

# Planning Committee

Council Chamber, Town Hall  
1 August 2013 at 6.00pm

## **This Committee deals with**

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

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

# Information for Members of the Public

## Access to information and meetings

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

## Audio Recording, 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 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 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. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and 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 take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

## 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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## 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 1 August 2013 at 6:00pm

## Members

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

## Substitute Members

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

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

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

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

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

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

## **3. Substitutions**

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

## **4. Urgent Items**

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

## **5. Declarations of Interest**

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

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

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

## **6. Minutes**

**1 - 9**

To confirm as a correct record the Minutes of the meeting held on 11 July 2013.

## **7. Planning Applications**

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

1. 121949 - Highfields Farm, Highfields Lane, Messing (Tiptree)

**10 - 37**

Construction of a 36.54 hectare solar park, to include the installation of solar panels to generate electricity, with transformer housings, security fencing and cameras, landscaping and other associated works.

2. 120110, 120112, 120115, 120859, 121700 - Formerly Jewsons Ltd, Hawkins Road, Colchester (St Andrew's)

**38 - 53**

Change of use of 2,000 sq.ft. of commercial space to 3 residential units, change of use of 1,600 sq.ft. of commercial space to 2 residential units, change of use of 3,600 sq.ft. of commercial space to 4 residential units, change of use of 4,000 sq.ft. of commercial space to 5 residential units and reinstate fifth floor to Block D and associated 2 residential units at this level.

3. 130956 - Co-op Fiveways & Homemakers Site, Peartree Road, Stanway (Stanway)

**54 - 68**



Application for variation of condition 25 of planning permission 111923 in order to vary opening hours for Unit 4.

4. 130858 - Colchester Wine Company, (Mixing Bowl), 117 Gosbecks Road, Colchester (Shrub End) **69 - 89**

Demolition of existing retail building (1,470m<sup>2</sup>) and industrial building (1,000m<sup>2</sup>) and erection of supermarket (1,915m<sup>2</sup>) with associated car parking and re-aligned access.
5. 122238 - International Farm Unit, Hall Road, Tiptree (Tiptree) **90 - 96**

Removal of conditions 13 & 14 attached to planning permission 121071.
6. 131131 - Land Adj to 20 Swan Grove, Chappel (Great Tey) **97 - 110**

Erection of 2 No. 3 bed affordable houses with associated parking. Resubmission of 121486.
7. 130631 - Visitors Centre, Turner Road, Colchester (Mile End) **111 - 115**

Free standing entrance signage at the driveway to Highwoods Country Park.
8. 131130 - St Botolphs Circus, Colchester (New Town) **116 - 128**

Application for removal or variation of conditions 2, 3, 12, 13, 14, 15 of planning permission 111981 - development of town station approach area, including removal of parking area, to form new pedestrian space. Works include new paving, lighting and bespoke artwork for seating, guarding / gates and feature rails (inset within the paving).
9. 131210 - 1 Launceston Close, Colchester (Berechurch) **129 - 133**

Single storey extension to create disabled facilities.
10. 131043 - Clear View, Colchester Road, Chappel (Great Tey) **134 - 140**

Single storey rear extension, loft conversion including roof alterations and the formation of front and rear roof dormers (revisions to design of previous planning application granted)

planning permission).

**8. Request to Amend the Scheme of Delegation to Officers Following Changes to the General Permitted Development Order** **141 - 147**

See the attached report from the Head of Commercial / Professional Services.

**9. Amendment Sheet** **148 - 158**

Please see the Amendment Sheet attached.

**10. Exclusion of the Public**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**PLANNING COMMITTEE**  
**11 JULY 2013**

*Present :-* Councillor Theresa Higgins\* (Chairman)  
Councillors Peter Chillingworth\*, Helen Chuah\*,  
Stephen Ford, Cyril Liddy\*, Jon Manning, Philip Oxford  
and Laura Sykes\*

*Substitute Members :-* Councillor Brian Jarvis for Councillor Sonia Lewis  
Councillor Beverly Davies for Councillor Jackie Maclean

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

**24. Minutes**

The Minutes of the meetings held on 6 June 2013 and 20 June 2013 were confirmed as a correct record.

**25. 130129 - Aim Hire Site, Hawkins Road, Colchester**

**Councillor Chillingworth (in respect of his previous consultation work with the Agents) declared a non-pecuniary interest in these items pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for a new planning permission to replace extant planning permission 081852 in order to extend the time limit for implementation for the erection of 63 residential units and 823 Sq m of commercial floorspace with associated car parking and provision of a river walkway connecting with the Colne Causeway. The Committee had before it a report and amendment sheet in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) 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 –

- £78,710 contribution for education provision;
- £132,116 contribution to public open space and recreation;
- £234,805 contribution to off-site affordable housing provision; and
- £40,000 contribution to community facilities,

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

(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.

**26. 130754 - Land Rear of Laurel Cottage, Layer Breton, Birch and Winstree**

The Committee considered an application for a new dwelling house and garage. The Committee had before it a report and amendment sheet in which all the information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be refused for the reasons set out in the report and amendment sheet.

**27. 131000 - 34 Ambrose Avenue, Colchester**

The Committee considered an application for a proposed extension and alterations. 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.

**28. 131090 - 7 The Rayleights, Drury Road, Colchester**

The Committee considered an application for a garage conversion to form an extended kitchen diner. 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.

**29. 130672 - Welshwood Manor, 37 Welshwood Park Road, Colchester**

**Councillor L. Sykes (in respect of her attendance at the area's Jubilee celebrations as Deputy Mayoress) declared a non-pecuniary interest in these items pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the erection of an Annexe to the Residential and Nursing Care Home to provide 10 bedrooms, a landscaped parking area and closure of the residential access following the demolition of the existing building. 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 Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations.

Mr Peter Halliday, Chairman of the Welshwood Park Residents Association, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He spoke of his belief that such a commercial enterprise was not appropriate in a residential area. He highlighted that a covenant excluding conversion into a nursing home applied to all properties in Welshwood Park Road. He drew attention to the parking problems and issues with overflowing sewage experienced in the area. He also stated that an Oak tree with several years left shouldn't be felled to make way for this development.

Mr Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He spoke of the discussion with Planning Officers to create a suitable development. He said the proposal was in keeping with the local area. He also addressed assertions that the residential home was growing exponentially, stating that only two beds had been added in the past 20 years. He believed that there would be a very minor increase in traffic as a result and reiterated the point that the tree to be felled was in poor condition.

Councillor Gamble attended and, with the consent of the Chairman, addressed the Committee. He emphasised that the commercial nature of this development was not appropriate for the area and that the parking was inadequate, suggesting that a travel plan was needed. He stated that the damage to the Oak tree within the site could be reversed. He requested that the Committee refuse the application on the grounds of parking, design, overlooking, noise and flooding. If this could not be done, he urged that conditions to protect residential amenity be put in place.

Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. He suggested that the loss of the Oak tree was unnecessary. He pointed out that several alternative sites for the development were available in the Ward, which would be more appropriate for commercial development. He also suggested that providing two parking spaces for staff was unreasonable when considering staff cross-over and training.

The Committee was impressed with the design of the proposal, suggesting it fitted in well with the eclectic housing designs in the area. It was highlighted that there was a need for care homes and that, although technically commercial, it was a residential care home being proposed. It was agreed that the felled tree should be replaced, although Members then agreed that this did not require a separate condition to the landscape conditions recommended. It was also suggested that a travel plan should be provided by condition.

It was explained by the Principal Planning Officer that any covenants on the land were a matter for the Courts, not this Committee. He also explained that the maximum amount of parking had been provided, along with a disabled space. He also reiterated that the Oak was category C and this should not constrain the development. This had been agreed by the Arboricultural Officer.

*RESOLVED* (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report and amendment sheet with the addition of a condition providing for a Travel Plan to be put in place prior to use of the development.

**30. 131093 - 206 Shrub End Road, Colchester**

The Committee considered an application for a single storey rear extension to form an enlarged kitchen / dining area and internal alterations to form a ground floor w.c. 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.

**31. 130789 - Land Adj to Floral Acres, London Road, Stanway**

**Councillor Davies (in respect of her trusteeship of the Colchester CVS) and Councillor L. Sykes (in respect of her being a Ward Councillor and involved in the formation of the Stanway Masterplan) declared a non-pecuniary interest in these items pursuant to the provisions of Meetings General Procedure Rule 7 (5).**

The Committee considered an application for a proposed mixed use development to provide 1,329 Sq m GIA of incubator floorspace (limited to use classes B1 – B8), a 470 Sq m GIA restaurant (use class A3), a 200 Sq m GIA drive-through coffee shop (use class A1 / A3), associated means of access and other associated works. 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 Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations.

Ms Liz Goodall addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she was speaking on behalf of the residents from 169 to 171 London Road. She stated that she was not opposed to the application in general, purely the access road parallel to the boundary of their gardens. This would be within eight metres of the garden, which resulted in concerns regarding noise, exhaust fumes, health and litter.

Mrs Jane Gee addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She stated that the Tollgate Business Partnership Ltd. had been committed to improving Stanway since the 1980's. She explained that the equivalent of 110 full time jobs would be created by the development and that the section 106 agreement would generate a great deal of

benefits.

Councillor Maclean attended and, with the consent of the Chairman, addressed the Committee. She stated that the site had been marked for development for a long time. A survey had been undertaken which suggested that restaurant and recreation use was the most desirable, which was the aim of this development. The proposal would smarten up the area, create employment and was sustainable. She urged the Committee to support the proposal.

The Committee, while supporting the application, sympathised with the objectors. It was requested that the condition regarding treatment of the boundary be expanded to include the provision of acoustic fencing to protect amenity. It was also requested that a condition be added to secure disabled parking for each element of the proposal.

*RESOLVED* (UNANIMOUSLY) 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 –

- £5,000 contribution (towards £40,000 cost of Stanway Community Bus (operated by Colchester CVS));
- £5,000 Membership of Business Travel Plan Club; and
- The construction and completion of the three elements of the scheme simultaneously,

authority be delegated to the Head of Commercial Services to approve the application, subject to the conditions set out in the report and amendment sheet with the amendment of condition 20 to refer to acoustic fencing and the addition of a condition to secure sufficient disabled parking spaces.

(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.

### **32. 130930 - Plot 2, Land to the South West of Nathan Court, Blackheath, Colchester**

The Committee considered an application for the construction of a detached two bedroom house with parking area. The Committee had before it a report in which all the information was set out.

Ms Lucy Mondon, Planning Officer, and Mr Lee Smith-Evans, Urban Design Officer, attended to assist the Committee in its deliberations.

Mr Gordon Parker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that this

design resulted from discussions with Planning Officers. A more dramatic design was created as the site was on the entrance to Nathan Court.

Councillor Mudie attended and, with the consent of the Chairman, addressed the Committee. He explained that, while he approved of the new design, the parking on the site concerned him. The parking consisted of two small spaces, which would require parallel parking. He suggested that the spaces needed to be longer, although this would increase the hard standing on the site.

It was explained by the Urban Design Officer that the new design was intended to create a visual richness while still being sympathetic with the surrounding area.

The Committee was impressed with the design and suggested that, although such parking arrangements would not be appropriate for all developments, for this proposal they were considered acceptable.

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

### **33. 130572 - 44 St Christopher Road, Colchester**

**Councillor L. Sykes (in respect of her acquaintance with a relative of the applicant) declared a non-pecuniary interest in these items pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application to vary condition 3 (opening times) of planning permission 121543 to extend the hours of opening to 10:00 – 22:00 hours, seven days a week. The Committee had before it a report in which all the information was set out.

Mr Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations.

Councillor Smith attended and, with the consent of the Chairman, addressed the Committee. He reminded the Committee that the original application for change of use on this site attracted a significant amount of objection. He stated that there had been several breaches of condition. The site generates a lot of traffic and litter within the estate. He suggested that the hours be altered to coincide with those of the fish and chip shop nearby, so the later opening hours from Monday to Saturday were balanced out with closure on Sunday.

It was explained by the Planning Officer that the Committee didn't have the power to alter the Sunday opening hours but could purely decide to accept or refuse the hours applied for.

The Committee requested that the Environmental Team continue to monitor the site for any breaches of condition.



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

#### **34. 130661 - 1 Perry Road, Tiptree**

The Committee considered an application for the erection of a detached 3 bedroom dwelling within the garden of 1 Perry Road, served by a shared access with the host dwelling. The Committee had before it a report in which all the information was set out.

Mr Peter Hill, Planning Officer, and Mr Lee Smith-Evans, Urban Design Officer, attended to assist the Committee in its deliberations. He drew attention to paragraph 14.2.2 of the report, which should read "...with it's stem less than 1.4m from the site and boundary and less than 3m from the proposed new dwelling." He also explained that the recommendation contained one reason for refusal, not four.

Mr Ted Gittins addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He disagreed with the report and the recommendation for refusal. He suggested the site was an infill development that addressed Maldon Road without being overbearing. He also suggested that he and the applicant had not had sufficient time to consider the Arboricultural Officer's comments, included in the amendment sheet.

Councillor Martin attended and, with the consent of the Chairman, addressed the Committee. He believed that the property faced both roads and was a welcome break from the traditional grey housing currently on the street scene. He pointed out that if design was the main problem, that was largely a subjective decision and not easily measurable.

Mr Andrew Tyrell, Planning Manager, explained that the development fronted Perry Road, as that was where it gained its access and that the site layout appeared to have the characteristics of backland development and no infill. Moreover, the design was constrained by size limitations which indicated that although, in principle, the development could be acceptable, the site was not suitable in this instance.

The majority of the Committee agreed that the development did not fit well within the site or within the street scene.

It was explained that by the Planning Officer that the Arboricultural Officer's comments were within an internal consultation where there was no statutory requirement to seek revisions from the applicant or agent and the recommendation did not hinge of the comments made. He also stated that the root protection zone of the tree was 6m from its centre, which was encroached by the development.

*RESOLVED* (NINE voted FOR, ONE ABSTAINED) that the application be refused, for the reasons set out in the report.

### **35. 130794 - The Drury Arms, 1 Layer Road, Colchester**

The Committee considered an application for the erection of a single-storey rear extension, plant and bin store, external alterations (including the provision of an ATM and new glazed entrance), new vehicular access and associated hard standing for a car park, service and delivery area and a 1.8 metre high boundary wall. The application had been deferred from the meeting on 20 June 2013 in order to gather further information relating to design and parking facilities and the further consult with the Highway Authority. The Committee had before it a report and amendment sheet in which all the information was set out.

Ms Lucy Mondon, Planning Officer, attended to assist the Committee in its deliberations.

Ms Sue Beard addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She claimed the proposal constituted overdevelopment. Considering that delivery vehicles would have 'just about' enough room to manoeuvre off the site, she suggested that once the site became occupied, obstructions would make negotiating entry and exit impossible. She suggested that the comparison between pub use and convenience store use was inappropriate as the two attracted a different type of car use. She stated that an ATM would attract additional journeys to the site, otherwise it would not be viable.

Mr Dave Onions addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the applicants had addressed all the issues requested by the Committee, providing a Heritage Statement, more disabled parking and altering the 'L' shaped nature of the extension. He also stated that the development offered many benefits including a widened pavement and refurbishment. They had been scrutinised by the Highways Authority three times and no objections had been raised.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Committee. She raised concerns regarding the strip of land on the site which had been excluded from this application, believing this to be reserved for further development that would take access from the current site. She stated that the design of the extension was contrived and would dramatically alter the building. She suggested that the boundary wall would not cover the extension. She urged the Committee to protect the area's old public houses.

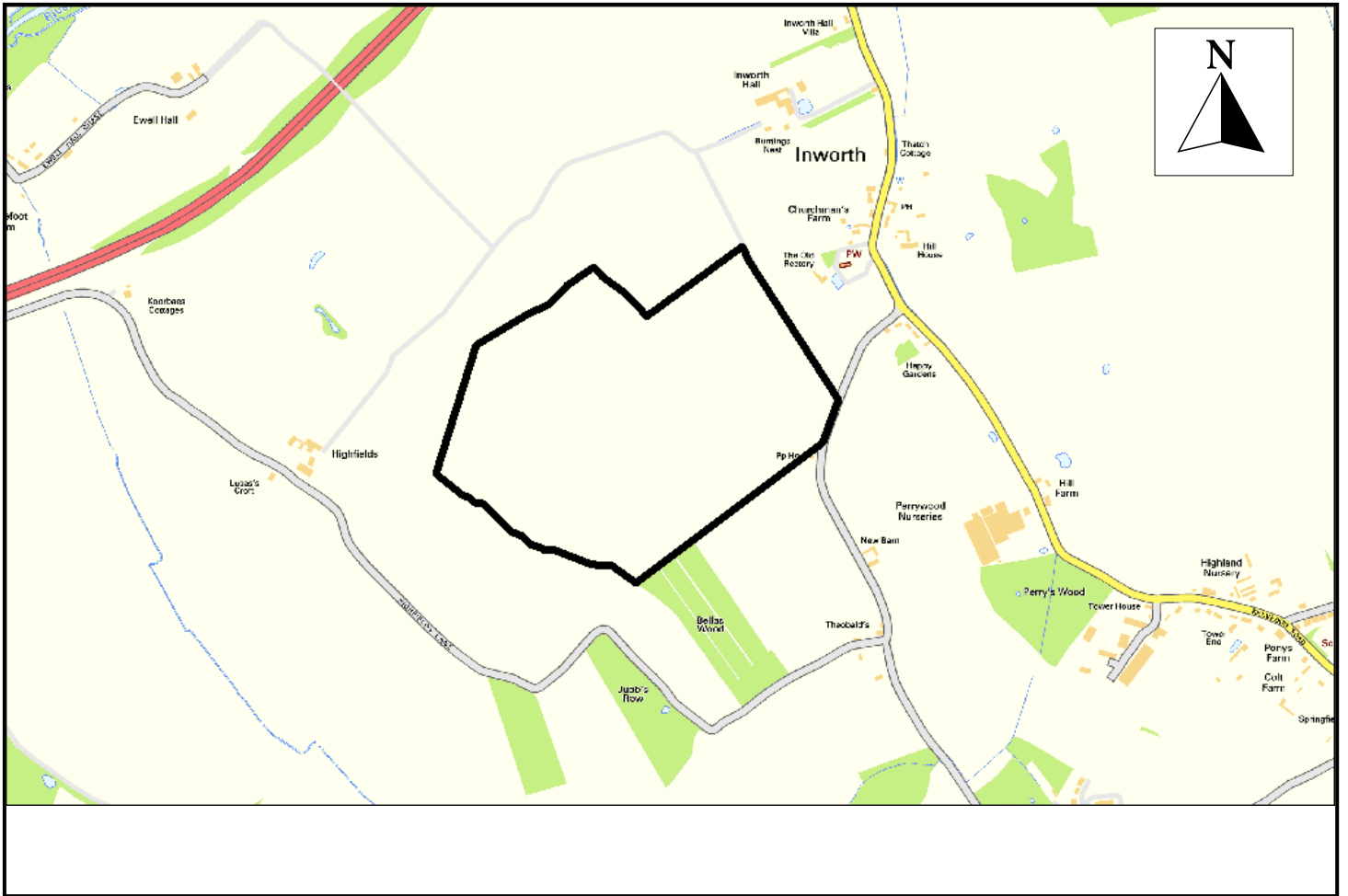
Councillor Hazell attended and, with the consent of the Chairman, addressed the Committee. She stated that this development would impact on the lives of those living in the surrounding area. She suggested that not all the strands of the National Planning Policy Framework (NPPF) were present the development was against policy, these being economic, social and environmental. She claimed that the design distracted from the original building and that parking was insufficient. She urged the Committee to consider the safety and amenity of the residents.

It was explained by the Planning Officer that a convenience store could set up operation within the building, as it is currently, without planning permission. As such, the

Committee should be considering the impact of the extension only. She also explained that not all three strands of the NPPF needed to have a positive effect, they could be neutral.

The Committee stated that all of the issues arising from discussions at the previous meeting had been addressed and believed the proposed development was as favourable as possible, although the Committee disagreed with the lack of objection from the Highway Authority.

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



**Application No:** 121949

**Location:** Highfields Farm, Highfields Lane, Messing, Colchester, CO5 9BJ

**Scale (approx):** NOT TO SCALE

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## Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **1 August 2013**  
Report of: **Head of Professional/Commercial Services**  
Title: **Planning Applications**

### 7.1 Case Officer: Simon Osborn

**MAJOR**

**Site:** Highfields Farm, Highfields Lane, Messing, Colchester CO5 9BJ

**Application No:** 121949

**Date Received:** 21 December 2012

**Agent:** Pegasus Planning Group

**Applicant:** Hive Energy Limited

**Development:** Construction of a 36.54 hectare solar park, to include the installation of solar panels to generate electricity, with transformer housings, security fencing and cameras, landscaping and other associated works..

**Summary of Recommendation:** Conditional Approval under delegated powers subject to no objections being raised by English Nature or National Grid

### 1.0 Reason for Referral to the Planning Committee

1.1 This is a major application for a solar farm, which is referred to the Planning Committee because objections have been received. It is recommended that the Committee undertake a visit to the site prior to their meeting.

## **2.0 Synopsis**

- 2.1 The key issues explored below are the likely impacts of the proposal in relation to the countryside, nearby built heritage assets, nearby residential amenity and transport impacts. The report refers to the national and local policy framework. The area covered by the proposal is very large, but the development is not of any great height (not exceeding 2.5m above ground level), and it is considered that although there will be a change to the appearance of the countryside, the impacts of the application can be made acceptable in the medium term through additional planting. The recommendation is for approval.

## **3.0 Site Description and Context**

- 3.1 The site is an irregular shape comprising 5 agricultural fields to the west of the village of Inworth within an area of open countryside. The fields are generally demarcated by existing hedgerows, although the northern and eastern margins of the site are more open. The application site is about 1km to the SE of the A12 and the land slopes generally upward in this direction from a height of about 40m AOD to 60m AOD. There are also undulations in a generally SW-NE direction.
- 3.2 The application site area is 36.54 hectares, although late amendments to the proposal have proposed that solar panels will not be located in two fields in the SE, being those closest to Windmill Hill. There is an existing farm access track to the site and proposed construction compound from Windmill Hill. This is a narrow lane connecting the B1023 Kelvedon to Tiptree road, with the countryside to the south. The site straddles the boundary of Colchester Borough Council with Braintree District Council, with the larger part of the site being within Colchester.
- 3.3 The village of Inworth is set around the B1023 road, which is about 200m to the east of the application site. The closest dwellings to the site are 'The Old Rectory' (about 55m away) and 'Marlborough Cottage' on Windmill Hill (about 100m away). There are other dwellings in fairly close proximity to the site, including: 1 and 2 New Barn Cottages on Windmill Hill (about 200m away), 'Theobalds' at the junction of Windmill Hill with Highfields Lane (about 350m away) and 'Highfields Farm' and 'Lucas Croft' on Highfields Lane (about 250m away). The settlements of Kelvedon and Tiptree are sited to the NW and SE of the site; both are just over 1 km from the application site.
- 3.4 There is a public footpath, which runs in part along the northern boundary of the application site (Footpath 16) and others within the vicinity of the site.

## **4.0 Description of the Proposal**

- 4.1 Planning permission is sought for the construction of a solar farm development, which will consist of rows of solar panels mounted on a supporting frame and oriented to face south in order to maximise the benefit from the sun. Each panel is 1m wide and 1.67m high and angled at about 25 degrees to the horizontal. The lowest edge of the panel would be about 0.75m above the ground and the top edge of the panel about 2.2m above the ground. The panels are supported by one metal leg for each 4 panels with the legs supported on pile footings. The panels are composed of photovoltaic cells and are designed to maximise the absorbency of the sun's rays and minimise solar glare. Two amendments have been submitted by the applicant to the proposed layout,

which have removed solar panel arrays from the two fields closest to Windmill Hill. The proposal as originally submitted was expected to generate about 15 mega watts of electricity, although this capacity will have been reduced somewhat by the two site layout amendments. The lifetime of the proposal is expected to be 25 years, with the land thereafter reverting to agricultural use.

