanism for the provision of affordable housing (25%).
- 4.2 Since the completion of the Agreement, the residential development market has been subject to substantial adjustment. In addition, the Government has introduced new policies in relation to the funding and tenure definition of affordable housing. These factors have had a significant bearing on the financial viability of the Garrison development.
- 4.3 The process of analysing the economic viability of the Garrison has identified that none of the existing development sites are viable at the policy level of affordable housing and overall are in a deficit position before any affordable housing is provided. Despite the sites being unable to viably sustain any affordable housing, Taylor Wimpey has offered to provide a reduced level of affordable rented housing. On Area A1 and Area S2(North) Taylor Wimpey is providing the equivalent of 15% affordable housing (5% affordable rent and 10% assisted purchase); on Area H the equivalent of 5% affordable rent has been transferred to Area A1 with assisted purchase units being provided on site. On Area L&N 15% affordable rent is being provided and 10% assisted purchase. The reduced level of affordable housing has previously been agreed by the Planning Committee.
- 4.4 In accepting a reduced level of affordable housing, it was agreed that the Deeds of Variation would contain a review mechanism which facilitates the provision of an increased level of affordable housing in the event that the project becomes more viable. The review mechanism takes the form of a re-assessment of sales revenues and construction costs at set points in time over the life of the project and takes the following form:

Actual sales revenue is monitored and compared with the sales revenue assumed at the original viability appraisal. Any increase in construction cost, measured by the nationally recognised index BCIS is then applied to the assumed construction cost in the original appraisal to arrive at a net sales figure. Where the net sales exceed the sales revenue originally assumed, a financial payment in lieu is made to the Council.

- 4.5 In reviewing the development on Area L&N (the first review), it has come to light that there is a technical error in Deed of Variation in that no account has been made of the change in construction costs. (The review of Area L&N using the current drafting did not generate a payment). Now that the error has come to light, it is considered prudent to amend the review mechanism while it is 'still fresh in people's minds'. The Council's viability consultant has confirmed that the review mechanism was intended to account for the BCIS cost index and the current drafting in the Deeds of Variation is erroneous.

5. Proposals

- 5.1 The clauses contained in the review mechanism of Deed of Variations relating to affordable housing on the Garrison site contain an error that has the effect that it does not take account of changes in construction costs. This technical error occurs at Schedule 3 of the documents and can be resolved by deleting the words “adjusted by the construction adjustment” from Step 2 at the definition “First Overage Assessment”. The same deletion also needs to occur at Step 2 of the definition “Second Overage Assessment”.

6. Strategic Plan References

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

7. Consultation

- 7.1 The Council’s viability consultant has confirmed that the existing review mechanism contains a drafting error and that the proposed amendments are acceptable.
- 7.2 Legal Services has advised that the required amendment to the affordable housing review mechanism falls outside the existing scheme of delegation in relation to s106 agreements and therefore requires Member approval.

8. Publicity Considerations

- 8.1 None directly arising from this report.

9. Financial Implications

- 9.1 The amendment to review mechanism will affect the calculations for the overall viability of this development. It is however accepted the current affordable housing review mechanism contains a drafting error and the proposed amendment will have the effect of correcting this so that it works as originally intended. The principle of the Council receiving a commuted sum for off-site affordable provision remains, should the viability of the development significantly improve.

10. Standard Implications

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

Background Papers

NPPF

AMENDMENT SHEET

Planning Committee
20 March 2014

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 111672 – Cannock Mill House, Old Heath Road, Colchester

A resident has objected on the following grounds:-

“I wish to object on the grounds that additional traffic, turning into and out of an extremely busy road - at the bottom of a hill and nearly opposite a lane where traffic turns in and out of and very close to Scarlets Road (another junction) would be extremely dangerous. Three buses stop just by this area, which also cause mayhem in the mornings, that's without the many school buses stopping and traffic dropping off children at the nearby Nursery.

My neighbour, at 135 Old Heath Road, had planning permission for a driveway refused by the Highways department as it was deemed 'too dangerous' to turn onto Old Heath Road. I cannot believe that this project, which would include a minimum of 23 cars turning onto the same road at the bottom of a hill, next to a bus stop, in a far more dangerous area, is even being considered”

7.2 132235 – Cosway Holiday Park, Fen Lane, East Mersea

The East Mersea Parish Council wishes, prior to the planning committee meeting on 20 March, to reemphasise our original points that, whilst we do not oppose outright the planning application we absolutely consider that conditions must be applied in order that there is no increased noise and general disturbance, including extra traffic, whilst safeguarding the peace and tranquillity of the East Mersea environment and the local facilities including the pub, shop and restaurant. To that end we would like to emphasise the conditions which we, as a parish council representing the village, would wish the planning committee to actively consider:

- We would expect the use of the facility to be limited to the Cosways campsite residents
Officer comment: condition 7 restricts the use of the facilities
- Opening Hours should be restricted to acceptable timings – for example 1200-1400 and 1700-2100 Monday to Saturday
officer comment :these opening times are considered too restrictive condition 6 controls opening times .