- 4.2 The solar panels generate Direct Current (DC) electricity, which must be converted into Alternating Current (AC) before being fed into the local electricity network. This is achieved using inverter cabinets. There are 9 of these proposed and a control room, which are distributed throughout the site at field edges. The details as originally submitted showed each cabinet as just over 2.5m in height with a footprint of 3 square metres. Details submitted on 17<sup>th</sup> July 2013 significantly increase the size of these to 8.8m by 2.5m, although they remain of a similar height above ground level. The control room will have a footprint of about 9 square metres and is of similar height. Other works required for the proposal include a security fence and pole mounted security cameras. The security fences will be located within the 3 field margins where the solar arrays are proposed. This was originally proposed as 2.4m height, but has subsequently been amended to 2.0m height. CCTV security cameras will be mounted on the fence posts themselves and spread evenly around the site, facing inwards.
- 4.3 Landscaping works are also proposed to strengthen existing field boundaries, in particular around the northern margins of the application site.
- 4.4 The principal traffic movements associated with the proposal will be during the construction period. This is expected to last 3 months and it is anticipated that there would be up to about 140 HGV deliveries for all equipment and materials to the site. These trips would be spread out over the entire construction period with the maximum number of HGV movements per day estimated as 10 to 12. Once in full operation, the solar farm will not generate any significant traffic movement, with only security and maintenance staff the only likely and infrequent visitors. The access to the site will be from the A12 at Kelvedon via the B1023 and Windmill Hill.
- 4.5 The application was accompanied by a number of reports, including a Planning Statement, Design and Access Statement, Landscape and Visual Impact Assessment (LVIA), Heritage Desk Based Assessment, Transport Assessment, and Ecology Report. Additional information has been provided during the course of the application including supplementary information and photomontages for the LVIA and a revised Ecology Management Report. The applicant also undertook an archaeological field evaluation.
- 4.6 The application site straddles the boundary of Colchester Borough Council with Braintree District Council, although the major part of the application site is in the Colchester area. A separate planning application has been submitted by the developer to Braintree District Council.

## **5.0 Land Use Allocation**

### **5.1 Countryside**

## **6.0 Relevant Planning History**

- 6.1 Requests for a Screening Opinion to determine the requirement for an Environmental Impact Assessment (EIA) to accompany a planning application for a solar farm were submitted to the Council in 2012 (references 121262 and 121784). Having taken into account the indicative thresholds and the selection criteria in Schedule 3 of the Town and Country Planning (EIA) Regulations 2011, the Local Planning Authority considered that an EIA was not required to accompany the application.

## **7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
UR2 - Built Design and Character  
TA4 - Roads and Traffic  
ENV1 - Environment  
ENV2 - Rural Communities  
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity  
DP8 Agricultural Development and Diversification  
DP9 Employment Uses in the Countryside  
DP14 Historic Environment Assets  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes  
DP25 Renewable Energy

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

Vehicle Parking Standards



## 8.0 Consultations

8.1 ECC Highways – no objection subject to conditions to ensure public rights maintained over Footpath 16 and the definitive right of way has been clearly marked out on site with a 2m width.

8.2 Environment Agency – the proposal represents no additional flood risk.

8.3 Natural England – No objection. This application is in close proximity to Tiptree Heath Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. 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.

Environmental Enhancement: In our view the application lacks ambition for environmental enhancement, particularly in terms of ecology. We note that the Ecological Appraisal submitted with the application cites Natural England's Technical Advice Note 101 Solar Parks: Maximising Environmental Benefits, and we draw your attention in particular to page 3-4 "biodiversity enhancement". Whilst we note that some hedgerow improvement will be made, in our view the opportunity exists at this site to create habitats which will contribute towards Biodiversity Action Plan targets. Presently, the application lacks ambition in this regard, for example stating at paragraph 5.2.4 of the ecological appraisal that "any enhancement of the current arable monoculture would provide ecological gain and ensure increased wildlife benefits." Whilst this might technically be true, it seems to miss the opportunity presented by this proposed development. Even allowing for the reversion of the site to arable farming after 25 years, in our view the temporary gain would be a valuable and significant local biodiversity contribution. Natural England suggests that the fields could be converted into conservation habitat, at least in part, through the provision of arable field margins and headlands. The remaining area could be converted to flower-rich grassland, preceded by a reduction in nutrient levels by the planting of nitrogen-fixing crops for example, or other similar practices. We refer the applicant to the Essex Biodiversity Action Plan for further information on appropriate target habitats.

Other advice: We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application: · local sites (biodiversity and geodiversity); · local landscape character; · local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain

material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust or other recording society and a local landscape characterisation document in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or Biodiversity Action Plan (BAP) species on the site, the authority should request survey information from the applicant before determining the application. The Government has provided advice on BAP and protected species and their consideration in the planning system.

Natural England Standing Advice for Protected Species is available on our website to help local planning authorities better understand the impact of development on protected or BAP species should they be identified as an issue at particular developments. This also sets out when, following receipt of survey information, the authority should undertake further consultation with Natural England.

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 NPPF. 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'*.

- 8.4 National Grid – A holding response was sent 7.6.2013, drawing the attention of the Authority to an underground gas pipeline and asking the Council not to determine the application within 28 days.
- 8.5 English Heritage – Our specialist staff considered the information and do not wish to offer any comments. Application to be determined in accordance with national and local policy
- 8.6 Essex Wildlife Trust – No comments received
- 8.7 Ramblers Association – Visual and noise impact for walkers of footpaths 16 and 17 for 600m. 200m of footpath 16 is within application site and squashed between hedge and proposed swale and fence; would wish to see a 5m gap for footpath. Traffic management Plan needed for construction phase as the lanes are used by walkers. The plans were amended to show the right of way between the site boundary and the proposed new planting as 2m in width (1.5m for the legal line of the footpath with an additional 0.5m safety margin), with direction markers posts to denote the legal line of the path. The Ramblers Association subsequently confirmed this had addressed their main concerns.
- 8.8 Braintree District Council – No formal comments submitted.
- 8.9 Maldon District Council – No adverse comments. We consider that there will be limited visual impact and are encouraged that no HGV movements are proposed through the Maldon District which may have had a cumulative impact upon the highway network.

8.10 Spatial Policy Team – The development site which is located in open countryside straddles the boundary of Colchester Borough and Braintree District. The part of the site in Colchester Borough is allocated as white land on the adopted Proposals Map. These comments below relate only to Colchester Borough. The proposal which involves a change of use from agriculture to a Solar Farm is considered to accord with national and local policies in terms of encouraging appropriate renewable energy projects and reducing greenhouse gasses and CO<sup>2</sup> emissions. The Climate Change Act 2008, set targets to reduce green house gas emissions by at least 80% by 2050 and CO<sup>2</sup> emissions by at least 26% by 2020 based on 1990 figures. The commitment to the 2050 80% reduction target has been carried through to the Overarching National Policy Statement for Energy which was published in July 2011. Paragraphs 93 – 98 of the National Planning Policy Framework (NPPF) seeks to promote a move to low carbon future to mitigate and adapt to climate change. Paragraph 98 of the NPPF has removed the need for applicants to demonstrate a need for a low carbon or renewable development and recognises the valuable role that small scale renewable projects have in terms of cutting green house gases. It also states that applications should be approve where any impacts are or can be made acceptable.

Core Strategy Policy ER1 and Development Policy DP25 is supportive of renewable energy schemes particularly those that are sensitive in landscape terms, have low visual impacts, and that are well sited and designed. The solar farm proposal will clearly make a contribution towards meeting national green house gases and CO<sup>2</sup> reduction targets for the UK but it will also support the Council in its commitment to reduce its CO<sup>2</sup> emissions Borough wide and address climate change impacts locally through the implementation of a renewable energy project. The application has been supported with a detailed landscape and visual impact assessment including mitigation projects. Proposed mitigation includes new native tree and hedge planting and it is considered that such measures will help reduce the impact of the proposal on the local landscape character and also reduce the impact on the residential amenity of residents living relatively close to the site. The individual solar panels will not be taller than 3m however the undulating nature of the land at this site and the existing and proposed hedge and tree planting will help reduce landscape impacts and visual intrusion locally. The proposal is therefore considered to accord with Development Policy DP 1 criteria (i), (iii) and (v). It is acknowledged that the site will be accessed via the B1023 during the construction phase and limited traffic post construction for maintenance, however additional traffic generated in terms of numbers by this proposal is unlikely to be high therefore is not considered to not conflict with policy DP1 or policy ENV2. The proposal has been supported by an ecological appraisal which covered the presence or absence of protected species. As part of the proposal new hedge and tree planting is proposed to help minimise landscape impacts of this proposal. The application however offers little in the way of wider biodiversity enhancements to benefit wildlife and further improve the connectivity between the various habitats at this site. The proposed swale along the northern boundary of the site satisfies development policy DP1 criteria (vi) in terms of managing any additional surface water run off, but this too could act as a secondary habitat along the hedge line. Further discussions should be held with the applicant/agent prior to an approval being given. Discussions should focus on the need for a biodiversity/ecological plan for the site to allow biodiversity gains to be maximized over the 25 year period that the solar farm could potentially operate. This would ensure that the application fully meets criteria (ii) – (iv) of Development Policy DP21. Subject to better biodiversity enhancements being agreed with the applicant this proposal is considered to accord with national and local planning policy.

- 8.11 Landscape Officer – agreement to the landscape aspect of the application subject to conditions.
- 8.12 Archaeological Officer – The applicant has conducted an archaeological evaluation of this tract of land which revealed very little of interest, though there is a cropmark of probable archaeological significance located in the south-eastern corner of the site adjacent to Windmill Hill. Following discussions with the Agents, Pegasus Group, this field containing the cropmark has now been removed from the development area. I have no further recommendation to make regarding this application.
- 8.13 Conservation Officer – The proposed solar park is adjacent to several listed buildings in the parish of Messing cum Inworth including: Inworth Hall, Thatched Cottage, Well Cottage, Prince of Wales PH, Outbuildings to PH, Churchman’s Farmhouse, 1-6 The Street, Messing, Hill House, Inworth, Harborough Cottage (all grade II) and Church of All Saints (Grade I). It is also near to the following listed building in Tiptree CP: Theobald’s Farmhouse (Grade II). The proposal would involve the installation of a large number of photovoltaic panels, each mounted on a metal framework. The scheme would also involve installation of a security fence 2.4 metres high. The area covered is very large and therefore while not of any great height (under three metres) it still has the potential to have considerable impact on the character of the surrounding landscape. The heritage assets concerned are mostly grouped close together in the centre of Inworth with only Theobald’s Farmhouse and, to a lesser extent, Inworth Hall separated from the group. The character of the setting when viewed from the group of listed buildings is peaceful with large mature trees, hedgerows and the ground slopes upwards to the west. As a result the buildings are best viewed, and in general only clearly visible, from the road. Glimpsed views of some buildings can be had from behind but generally there is separation of the buildings from the surrounding fields, mainly as a result of the belt of large trees around the church. It is considered that despite the very large area of the proposed solar park the group of listed buildings is unlikely to be experienced in the context of it, and because of the visual separation there would be little harm to the setting of the listed buildings. The original scheme would have had more impact on the setting of Marlborough Cottage because of the more open character of the landscape adjacent to the cottage. The area of the panels has been pulled back to exclude the field nearest to the cottage and it is now considered that the resulting separation, combined with the existing screening, which would be supplemented by additional planting means that the cottage would again not be experienced in the context of the panels and because of this the impact on the setting of the building is slight. The church of All Saints is, as stated above, surrounded by large mature trees. It can be glimpsed in views from the road and these glimpsed views would be experienced in the context of the solar park until the screening has matured. The solar park would have a detrimental impact on the setting of the listed building during that time in views of the church across the fields. The planted screening itself would not harm the setting of the church because it is part of the character of the setting at present. The harm to the setting of the church of All Saints is less than substantial in that it does not go to the heart of the significance of the building. Therefore according to paragraph 134 (NPPF) the harm should be considered against the public benefits of the proposal. If the public benefits are considered to outweigh the harm to the building the proposal can be supported. It is considered that the harm to the setting of the grade I listed church would be of a short-term nature and no objection is raised on the grounds of this so long as controls are imposed to ensure the planting is maintained and it is ensured it

grows to maturity. As a result of the change to the boundaries of the development there would be no significant harm to the settings of the other listed buildings in the vicinity. A condition should be imposed to ensure the new planting is maintained and growth at the predicted rate ensured. If specimens do not survive it is suggested that replanting should be with plants of appropriate maturity to ensure the screening function is effective.

- 8.14 Environmental Control – the reflection or glare caused by sunlight reflecting off solar panels is not covered by lighting guidance or statutory nuisance legislation as it is not artificial light. However, we recommend the units are finished in a non-reflective coating in order to minimise the impact from reflected light. Also recommended condition that any lighting to comply with guidance and the demolition and construction informative.

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 Messing Parish Council stated:**

"The Parish Council has held a public meeting, at which the developer and their planning consultant presented details of their application to over 70% of the population of Inworth. The Planning Committee of the Parish Council subsequently met and wishes to place the following points before the Planning Authorities.

The following points were raised as concerns:

1. No visual representation of the site post development was provided, despite reassurances that this would be available. It makes judging the developments impact on the environment impossible.
2. The photographic representations in the submission have been designed to be deliberately misleading. They are very small (in reproduction) in the report and do not offer a true perspective representation of the site. As evidenced by the angles of the pictures and the lack of any overhead views.
3. Many of the residents closely affected by the building work were neither advised of the development nor given proper notice of it.
4. It was felt that the panels at the southern end of the site protruded too far into the village and it was felt that, were the panels further north of Windmill Hill by one hedgerow and further west of the back of the Church and Vicarage this would not reduce the production capacity greatly, but would blend into the landscape more sympathetically.
5. The site has a 15 MWG output design capability, but the footprint, is larger than that needed, to generate this amount of electricity according to the developer. Thus the size of the site might be reduced as suggested above.
6. Developers and Planning consultants were unaware that Windmill Hill is a road designated as unsuitable for heavy goods vehicles. They propose to use this route into the site. The road construction is definitely unsuitable for heavy traffic.
7. There is a timber framed listed building with no foundations right next to the road which will be affected by HGV movements, by the vehicle movements of construction staff and by the subsequent security and servicing staff as they visit the production site from time to time.

8. We feel that alternative access to the site should be considered:
  - a) perhaps from Grove Road to the south with a track constructed across the fields to the construction site, or
  - b) with access from Braxted Road and thence by track across the fields to the construction site.
  - c) That a traffic management plan is created- so that HGV's awaiting access to the site do not block up the local roads, lanes and tracks. Ideally a holding area needs to be designated perhaps on the A12 to hold waiting vehicles.
  - d) That deliveries to the site do not commence before 10am, as there are peak traffic flows until this time on all roads in the local area.
9. Planning conditions, we would like the Screening to be installed before the panels are put in place as a planning condition. As the soil in this area is of fairly poor quality, concern was expressed about the ability of the developers to adequately screen the site to 3.2M with native species. Thus it was felt that semi mature screening materials should be used as it has previously been observed that on this site whips often fail to thrive and or take many years to develop into substantial trees, bushes or plants. Some stipulation as to the height and quality of the screening is requested in the planning requirements.
10. We would also seek a condition that the screening is maintained throughout the life of this commercial activity, and it was noted that the use of a water bowser will probably be required as this land drains very quickly.
11. We do not want this to be a beachhead for secondary and tertiary developments of a similar nature in the future.
12. Concern was expressed that the land slopes to the North which villagers felt was not sensible for a solar collection operation.
13. This development is the biggest that has ever occurred in the one thousand years that this village has existed, and yet no benefit is being offered to the community. The Parish Council would ask that an area of land be made available to the community so that a children's play grass area can be established. There are no such facilities of this nature in the village at present.
14. Perhaps the developer could undertake to provide some play equipment in this area? The Parish Council have experience of establishing and maintaining such facilities in relation to other developments within the parish.

#### Summary

The Parish Council is not against the production of solar energy and recognises that progress has to be made.

We feel that the solar farm encroaches too much into the village at its southern and south eastern extremities and should be further from the village, thus preserving the rural setting.

We understand that as a result of the Public Meeting the landowner, developers and planning consultants are sympathetic to this view.

Access to the site via Windmill Hill is strongly resisted as the road is simply not constructed to take HGV traffic and listed buildings will no doubt be affected.

The Screening of the site must be put in place before the construction is commenced and this must be mature planting, which will quickly grow to do its job rather than taking decades to become established.

9.2 Further comments were received from Messing Parish Council on 17<sup>th</sup> June following a meeting with the public and the proposed developers to consider the updated LVIA and proposed site layout amendments that were tabled by the developers. This restated their objection on the following grounds: resolved to object to this planning application on the following grounds:

- a) Transport concerns -no concrete traffic management plan is yet in place, we request that if approval for this development is given, then the following conditions are agreed:
  - i) agreement on times when lorries will be allowed onto site- we suggest between 10am up until 4pm- Monday to Friday
  - ii) an agreed location for lorry stacking as there are no known locations in Inworth, Feering or Kelvedon- we suggest the A12
  - iii) an agreement that only one lorry will be on site at any one time - the proposed unloading point has been moved closer to a residents home and garden
  - iv) confirmation from Essex Highways that Windmill Hill Lane can be used by HGV's it currently has two warning signs saying that HGV's should not use this road.
  - v) Prior to construction starting we will need the offered road condition report to be in place and the movement detectors mounted on the Grade 2 listed building adjacent to the road.
  - vi) The Parish Council wish to note their concern about the condition of Hinds Bridge, which is about to receive emergency temporary repairs - will the structure survive an additional 300 HGV/lorry movements?
- b) Construction - The Parish Council requires the screening to be in place prior to construction starting and to be adequately maintained during the lifetime of this development. We would request that local specialist advice is sought as the soil here is thought to be poor. The advice subsequently received is that native hedgerow whips should be used and planted from November onwards. The Parish Council does not believe that natural regeneration will create a flower meadow under the solar panels, as it has been stated that the area has been treated with weed killers for some years. We would thus request that the area is sown with an acceptable wild flower mix.
- c) The actual application:
  - i) Concerns were raised that the photo montages had been photo shopped and did not represent a true picture of the site, the scale of the development and the real distances between the development and residential homes. Residents who live adjacent to the site stated that the perspective was distorted.
  - ii) That areas of the applicants documentation had been cut and pasted, with errors in the screening to be planted- Sweet Chestnut and the wrong properties being identified as being part of the development site when they were not. In the original documentation the name of another development was shown!
  - iii) This application has been very difficult to asses as the layout plan cannot be seen in detail on line. When the developers made an A3 plan available for our meeting, the points that photos had been taken from, key roads and buildings were not marked on the plan.

- d) The effects on the community:
  - i) This application will change the rural nature of this part of Inworth and represents a substantial change of use of a substantial acreage of land for at least 25 years
  - ii) The application only acknowledges the existence of three Historic and listed buildings in the village, there are actually 16 but the developer only seems concerned with Grade 2\* and Grade One listed buildings. The Parish Council consider that insufficient concern has been given to protecting the distinctive characteristics of the whole of the village of Inworth
  - iii) The Parish Council believes that the development will have a detrimental effect on the landscape and will result in the loss of valuable agricultural land, which will be out of productive use for 25 years.
- e) The Environmental Impact
  - i) no mention has been made of the Serotine bats who are said to reside in Inworth Church and which are seen in the gardens of properties next door to the development site. This species is said to be uncommon and is a protected species yet their existence and need for protection is not acknowledged by the applicant.
  - ii) It is difficult to gauge the environmental benefits of this site/development when set against the cost to this community as no long line historical data is yet to hand to prove that the benefits outweigh the costs especially to the house holders whose properties are in close proximity to the development.
- f) Practical difficulties in assessing this application:
  - i) Access to some documents on the website has been difficult- a number remain inaccessible
  - ii) Given the small size of computer screens it is difficult to visualise the scale of the whole development
  - iii) photomontages from some angles- especially those showing the totality of the development are still outstanding.
  - iv) The applicant has misidentified a number of buildings in their application
  - v) No compass roses are shown on the applicant's application thus making it difficult to orientate the application.
  - vi) No local landmarks or buildings are shown on any drawings - thus further making orientation difficult.
  - vii) a new layout plan dated 3/6/13 was suddenly provided at the meeting on 11/6/13- this is unacceptable and we should have had prior notice of this change.
  - viii) this new layout might allow temporary offices, toilets and other facilities literally over a resident's fence and we would seek to move these away from the property line if possible.
  - ix) that following submission of the new layout plan another consultation period should now be granted to allow the Parish Council to fully consider the latest and developing situation, as this item was only received in the midst of a busy public meeting.



Summary:

Messing cum Inworth Parish Council wish to object to this planning application as:

- a) the application will have a detrimental effect on the landscape and will remove a substantial area of good quality agricultural land from production for 25 years.
- b) The visual Impact assessment is incomplete and is now out of date following submission of the new layout plan dated 3/6/13
- c) Insufficient attention has been paid to protecting the listed buildings which are close to this site and in protecting the overall historic nature of Inworth especially during the construction phase.
- d) The claimed green benefits of this development do not at this stage outweigh the harm that will be caused to this historic hamlet.

9.3 Tiptree Parish Council - Tiptree Parish Council objects to this application on the following grounds - the proposed solar park is too big for the area and should be reduced in size. The site plan submitted is neither clear nor detailed and the applicant should provide more detailed plans before this application is progressed. (*Officer Response: More detailed plans were submitted; no further response received.*)

9.4 Kelvedon Parish Council – our main concern is the 3-4 month build process during which HGVs will be accessing the site from the A12 via Kelvedon. Request a restriction on the hours HGV use the High Street to avoid congestion between 10.00am and 4.00pm

## 10.0 Representations

10.1 Objections were received from 10 households and a Councillor for Braintree District Council. These raised the following issues:

1. Panels, security fence and inverter buildings will be visual eyesore from private houses, footpaths and country lane. Impact not fully considered from nearest houses and footpath
2. Proposed hedgerows will take time to grow and will not provide screen in winter months.
3. Loss of grade III agricultural land.
4. Should be nearer A12 and reduced in size.
5. Viability studies suggest 50 acre size sites most efficient.
6. Highway safety issues from HGVs and wear and tear of carriageways. Windmill Hill is unsuitable for HGVs.
7. Heavy lorries will damage historic Marlborough Cottage, only 10 feet from highway.
8. High pressure gas pipeline crosses the site – this will be hazardous.
9. Water pressure is poor and concerns that construction will affect this.
10. Information submitted is misleading with regard to the number of listed buildings within 1 kilometre of the site.
11. Parish Church is home to serotine bats, which is only 300m from the application site.
12. Insufficient information on security fencing and CCTV.

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 solar farm will not generate any significant traffic movement once it is operational, with security and maintenance the only visitors on an infrequent basis. Traffic movements will be significant during the construction phase and this is considered further within the main body of the report.

## **12.0 Open Space Provisions**

12.1 There is no requirement for public open space provision in connection with this application.

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. The application was noted. There is no requirement or justification therefore for any S106 Planning Obligations.

## **15.0 Report**

### Policy Principles

15.1 There is international concern towards the impact of climate change and the UK is required by a European Directive to secure 15% of its energy supplies from renewable sources by 2020. The Climate Change Act 2008 sets targets to reduce greenhouse gas emissions by at least 80% by 2050 and CO2 emissions by at least 26% by 2020 based on 1990 figures. The UK Renewable Energy Roadmap Update 2012 published by the Dept of Energy and Climate Change reaffirms the Government commitment to meeting the 2020 target. It states that solar PV is now identified as a key technology in this Renewable Energy Roadmap Update as costs have fallen dramatically and deployment increased markedly.

15.2 The National Planning Policy Framework (NPPF) sets out Central Government planning policies and how these should be applied. Paragraphs 6 and 7 confirm the commitment towards sustainable development, which is based on three dimensions: an economic role, a social role and an environmental role. The latter is defined as contributing to protecting and enhancing our natural built and historic environment; and as part of this, helping to improve biodiversity, use natural resources prudently, minimize waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy. This is followed in Paragraph 14 by a commitment to a presumption in favour of sustainable development for decision-taking. Paragraph 93 indicates that planning plays a key role in helping to secure radical reductions in greenhouse gas emissions and providing resilience to the impacts of climate change. Finally Paragraph 98 requires that when determining planning applications, local authorities should not require applicants for energy development to demonstrate the

overall need for renewable or low carbon energy, and approve the application if its impacts are (or can be made) acceptable.

- 15.3 The NPPF also re-affirms the place of an up-to-date development plan as the start point for decision making. Core Strategy Policy ER1 and Development Policy DP25 are supportive of renewable energy schemes, particularly those that are sensitive in landscape terms, have low visual impacts, and that are well-sited and designed. Core Strategy Policy ENV1 indicates that where development needs or is compatible with a rural location, it should be appropriate in terms of its scale, siting and design; protect, conserve or enhance landscape character, including natural or historic assets; and provide for any necessary mitigating or compensatory measures.
- 15.4 There is a clear and evident need for developing renewable energy resources both nationally and locally to achieve renewable energy targets. The development of such renewable energy sources would provide electricity and would help tackle climate change by reducing the need for the burning of fossil fuels. However, these benefits need to be considered in balance with any adverse impacts in accordance with the NPPF and the local planning policy framework.

#### Landscape Impact

- 15.5 A Landscape and Visual Impact Assessment was submitted by the applicant, which considers the landscape character of the area with reference to national and local landscape documents, including the Colchester Borough Landscape Assessment (November 2005), and photoview assessments from 17 locations within a 2 km radius of the application site.
- 15.6 At a regional level, the site falls within The Wooded Hills and Ridges (Tiptree Ridge) Character Area. The overall character of this landscape is formed by a broad and relatively high ridge, which is clothed by large areas of woodland on its western side. Small to medium size fields are set within a strong structure of numerous woodland blocks, copses and tall thick hedgerows. The site also falls within the local Landscape Character Type F1: Messing Wooded Farmland. The key relevant characteristics of this landscape type are of a sparse settlement pattern; an elevated plateau landform, situated on a broad ridge and dissected by small streams, providing undulations in topography; large areas of mixed woodland; small ponds; and single mature trees at field boundaries or within fields.
- 15.7 The site has no environmental designations covering it that are recognised at national, regional or local level. (There are however, a number of listed buildings, and Conservation Areas beyond the site: The impact of these on the consideration of this proposal is considered in paragraphs 15.11 and following.)
- 15.8 The site lies within open countryside, but is influenced by its proximity to the built-up edge of Tiptree and Kelvedon, together with the village of Inworth and isolated dwellings and farmsteads. Blocks of deciduous woodland – Bella’s Wood and Jubbs Row – lie generally to the south, which help to limit views into and out of the site in this direction. There are a number of small to medium scale fields, divided by hedgerows. These existing landscape features of the site, namely the trees and hedgerows, will be retained and enhanced, thus helping to ensure that the proposal does not fundamentally change the predominant landscape character of the area. The Council’s Landscape Officer has provided comments and input into the consideration

of the proposal in landscape terms and has no objection to the proposal, particularly as the proposed hedgerow planting helps to 'conserve and enhance' the landscape as recommended as a 'landscape strategy objective' in Colchester Borough's Landscape Character Assessment.

- 15.9 There are a number of public viewpoints toward the application site and consideration of the changes to the landscape impact from this public perspective is of particular importance. The village of Inworth is primarily located around the B1023. Views from the B1023 will be limited, resulting from the rise in the landform beyond the village, existing built form and the presence of mature trees. There are views toward the application site from Windmill Hill and Highfield Lane. The amendments to the scheme proposed by the applicant – removing the two fields closest to Windmill Hill – have reduced the visual impact, with the main impact being from relatively short sections of the northern end of the lane where the road is not bounded by existing hedgerow. Further to the south, views of the development from the lane will be limited to those beyond an existing hedgeline. Views from Highfield Lane will be limited to glimpses between hedges and trees on its eastern side. There are two public footpaths in close proximity to the site, located to the north and east of the site. Footpath 17 runs from the lower part of Windmill Hill toward the northeast corner of the site. At its north end, where it runs closest to the site, existing trees along the line of an old embankment restrict views into the site. There are more open views toward the site where the path runs along the rear boundary of The Old Rectory. Footpath 16 doglegs around the northern perimeter of the site. This path includes a 250m long section that traverses across a field where there is no existing hedgerow. Although a new native hedgerow is proposed between the official line of the path and the proposed solar panels, this will of course take a number of years to fully establish. Where there are open views, these will be of arrays of panels of about 2.2m in height above ground level. This impact will be reduced over time, however, once the proposed new planting becomes established. In general terms native hedging should form a filter screen over a period of 5 to 15 years.
- 15.10 The impact of the proposed development on the landscape character of the area must be considered in the context of both the size of the site and the proposed solar panel arrays themselves and associated features such as the security perimeter fences. There will be a change in the visual appearance of the area, but there are a limited number of public viewpoints from which the arrays will be significantly visible within the landscape.
- 15.11 The 9 proposed inverter cabinets and the control room (the dimensions for which were noted in paragraph 4.2 of this report) are also to be distributed across the site. The inverter cabinets as originally submitted were of modest size with a footprint of 3 square metres and a height above ground level of 2.5m. An amendment submitted on 17<sup>th</sup> July 2013 by the applicant showed a significant increase in size, with a footprint of 8.8m by 2.5m. The late amendment did not give the LPA the opportunity to reconsult neighbours or the parish council on this aspect of the scheme. However, although this increase in the footprint and therefore the overall size is substantial, the overall height above ground level remains at 2.5m, which is comparable with the overall height of the solar arrays. The inverter cabinet closest to residential property is the most easterly one, which will be about 90m from the rear boundary with The Old Rectory and will be seen narrow end-on. The increase in overall size results because the original inverters no longer have the capacity to handle the amount of energy production that this site will generate as the panels have become more efficient at converting the

sunlight, and if the smaller units were to be used, there would need to be a far greater number of them than originally shown (in the region of 100), to deal with the energy produced. The cabinets are generally located within existing field boundaries and should not have a significantly detrimental impact upon the local landscape. There is however one location close to footpath 16 where existing hedging is sparse; accordingly a planning condition is recommended that further details including the location be submitted to the LPA for approval to allow further consideration for the best location for the units in landscape terms.

#### Conservation/ Heritage Impact

- 15.12 The proposed solar park is close to several listed buildings in the parish of Messing cum Inworth including: Inworth Hall, Thatched Cottage, Well Cottage, Prince of Wales PH, Outbuildings to PH, Churchman's Farmhouse, 1-6 The Street, Messing, Hill House, Inworth, Marlborough Cottage (all grade II) and Church of All Saints (Grade I). It is also near to the following listed building in Tiptree CP: Theobald's Farmhouse (Grade II). There are Conservation Areas in Messing and Kelvedon, but these are both over 1 km away. The Council's Conservation Officer has considered the proposal and her comments are reproduced in the following two paragraphs.
- 15.13 The area covered by the proposal is very large and therefore while the solar installations and security fence are not of any great height (about 2.4 metres), it still has the potential to have considerable impact on the character of the surrounding landscape. The heritage assets concerned are mostly grouped close together in the centre of Inworth with only Theobald's Farmhouse and, to a lesser extent, Inworth Hall separated from the group. The character of the setting when viewed from the group of listed buildings is peaceful with large mature trees, hedgerows and the ground slopes upwards to the west. As a result the buildings are best viewed, and in general only clearly visible, from the road. Glimpsed views of some buildings can be had from behind but generally there is separation of the buildings from the surrounding fields, mainly as a result of the belt of large trees around the church. It is considered that despite the very large area of the proposed solar park the group of listed buildings is unlikely to be experienced in the context of it, and because of the visual separation there would be little harm to the setting of the listed buildings. The original scheme would have had more impact on the setting of Marlborough Cottage because of the more open character of the landscape adjacent to the cottage. The area of the panels has been pulled back to exclude the field nearest to the cottage and it is now considered that the resulting separation, combined with the existing screening, which would be supplemented by additional planting means that the cottage would again not be experienced in the context of the panels and because of this the impact on the setting of the building is slight.
- 15.14 The church of All Saints is, as stated above, surrounded by large mature trees. It can be glimpsed in views from the road and these glimpsed views would be experienced in the context of the solar park until the screening has matured. The solar park would have a detrimental impact on the setting of the listed building during that time in views of the church across the fields. The planted screening itself would not harm the setting of the church because it is part of the character of the setting at present. The harm to the setting of the church of All Saints is less than substantial in that it does not go to the heart of the significance of the building. Therefore according to paragraph 134 (NPPF) the harm should be considered against the public benefits of the proposal. The Council's Conservation Officer considers that the harm to the setting of

the grade I listed church would be of a short-term nature and no objection is raised on the grounds of this so long as controls are imposed to ensure the planting is maintained and it is ensured it grows to maturity. As a result of the change to the boundaries of the development there would be no significant harm to the settings of the other listed buildings in the vicinity.

- 15.15 There is also some archeological interest at the application site; however, an archaeological evaluation of this tract of land revealed very little of interest with the exception of a cropmark of probable archaeological significance located in the south-eastern corner of the site adjacent to Windmill Hill. However, this is on one of the fields where the applicant has agreed not to erect any solar panels.

#### Residential Amenity

- 15.16 It is acknowledged that there a number of residential properties within the vicinity of the site, with the nearest ones being as detailed in paragraph 3.3 of this report. Apart from issues arising from the construction phase of the proposal, the primary impact of the proposal on nearby properties will be a visual one, as once it is operational there will be only occasional maintenance visits to the site. The closest property is The Old Rectory, the rear boundary of which is about 55m from the application site. The rear garden boundary has a hedge about 1.8m in height separating the garden from the neighbouring field and the course of public Footpath No. 17. There is no other existing hedgerow between this property and the application site. This means that there will be a change in the outlook for this property as it will face the arrays of solar panels, together with the security fence, the control room and an inverter. This change to the occupier's view is acknowledged; however, this has to be balanced by there being an intervening field and the general planning precept that there is no right to a view over neighbouring land. Accordingly, the visual impact on this the nearest property is not considered to be so significant as to warrant refusal of the application.

#### Ecological Impact

- 15.17 The applicant provided an ecological appraisal as part of the original application submission. Natural England noted the site was in close proximity to Tiptree Heath SSSI but considered there was not likely to be an adverse impact on this resulting from the proposal. They made no objection to the proposal although they commented the application lacked ambition for environmental enhancement particularly in terms of ecology. The applicant submitted an Ecological Management Plan at the beginning of July. Comments were also received in June from a neighbour that the parish Church of Inworth is home to serotine bats and another species. The government has provided standing advice on protected species for local authority consideration. This indicates that if a survey report does not highlight suitable features for roosting within the site that are impacted by the proposal, the LPA should accept the findings but promote biodiversity enhancement for bats, such as new roosting opportunities or creation of habitat linkages. The original report identified that the geographical location of the application site is likely to support a range of bat species, but that no tree or hedge removal will be required in order to facilitate the development. The proposal does not therefore result in the loss of roost sites or severance of commuting or foraging routes associated with these hedgerow features. The LPA has consulted Natural England on the Ecological Management Plan and its comments are awaited.

## Transport and Construction Impacts

- 15.18 Highway matters relating to the application proposal relate to the construction phase of the development and then long term maintenance. In regard to the latter, the applicant estimates that this will usually only involve a visit for maintenance purposes using a light van 2 or 3 times a month. The latter impact will not be significant, particularly as the fields could otherwise be accessed by agricultural-related vehicles.
- 15.19 The Transport Statement submitted with the application anticipates that the construction/ installation delivery period will take about 3 months. During this period there will be arrival and departure of about 25 construction staff mainly by cars or light vans, although some staff are likely to journey together. Deliveries of parts and construction materials will be mainly by rigid HGVs. It is expected that construction hours of operation will be between 07.00 and 18.30 Monday to Friday and 07.00 and 12.30 on Saturdays. It is anticipated the construction will result in 140 HGV deliveries to the site spread over the 3-month period, with the highest intensity coming between week 3 and 9 when the panels are being delivered, which could result in 5-6 deliveries per day (i.e. 10-12 movements). The preferred route for construction delivery vehicles is from the A12 at Kelvedon via the B1023 and Windmill Hill to a farm access track that is used by Inworth Hall, Ewall Hall and Highfields Farm. The farm access is about 230m from the junction of Windmill Hill with the B1023.
- 15.20 Concerns have been raised by the Parish Council and others with regard to the use of Windmill Hill for construction deliveries as it is a narrow country lane and a sign close to its junction with the B1023 indicates it is unsuitable for HGV's. Concerns have also been raised with regard to potential damage to Marlborough Cottage, a grade II listed house about 10 feet from the highway. The Highway Authority raised no objections to the proposal in highway safety terms. They were pressed to comment further on the suitability of Windmill Hill for HGV traffic, but noted that although they can signpost the lane as being unsuitable for larger vehicles, this does not preclude vehicles legitimately accessing property. If planning permission is granted for the development, the landowner would have a legitimate right of access and the Highway Authority would have no powers to stop the vehicles. The section of lane that will be used does not have any sharp right-angled bends, which are found further along Windmill Hill and the lane could also be accessed by large agricultural vehicles. The LPA has a duty to consider a wide range of matters and the planning system advocates the use of experts who are recognised experts in their field. It is anticipated that the construction period will result in nuisance to other vehicle users along this section of road. However, the Highway Authority has not objected to its use and they are the relevant experts on highway issues. The Highway Authority has suggested that an informative could be attached that requires a joint inspection of the route to be used by construction vehicles to be carried out by the Highway Authority and the applicant before and after construction to ensure any repairs are carried out to an acceptable standard at no cost to the Highway Authority. The concerns raised with impact of vehicles using this road on private dwellings (such as Marlborough Cottage) are also difficult for the LPA to handle. Timber-framed buildings are designed to move. The HGV movements associated with the construction period will only be over a relatively short period of time. There are many examples of listed buildings sited close to roads used by HGV's and there is a legitimate right for HGV's to use this section of road.

15.21 The amended plans that have been submitted removing two fields from the proposed construction area will result in the main entrance to the site being directly in the sight line of The Old Rectory. The occupier is concerned the revised proposal will have a significant impact upon their residential amenity. It is accepted that there will be an impact. Nonetheless, the construction period will be limited to an anticipated 3-month period, and in this regard it is recommended the working hours are between 8.00am and 18.00 Monday to Friday and 8.00am to 13.00 on Saturdays, which are not unsociable hours. Furthermore, the application site is separated from the Old Rectory by another field and is a distance of about 55m from the application site, with the main construction compound located 100m further away into the site. It is considered that the disturbance that will result from this is not so significant as to warrant refusal of the application.

### Other Matters

15.22 A gas pipeline crosses the application site. National Grid sent a holding response on 7.6.2013, asking the Council not to determine the application within 28 days. They have subsequently arranged for a field engineer to meet the applicant on site. Further comments are awaited at the time of drafting this report.

15.23 In response to the comments of the Council's Environmental Control Team (see paragraph 8.14 above), the applicant has stated the panels are non-reflective as they are designed to absorb light rather than reflect it. There will be no lighting on the site post construction and any temporary lighting used during construction will only be used within the hours specified and will conform with industry guidance.

15.24 In terms of the impact on agricultural land, this is of grade iii, so is not the most versatile. As the expected life of the development is 25 years, the proposal does not involve irreversible development of this land.

## **16.0 Conclusion**

16.1 There is no doubt that the proposed solar farm will be a significant development in terms of its site area. Landscape impact and the impact on nearby built heritage assets are considered to be the most critical issues. It is acknowledged that there will be a short to medium term landscape impact arising from this proposal. However, it is considered that this impact will diminish as the proposed landscaping matures. This impact has to be balanced against other factors such as the provision of renewable energy and enhancement in the long term to the landscape. Accordingly it is considered that the impacts of the proposal can be made acceptable and the recommendation is therefore for approval.

## **17.0 Recommendation**

17.1 That subject to no objection(s) being raised by English Nature or National Grid, the Head of Environmental and Protective Services be authorised under delegated powers to grant planning permission subject to the following conditions.



## 18.0 Recommended Reasons for the Decision

18.1 The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because although there will be a short to medium term landscape impact arising from this proposal. This impact will diminish as the proposed landscaping matures and has to be balanced against other factors such as the provision of renewable energy and enhancement in the long term to the landscape. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.

## 19.0 Conditions

### 1 - Time Limit for Full Permissions

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

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

### 2 - \*Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the site layout details shown on the submitted Drawing Number H.0333/08F unless otherwise subsequently agreed, in writing, by the Local Planning Authority. No solar panels or other associated works, including any security fencing shall be placed within the two southeastern fields within the red-lined application site, as shown on the approved layout drawing no.H.0333/08F.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning and in accordance with the amendments submitted by the applicant during the processing of this application.

### 3 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details submitted as part of the application, as amended, unless otherwise subsequently agreed, in writing, by the Local Planning Authority. This shall include:

- The maximum height of the solar panels not to exceed about 2.2 metres above ground level
- The security fencing not to exceed 2 metres above ground level
- The control room to accord with the details of Figure 1.6 A to E.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning and in accordance with the amendments submitted by the applicant during the processing of this application.

#### 4 - Non-Standard Condition/Reason

Notwithstanding the details shown on the Inverter Cabin drawing submitted on 17th July 2013, full details of the proposed inverter cabinets and control room, including their location, size, design and appearance shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development hereby permitted and the development shall be implemented strictly in accordance with the agreed details.

Reason: The proposed cabinets are significantly larger than the ones originally submitted with the application and the Local Planning Authority requires further information to be submitted by the applicant to ensure that these will not have a detrimental appearance on the landscape, particularly where they are in close vicinity to a road or public footpath.

#### 5 - Non-Standard Condition/Reason

Prior to the commencement of the development hereby permitted details of the proposed security cameras, including their position to be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: The application does not provide sufficient information to allow full consideration of this aspect of the proposal.

#### 6 - Non-Standard Condition/Reason

Prior to the commencement of the development hereby permitted details of the proposed security fencing, including its design and colour finish shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure this is appropriate for the countryside location.

#### 7 - Non-Standard Condition/Reason

In relation to the construction of the development hereby permitted; no machinery shall be operated, no process shall be carried out and no construction traffic shall enter or leave the site outside the hours of 08.00 – 18.00 Monday to Friday, nor outside the hours of 08.00 – 13.00 on Saturdays, nor at any time on Sundays or Bank Holidays unless approved in writing by the Local Planning Authority.

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

#### 8 - Non-Standard Condition/Reason

No development shall be permitted to commence on site until such time as the definitive right of way has been marked out in accordance with plan H.0333/08F, and the footpath shall a minimum width of 2 metres and the waymark posts shown provided. The public's right and ease of passage over public footpath 16 shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public over the definitive right of way.

#### 9 - Non-Standard Condition/Reason

The solar panels shall be designed and constructed so as to be non-reflective.

Reason: To minimize the impact from reflected light.

#### 10 - Non-Standard Condition/Reason

No external lighting fixtures shall be constructed, installed or illuminated at any time within the application site, other than during the initial construction phase, unless otherwise agreed, in writing, by the Local Planning Authority. During the construction phase of the proposed development, any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 rural, unless otherwise agreed in writing by the Local Planning Authority.

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

#### 11 - \*Full Landscape Proposals TBA

Prior to the commencement of development, full details of all landscape works shall have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

#### 12 - Non-Standard Condition/Reason

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

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

### 13 - Non-Standard Condition/Reason

The development hereby permitted shall be implemented in accordance with the programme of habitat enhancement and subsequent management proposed by the Ecological Management Plan submitted with the application.

Reason: In accordance with the details submitted and to enhance the ecological value of the site.

### 14 - Non-Standard Condition/Reason

The location of the compound area for the construction phase of the development shall be as shown on drawing number C.300 submitted on 17th July 2013.

Reason: For the avoidance of doubt.

### 15 - Non-Standard Condition/Reason

Prior to the commencement of the development hereby permitted details of the proposed route of HGV construction traffic to the site, and thence into the site compound, shall be submitted to and agreed in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the agreed details.

Reason: In the interest of highway safety and local amenity.

### 16 - Non-Standard Condition/Reason

Prior to the commencement of development, details of a wheel washing facility within the site and adjacent to the egress onto the highway shall be submitted to and approved, in writing, by the Local Planning Authority. The wheel washing facility shall be provided at the commencement of the development and maintained during the entire period of construction unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that loose materials and spoil are not brought out onto the highway, in the interests of highway safety.

### 17 - Non-Standard Condition/Reason

Prior to the commencement of the development hereby permitted, full details of the surfacing of the proposed plant access roads shown on drawing no. C.300 submitted on 17th July 2013 shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed tracks do not have a lasting detrimental impact on the nearby hedgerows.

### 18 - Non-Standard Condition/Reason

The planning permission is for a period from the date of this permission until the date occurring 25 years after the date of grid connection for the development. Written confirmation of the date of connection of the development shall be provided to the Local Planning Authority no later than 1 calendar month after that event.

Reason: To ensure that the landscape impact of the development exists only for the lifetime of the development.

#### 19 - Non-Standard Condition/Reason

When the land ceases to be used as a solar farm or at the end of the period of 25 years from the date of grid connection, whichever is the earlier, the use hereby permitted shall cease and all materials, equipment and buildings brought onto the land in connection with the use, shall be removed and the land restored in accordance with a Decommissioning Method Statement, which shall have been submitted to and approved in writing by the Local Planning Authority, prior to the permitted use ceasing. The site shall be decommissioned in accordance with the approved Statement.

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

#### 20 - Non-Standard Condition/Reason

If the solar farm hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise agreed in writing by the Local Planning Authority, a scheme for the decommissioning and removal of the panels and any other ancillary equipment, shall be submitted to and agreed in writing by the Local Planning Authority within 3 months of the end of the cessation period. The scheme shall include details for the restoration of the site. The scheme shall be implemented within 12 months of the date of its agreement by the Local Planning authority.

Reason: To ensure that the landscape impact of the development exists only for the lifetime of the development.

### 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 prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence. The route should then be inspected again, after completion of the development and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Area Highway Manager may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access for vehicles accessing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

Given the location of the site, a haul route for the delivery of large-scale plant and materials may also be required. Should this prove to be necessary, any route or routes should be agreed in advance with the LPA in consultation with the Highway Authority.

## **21.0 Positivity Statement**

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







**7.2 Case Officer: Simon Osborn**

**Due Date: 29/06/2012**

**Site: Formely Jewsons Ltd., Hawkins Road, Colchester, CO2 8LH**

**Application No: 120110, 120112, 120115, 120859 and 121700**

**Date Received: 4 May 2012**

**Applicant: Weston Homes**

**Development:** 120110 - Change of use of 2,000 square feet of commercial space to 3 residential units  
120112 - Change of use of 1,600 square feet of commercial space to 2 residential units  
120115 - Change of use of 3,600 square feet of commercial space to 4 residential units  
120859 - Change of use of 4,000 square feet of commercial space to 5 residential units  
121700 - Reinstate fifth floor to Block D and associated 2 residential units at this level

**Ward: St Andrews**

**Summary of Recommendation:** Conditional Approval subject to signing of Section 106 Agreement

## **1.0 Reason for Referral to the Planning Committee**

1.1 These applications are referred to the Planning Committee because a Planning Obligation is required via Section 106 (S106) of the Town and Country Planning Act 1990.