- Food sales to be consumed on site only.
Officer comment: a condition would be unreasonable and unenforceable
- Any essential lighting to be sited in order that both caravan and local residents are not disturbed by excess illumination.
Officer comment: condition 9 relates to lighting

Suggested text from residents	Officer comment	Suggested condition
<p>1. Opening Hours. Any restaurant/cafe ('the Facility') should only be permitted to open between 12:00-1400 and 17.00-1900, Monday to Saturday only, not Sunday. <i>Reason: all caravans have kitchens and food including takeaway can be purchased locally.</i></p>	<p>These opening times are considered to be too restrictive and therefore unreasonable</p>	<p>Condition 6</p>
<p>2. Use of the Facility to be restricted to Cosways residents with enforcement by means of an ID card. No Waldegraves' residents or the general public. Any infringement should result in a substantial financial penalty on the Owners with persistent infringement resulting in the closure of the Facility. <i>Reason: to minimise noise and general disturbance, increased traffic, damage to the local environment (litter) and the negative impact on local businesses.</i></p>	<p>This wording is considered to be unreasonable and unenforceable. Any breach of condition will be dealt with in accordance with planning law</p>	<p>Condition 7</p>
<p>3. Food Sales to be consumed only on the premises with no takeaway sales permitted. If takeaway food sales are permitted, all takeaway food to be sold in biodegradable packaging in line with government guidelines. <i>Reason: to minimise damage to the rural environment</i></p>	<p>Unreasonable and unenforceable. The LPA cannot control where food is eaten or secure the type of packaging</p>	<p>No condition</p>

<p>4. No Sale or Consumption of Alcohol with any infringement to lead to the immediate closure of the Facility. <i>Reason: there is an existing licensed bar on Cosways site for use by Residents.</i></p>	<p>Sale of alcohol is covered by other legislation</p>	<p>No condition</p>
<p>5. All foods for the cafe to be sourced locally <i>Reason: to prevent adverse effects on the sustainability and development of local business.</i></p>	<p>Unreasonable and unenforceable</p>	<p>No condition</p>
<p>6. Refuse and Swill Disposal weekly by Friday at 14:00 <i>Reason: to ensure safety of people travelling to and from site and changeover on site.</i></p>	<p>Unreasonable and unenforceable. The LPA cannot dictate the timing of refuse disposal</p>	<p>No condition</p>
<p>7. Litter Collection. All litter outside the Cosways site and attributable to the Facility to be collected by Cosways on a daily basis. All food packaging to be over-printed with 'Cosways' to ensure clarity regarding the source of any litter. Any infringement to result in an immediate financial penalty. <i>Reason: to minimise damage to the local environment</i></p>	<p>Unreasonable and unenforceable. It is unreasonable for the LPA to control the type of packaging. Litter is dealt with by the Street Care Team</p>	<p>No condition</p>
<p>8. Minimum Noise (zero decibels) to be allowed from the Facility with persistent infringement to lead to the immediate closure of the Facility. No power generators to be used. <i>Reason: to minimise noise disturbance in a rural area</i></p>	<p>Environmental Protection recommend a condition. Any breach of condition will be dealt with in accordance with planning law and Environmental Protection legislation</p>	<p>Condition 10</p>
<p>9. Maximum-level silent extractor system to be required. Persistent infringement to lead to immediate closure of the Facility. <i>Reason: to minimise noise disturbance and smells from cooking in the Facility</i></p>	<p>Environmental Protection recommend conditions Any breach of condition will be dealt with in accordance with planning law and Environmental</p>	<p>Conditions 11 and 12</p>

	Protection legislation	
10. Lighting. All outside lighting to be low-level (knee height) in line with current best practice for similar facilities. All lighting to work from an environmentally clean system e.g. PTC. <i>Reason: to minimise light pollution in a rural area.</i>	No lighting is indicated	Condition 9 requires prior consent for external lighting
11. Parking to be limited to 2 disabled places only with vehicles to be parked inwards to the Facility to minimise light pollution. <i>Reason: if only residents will use the Facility no further parking places are required.</i>	Requirement for vehicles to be parked inwards is both unreasonable and unenforceable. No additional parking is required	No condition required
12. 'Special Events' not to be permitted outside normal permitted opening hours. <i>Reason: to minimise noise pollution and general disturbance.</i>	Unreasonable to restrict events on the whole site	No condition suggested
13. Storage provision to be for 2 x tractors or site vehicles only. <i>Reason: a storage facility for vehicles already exists at the adjoining Fen Farm</i>	Unreasonable to restrict the specific storage	Condition 5 storage ancillary to caravan park use
14. Music no live or piped music. <i>Reason: effect of untoward noise on the local environment and a club already exists for that purpose on site.</i>	Noise nuisance is dealt with by Environmental Protection	No condition suggested

7.3 140327 – Tesco Stores Ltd., Highwoods Square, Colchester

The provision of parking bays within the main car park for home delivery vans awaiting their turn has been reduced from 7 to 6 in order to protect the existing trees, as the fence that would be erected behind the parking bays would otherwise have interfered with the tree behind bay 7.

Amended plans have therefore been received (Tree Removal and Retention Plan, Proposed Store Plan and Proposed Site Plan) and Condition 2 should be amended to read as follows:

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 15889-200, 15889-201, 15889-202, 15889-203, 15889-204 Rev A, 15889-205 Rev B, 15889-206 and GC.85378.001 Rev A.

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



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.