## **2.0 Synopsis**

2.1 This report relates to five applications for a total of 16 new residential units within a development site where 221 flats have previously been approved. These include four applications for the change of use of ground floor commercial floorspace and one application for 2 new flats on the 5<sup>th</sup> floor. At the time of drafting the report there is a holding objection from the Environment Agency in respect of the four change of use applications, but it is expected that this can be overcome. No other objections have been received to the proposal. A package of S106 planning gain for the provision of affordable housing has been offered. The report considers the application in the light of the earlier permission for this site, its adopted policies and the Planning Obligation that has been offered. The report recommends that planning permission is granted subject to the Environment Agency lifting their objection and to the completion of a S106 Agreement.

### **3.0 Site Description and Context**

3.1 The application site is situated between the new pedestrian walkway along the north bank of the Colne River and on the west side of Hawkins Road. It comprises four building blocks of between 5 and 7 storeys in height. The scheme as originally approved included basement level parking, a mix of parking, commercial floorspace and some residential units at ground level, with wholly residential above this. The site is under construction, with many of the units having been finished and some being occupied. The land between Hawkins Road and the river is slowly being redeveloped, primarily for residential flats with some alternative uses on the ground floor. The land on the other side of the Hawkins Road is primarily commercial in nature.

### **4.0 Description of the Proposal**

4.1 Four of the applications propose the change of use of about 10,600 square feet of ground floor commercial floorspace (which has planning permission for either B1 office use or A1 retail use or A3 café use) to 14 residential units, including 10 nos. 2-bedroom units and 4 nos. 1-bedroom units. These are located within Blocks A, B and D within the same site development; 2 of the proposed flats face onto Hawkins Road, 4 face the riverside, with the others facing internal access roads and landscaped areas. About 2,800 square feet of floorspace facing onto the riverside will be retained for the previously approved commercial use. The fifth application proposes 2 new fifth floor flats within Block D, which is situated away from the riverfront.

### **5.0 Land Use Allocation**

5.1 The site is part of the East Colchester Growth and Regeneration Area

### **6.0 Relevant Planning History**

- 6.1 O/COL/06/1153 granted outline planning permission for 221 residential units and mixed use of B1, A1 and A3, approved 2007.
- 6.2 072531 reserved matters for 221 dwellings and commercial uses with 237 parking spaces approved 2009.
- 6.3 090011 alternative reserved matters submission for 221 dwellings and commercial uses with 244 parking spaces, approved 2009. This achieved more parking spaces through a better layout organisation within the basement. Another difference was that the height of Block D was reduced by one floor with the two lost units being reconfigured within the 5<sup>th</sup> and 6<sup>th</sup> floors of Block B.
- 6.4 A package of S106 planning gain was provided as part of the approved outline and reserved matters applications. This was worth over £700,000 and included the provision of the new pedestrian footbridge over the river Colne, and contributions toward education, open space, affordable housing and transport improvements.

## 7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR1 - Regeneration Areas

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP12 Dwelling Standards

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

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

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

SA EC1 Residential development in East Colchester

SA EC2 Development in East Colchester

SA EC6 Area 4: Hawkins Road

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

Vehicle Parking Standards

The Essex Design Guide

Affordable Housing

Colne Harbour Design Framework and Hythe Masterplan

## 8.0 Consultations

8.1 Environment Agency (original comments on change of use applications): The development site lies, according to the Environment Agency Flood Map, in flood zone 3 which is the area at high risk of flooding. Flood zone 3 is defined in Table 1 in the Technical Guidance to the National Planning Policy Framework (NPPF). This zone comprises land assessed, in the case of tidal flooding, as having a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year. The change of use from a retail/trade store to residential dwellings means that there is a change in the flood risk vulnerability classification under Table 2 in the NPPF Technical Guidance from 'Less vulnerable' to 'More vulnerable'. Given this change to 'More vulnerable' there is an increase in flood risk for this development proposal.

Paragraph 9 in the NPPF Technical Guidance states local planning authorities should only consider development in flood risk areas appropriate where informed by a site specific flood risk assessment. The application is supported by a flood risk assessment (FRA) dated July 2006 prepared by Richard Jackson plc. This FRA was prepared under guidance on development and flood risk in Planning Policy Guidance No 25 which was superseded in December 2006 by Planning Policy Statement 25 (PPS25), the latter has in turn has been replaced by the NPPF and the supporting Technical Guidance. PPS25 required more detailed assessment in areas such as safety, access and egress, and climate change allowance. This detailed assessment has been carried over into the assessment requirements under the NPPF and the Technical Guidance.

Since the FRA does not comply with the latest guidance on the assessment of flood risk and does not reflect the latest flood level modelling in the Colne & Blackwater Estuary Study 2010, we object to the application on flood risk grounds. We consider that our objection is supported by the NPPF and Policy DP20 'Flood Risk and Management of Surface Water Drainage' in the Colchester Development Policies Development Plan Adopted October 2010.

8.2 Further comments (on change of use applications) in response to a revised FRA stated:

"The FRA submitted with this application does not comply with the requirements set out in paragraph 9 the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

1. *Take the impacts of climate change into account.*
2. *Consider fully the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.*

Overcoming our objection

You can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. We expand upon our position below.

## Flood Risk

As acknowledged in the application the change of use proposed will result in a change from a 'Less Vulnerable' development to 'More Vulnerable' development as set out in Table 2 of the Technical Guidance to the National Planning Policy Framework (NPPF); guidance states that a robust FRA is required.

Paragraph 102 of the NPPF there should be an aspiration to reduce flood risk overall:

*"a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall."*

We have a few points to make regarding the updated FRA and Flood Warning and Evacuation Plan (dated December 2009). We recommend that further clarity and information is provided in respect of the finished floor levels and the Flood Warning and Evacuation Plan.

The Mid-Essex Strategic Flood Risk Assessment (SFRA), Appendix C, states: *'The frequency and/or magnitude of fluvial flooding can be exacerbated under a range of scenarios, such as blocked culverts and bridges along the River Colne or any of the other smaller watercourses within the borough.'*

*7.5.7: Table 10 summaries the potential impacts to the site as a result of the modelled breach analysis of the Colne Barrier, assuming a failure of this defence.*

A Master Plan for this development area is included within the your Council's SFRA which confirms the following:

### *Floor Levels*

*7.6.6 Finished floor levels for the Masterplan area should be set at a minimum of the 1 in 200 plus climate change flood level with a 300mm freeboard. Levels, excluding the 300mm freeboard, are currently given from the breach modelling undertaken as part of this SFRA (see Table 10). In addition, it is required that it can be demonstrated that there is a place of refuge above the 1 in 1000 year level. The most up to date modelling study should be sought and used in order to determine finished floor levels within the Masterplan site. These requirements may well change in the future, thus individual site specific flood risk assessments should investigate and confirm these details with the Environment Agency prior to setting floor levels.*

### *Access*

*7.6.7 Figures Cvii and Cviii show the hazard in relation to the Masterplan Area during the 1 in 200 year and 1 in 1000 year events inclusive of climate change. Safe access/egress could be gained via St Andrews Avenue to the north of the River Colne, which is largely classified as no hazard with the exception of an area over Salary Brook. To the south of the River Colne, safe access/egress could be achieved via Hythe Hill and Whitehall Road, both leading to Old Heath Road, which is situated outside of the indicative flood zone for the River Colne. Safe access/egress routes should not involve crossing the River Colne.*

The following ground levels for the change of use proposal have been stated as per Table 6.1 in the FRA:

Application number 120115 - change of use from ground floor commercial to 4no residential units.

Block A: Finished Floor Levels = 5.2m AOD

Layout plan WH115/11/P/05.201

Application number 120859 - change of use from ground floor commercial to 5 no. residential units.

Block B: Finished Floor Levels = 5.2m AOD

Layout plan WH115/11/P/05.601

Application number 120110 - change of use from ground floor commercial to 3 no. residential units.

Block D: Finished Floor Levels = 4.7m AOD

Layout plan WH115/11/P/05.501

Application number 120112 - change of use from ground floor commercial to 2 no. residential units.

Block B: Finished Floor Levels = 4.2m AOD

Layout plan WH115/11/P/05.401

Currently the FRA has considered the 1 in 200 year and 1 in 1000 year levels without climate change allowance. It is necessary to consider the effects of flooding for the life time of the proposed development (which is considered to be a minimum of 100 years for residential development) and so we consider it necessary to consider the development in relation to the 1 in 200 year event inclusive of climate change allowance. This will ensure that the development is in line with the SFRA Master Plan for East Colchester (as referred to in section 7.6.6 of the SFRA).

The tidal levels for node 513 show that the 1 in 200 year event inclusive of climate change is 5.24m AOD and the 1 in 1000 year event inclusive of climate change is 5.61m AOD.

We support point 6.2 of the FRA which confirms the dwellings will be fitted out to incorporate flood resilient design.

Flood Warning & Evacuation Plan – Dated December 2009.

The flood warning and evacuation plan for the development does refer to those who occupy ground floor properties but it does not sufficiently explain how those occupying only ground floor properties should react based on a flood scenario. It is necessary to highlight where areas of safe refuge would be for each block of proposed residential dwellings and also a plan showing how to get there/safest route. Paragraph 103 of the NPPF and paragraphs 7.23 to 7.31 of PPS 25 – Practice Guide, places responsibilities on LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development. In all circumstances where warning and evacuation are significant measures in contributing to managing flood risk, we will expect LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions.”

8.3 Environment Agency: No objection to application 121700.

8.4 ECC Highways: The Highway Authority would not wish to raise an objection to the above application.

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

8.5 Environmental Control: The contamination report submitted in respect of the four applications for change of use is acceptable. Recommend condition imposed relating to any unexpected contamination is imposed for these applications. Also recommends a Construction Method Statement is provided in respect of the proposed additional 5<sup>th</sup> floor flats.

8.6 Planning Policy: Policy SA EC 4 in the Site Allocations DPD seeks to regenerate Hawkins Road through the delivery of mixed use development comprising predominantly residential use and other small scale uses to the west of the Hawkins Road and the provision of new office based employment, incubation spaces alongside existing commercial and industrial uses to the east. A significant amount of new residential development has already been delivered towards the south east end of Hawkins Road. The residential elements are confined to the upper storeys with commercial space restricted to ground floor. This accords with paragraph 5.71 of the supporting text to policy SA EC 6 and Environment Agency advice.

The proposal to change the approved commercial units to residential use along Hawkins Road raises a number of conflicts with current national and local planning policy with regard to flood risk vulnerability. An updated FRA is required as Climate Change predictions have changed since 2006 and new net sea level rise predictions are set out in the NPPF. National policy regarding flood risk management has also changed since 2006. In addition new legislation, the recently introduced Flood and Water Management Act 2010 places greater emphasis on the need to assess risk from surface water run off.

An up to date site specific Flood Risk Assessment should therefore be submitted to assess risk from all forms of flooding, demonstrate how risks will be managed and show that the development remains safe throughout its lifetime, taking climate change into account. This should be completed before the application is assessed to reflect and comply with more recent policy/legislative requirements and revised climate change predictions. Without this it is difficult to make an accurate assessment about the flood risk to people and property from these proposals.

Given the location of the units in flood zone 3 the Flood Risk Assessment should also include information about flood resilience measures that are to be designed into the residential units to make them safe from a flood risk perspective. This is required to ensure compliance with policy DP20 and the NPPF (paragraph 17)

Without an up to date Flood Risk Assessment, the current proposal is not considered to comply with national or local planning policy in terms of flood risk management or policies for the regeneration of Hawkins Road.

8.7 Urban Design: The amended drawings are acceptable.

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

## **9.0 Parish Council Response**

9.1 Not applicable

## **10.0 Representations**

10.1 None

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 original planning permission was approved on the basis of 244 parking spaces being provided for total of 221 apartments (58 x 1-beds, 156 x 2-beds, 12 x 3-beds). This equates to 1 space per residential unit, with 23 additional spaces for the commercial units. Since these applications were approved, the Council has adopted new parking Standards for residential development in accordance with DP19: i.e. 1 space for 1-bed flats and 2 spaces for dwellings of 2 or more bedrooms, with an additional 0.25 spaces for visitor parking. The policy states that a lower standard may be acceptable where it can be clearly demonstrated there is a high level of access to services, such as a town centre location. The parking standards for commercial uses are expressed as a maximum rather than a minimum.
- 11.2 The development that was originally approved would not satisfy the current adopted minimum standards unless it demonstrated high level access to services. In this respect it is to be noted that the development is about 500m from The Hythe railway station and in walking distance to a large Tesco store and to employment facilities. Thus it is within a location with good access to services.
- 11.3 The 5 applications subject of this report will create an additional 16 flats (11 nos. 2-beds and 5 nos. 1-beds). The applications are proposing 1 parking space is provided for each of the units within the car park areas already provided for the previously approved development. This would be a similar ratio of provision as all the other flats within this development and, it is argued, it would be unreasonable to expect the 2-bed units to be allocated 2 spaces, when none of the other 156 nos. 2-bed units and the 12 nos. 3-bed units would not have a similar ratio of parking provision. This will leave 7 spaces for the remaining 250 square metres of commercial floorspace.

## **12.0 Open Space Provisions**

- 12.1 Internal landscaped areas were provided as part of the approved landscaping scheme and there is no possibility of providing any additional public open space within the development site. Contributions towards public open space would normally be sought as part of the overall package of a S106 planning obligation: this is discussed further within Section 15 of the report

## **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 These applications that are part of this report and the following one will create additional units within a scheme for which there was previously a requirement for a Planning Obligation. The creation of additional residential units therefore creates a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:

- The provision of 5 affordable housing units
- Nomination rights to the other housing units in Block D to be sold privately to a Registered Provider

## 15.0 Report

### Policy Principles

15.1 Policy SA EC6 (Area 4: Hawkins Road) states that to the west of Hawkins Road housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals. The whole area is within flood zone 3, which requires less vulnerable uses on the ground floor and/or flood resistant buildings. Riverside sites on the western side are likely to be developed with mixed-use but predominantly residential accommodation.

### Change of Use Applications

15.2 This development site as originally approved included a mix of surface and covered parking, around 13,000 square feet of commercial floorspace and a small number (5) of residential units, all at ground floor level (with the bulk of the residential units above this). The 4 change of use applications (to 14 residential units) relate to the majority of the ground floor commercial space. The DAS sought to make the case that there was limited commercial interest in the space previously approved: Weston Homes has previously developed the adjacent (former Ballantyne site known as the QV site), but the commercial floorspace there remained largely empty after 5 years. The company has developed The Weston Business Centre on the other side of Hawkins Road and this also struggles with occupancy rates. The applicant considered that further commercial floorspace within this development would result in further unoccupied units, which would not assist the long-term regeneration of the area. The general principle of the proposal was considered acceptable, subject to appropriate details, flood risk assessment and appropriate planning gain: this is discussed in the following paragraphs.

- 15.3 Following discussions with the planning officer and the Urban Designer, changes have been made to the design and external appearance of the new flats, and this aspect of the scheme is now considered acceptable. Each of the new flats will be provided with 1 parking space, which as discussed in Section 11 of this report is commensurate with the level of parking for the other 221 flats previously approved and appropriate for the accessibility of the location. Each flat will also get a defensible outside amenity area, which is also commensurate with the size and quality of amenity space provided for the flats previously approved.
- 15.4 At the time of drafting this report, there is still a holding objection from the Environment Agency with regard to the proposed conversion to flats on the ground floor; however discussions between the developer and the Agency are ongoing and it is anticipated that a solution can be found that will enable the flats to comply with the regulations without having a significant impact on the external design appearance.

#### Proposed Two Fifth Floor Flats

- 15.5 The 5<sup>th</sup> application subject of this report is for two additional flats within Block D, which is adjacent to Hawkins Road. This Block as approved under the second reserved matters application was only 4-storeys high, although the principle for a fifth floor of accommodation to this block was agreed by an earlier reserved matters application (which is not being implemented). Block A, which is closer to the riverfront is 7-storeys high and Block B opposite rises to similar height as that now proposed. Therefore the principle of a taller structure within the footprint of this building has previously been established.
- 15.6 There are also existing flats outside the applicant's site in Caelum Drive and in Spiritus House fronting Hawkins Road. These flats are in blocks that are between 3 and 5-storeys in height. Those units facing the proposed development have external balconies or sitting out areas positioned generally to the NE of the proposed new fifth floor. The closest of these is just over 25m from the part of Block D to be increased in height and the proposed new height of Block D is 18m. This means the proposal will not infringe upon a 45 degree sectional angle measured from these existing amenity areas. These external spaces are already overlooked by other flats within the regeneration area and it is considered the proposal does not unreasonably increase the amount of overlooking to these existing properties. No objections to the proposal were received from any of these properties. There are also finished flats within Block B, which are within the blue-lined area of the application documents. The flats in Block B directly opposite the increased floor are about 19m horizontal distance away; other flats that do not directly face the increased floor are a little closer at about 14m. It is likely that there will be some additional overshadowing impact on the nearest of these; however, this will be limited to a small part of the day and is not considered significant in planning terms in an area that is characterised by tall buildings.

## Planning Obligation

- 15.7 The Development Team originally considered that the proposed change of use from commercial floorspace to residential was acceptable in principle, subject to the provision of a Planning Obligation to include contributions towards loss of employment space, education, public open space, community facilities, affordable housing and Travel Information Packs. The level of contributions sought as part of the S106 Planning obligation was challenged by the developer on the grounds of viability, with profit margins being considerably lower than had been anticipated when the land was purchased. The developer was invited to agree funding of a viability appraisal by an independent surveyor appointed by the Council, in accordance with standard procedures. The developer agreed to this. In parallel with this, the developer was also having private discussions with a Registered Housing Provider for the sale of one of the building blocks (Block D) for affordable housing. Although this will reduce the overall profit margins of the scheme still further, it would release a significant sum of cash soon, which the company needed owing to the very slow take-up of other units for sale. There are 44 flats within Block D as originally approved. This will increase to 49 units, should the Council approve this package of applications. The additional 5 units are made up of the 3 converted units subject of application 120110 and the 2 additional units subject of application 121700. These 5 additional units will be “affordable” units. The remaining 11 proposed units away from Block D (subject of applications 120112, 120115 and 120859) will be for open market sale.
- 15.8 In addition to the 5 affordable units in Block D proposed by the current applications, the Council will be given nomination rights for the other 44 units within Block D (which were previously approved by the reserved matters application 090011). Because of the overall viability of the scheme, no other planning contributions can be made. This revised proposal has been accepted by the Council’s Development Team.

## Summary

- 15.9 The proposal is not ideal for either the developer or the Council. Nonetheless, the form of the planning gain now being offered is significant, particularly in the current economic climate and, at a time when the Government has passed legislation that allows B1 offices to be converted to residential units for a 3-year period, with Local Planning Authorities being given limited opportunities to object. The design and external appearance of the scheme is considered acceptable. About 250 square metres of commercial floorspace, as previously approved, will be retained on the river frontage. Discussions between the Environment Agency and the developer are ongoing to resolve the concerns of the former. Subject to this matter being resolved and the S106 for the affordable housing being agreed, the officer recommendation is that the applications subject of this report be approved.

## **16.0 Conclusion**

- 16.1 The principle of the additional residential units at this site is considered acceptable in principle, subject to the Environment Agency removing their objection on flood risk grounds. The planning obligation that has been put forward relating to the provision of affordable housing is further considered to be acceptable in the circumstances of this case.

## **17.0 Recommendation**

7.1. APPROVE subject to the Environment Agency lifting their objection and the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- *5 Affordable Housing Units*
- *Nomination rights to the other housing units in Block D to be sold privately to a Registered Provider*

7.2 On completion of the legal agreement, the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions (and any additional conditions recommended by the Environment Agency):

## **18.0 Recommended Reasons for the Decision**

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

## **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 Drawings unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

### **3 - Non-Standard Condition/Reason**

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

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

#### 4 - Non-Standard Condition/Reason

Prior to the commencement of development, full details of all external landscape works, including the provision of proposed external amenity spaces for the proposed flats shall have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

#### 5 - Non-Standard Condition/Reason

No works shall commence on site until details of all new external window and door joinery and/or metal framed windows and their reveals have been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall thereafter be carried out in accordance with the approved details.

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

#### 6 - Non-Standard Condition/Reason

Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

## 7 -Non-Standard Condition/Reason

In the event that contamination that was not previously identified 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, NPR 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. Unexpected contamination standard condition in respect of the change of use applications

## 8 - Non-Standard Condition/Reason

Each of the flats hereby permitted shall be allocated 1 car parking space in accordance with the details shown on the approved plans and this space shall thereafter be retained and used only in relation to the permitted residential use.

Reason: To ensure an appropriate level of parking provision for the site.

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

## **21.0 Positivity Statement**

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



**Application No:** 130956

**Location:** Co-Op Fiveways & Homemaker Site, Peartree Road, Stanway, CO3 5JX

**Scale (approx):** 1:2500

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**7.3 Case Officer: Lucy Mondon Due Date: 13/08/2013**

**MAJOR**

**Site:** Co-Op Fiveways & Homemaker Site, Peartree Road, Stanway, CO3 5JX

**Application No:** 130956

**Date Received:** 14 May 2013

**Agent:** Boyer Planning Ltd

**Applicant:** East of England Co-operative Society Ltd

**Development:** Application for variation of condition 25 of planning permission 111923 - in order to vary opening hours for Unit 4.

**Ward:** Stanway

**Summary of Recommendation:** Conditional Approval

## **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee as it is a major application where objections have been received and the officer recommendation is to approve.

## **2.0 Synopsis**

2.1 The proposal seeks a variation to condition 25 (opening hours) of planning permission 111923, which is itself a variation of the original planning permission for the development (ref: F/COL/05/0688). The development consists of food retail (Co-Op) and non-food retail (units 1-4), as well as an office and filling station. The variation would only apply to unit 4.

2.2 The application initially proposed to extend the opening hours for unit 4 on Bank Holidays as well as Monday to Saturday. However, following negotiations with the agent, the proposal has been revised so that the proposed extended opening hours only apply to Monday to Saturday. The proposed opening hours for unit 4 are:

0700hrs – 2000hrs Monday to Saturday (opening two hours earlier than currently approved)

1000hrs – 1600hrs Sundays (as existing)

1000hrs – 1600hrs Bank Holidays (as existing)

2.3 The key issues explored below are the impact of the varied opening hours for unit 4 upon residential amenity and highway safety in the context of existing development.

- 2.4 As the revised opening hours do not extend beyond the delivery hours already conditioned for the site, the proposal is not considered to have a detrimental impact upon residential amenity. The earlier opening times for Monday to Saturday are before peak traffic times and, therefore, there is not considered to be an issue with regard to traffic generation or road capacity.

### **3.0 Site Description and Context**

- 3.1 Unit 4 is a newly built retail unit that is part of a larger development consisting of four retail units and one Co-Op food store. There is a car park associated with the site that provides 155 car parking spaces, motorcycle parking, and cycle parking. To the western boundary of the site is a service and delivery yard that includes space for staff car parking and cycle parking. The service and delivery yard is adjacent to residential properties on Peartree Road and Weyland Drive (to the north of the site). The site is accessed from Peartree Road, Stanway.

The permitted opening hours for the retail units on the site are:  
0900hrs – 2000hrs Monday to Saturday  
1000hrs – 1600hrs Sundays and Bank Holidays

The permitted opening hours for the Co-Op are:  
0700hrs – 2200hrs Monday to Saturday  
1000hrs – 1600hrs Sundays and Bank Holidays

The permitted delivery and despatch hours are:  
0700hrs – 2200hrs Monday to Saturday  
1000hrs – 1600hrs Sundays and Bank/Public Holidays

- 3.2 To the south of the site is Angora Business Park: a development of A1, B1, B2, and B8 units. This development was approved under planning permission 102423. The approved opening hours vary depending upon the unit and its location within the site. The earliest approved opening time is 0600 hours Monday to Saturday and the latest closing time is 1900 hours Monday to Saturday. The opening hours for Sundays and Bank Holidays is limited to 0800 – 1300 hours or 0800 – 1600 hours depending upon the unit.

### **4.0 Description of the Proposal**

- 4.1 The proposal seeks a variation to condition 25 of planning permission 111923, which is itself a variation of the original planning permission for the development (ref: F/COL/05/0688). The variation would only apply to unit 4.

The permitted opening hours for the retail units on the site are:  
0900hrs – 2000hrs Monday to Saturday  
1000hrs – 1600hrs Sundays and Bank Holidays

The co-op store on site has longer opening hours Monday to Saturday (0700 to 2200 hours).

- 4.2 The application initially proposed to extend the opening hours for unit 4 on Bank Holidays as well as Monday to Saturday. However, following negotiations with the agent, the proposal has been revised so that the proposed extended opening hours only apply to Monday to Saturday.

The proposed opening hours for unit 4 are:  
0700hrs – 2000hrs Monday to Saturday (opening two hours earlier than currently approved)  
1000hrs – 1600hrs Sundays (as existing)  
1000hrs – 1600hrs Bank Holidays (as existing)

## **5.0 Land Use Allocation**

- 5.1 The site is within an Urban District Centre, adjacent to a predominantly residential area.

## **6.0 Relevant Planning History**

- 6.1 Outline planning permission was granted in 2002 for a mixed use local centre (ref: O/COL/02/1776). This was followed by planning permission for a mixed use local centre (ref: F/COL/05/0688) in 2005.

- 6.2 The 2005 planning permission has been amended on several occasions as follows:

- 2005 – Amendment to pp F/COL/05/0688 approved relating to office floorspace (ref: F/COL/05/1884)
- 2006 – Amendment to pp F/COL/05/0688 approved for the erection of mezzanine floors within units 1-4 (ref: F/COL/06/0337)
- 2011 – Variation of condition 2 of pp F/COL/05/0688 to amend the approved plans (to reduce the footprints of units 1-4 and increase the size of the mezzanines).

## **7.0 Principal Policies**

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

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
  - CE1 - Centres and Employment Classification and Hierarchy
  - CE2b - District Centres
  - CE3 - Employment Zones
  - UR2 - Built Design and Character
- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
  - DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
  - DP7 Local Centres and Individual Shops
  - DP17 Accessibility and Access
  - DP18 Transport Infrastructure Proposals
  - DP19 Parking Standards
  - DP20 Flood Risk and Management of Surface Water Drainage
- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:
- Vehicle Parking Standards
  - Sustainable Construction
  - The Essex Design Guide
  - External Materials in New Developments

## **8.0 Consultations**

- 8.1 Highway Authority:  
“The Peartree Road area contains many commercial units of varying sizes. If this unit opens a couple of hours earlier on weekdays this will be before the peak flow times when ambient traffic levels are lower. I cannot imagine that there would be a huge influx of traffic at that time in the morning, and therefore it would not create an additional burden on the highway network.

For weekends/bank hols, the ambient traffic levels would be lower as well and therefore the situation is similar.

If other units come forward in the future with similar applications then we would have to look at the capacity of the road at that time, and the use of the units; it is very difficult to state one way or the other without knowing the commercial activity involved.”

## 8.2 Environmental Protection:

“Having looked at the above application, I can confirm Environmental Protection has concerns regarding the opening hours for Bank Holidays. We believe this would have a negative impact on neighbouring amenity, so therefore opening hours should be limited to 10.00 - 16.00 on Bank Holidays.

As delivery times are to be kept the same and the Co-Op opens at 07.00 Monday to Saturday, we do not believe the proposed opening times for Unit 4 (Monday – Saturday) will be a concern.”

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 objected to the proposal as originally submitted on the following grounds:

- No details of the trader
- No idea whether the type of business will be in keeping with the area
- No traffic information provided

## 10.0 Representations

10.1 Three letters of objection have been received, the contents of which are summarised as follows:

- Object to the Bank Holiday opening hours as there will be an increase in the noise levels already experienced from the co-op;
- Noise disturbance;
- There would be increased traffic at peak times; and
- Will set a precedent for the other units.

*Officer Response: the letters of objection were received in response to the original submission for longer opening hours on Bank Holidays as well as Monday to Saturday. The proposal has now been amended so that the longer opening hours only apply to Monday to Saturday.*

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 provided as per the original planning permission F/COL/05/0688. The current proposal does not seek to amend the car parking layout.

## 12.0 Open Space Provisions

12.1 N/A

### **13.0 Air Quality**

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

### **14.0 Development Team and Planning Obligations**

- 14.1 This application is classed as a “Major” application. However, there is no requirement for the application to be considered by the Development Team as the proposal is to vary one of the conditions of an existing planning permission that has been constructed.

### **15.0 Report**

- 15.1 The proposal is to vary the existing opening times in order to have an earlier opening time of 0700hrs Monday to Saturday for unit 4. All other opening hours would remain unaltered. The main planning considerations are: impact on residential amenity; and highway safety.

- 15.2 The proposed earlier opening times for Monday to Saturday are not considered to have a significant impact on residential amenity. This is for two reasons:

1. The opening hours would be no earlier than the approved delivery times (0700), which would be closer to residential properties; and
2. The activity associated with the earlier opening time, from customers entering and leaving the site, would be to the eastern side of the site within the existing car park and away from residential properties.

- 15.3 The proposed earlier opening times are also not considered to have a significant impact upon traffic generation or road capacity. The Highway Authority does not object to the proposals and comment that the earlier opening time of 0700hrs will be before peak flow times when ambient traffic levels are lower.

- 15.4 In terms of local residents’ concerns that the earlier opening times would ‘set a precedent’, any further proposals to alter the opening times for the units on site would require planning permission and each application must be considered on its own merits. The units on the nearby Angora Business Park site already have earlier opening times, so it is now felt the proposal would lead to earlier opening times at this location. Should further proposals come forward for earlier opening times at other units, these will need to be assessed in terms of the road capacity at the time. It is not considered, therefore, that the proposal would generate a precedent for earlier opening times elsewhere.

- 15.5 The Parish Council has expressed concern that it does not know the business that would be utilising unit 4 and cannot therefore assess whether it would be appropriate for the character of the area. Units 1-4 already have planning permission as A1 retail units and there are a number of retail businesses that can use these units without any further planning permission. Therefore, the type of business should not be a consideration in the determination of this application. Any future user of the units will need to comply with the planning permission granted.

## **16.0 Conclusion**

16.1 As the revised opening hours do not extend beyond the delivery hours already conditioned for the site, the proposal is not considered to have a detrimental impact upon residential amenity. The earlier opening times Monday to Saturday are before peak traffic times and, therefore, there is not considered to be an issue with regard to traffic generation or road capacity.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions. The application is a Variation of an existing planning permission and should be considered as a new planning permission. Therefore, a full planning permission is recommended, with the amended condition included, as below.

## **18.0 Recommended Reasons for the Decision**

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

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because the revised opening hours do not extend beyond the delivery hours already conditioned for the site and the earlier opening times Monday to Saturday are before peak traffic times. The proposal is not, therefore, considered to have a detrimental impact upon residential amenity or highway safety, including traffic generation and road capacity.

Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely local residents' concerns that the proposal would generate noise and disturbance and increase traffic.

## **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 implemented in all respects strictly in accordance with the approved plans 5983/1102A, 1201A, 1301A, 1302A and 1110.

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

### 3 - Non-Standard Condition/Reason

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

Reason: To protect the amenities of adjoining residents.

### 4 - Non-Standard Condition/Reason

No demolition or construction shall take place until such time as a method statement dealing with demolition or construction has been submitted to and agreed in writing with the Local Planning Authority. All works shall be carried out in accordance with the terms of the approved method statement.

Reason: In order to ensure that the works cause a minimum of disturbance to nearby residential properties.

### 5 - Non-Standard Condition/Reason

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.

### 6 - Non-Standard Condition/Reason

Samples of the materials to be used on the external finishes, which shall be substantially as indicated on the submitted drawings, 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: The application has insufficient detail for approval to be given to the external materials; and to ensure that the development does not prejudice the appearance of the locality/to ensure that the development has a satisfactory appearance in order to protect and enhance the visual amenity of the area.

### 7 -Non-Standard Condition/Reason

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable access ways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

### 8 - Non-Standard Condition/Reason

The boundary/screen walls/fences/railings, etc, as indicated on the approved plans returned herewith shall be erected before the occupation of any building hereby approved and shall be retained thereafter.

Reason: In order to ensure a satisfactory form of development in the interests of visual amenity.



#### 9 - Non-Standard Condition/Reason

Faced common bricks shall not be used for 103mm thick boundary walls. The bricks to be used for such walls shall be of a type to be agreed in writing with this Council prior to the commencement of the development.

Reason: These bricks have an unfinished return face that produces a very poor appearance and if used for this purpose would be detrimental to the visual amenity of the area.

#### 10 - Non-Standard Condition/Reason

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 landscaping 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
  - Implementation timetables

Reason: To ensure that the development has a satisfactory appearance in order to protect and enhance the visual amenity of the area.

#### 11 - Non-Standard Condition/Reason

All approved hard and soft landscape works shall be carried out in accordance with the 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.

#### 12 - Non-Standard Condition/Reason

Prior to any occupation of the development, a schedule of landscape maintenance for a minimum period of five years shall be submitted to and approved by the Local Planning Authority and shall include details of the arrangements for its implementation.

Reason: To ensure the safeguarding of amenity by the proper maintenance of existing and/or new landscape features.

#### 13 - Non-Standard Condition/Reason

No occupation of the development hereby permitted shall take place until such time as an up-graded bus stop with shelter has been provided on the opposite side of Peartree Road outside Angora Business Park, as shown on dwg no 5983/1102A, to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of encouraging the use of sustainable modes of transport.

#### 14 - Non-Standard Condition/Reason

Space shall be provided within the application site to accommodate the parking, loading, unloading and turning of all vehicles visiting the site, clear of the highway and properly laid out and such space shall be maintained thereafter free of any impediment to its designated use and, further, in order to allow all vehicles to enter and leave the highway in forward gear.

Reason: In the interests of highway safety.

#### 15 - Non-Standard Condition/Reason

The width of the access ways between the isles of parked cars shall be a minimum of 6 metres.

Reason: In order to ensure satisfactory manoeuvring space.

#### 16 - Non-Standard Condition/Reason

All surface water shall not be permitted to drain into any existing highway drainage system in the vicinity of the proposal site unless otherwise agreed in writing by the local planning authority.

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

#### 17 - Non-Standard Condition/Reason

The building/s subject to this permission shall not be brought into use for the purposes hereby approved until satisfactory arrangements for the provision of bicycle parking have been agreed in writing and implemented to the satisfaction of the Local Planning Authority.

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

#### 18 - Non-Standard Condition/Reason

No vehicle connected with the demolition or construction works necessary to implement the permission hereby approved shall arrive on site before 07:30hrs or leave after 19:00hrs (except in case of emergency). Working hours shall be restricted to between 08:00hrs and 18:00hrs Monday to Saturday (finishing at 13:00 hrs on Saturday). No noisy machinery shall be operated or noisy process carried out outside the hours of 09:00hrs to 17:00hrs Monday to Friday, with no working of any kind permitted on Sundays, Saturdays after 13:00hrs or any Public/Bank Holidays.

Reason: In order to protect the amenity of neighbouring residential property.

#### 19 - Non-Standard Condition/Reason

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.

Reason: In order to adequately control noise nuisance.

#### 20 - Non-Standard Condition/Reason

The use of barriers to mitigate the impact of noisy operations will be used where possible, as previously agreed in writing with the Local Planning Authority. This may include the retention of parts of the original buildings during the demolition process, to act in this capacity.

Reason: In order to control noise nuisance.

#### 21 - Non-Standard Condition/Reason

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

Reason: In order to control noise nuisance.

#### 22 - Non-Standard Condition/Reason

Prior to the commencement of any piling works which may be necessary, an agreed method of installation which minimises noise and vibration to nearby residents shall be submitted to and agreed in writing by the Local Planning Authority, in consultation with Environmental Control.

Reason: In order to protect the amenity of neighbouring residential property.

#### 23 - Non-Standard Condition/Reason

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

Reason: In order to protect local amenity.

#### 24 - Non-Standard Condition/Reason

No fires shall be lit on site at any time during the construction period.

Reason: In order to protect local amenity.

#### 25 - Non-Standard Condition/Reason

The uses hereby permitted shall not be open to customers outside the following times:

##### A1 food premises

07:00hrs – 22:00hrs Monday to Saturday

10:00hrs – 16:00hrs Sundays and Bank Holidays;

##### A1 Retail units 1-3

09:00hrs – 20:00hrs Monday to Saturday

10:00hrs – 16:00hrs Sundays and Bank Holidays; and

##### A1 Retail unit 4

07:00hrs – 20:00hrs Monday to Saturday

10:00hrs – 16:00hrs Sundays and Bank Holidays.

Reason: In order to protect the amenity of nearby residents.

26 - Non-Standard Condition/Reason

No deliveries shall be made to (and no goods despatched from) any of the approved retail premises outside the hours of 07:00hrs - 22:00hrs Monday to Saturday and 10:00hrs - 16:00hrs Sundays and Bank/Public Holidays.

Reason: In order to protect the amenity of nearby residents.

27 - Non-Standard Condition/Reason

The noise control measures applicable to the service yard, as identified in the Noise Consultant's report accompanying application F/COL/05/0688 as amended shall be carried out to the satisfaction of the Local Planning Authority and written confirmation shall be obtained from the Local Planning Authority upon completion of the required works.

Reason: In order to protect the amenity of nearby residents.

28 - Non-Standard Condition/Reason

Details of all plant and machinery (including ventilation systems), including manufacturers acoustic specifications, proposed to be used pursuant to the uses hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to installation on site and shall be maintained as such thereafter.

Reason: In order to ensure a satisfactory form of development.

29 - Non-Standard Condition/Reason

All doors allowing access and egress to all buildings hereby approved shall be self-closing and retained as such thereafter.

Reason: To safeguard the amenities of local residents.

30 - Non-Standard Condition/Reason

Operations, (except for deliveries) involving vehicular movements (including forklift trucks etc.)/ use of plant or machinery etc for which noise is audible at the site boundary shall only be carried out between 09:00hrs - 17:00hrs Monday to Saturday and at no time on Sundays and Bank/Public Holidays (without the prior written consent of the Local Planning Authority).

Reason: In order to protect local amenity.

31 - Non-Standard Condition/Reason

Any lighting of the development hereby permitted shall be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ cause unnecessary light pollution outside the site boundary. ('Avoidable Intrusion' means contrary to the Code of Practice for the reduction of Light Pollution issued by the Institute of Lighting Engineers).

Reason: In order to avoid unacceptable levels of light pollution for local residents and in the interests of visual amenity.

32 - Non-Standard Condition/Reason

Any illuminated signs that may be required as part of the development hereby approved shall only be illuminated when the premises are open for business.

Reason: In order to protect visual amenity.

### 33 - Non-Standard Condition/Reason

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

### 34 - Non-Standard Condition/Reason

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

### 35 - Non-Standard Condition/Reason

Prior to the development hereby approved being brought into use, refuse storage facilities shall be provided in a visually satisfactory manner and in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. Such facilities shall thereafter be retained to serve the development.

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

### 36 - Non-Standard Condition/Reason

Prior to the development hereby approved being brought into use, facilities for the collection of recyclable materials shall be provided on the site and thereafter retained in accordance with a scheme submitted to and agreed by the Local Planning Authority.

Reason: To ensure that adequate facilities are provided for the collection of recyclable materials.

### 37 - Non-Standard Condition/Reason

The use hereby permitted shall not commence until provision has been made within and in the vicinity of the site for the disposal of litter resulting from its use. Such provision shall be in accordance with details previously agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenity of the area from litter disposal problems.

## 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.

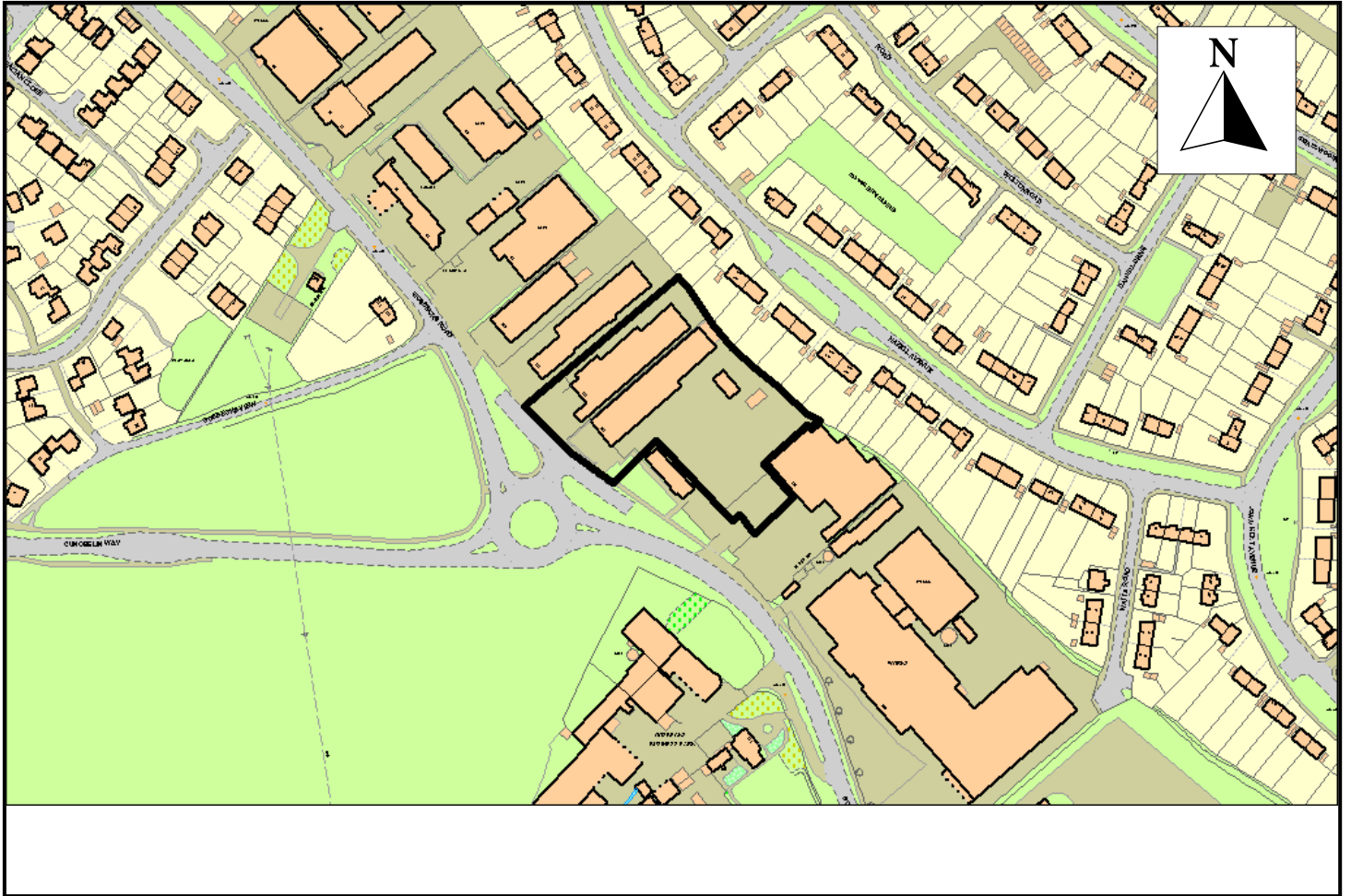
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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) This permission varies a previous planning permission. The applicant is advised that many of the conditions listed above have been agreed under a previous permission and further details will not be required. The conditions have been included for clarity as to the previous planning permission.

## **21.0 Positivity Statement**

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



**Application No:** 130858

**Location:** Colchester Wine Company (Mixing Bowl), 117 Gosbecks Road, Colchester, CO2 9JT

**Scale (approx):** 1:1250

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**7.4 Case Officer:Bradly Heffer Due Date: 01/08/2013**

**MAJOR**

**Site:** Colchester Wine Company (Mixing Bowl), 117 Gosbecks Road, Colchester, CO2 9JT

**Application No:** 130858

**Date Received:** 2 May 2013

**Agent:** Mr Robert Pomery

**Applicant:** Scott Properties Ltd

**Development:** Demolition of existing retail building (1,470m<sup>2</sup>) and industrial building (1,000m<sup>2</sup>) and erection of supermarket (1915m<sup>2</sup>) with associated car parking and re-aligned access.

**Ward:** Shrub End

**Summary of Recommendation:** Conditional Approval subject to signing of Unilateral Undertaking

### **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because it is a major application and a recommendation of approval is made to Members, notwithstanding objections that have been received following neighbour notification.

### **2.0 Synopsis**

2.1 The key issues explored in the report below are the elements of the proposed development and its acceptability in the context of the site surroundings, having regard to material considerations. The recommendation to Members is one of permission being granted, subject to the imposition of conditions as listed at the end of the report.

### **3.0 Site Description and Context**

3.1 The site for this proposal comprises two currently separate sites on Gosbecks Road. One is occupied by the Colchester Wine Company, and the other by Colchester Borough Council, being depot premises, to the rear of a two storey office building that is occupied by Colchester Borough Homes.

3.2 At the present time the majority of Colchester Wine Company site is occupied by a building utilised for retail and associated warehouse purposes, with ancillary office areas. The remaining site area is utilised for parking and servicing/manoeuvring space – with a defined customer car parking area located on the site frontage.



- 3.3 The Colchester Borough Council site contains established store buildings, located towards the north-western and north-eastern boundaries, but the majority of the site is given over to hardstanding. Both sites are at present accessed off a small service road that leads from a nearby roundabout junction. Boundaries of the sites are defined mainly by palisade and close-boarded fencing. There is a large oak located within the boundary of the Colchester Wine Warehouse site that is subject to a preservation order.
- 3.4 The neighbouring uses to the south-east and north-west of the site are commercial, whereas to the north-east is a line of established residential development that forms part of a large post-war housing development within Shrub End ward. Away to the south-west of the site (on the opposite side of Gosbecks Road) is open undeveloped land.

#### **4.0 Description of the Proposal**

- 4.1 The proposal submitted under this planning application seeks permission for the following development:

‘Demolition of Existing Retail Building (1,470m<sup>2</sup>) and Industrial Building (1,000m<sup>2</sup>) and erection of Supermarket (1915m<sup>2</sup>) with associated car parking and re-aligned access.’

The submitted plans show the provision of a single building, located at the north-western end of the site having an overall gross internal floor space of 1915 square metres. A relocated vehicular access would be located adjacent to the building, providing an access to the car park serving the development. The submitted plans show the provision of a total of 115 spaces - allocated as 95 ‘standard’ spaces, 8 disabled spaces and 12 parent and child spaces. Small landscaping areas and tree planting are also shown within the car park area.

- 4.2 The building itself would be of contemporary appearance – comprising various flat-roofed elements. The parts of the building that would address the site frontage on to Gosbecks Road and the car park area would incorporate glazing, and a covered walkway to shelter customers en route to the store entrance. The location of signage on the building would also focus the public entrance area. A range of materials would be used for the building, incorporating facing brick, profiled sheeting and glass for the walls, together with profiled metal sheeting for the roofs.
- 4.3 The planning application submission includes a suite of supporting information that is available to view on the Council’s website. This includes an Arboricultural Impact Assessment, Landscape and Visual Impact Assessment, Noise Assessment, Habitat Survey, Site Waste Management Plan, Ventilation Extraction Statement, Travel Assessment and Travel Plan, Archaeological Evaluation, Statement of Community Consultation, Lighting Report and Contamination Report. The following extract is taken from the Planning, Design and Access statement for Members’ information:

‘The site is previously-developed land and is located in the urban area of Colchester. The proposals will add an additional 445m<sup>2</sup> of floor space to the existing A1 retail floor space, which presently exists on the application site. This uplift results in a building of 1915 m<sup>2</sup> of retail floor space on the site, which falls below the 2500m<sup>2</sup> required for a retail impact assessment. The Council’s Spatial Policy Team do not consider the

increase of 445m<sup>2</sup> to have a policy impact, nor do they have concerns regarding the vitality or viability of the town or neighbouring centres as a result of this proposal.

The existing buildings on the site are to be demolished and the new store is considered to generally improve the local townscape. The site's access is to be realigned and this alteration to the highway has been agreed with the HA, following a safety audit.

The store does not have a named operator behind the proposals. If approved the site will be marketed and a local or national food retailer is expected to come forward. The scale of the store is that of a 'small' supermarket. That said, it would create 120 new full and part time jobs. In addition, the construction of the store will aid the local economy, in particular the construction industry.

The proposal is supported by an extensive array of technical assessments and reports, which consider the material environmental and amenity considerations surrounding the proposals. None of the assessments conclude with findings which would suggest that the proposal could not or should not proceed.

Overall these proposals are positive, sound and sustainable. They do not conflict with the amenity of local residents or with any national or local planning policy. As such they should be approved without delay.'

## **5.0 Land Use Allocation**

- 5.1 The site for this proposal is located within an Employment Zone, as allocated in the Local Development Framework Proposals Maps document

## **6.0 Relevant Planning History**

- 6.1 The combined site that is the subject of this planning application has been the subject of a number of previous planning applications. Of specific relevance to this application is the fact that the Council has previously granted a Certificate of Lawful Use that recognised the lawful retail use of the premises currently occupied by Colchester Wine Company under application ref K/COL/03/2197. Members are advised that the certificate issued by the Council did not include any use restrictions and the application site was drawn around the site boundary, as opposed to specific parts of the building itself. On this basis, the entire premises has a lawful retail use.

## **7.0 Principal Policies**

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE3 - Employment Zones
- UR2 - Built Design and Character
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP19 Parking Standards

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

None applicable in this case.

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

- Vehicle Parking Standards
- Sustainable Construction
- External Materials in New Developments

## **8.0 Consultations**

8.1 The Highway Authority has no objection to the submission, subject to the imposition of conditions on a grant of planning permission.

8.2 Environmental Control recommends the imposition of conditions; the following comment is also made:

‘Our main concerns are potential noise disturbance affecting properties located immediately behind the site from deliveries and use of the car park, particularly at sensitive times. We note that the delivery area is located to the rear of the site and measures shall be taken in order to contain noise and reduce disturbance. We also recommend that separation between the car park spaces and residential gardens is maximised where possible and there is appropriate boundary treatment to reduce potential noise impact.

We understand that the site currently operates as a depot and therefore already produces a degree of noise from vehicle movements, but we wish to ensure that the intensification proposed will not have a significant impact on residential amenity.

8.3 The Archaeological Officer comments as follows:

‘The applicant has already conducted an archaeological evaluation of this site which is located adjacent to Gosbecks Archaeological Park; a scheduled monument. Very little of archaeological interest was found. As most of the site, (i.e. the car park), is to remain undisturbed, I would recommend that if permission is granted standard archaeological condition ZNN be imposed. This would allow for an intermittent watching brief to be initiated.’

8.4 The following comment has been received from the Spatial Policy team:

‘The application site is allocated as part of a Local Employment Zone as seen on the Local Plan Policies Map. Employment sites are primarily covered by the Centres and Employment policies found within the Core Strategy.

The proposal seeks to demolish an existing retail unit (which has a lawful development certificate including A1 uses) and industrial buildings and replace these with a supermarket. As outlined within Core Strategy Table CE1b, retail uses are not normally encouraged within Employment Zones, however as the site benefits from a lawful A1 use which is unrestricted an exception can be made in this instance.

In accordance with the NPPF local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan, this should be requested. For retail, leisure and office type developments which are outside of town centres an impact assessment is also required to support the proposals if the development is over 2500sqm in size. In this instance, the proposed supermarket is below the NPPF threshold and therefore a retail impact assessment is not essential. As well as being below the NPPF threshold, the actual nett increase in retail floor space on the site is just 445sqm. Although there is no requirement to do so it might have been useful if the applicant had provided a retail impact assessment to assess the impact the supermarket might have on surrounding retail premises.

The lawful development certificate which allows A1 uses on part of this application site is unrestricted and therefore has no planning conditions attached to it with regards to hours of operation, type of use and access arrangements. Should the supermarket use be permitted it will provide the Council with an opportunity to place various planning conditions on the application to reduce the impact of the proposal and ensure that access arrangements, residential amenity and noise issues are kept to within acceptable levels.

The applicant's design and access statement outlines highway access proposals and car parking provision for the supermarket. The Spatial Policy Team expect car parking provision to be provided in accordance with the Essex County Council Vehicle Parking Standards SPD to ensure that the appropriate level of parking is provided alongside the development.

Although the proposed supermarket use in a Local Employment Zone does not accord with the Centres and Employment Hierarchy as found within the Core Strategy, the Spatial Policy Team considers that the current lawful development certificate which exists on part of the application site is in part sufficient justification to make an exception to adopted policies. The supermarket proposal will provide a range of jobs and other employment opportunities (likely to be over and above the number of jobs currently found on the site) in this location and will contribute towards the needs and demands of the residents in this part of Colchester and assist with the delivery of a sustainable community.'

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

## **9.0 Parish Council Response**

9.1 Not applicable – the site is within a town ward.

## **10.0 Representations**

10.1 As a result of local notification two letters have been received in which concerns are expressed regarding the impacts of the proposal and also issues suggested to be addressed in the event that the Council grants planning permission for the proposed development. The points of concern may be summarised as follows:

- Delivery vehicles will cause disturbances to nearby residents and the amount of traffic using the roads will increase
- The lighting to serve the development will be bright
- The new building will be higher than existing structures
- The development could have a negative effect on ecology e.g. bats using trees in the area
- Trees should be retained

The following elements are proposed for control in the event that planning permission is granted:

- Opening times for the store and times of delivery should be controlled
- The types of lighting to serve the development should be controlled
- A belt of trees should be planted along the boundary of the site with Hazell Avenue
- The existing metal fence and concrete posts in this location should be removed
- Car parking should be locked and CCTV should be in place
- An acoustic fence should be provided in place of the metal fencing
- There should be no parking spaces adjacent to the fencing with the adjacent gardens

*Officer comments: The following responses are made to the range of issues that are identified above*

- *As part of a planning approval it would be the case that the hours of operation of the store, and the times of delivery would be controlled by condition. This would assist in controlling the impact of the development on residential amenity. Additionally it is noted that the delivery area of the store would be screened from the properties in Hazell Avenue by an acoustic fence. The details of this feature would also be controlled by condition*
- *The ability of the existing road network to accommodate the traffic that would be generated by this development has not been identified as problematic by the Highway Authority*
- *The imposition of a condition would control the type of lighting, amount of light wash etc. which would assist in the protection of residential amenity*
- *The new building would be of similar height to the existing wine warehouse. Admittedly it would be taller than the existing buildings that would be removed on the depot site but in the overall context of the surroundings and the scale of development locally it is not considered that the proposal would appear incongruous*
- *The ecological impacts of the development have been considered via a phase 1 habitat survey submitted as part of the planning application. The survey concluded inter alia that ‘...No field signs were recorded both internally and externally and roosting bats are currently considered absent from the buildings and trees 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 Members are advised that the car parking standard for A1 (food stores) is a *maximum* standard that equates to 1 space per 14 square metres of floor space. Using this calculation the store would generate a maximum parking space requirement of 137 spaces (rounded up). The standards would also require the provision of 7 spaces for disabled persons.

11.2 The proposed development indicates the provision of a total of 115 car parking spaces, these being allocated as follows: 95 parking spaces, 12 parent and child spaces and 8 spaces for disabled users.

## **12.0 Open Space Provisions**

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

## **13.0 Air Quality**

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

## 14.0 Development Team and Planning Obligations

14.1 This application is classed as a “Major” application. It was considered by the Development Team at preliminary enquiry stage, prior to the submission of this formal application. It was considered that Planning Obligations should be sought via a Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:

- Payment of a £3 000 Travel Plan monitoring fee – payable to Essex County Council
- Provision and maintenance of two litter bins at a cost of £3 300.

14.2 Members are advised that a Unilateral Undertaking has been agreed that would secure the above contributions, should planning permission be granted for the proposed development.

## 15.0 Report

### Principle of the development

15.1 The overall site for this proposal is located within a defined employment zone as allocated in Local Development Framework. The relevant policy statements, within policies CE3 of the Adopted Core Strategy and DP5 of the Adopted Development Policies recognise that the preferred range of uses to be located within these areas include inter alia B1, B2 and B8 uses together with vehicle-based uses and supplementary, supportive uses that benefit the businesses or employees of such businesses. Members will note that this proposed use falls within a Class A1 (retail) category. The provision of retail uses is normally limited to such uses that would be deemed ancillary to the main use of the premises.

15.2 That said, it is a material consideration in this case that there is an established retail use on the site of the supermarket building itself (wine sales). The floor space of this existing use is given as 1470 square metres. The proposed development would result in a 445 square metre increase in the amount of retail floor space. It is noted that the NPPF identifies in cases where retail developments are proposed outside of town centre locations, a retail impact assessment will be required if the proposed floor space is 2 500 square metres or over. Clearly the proposed increase does not fall within this category.

15.3 Members will note that the Spatial Policy team does not object to the principle of the development taking place on this site and has included the following comment within its consultation response ‘.... The Spatial Policy Team considers that the current lawful development certificate which exists on part of the application site is in part sufficient justification to make an exception to adopted policies. The supermarket proposal will provide a range of jobs and other employment opportunities (likely to be over and above the number of jobs currently found on the site) in this location and will contribute towards the needs and demands of the residents in this part of Colchester and assist with the delivery of a sustainable community...’

On this basis it is considered that in this case the principle of the development taking place is acceptable.

## Design and Layout

- 15.4 The proposed scheme seeks to replace the existing wine sales buildings on the site with a new building that sits on the same axis and in the same approximate position. The remainder of the site would be given over to car parking, served by a revised means of access. It is considered that this general organisation of space reflects that found on the site at present. The new building would be designed to address the road frontage and, importantly, would also address the car park area which would be the main customer experience of the building. In terms of the servicing arrangements for the site, the submitted plans show that lorries would unload behind an enclosed servicing area to the rear of the building, via a gated access. The plans also show that an acoustic barrier would be placed immediately adjacent to the service area - between this area and the boundary of the site with the residential development to the north east.
- 15.5 The majority of the site would be given over to car parking to serve the retail unit, together with landscaped areas that would assist in breaking up this large single space. Further planting would be provided on the boundaries of the site with adjacent developments, indicated on the submitted plans as a combination of hedging and trees. Generally, the existing character of the depot area is of unrelenting concrete, punctuated by some single storey buildings of a strong functional appearance. In your officer's opinion it is considered that the treatment of this space as proposed under this planning application would be a clear improvement in visual terms and would assist in enhancing the overall character of this part of the employment zone, notwithstanding the fact that there is a strong functional character at present.
- 15.6 In terms of the design of the proposed building, this follows a contemporary approach. It is noted that the existing buildings in the employment zone are an eclectic mix of structures, of mainly functional appearance. Within this context the proposed building would appear as an individually designed development. That said, given the overall character of the location is it felt that the use of contemporary architecture is an appropriate response and the building would help to improve visual amenity.

## Impact on residential amenity

- 15.7 It should be borne in mind that the existing retail use on the application site is not subject to restrictions in terms of hours of operation, deliveries etc. The submitted application forms propose that the use be operated between 06:30 - 23:00 hrs Monday to Saturday, and 10:00 – 16:00 hrs on Sunday and Bank Holidays. It is noted that the conditions suggested by Environmental Control include the restriction of opening times to 07:00 – 22:00 hrs Monday to Saturday and 10:00 – 16:00 hrs on Sundays and Bank Holidays. It is considered that the usage times proposed by Environmental Control, while not quite as extensive as those proposed in the submitted application, would be appropriate, given the location of residential development immediately adjacent.
- 15.8 Members should note that following further consultation on the proposed hours of opening, Environmental Control has agreed that the opening hours on Sundays and Bank Holidays can be extended to 17:00 hours.



15.8 With regard to the proposed location of parking spaces adjacent to the shared boundary under the submitted scheme, this would be a material change in circumstances. While it is physically possible for vehicles to park along the majority of this boundary at present, the creation of a line of spaces will clearly introduce a more intensive amount of vehicular movements in this location. As part of the planning submission a noise assessment has been carried out. The assessment has considered the issues of noise generated by customers, deliveries etc. This assessment concludes that

‘...In conclusion, there is predicted to be no demonstrable harm to the amenity of the nearest neighbours on Hazell Avenue or to more distant neighbours on the road network due to the proposed retail store at 117 Gosbecks Road, Colchester. There will be no significant adverse impacts on health and the quality of life and therefore the proposal meets the primary aim of the Noise Policy Statement for England...’

15.9 The treatment proposed for the boundary of the site with residential development consists of a combination of close-boarded fencing, hedging and some tree planting. In combination it is considered that these elements would assist in reducing this impact to an acceptable level.

15.10 As regards the issue of lighting, it is noted that the scheme would require the location of columns across the site. A lighting assessment submitted with the application and the lighting has been designed to reduce light wash - as shown on a plan accompanying the assessment. Clearly a balance has to be struck between the need to protect the amenity of neighbours and the requirement to ensure that the site is properly illuminated for users. In this case it is considered that the proposal properly addresses both aims.

#### Highway Issues and Parking

15.11 It is noted that the proposal includes a revised means of access to serve the site, designed as a spur leading off the existing roundabout. This new arrangement will serve the additional traffic that will obviously be generated by the new use. The Transport Statement that accompanies the planning application identifies that the proposal would not have a detrimental impact on the highway network and it is noted that the Highway Authority does not object to the proposal.

15.12 As regards the proposed parking provision for the development it is considered that this is a reasonable allocation, given that the standard itself is a maximum. The site is accessible by other modes of transport (including bus routes along Maldon Road and Layer Road) and would be within reasonable walking distance of a significant number of dwellings. Importantly, the required number of disabled parking spaces for a development of this size is met and furthermore these are proposed to be located adjacent to the store entrance.

## **16.0 Conclusion**

- 16.1 In conclusion it is considered that this proposed submission represents an appropriate redevelopment of the identified site, and would ensure that visual amenity within this location was significantly improved. Additionally it is considered that the scale of the development, coupled with the suggested range of conditions proposed for inclusion as part of a planning permission, would ensure that the amenity of local residents was not adversely affected as a result of the development taking place. The recommendation to Members reflects the fact that the mitigation elements requested by the Development Team would be secured by way of a Unilateral Undertaking as opposed to a standard s106 agreement.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions.

## **18.0 Recommended Reasons for the Decision**

- 18.1 The Planning Committee, having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because this proposed submission represents an appropriate redevelopment of the identified site, and would ensure that visual amenity within this location was significantly improved. Additionally it is considered that the scale of the development, coupled with the suggested range of conditions proposed for inclusion as part of a planning permission, would ensure that the amenity of local residents was not adversely affected as a result of the development taking place. Thus, having had regard to all material planning considerations, the Council is of the opinion that the proposal would not cause harm to interests of acknowledged importance that would warrant the refusal of this application.

## **19.0 Conditions**

### **1 - Time Limit for Full Permissions**

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

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

### **2 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 101 N, 103 E, 104 E, 105 D, 106 C, 107 A and 108 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

### 3 - Materials to be Agreed

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

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

### 4 - Surfacing Material to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts 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.

### 5 - Non-Residential BREEAM (Part 1 of 2)

Prior to the commencement of development, evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

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

### 6 - Non-Residential BREEAM (Part 2 of 2)

Within 3 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

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

### 7 -Refuse and Recycling Facilities

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

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

#### 8 - ATM Cashpoint Access for All

Notwithstanding the approved plans, the ATM cashpoint controls shall be no higher than 1060mm as measured from the ground level immediately below them and shall have controls that are raised and separated from each other, have a positive action and have raised numbers, letters or Braille characters on each control.

Reason: In order to ensure that the ATM cashpoint is more accessible for all users of the community.

#### 9 - Surfacing Material to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts 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.

#### 10 - Non-Standard Condition/Reason

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

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

#### 11 - Non-Standard Condition/Reason

Prior to the commencement of development, a plan indicating the positions, design, materials and type of boundary treatment to be erected (including the acoustic fencing serving the identified area) shall have been submitted to and agreed, in writing, by the Local Planning Authority. The boundary treatment shall then be completed in full accordance with the agreed details BEFORE THE FIRST USE OF THE DEVELOPMENT. The treatments shall be retained in their approved forms at all times thereafter, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the boundary treatments are satisfactory and are in situ at the time when they are required in order to achieve a satisfactory development and to avoid any loss of amenity to the neighbouring properties.

## 12 - Construction Method Statement

Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

## 13 - Non-Standard Condition/Reason

No demolition or construction work shall take outside of the following times;

- Weekdays: 08:00 – 18:00 No vehicles to arrive before 07:30.
- Saturdays: 08:00 – 13:00 No vehicles to arrive before 07:30.
- Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

## 14 - Non-Standard Condition/Reason

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

- Weekdays: 07:00-21:00
- Saturdays: 07:00-21:00
- Sundays and Public Holidays: Ideally none, or restricted deliveries only between 10:00 and 16:00.

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

## 15 - Non-Standard Condition/Reason

Prior to the use hereby permitted commencing a delivery management plan shall be submitted to the Local Planning Authority for approval which identifies and controls the delivery process in order to reduce disturbance to residents. The use of the premises shall be carried out in accordance with the approved plan.

Reason: In order to protect the amenity of neighbouring residents from noise nuisances.

#### 16 - Non-Standard Condition/Reason

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.

#### 17 - Non-Standard Condition/Reason

Prior to their first use, any car parking and service areas shall be screened to minimise any noise impact on nearby residential premises and in such a manner so as to prevent nearby residential premises being affected by vehicle exhaust fumes in accordance with a scheme that shall previously have been submitted to, and agreed in writing by, the Local Planning Authority.

Reason: To ensure that there is adequate screening in place to limit any unnecessary fumes, noise and disturbance to the surrounding areas and/or residents from vehicles using these areas.

#### 18 - Non-Standard Condition/Reason

Prior to the first use or occupation of the building a comprehensive noise assessment covering noise from deliveries and use of the car park and its potential impact on sensitive receptors shall be submitted to the Local Planning Authority for approval. The assessment should identify appropriate mitigation measures, and these shall be implemented to the satisfaction of the Local Planning Authority prior to the first use or occupation and thereafter retained as such.

Reason: in the interests of protecting the amenity of neighbouring residential properties.

#### 19 - 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.

## 20 - Non-Standard Condition/Reason

Prior to the first OCCUPATION/USE of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Reason: In order to allow a more detailed technical consideration of the lighting at the site to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

## 21 - Non-Standard Condition/Reason

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

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

## 22 - Non-Standard Condition/Reason

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

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

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

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

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

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

### 23 - Non-Standard Condition/Reason

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

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

### 24 - Non-Standard Condition/Reason

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

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

### 25 - Non-Standard Condition/Reason

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 22, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 23, 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 24.

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



#### 26 - Non-Standard Condition/Reason

Prior to the first USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition INSERT.

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

#### 27 - Oil Interceptor Required

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

#### 28 - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

#### 29 - Non-Standard Condition/Reason

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

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

#### 30 - Non-Standard Condition/Reason

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

- Amendments to the existing Gosbecks Road/Cunobelin Way roundabout as well as service road and footways between Gosbecks Road and the proposal site as shown in principle on the planning application drawings.
- Real Time Passenger Information at the bus stop located immediately adjacent the Hazell Avenue/Paxman Avenue junction.
- A travel plan to include but shall not be limited to a £3,000 contribution to cover the Highway Authority's cost of approving, reviewing and monitoring the Travel Plan.

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

### 31 - Non-Standard Condition/Reason

Prior to the occupation of the building hereby approved a scheme shall be submitted to and approved in writing by the Local Planning Authority that shows the provision of a barrier at the entrance of the site to secure the car park outside of the permitted opening hours of the approved use. The approved scheme shall be carried out to the satisfaction of the Local Planning Authority prior to the first occupation or use of the building.

Reason: To ensure that the car park area is not accessible to cars outside of the permitted trading times in order to protect the amenity of neighbouring residential property.

### 32 - ZGA – Restriction of hours of operation

The use hereby permitted shall not operate/be open to customers outside of the following times:

Mondays to Fridays - 07:00 - 22:00

Saturdays: 07:00 - 22:00

Sundays and Public Holidays: 10:00 - 17:00

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

## 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) The Council's Environmental Control Team recommends that, with reference to Condition 17 the distance between parking spaces and residential boundaries is maximised, a 2 metre high acoustic fence is erected along the residential boundary to the rear and that this boundary is also planted to provide visual screening.

### Delivery area

The Council's Environmental Control Team recommend this is enclosed and/or screened to provide acoustic attenuation so that delivery activity does not cause a nuisance to the residents located to the rear of the site.

Conditions 29 & 30 are required to ensure the proposal complies with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

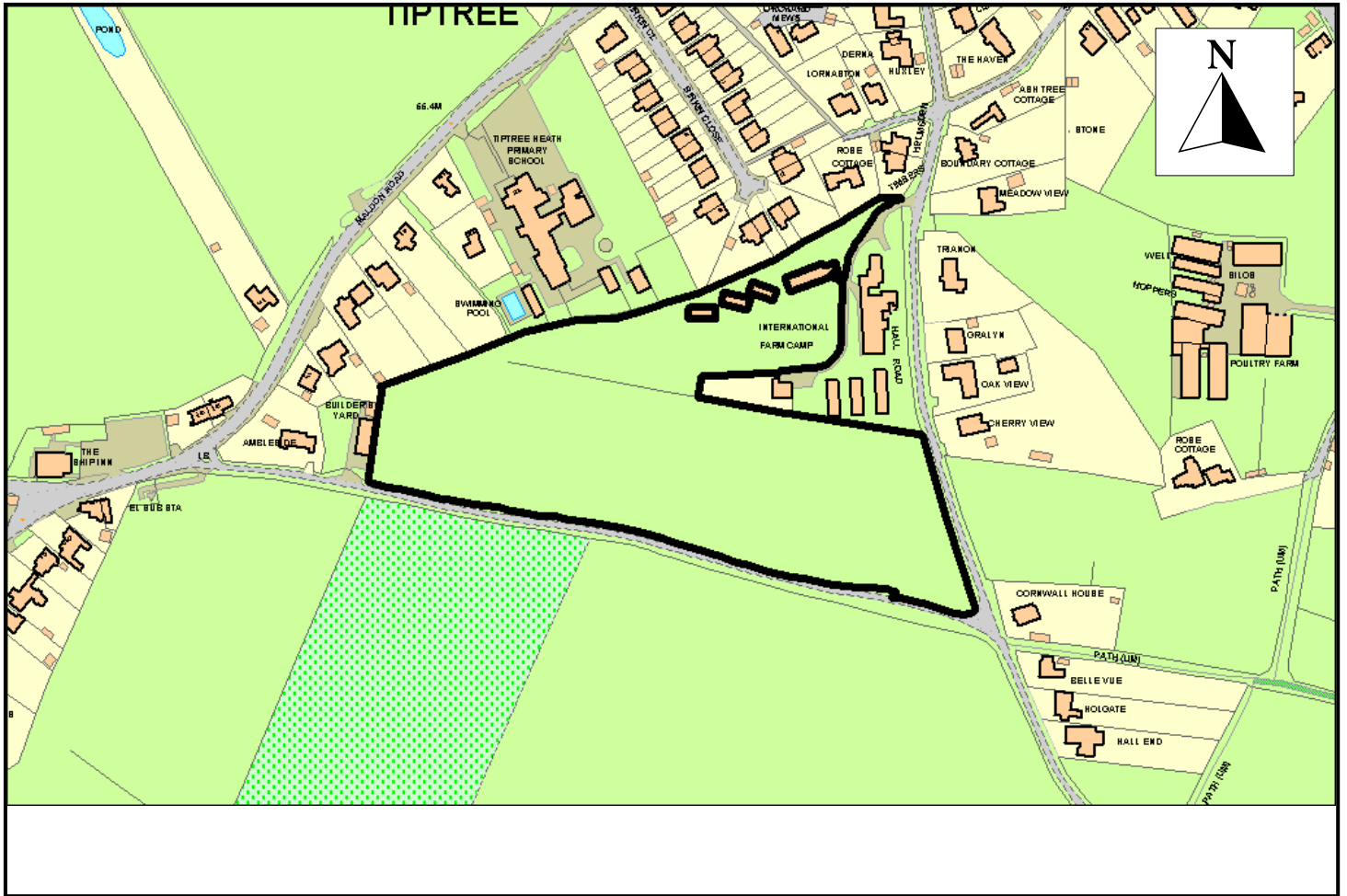
Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible) All highway related details should be agreed with the Highway Authority Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If the applicant believes they need to apply for consent, further information and the required application forms can be found at [www.essex.gov.uk/flooding](http://www.essex.gov.uk/flooding). Alternatively they can email any queries to Essex County Council via [watercourse.regulation@essex.gov.uk](mailto:watercourse.regulation@essex.gov.uk) Planning permission does not negate the requirement for consent and full details of the proposed works will be required at least two months before the intended start date.

## **21.0 Positivity Statement**

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



**Application No:** 122238

**Location:** International Farm Camp, Hall Road, Tiptree, Colchester CO5 0QS

**Scale (approx):** 1:2500

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**7.5 Case Officer: Mark Russell**

**MAJOR**

**Site:** International Farm Camp, Hall Road, Tiptree, Colchester CO5 0QS

**Application No:** 122238

**Date Received:** 18 December 2012

**Agent:** Vaughan & Blyth (Builders) Ltd

**Development:** Removal of conditions 13 & 14 attached to planning permission 121071

**Ward:** Tiptree

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because it is a major application and an objection has been received.

### **2.0 Synopsis**

2.1 The key issues explored below are the issue of parking provision at this site. The report acknowledges that the amendment reduces the amount of parking which was envisaged at the time of the original application, but also concludes that the provision is still far in excess of current adopted standards and is, therefore, acceptable.

### **3.0 Site Description and Context**

3.1 The site is to the west of Hall Road and formerly contained temporary-style accommodation for seasonal workers as well as other buildings. Development granted under permission 110926 and amended under 121071 is currently under way.

3.2 To the north are houses on Birkin Close, to the east across Hall Road the residential dwellings of Trianon, Gralyn, Oak View and Cherry View. The remaining two aspects form part of the larger landholding of Wilkin & Sons.

### **4.0 Description of the Proposal**

4.1 The described proposal is removal of conditions 13 & 14 of Planning permission 121071.

4.2 The conditions in question are: 13 - "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" and 14 - "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."

- 4.3 The proposal seeks to reduce the garage sizes to below these thresholds, although it should be noted that the garages on the originally approved drawings were already deficient in size.

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 110926 – Demolition of communal building and other accommodation serving the International Farm Camp and the erection of 10no. detached dwellings, garages and parking spaces, roads including the realignment of the carriageway and change of priority in Hall Road, footpaths, foul and surface water drainage, public open space and landscaping. Approved 13<sup>th</sup> March 2012.
- 6.2 121071 - Demolition of communal building and other accommodation serving the International Farm Camp and the erection of 10no. detached dwellings, garages and parking spaces, roads including the realignment of the carriageway and change of priority in Hall Road, footpaths, foul and surface water drainage, public open space and landscaping. Amendment of house types approved under 110926. Approved 21<sup>st</sup> August 2012.

## **7.0 Principal Policies**

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

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

UR2 - Built Design and Character  
TA5 - Parking

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

DP1 Design and Amenity  
DP19 Parking Standards

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

Backland and Infill  
Vehicle Parking Standards  
Sustainable Construction  
The Essex Design Guide  
External Materials in New Developments

## **8.0 Consultations**

8.1 Highway Authority: No objections

8.2 Natural England: No further comments from applications 110926 and 121071.

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 "Tiptree Parish Council object to this application and want the existing conditions to be upheld. The Parish Council can see no reason for these conditions to be removed."

## **10.0 Representations**

10.1 Two letters of representation were received, both were observations rather than in support or opposition to the proposal.

10.2 A nearby resident commented: "I note from the CBC web site a new application has been submitted with regard to conditions 13 & 14 (Sizes on single and double garages). I note the new layout plan is attached to this application showing the proposed new entrance, can you please confirm the entrance is not part of this application and has not been approved."

10.3 Feering Parish Council commented "At its Planning Committee Meeting of 10 January 2013, Feering Parish Council noted that the houses have already been approved and therefore Councillors had no further comments."

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 required provision for this development according to our adopted parking standards would be 225 per cent – i.e. 22 ½, or logically 23 spaces.

11.2 On the existing and proposed layout, each dwelling boasts two parking spaces of compliant size (5.5 metres x 2.9 metres) in front of garages (a non-material amendment, reference 122237, has subsequently shifted the garage of plot 7 slightly to ensure this).

11.3 Notionally, each plot also shows a double garage, i.e. an extra two parking spaces. However, the drawings accompanying application 110926 and 121071 showed spaces which were deficient (approximately 6.2 metres x 6.2 metres). This point is considered in detail below.

## 12.0 Open Space Provisions

12.1 n/a

## 13.0 Air Quality

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

## 14.0 Development Team and Planning Obligations

14.1 This application is classed as a “Major” application, but is simply a variation of condition on a permission which has already been granted and no additional s.106 monies are required.

## 15.0 Report

### Parking Provision

15.1 The application touches uniquely on the subject of parking provision. At the time of the original application 110926 it was reported that each dwelling effectively had four parking spaces (a double garage plus two spaces in front). However, the approved drawings showed garages which were deficient (approximately 6.2 metres deep, against an adopted standard of seven metres) and it was left to the conditions in question to ensure that the garages were slightly increased to make them compliant.

15.2 The application seeks to relax the conditions relating to garage sizes so that the drawings which accompanied the original and revised applications are approved, without conditioning that the garage sizes be amended.

15.3 As they stand, these garages fail the standards for double (requiring 6 metres x 7 metres internally). However, the required internal dimensions for a single garage are 3 metres x 7 metres, i.e. 21m<sup>2</sup>. The garages are far in excess of the required area for a single garage at about 38.5m<sup>2</sup>.

15.4 However, the depth technically fails by 800mm. It must be noted that the depth required does not entirely relate to vehicle length. The Parking Standards document states:

*“Garages of the above dimension and over are considered large enough for the average sized family car and cycles, as well as some storage space, and will be considered a parking space.”*

15.5 Given the extra width (approximately 3.2metres) and the almost compliant depth of 6.2 metres, this gives cycle/storage space of almost 20m<sup>2</sup>. The rational behind the standards is that there be sufficient space for these purposes to avoid nuisance parking. Given that full-sized Sports Utility Vehicles are typically five to five-and-a-half metres in length, this is sufficient to contain the car as well as cycles and storage.



15.6 If this is counted as 'a parking space' when added to the two spaces in front of each dwelling, this amounts to three spaces each, 30 spaces for the whole development as set against a minimum standard of 25.

## 16.0 Conclusion

16.1 In conclusion, given that the provision exceeds the requirements of the parking standards (albeit with the qualifications expressed above) then permission is recommended for this application.

## 17.0 Recommendation

17.1 APPROVE subject to the following conditions

## 18.0 Recommended Reasons for the Decision

18.2 WA1 – Application Approved Without Amendment

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

## 19.0 Conditions

- Conditions 13 and 14 of Planning permission 121071 are hereby removed.
- All other conditions of that permission to be re-stated (as appropriate).
- Condition 2 – reworded to include new drawing numbers.
- Additional condition: "The parking spaces hereby approved shall be kept free at all times for the parking of vehicles, and the garages hereby approved shall remain as garages at all times and for no other purpose.  
Reason: To ensure that three parking spaces per dwelling are available at all times, to avoid carriageway parking in the interests of highway safety and efficiency."

## 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.

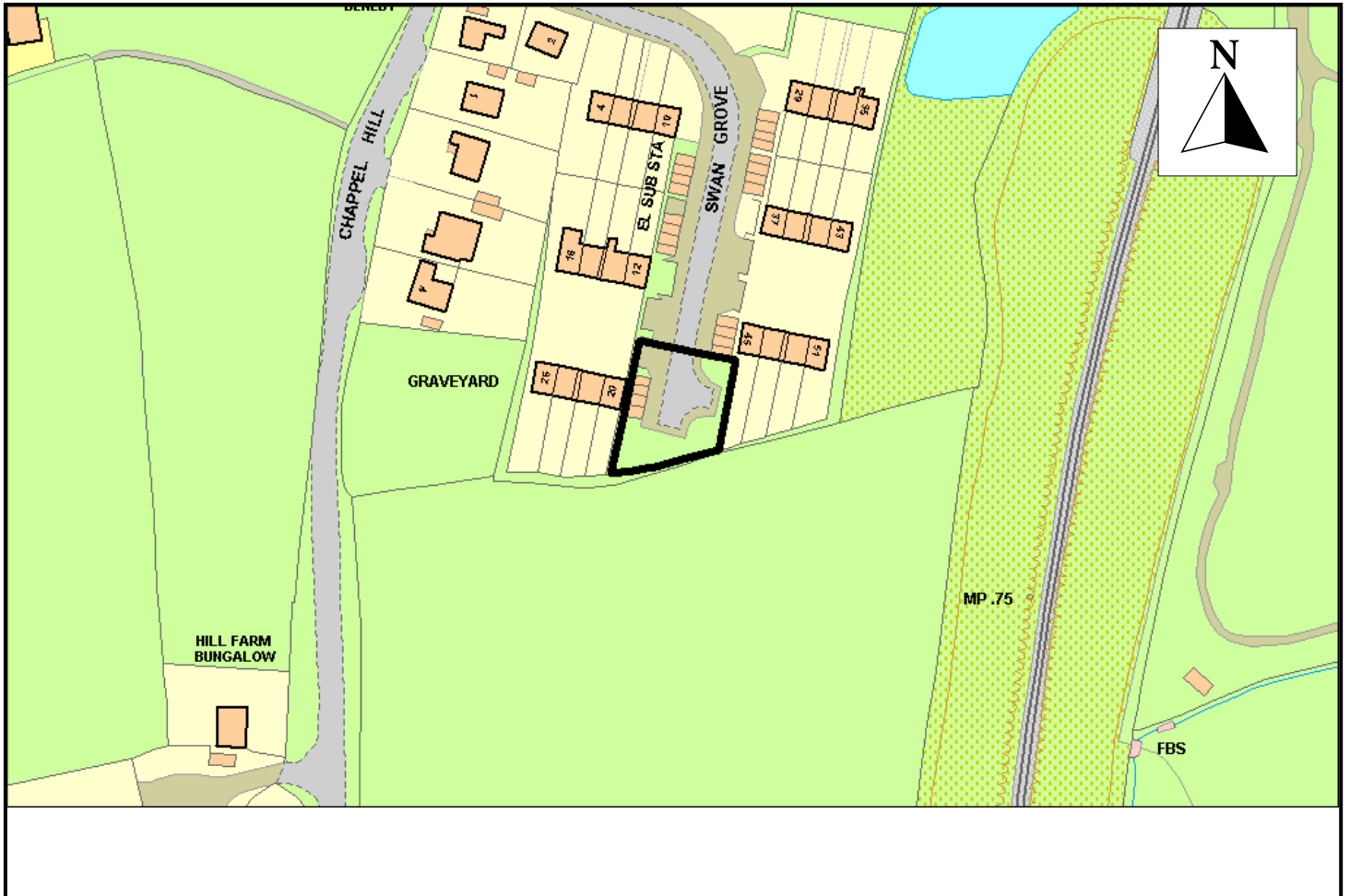
(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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.

## **21.0 Positivity Statement**

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

The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because three parking spaces per dwelling were still available. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.



**Application No:** 131131

**Location:** Land Adjacent to, 20 Swan Grove, Chappel, Colchester

**Scale (approx):** 1:1250

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**7.6 Case Officer: Mr David Whybrow****MINOR**

**Site:** Land Adjacent to, 20 Swan Grove, Chappel, Colchester

**Application No:** 131131

**Date Received:** 4 June 2013

**Agent:** Richard Pike Associates

**Applicant:** Estuary Housing Association

**Development:** Erection of 2 No. 3 bed affordable houses with associated parking.  
Resubmission of 121486.

**Ward:** Great Tey

**Summary of Recommendation:** Conditional Approval subject to signing of Unilateral Undertaking

**1.0 Reason for Referral to the Planning Committee**

1.1 This application is a resubmission of application 121486, refused by the planning committee in January this year, which attracted significant numbers of objections from local residents. Since that refusal the scheme has been redesigned and reduced to 2 dwellings. The previous application was refused by the committee on the grounds that the 5 car parking spaces proposed to serve 3 dwellings was below the required standard so the previous application would result in the displacement of vehicles of residents on a street where parking congestion is already experienced. That application was also submitted for consideration of the Committee as one of a series of proposals for residential development of CBC garage sites in order to provide affordable housing. The other sites were all approved. Objections have again been received to this proposal but the Officer recommendation is to approve.

**2.0 Synopsis**

2.1 The following report describes the proposal and considers consultation responses and representations received. In the "report" section the planning merits of the case and its differences from the previous scheme are considered leading to the conclusion that the proposals as submitted are, on balance, acceptable and a conditional approval is recommended.

- 2.2 This application is one of several submitted by Estuary Housing Association for affordable housing on under-used Colchester Borough Council owned, Colchester Borough Homes (CBH) managed garage sites. The applications are the result of ongoing work by Colchester Borough Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives. The Council currently has a shortfall of over 1,000 affordable housing units per annum over 5 years since 2007 in the Borough and this is increasing. Last year the Council was able to deliver 366 units through planning obligations on major developments but with the gap increasing the Council are looking at creative ways to deliver more proactively.
- 2.3 In fact, the housing need evidence is provided by the results of CBC’s Strategic Housing Market Assessment (November 2007) which was updated last in April 2010. This need is clearly set out in the Cabinet Approved SPD (see extract below).

*“The SHMA forms the main Evidence Base for the Council’s assessment of affordable housing provision. The SHMA identified an overall level of need of 1,082 affordable dwellings per year and suggested that the affordable housing need in the borough was above the regional average. This is very high given the total housing provision set out in the Core Strategy is only 830 dwellings per year. It could theoretically have justified a target of 45% for affordable housing. The Affordable Housing Site Viability Study suggested however that such a target would raise issues of viability on many sites”.*

The figures for the past three years in the table below show how delivery compares to the identified need:

Year	SHMA Need	Delivered	Shortfall
2009/10	1,082	156	-926
2010/11	1,082	192	-890
2011/12	1,082	366	-716
2012/13	1,082	133	-951

As can be seen, to meet our needs for 2009/2012 we would have had to deliver 3,264 new affordable homes. We in fact delivered 714, a three year shortfall of 2,550 units. This demonstrates that in the current economic climate when viability of new development is stretched it is an impossible task to try and accommodate the needs of all of our residents through a percentage gain of affordable housing through s106 planning obligations. Indeed, this year looks even worse having delivered only 133 affordable homes delivered. This is why Colchester Borough Council needs to be more proactive in finding ways to help deliver affordable housing either in partnership with a Registered Social Landlord or through our own means.

### 3.0 Site Description and Context

- 3.1 Swan Grove is a cul-de-sac giving access to groups of 2 storey, terraced housing with roadside garages and parking spaces. The application site lies at the southern end of the cul-de-sac and comprises the vehicular turning head (currently highway land) and an area of grassed amenity space with trees to the southern boundary. It also includes a group of 4 garages located alongside No. 20 Swan Grove.
- 3.2 The rear garden of No. 45 extends along the eastern boundary and to the north is meadowland. The site is on land that rises steadily from north to south.

#### **4.0 Description of the Proposal**

- 4.1 A pair of 3 bedroom dwellings are proposed facing down Swan Grove and served by 4 car parking spaces. A reduced turning head is proposed in the northern part of the site and the site would also provide 5 car parking spaces for general usage separated from the front of the 2 dwellings by a landscape buffer. The terraced dwellings at 20 – 26 lie to the west of these dwellings and rear gardens of 45 – 51 are to the east.
- 4.2 Additional information submitted with the application includes a Design and Access Statement, secured by design report, Ecological Appraisal and Arboricultural Impact Assessment (AIA).

#### **5.0 Land Use Allocation**

- 5.1 The site falls within the defined settlement boundary for Chappel.

#### **6.0 Relevant Planning History**

- 6.1 121486 – Demolition of 4 garages and erection of 2 three and 1 two bedroom affordable houses – Refused 24/1/13.

#### **7.0 Principal Policies**

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
TA5 - Parking

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

DP1 Design and Amenity  
DP12 Dwelling Standards

## 8.0 Consultations

8.1 Environmental Control require conditions to be attached to any consent granted to cover the reporting of unexpected contamination.

8.2 The Tree Protection Officer has noted that the submitted AIA concludes that the site contains no significant individual tree specimens. 3 trees are to be removed but the boundary hedge belt will be retained and protected.

8.3 It is noted that this application contains two specific aspects;

- 1) Construction of the houses, new parking areas, and new turning head.
- 2) Removal/amendment of the highway rights in order to facilitate the development under s247 Town and Country Planning Act purely on the grounds of the proposed layout, the Highway Authority would not wish to raise an objection subject to conditions & informatives. They also add :  
*However, as the proposed dwellings are to be constructed on land which is currently classed as highway, the process under s247, Town and Country Planning Act to remove/amend highway rights must be followed and this involves a full consultation.*  
*In this regard the Highway Authority will be conducting an informal, internal consultation prior to making it's final recommendation. In the event of objections to the proposed removal/amendment of the highway being raised, the Highway Authority would not be able to support the proposal.*  
*If the application to remove/amend the highway fails, and the highway remains on its current alignment, irrespective of whether or not this application is granted, the development would not be able to be constructed as the properties would be classed as an obstruction in the highway contrary to the Highways Act 1980.*  
*No works to construct the proposed units shall be commenced until such time as the aforementioned removal/amendments of the highway has been satisfactorily completed."*

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 reiterate their strong concerns regarding the suitability of this development and draw attention to their objections below:

1. Parking Requirements. It was noted that the issue surrounding parking would be compromised if the proposed project goes ahead. The area of Swan Grove will lose at least 12 parking spaces, which is not acceptable, and a major concern to the Parish Council. The Parish Council are greatly concerned that in an emergency situation all areas of Swan Grove would be compromised given the parking problems and approval of this application would generate.
2. Permissive Path. The Parish Council is concerned regarding the permissive path down the side of the house 2 and 20 Swan Grove, leading to the agricultural land, where there is no public footpath. They are concerned as this does not lead to anywhere that it will end up being somewhere where rubbish collects or indeed is dumped.

3. Open Spaces Contribution. It is noted with concern that if the application were to be granted no Open Spaces Contribution would be made, and therefore offering no financial benefit to the village.
4. Badly written application. The application submitted and put before Council is very badly written. The Ecological Appraisal refers to the site as Swan Grove, Little Tey and states that there is no local wildlife close to the proposed site, actually 50 metres away there is local wildlife! Council were concerned that the report was very badly written and researched leading to problems if the planning application was granted.

9.2 To conclude Chappel Parish Council are unanimous in their decision to OBJECT to the application as set out before the Council. We urge the Planning Committee to take all our points of objection and REFUSE this planning application. In addition, the Parish Council would also like the significant number of local residents' comments and objections to also be taken into consideration.

## 10.0 Representations

10.1 Representations have been received from 16 local residents. A summary of the concerns expressed follows:-

- The withdrawal of existing parking and garage spaces can only aggravate an existing severe parking problem throughout the length of Swan Grove and increase friction between residents.
- The parking situation at Swan Grove is already at saturation point with cars and vans being provided on pathways and greens when existing spaces have been used. This is particularly acute in the evenings and at weekends. Specifically, one of the objectors writes : *At present there are 13 spaces which are used daily.....  
This is made up of 3 spaces between no.20 and no.12. which would be lost. 4 spaces where the garages are to be removed. 4 spaces on the road. at the end of the cul-de-sac which will be lost. 2 spaces are always used by cars parking on the grass. On the proposal only 5 spaces are to be made available for existing residents. This making a loss of 8 parking spaces.*
- The proposal does not provide sufficient on-site car parking space to meet established guidelines & a full survey of parking needs should be carried out.
- The meadow to the south was once earmarked as land suitable for increasing housing stock in the village. Swan Grove was designed and constructed to provide access via the application site. The development will prevent access to this land.
- Adverse effect on the daylight enjoyed by 20 & 45 Swan Grove and the privacy of the latter.
- There are registered disabled residents affected by these proposals who are concerned that their conveniently located parking spaces will be removed.
- The proposed red bricks & dark grey tiles are nothing like those of existing houses.
- There is a small "dead end strip" between 20 Swan Grove & unit 2. This will encourage fly-tipping & is not secure by design (**officer comment** : this is outside the scope of the application and maintains the status quo. Colchester Borough Homes will be made aware of the concern)



Members will be able to view all representations and consultation responses on-line. It will be noted that one of the objectors expresses support for the need for affordable housing.

## **11.0 Parking Provision**

- 11.1 Your current policy standards for dwellings of 2 or more bedrooms require 2 spaces per dwelling and 0.25 spaces (unallocated) for visitors. This generates a need for 4/5 spaces in this case. 9 spaces are proposed on site and a further 3 “additional” spaces are shown close by in Swan Grove, albeit outside the scope of the planning application. The question of parking will be discussed more fully in the report section.

## **12.0 Open Space Provisions**

- 12.1 The application makes no contribution towards open space and recreation as this would detract from the “affordability” of the scheme (see 14.0). Private garden areas ranging in size between 70 sq.m. and 82.5 sq. m. are proposed and are consistent with the 60 sq.m. standard.
- 12.2 DP16 also states that “all new residential development will be expected to provide new public areas of accessible strategic or local open space” In smaller developments a commuted sum is acceptable.
- 12.3 No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “The standards, outlined above, are to be applied to all additional new residential Units....New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”
- 12.4 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a departure from adopted policy. In similar previous cases at Darwin Close and Gloucester Avenue, the normal requirements for such contributions have been waived. This is based on the pressing need for the delivery of affordable housing.
- 12.5 CBC is the provider of public open space. It is also the landowner. In this capacity, it has the power to agree with the applicant (Estuary Housing) any fee it wishes as part of any future land transaction and use such funds in its provision of public open space, community facilities, or for any other purpose. The consequence of CBC Planning imposing a legal agreement that effects a payment in lieu of public open space is likely to be that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. In conclusion, it is not necessary, nor appropriate to require a Unilateral Undertaking in this instance.

## **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 There is no basic land use objection to the proposed scheme given that the site lies within the village settlement limits. A simple elevation treatment as proposed here is considered appropriate to the architectural flavour of Swan Grove.
- 15.2 The report will go on to consider the proposal under the headings of – the previous scheme, design, layout and impact on neighbouring residents; highways and parking and trees and ecology.
- 15.3 The Previous Scheme(121486)

The reason for refusal in January is set out in full below : -

*Policy TA5 (parking) in the adopted Colchester Borough Council Core Strategy states that development should manage parking to accord with the accessibility of the location & to ensure people-friendly street environments. In addition policy DP19 in the adopted Development Policies Document refers to adopted car parking standards, the level of which depends on the location, type & intensity of use. In the case of residential development these standards require, as a minimum, 2 car parking spaces for each dwelling of 2 or more bedrooms, and, in addition, 0.25 spaces per dwelling for visitors.*

*The 5 car parking spaces proposed to serve 3 dwellings is therefore below the required standard & furthermore the development will result in the displacement of other garage/parking space currently used by existing residents on a street where parking congestion is already experienced.*

*Although the submitted drawings show 6 additional car parking spaces can be provided outside the application site, the local planning authority are not satisfied that the proposals provide adequate levels of off-street space to serve both the new dwellings and compensate for those lost to the development. As such, it is considered that, if permitted, the proposal will exacerbate existing parking difficulties, resulting in safety and efficiency problems within the highway, detrimental to the interests of highway safety, prejudicial to the amenity & convenience of established residents in Swan Grove and at conflict with the policies outlined above.*

- 15.4 The reduction in unit numbers immediately improves the parking situation and is investigated more fully at paras 15.6 – 15.12 below.

### Design, layout and impact on neighbouring residents

- 15.5 The proposed layout closes the vista at the head of Swan Grove and provides a visual stop to the head of the cul-de-sac. The dwellings' position complies with adopted policy guidelines for the protection of light, outlook and privacy of adjoining residents as set out in the Essex Design Guide and "Extending Your House?" SPD. Special attention is drawn to the use of bathroom & landing windows in the first floor, front elevation in the easternmost unit (3) so as to avoid overlooking of 45 Swan Grove and the adjoining dwellings while the juxta-position of no 20 and unit 2 is improved by comparison with the earlier scheme as a result of wider spacing such that the 45 degree daylight zone is fully protected.

### Highways and Parking

- 15.6 It will be seen that the Highway Authority have recommended approval of the present scheme having reversed their objection in respect of 121486. They note however that no development cannot take place until highway rights have been formally removed from the relevant parts of the site.
- 15.7 It is acknowledged that the 4 car parking spaces proposed on site for 2 dwellings of 2 or more bedrooms satisfies your adopted standards and while the 3 "additional" spaces indicated on the plan cannot be secured through the present planning application as they are outside the red-lined area, 5 further spaces are provided on-site. It is also within the Council's power to deliver the 3 off-site spaces in a timely fashion. Therefore, whilst these 3 spaces cannot be secured by condition the Council has factored them into the project elsewhere so that Estuary include it within the building phase.
- 15.8 Members will have noted that the main pre-occupation of the majority of objectors is concern over the loss of garages, coupled with the present difficulties experienced by residents caused by insufficient allocated parking facilities which they claim will be aggravated by approving the application.
- 15.9 At the time of the previous application, CBC met with residents to advise them about the proposed parking provision and alternative garage tenancies, including the residents who may have disabilities. Their findings were that of the 4 garages to be removed, all are occupied (3 by local people) and a further 9 external spaces will be lost to the development. Of the 3 local people, 2 have already been offered another garage within 100m of their present garage and there are 2 further alternative garages to offer. Of the 2 remaining residents 1 lives in London. Both were written to at the time and it has been confirmed that this situation continues to apply.
- 15.10 With the 2 of the 3 tenants having accepted garages in the same road, and there being 1 more who has the offer of a garage here there are no existing local garage tenants to be relocated. The person from London who rents a garage clearly would not result in an additional car being parked in the highway once the garages are redeveloped. That leaves one more spare garage in Swan Grove that CBH can offer to local residents for parking purposes. As before there are also 9 cars parked in various area of the surrounding highway and grassed areas that need to be considered but one of these could take up a spare garage leaving 8 to be found alternative parking spaces in order to achieve a nil loss of on-street parking position.

These spaces can be delivered through this proposal & there is therefore no net loss of parking space as a result of this scheme.

- 15.11 Members may have noted that indiscriminate parking takes place at times within the present turning head and its immediate environs. These spaces should not be regarded as bona-fide parking facilities in any calculation of spaces to be replaced, as any such parking space inhibits the proper function of turning head.
- 15.12 It is your officers opinion that although there are undoubted parking problems in the locality, especially during the evenings and at weekends, there is no increased shortfall in local street parking caused by this development. In fact, it appears to make a positive contribution towards formal parking provision at the locality more generally. It is accepted that local residents remain very concerned that any new housing proposal here will aggravate existing parking problems with consequent adverse impact on community relations but this concern must be outweighed by the benefits of providing 2 new families with a much needed affordable home to live in. Therefore, the balance of factors still weighs in favour of an approval. Members will need to consider if they agree with this opinion or not.

### Trees and Ecology

- 15.13 The submitted AIA indicates that a group of crab apple trees will be removed but other trees and vegetation, including the existing boundary hedge, will be retained. Those trees scheduled for removal would not ordinarily be considered specimens of amenity value and the Tree Protection Officer raises no objections.
- 15.14 As regards natural conservation interests, the submitted Ecological Report indicates that there are no designated sites for nature conservation within 1km of the site and no local wildlife site in the vicinity. The site itself has reduced ecological value due to being bounded on 3 sides by development but nonetheless special consideration was given to:-
1. Birds – Vegetation on site shows potential to support breeding birds.
  2. Woodland Banks – Linear landscape feature to rear of site shows high botanical value and will be retained.
  3. Badgers – No sett on site and area considered unsuitable for habitation.
  4. Great Crested Newts – This species is known to exist although site is of limited value as habitat. If individual specimens are found, works must cease and an ecological engaged.
- 15.15 These findings, by a competent company, are considered acceptable by your officers and consistent with the observations on site. If permission is granted, a condition requiring adherence to the report's recommendations is essential.

## **16.0 Conclusion**

- 16.1 As discussed above, the proposals are largely consistent with your established policies but as before have generated considerable concern over car parking/garaging which is considered in detail by this report.

16.2 It is acknowledged Swan Grove is subject to parking issues currently but this development will not add to any shortfall with existing tenants being provided with alternative garaging close by. Members will also wish to balance the concerns of local people against the benefits of providing urgently required affordable housing. Officers consider the scheme as now amended to be worthy of support and recommend approval.

## **17.0 Recommended Reasons for the Decision**

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

Whilst the proposal accords with most of the relevant policies in the Statutory Development Plan (as set out above), it does not fully comply with policy DP16 in so far as no open space contribution is proposed. That said the Planning Committee has, after having regard to all material considerations, concluded that the proposal is acceptable because although there is no Unilateral Undertaking in respect of public open space, as Colchester Borough Council is the landowner, such contributions can (if required) be included as part of any land transfer agreement. Were a legal agreement to be imposed, it is likely that this would be reflected in the terms of the negotiated land transfer between the Council and the Housing Association. Consequently, there would be no net gain to the community by requiring payment of open space contributions. Thus, having balanced the weight to be given to the various issues, and having had regard to all of the material planning considerations, the Council is of the opinion that the proposal will not cause any significant harm to interests of acknowledged importance that would warrant the refusal of this application. In reaching this decision the Council is mindful of the particular circumstances and reasons set out below, namely that the development does not materially harm neighbours' amenities, is acceptable in highway safety terms, improves the appearance of the site and achieves 2 new affordable housing units.

## **18.0 Recommendation**

18.1 It is recommended, on balance, that permission be granted subject to the following conditions:-

## **19.0 Conditions**

### **1 - Time Limit for Full Permissions**

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

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

### **2 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 8660-03-1000 Rev J, 1001 Rev F and 1002 Rev L dated 9/4/13 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

### 3 - Non-Standard Condition/Reason

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

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

### 4 - Non-Standard Condition/Reason

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

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

### 5 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in full accordance with the conclusions and recommendations of the Arboricultural Impact Assessment dated April 2012 and Ecological Appraisal dated 12 April 2012 accompanying the submitted application documents.

Reason: In order to safeguard visual amenity and in the interests of nature conservation.

### 6 - Non-Standard Condition/Reason

In the event that contamination that was not previously identified 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: 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.

#### 7 –Non-Standard Condition/Reason

No development shall take place in pursuance of this planning approval until such time as highway rights over the present vehicular turning head have been formally extinguished.

Reason: To ensure legal highway rights have been removed by due process prior to development commencing.

#### 8 - Non-Standard Condition/Reason

Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan 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 in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIE in Colchester Borough Council's Model Planning Conditions document dated July 2012.

#### 9 - Non-Standard Condition/Reason

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 in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIF in Colchester Borough Council's Model Planning Conditions document dated July 2012.

#### 10 - Non-Standard Condition/Reason

The carriageway of the proposed turning head 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. The carriageway 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 in accordance with Policy DM7 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZJW in Colchester Borough Council's Model Planning Conditions document dated July 2012.

#### 11 - Non-Standard Condition/Reason

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIS in Colchester Borough Council's Model Planning Conditions document dated July 2012.

## 12 - Non-Standard Condition/Reason

Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and condition ZIU in Colchester Borough Council's Model Planning Conditions document dated July 2012.

## 13 - Non-Standard Condition/Reason

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 and condition ZJD in Colchester Borough Council's Model Planning Conditions document dated July 2012

## 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.

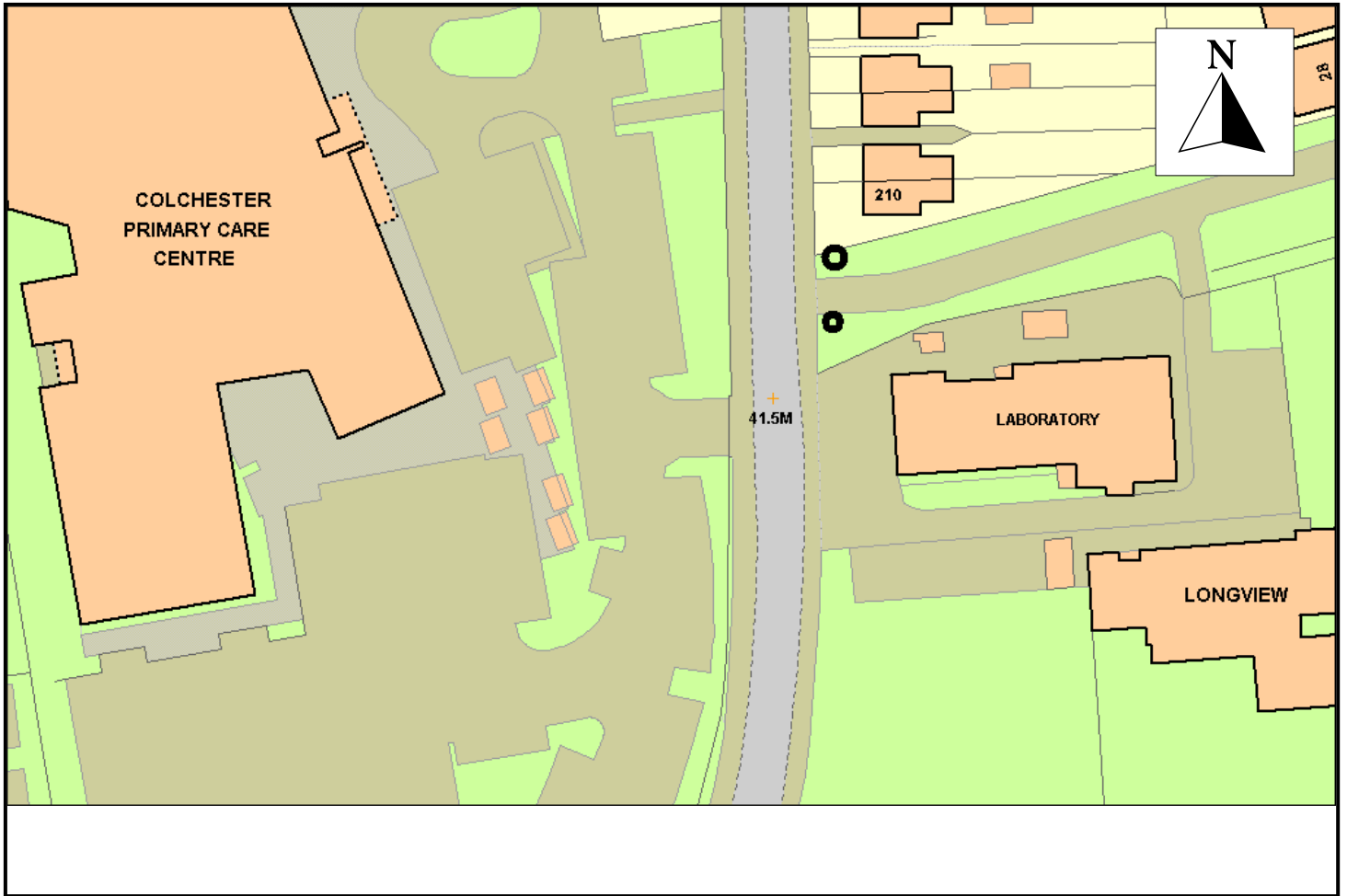
(2) All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made to the Essex County Council on 0845 603 7631.

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

## 21.0 Positivity Statement

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





**Application No:** 130631

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

**Scale (approx):** NOT TO SCALE

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## 7.7 Case Officer: Peter Hill

**OTHER**

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

**Application No:** 130631

**Date Received:** 27 March 2013

**Agent:** Parks And Recreation Life Opportunities

**Applicant:** Highwoods Country Park

**Development:** Free standing entrance signage at the driveway to High Woods Country Park.

**Ward:** Mile End

**Summary of Recommendation:** Conditional Approval

### 1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Council.

### 2.0 Synopsis

2.1 The key issues explored below are;

- Amenity
- Public safety

Both issues include potential impact on the Public Right of Way

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

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

### 3.0 Site Description and Context

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

#### **4.0 Description of the Proposal**

- 4.1 This is an application for Advertisement Consent for two identical signs – one either side of the access on the afore-mentioned grass verges, angled towards Turner Road in a northerly and southerly direction respectively.
- 4.2 Each sign measures 1.2 metres wide and 1.8 metres in height and would be supported on wooden posts. The advertisements are slightly larger than that which can be erected by a Local Authority without the need for express consent, hence this formal application.

#### **5.0 Land Use Allocation**

- 5.1 Highway/Country Park

#### **6.0 Relevant Planning History**

- 6.1 None

#### **7.0 Principal Policies**

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for advertisement consent must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- 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
- 7.4 Regard should also be given to the following adopted Supplementary Planning
- Shopfront Design Guide

#### **8.0 Consultations**

- 8.1 Environmental Services – No objection

8.2 Highway Authority (in consultation with the Public Rights of Way team) – no objection

## **9.0 Parish Council Response**

9.1 Myland Community Council – No objection

## **10.0 Representations**

10.1 No representations received.

## **11.0 Parking Provision**

11.1 N/a

## **12.0 Open Space Provision**

12.1 N/a

## **13.0 Air Quality**

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

## **14.0 Report**

### Amenity

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

Whilst in the public right of way they do not obstruct its use as a public right of way, there being a carriageway with pedestrian areas unaffected by the adverts.

### Public Safety

14.2 In providing clear directional signage to traffic coming from both directions on Turner Road, it is reasonable to suppose that these signs will reduce confusion and distraction in the public highway where drivers are seeking to find the vehicular access to the visitor centre. As previously mentioned, the Highway Authority has no objection.

## **15.0 Conclusion**

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

**16.0 Recommendation - APPROVE** subject to the following conditions;

**17.0 Recommended Reasons for the Decision**

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

**18.0 Conditions**

(ZQA – Standard Advert Condition)

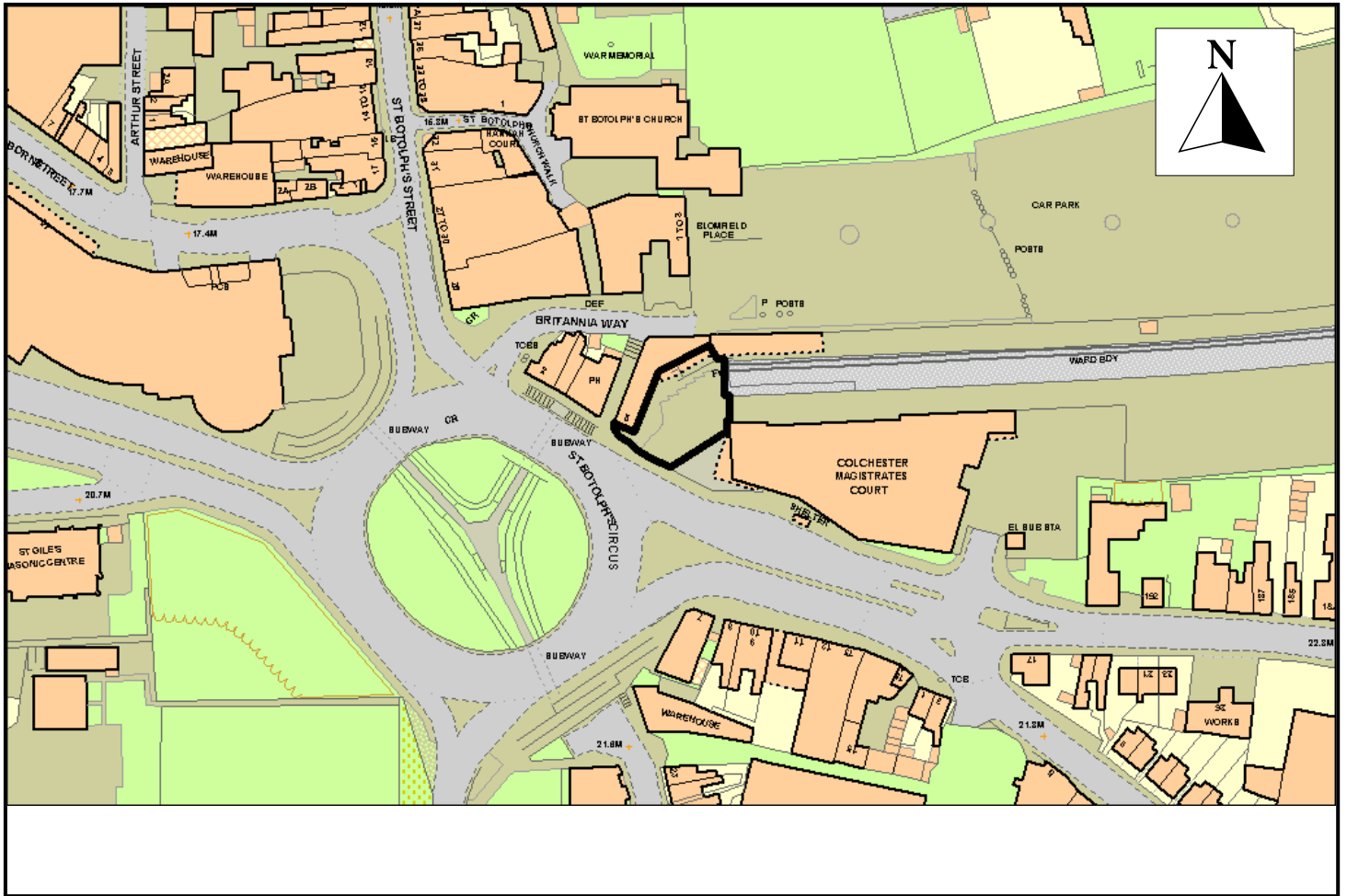
Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

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

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

**19.0 Positivity Statement**

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



**Application No:** 131130

**Location:** Colchester Town Station, St. Botolphs Circus, Colchester, CO2 7EF

**Scale (approx):** 1:1250

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## 7.8 Case Officer: Mark Russell

## OTHER

**Site:** Colchester Town Centre, St. Botolphs Circus, Colchester, CO2 7EF

**Application No:** 131130

**Date Received:** 3 June 2013

**Agent:** Mr Lindsay White

**Applicant:** NPS Property Services Ltd

**Development:** Application for removal or variation of conditions 2, 3, 12, 13, 14, 15 of planning permission 111981 - Development of town station approach area, including removal of parking area, to form new pedestrian space. Works include new paving, lighting and bespoke artwork for seating, guarding/gates and feature rails (inset within the paving).

**Ward:** Castle

**Summary of Recommendation:** Conditional Approval

### 1.0 Introduction

1.1 This application is referred to the Planning Committee because Colchester Borough Council's Strategic Policy and Regeneration Team is the applicant.

### 2.0 Synopsis

2.1 The report refers to the previous permission granted for public realm improvements to the town station forecourt including the provision of public art. It then explains the changes which have been made necessary due to constraints outside the control of Colchester Borough Council.

2.2 The report details the representations received in respect of the proposed development, principally from the Ministry of Justice relating to disturbance during the works. It is concluded that this can be dealt with via condition and the report concludes that, in common with the previous permission, the proposals would result in a vast improvement to the character and appearance of the site along with the setting of the adjacent listed building and the Conservation Area. The proposals would enhance accessibility and would further the Council's regeneration objectives in the St Botolph's area of the town centre. Approval is therefore recommended subject to controlling conditions.

### 3.0 Site Description and Context

3.1 The site comprises the forecourt area to the front of Colchester Town Railway Station and the new Magistrate's Court, accessed from St Botolph's Roundabout. The area is currently all hard landscaped and contains pedestrian access to the Railway Station in front of the station house. The land outside of the Court has already been paved.

3.2 The railway station is an attractive red brick building which is included on the list of buildings designated as being of special architectural and historic interest at grade II.

#### **4.0 Description of the Proposal**

4.1 Whilst the fundamental design concept of the previous permission is retained (a hard landscaped area between the Magistrate's Court and the Town Station building) this proposal is submitted in the form of variation of condition and seeks to vary six Conditions of Planning permission 111981, namely:

- Condition 2: Drawing numbers;
- Condition 3: Paving materials;
- Condition 12: Vehicular access;
- Condition 13: Cycle parking;
- Condition 14: Exclusion of seating;
- Condition 15: Re-location of the crankshaft monument

4.2 In more detail, revised paving materials on the northern and western aspects of the site are proposed (york-stone), whilst the rest of the site will remain block paving in a radial pattern to match that at the magistrate's court (Eco Granite paving from Hanson's stone). The previous permission had this radial pattern extending the whole way across. Also, a single metal rail will sweep around the granite paving, where previously two had been proposed.

4.3 Vehicular access is now being sought, where previously none was to be allowed. This is in response to the new rail operator's request for access for people with disabilities. This will also allow security vehicles to access (courtesy of a collapsible pole).

4.4 Cycle parking is now to be provided, with five new Sheffield hoops (previously no details had been agreed)

4.5 Seating has now also been removed from the proposal. This has been in the interests of security as the rail operator has expressed discomfort with people connected with the courts lingering on its property.

4.6 Finally, the crankshaft monument, which currently sits at the entrance to St. Botolph's car park in commemoration of the former Britannia works, is to be re-located to a point in the south-west of the site. The location of this was previously undecided.

#### **5.0 Land Use Allocation**

5.1 The site is within a Regeneration Area within the St Botolph's Quarter of Colchester and is just outside the Colchester Town Centre Conservation Area.

#### **6.0 Relevant Planning History**

6.1 111981 - Development of town station approach area, including removal of parking area, to form new pedestrian space. Works include new paving, lighting and bespoke artwork for seating, guarding/gates and feature rails (inset within the paving).



6.2 It is also worth noting the planning permission for the new Magistrates Court building that is in the process of being completed (090752). The S106 agreement attached to this permission contained contributions towards the new public square, public realm improvements, public art and CCTV.

## 7.0 Principal Policies

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

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

CE2a - Town Centre

UR1 - Regeneration Areas

UR2 - Built Design and Character

PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

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

DP1 Design and Amenity

DP14 Historic Environment Assets

DP17 Accessibility and Access

DP19 Parking Standards

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

Vehicle Parking Standards

7.5 The St Botolph's Quarter Master Plan and the St Botolph's Car Park Development Brief are also relevant.

## 8.0 Consultations

### 8.1 Urban Design

*"The amendments and variations to this scheme have some beneficial aspects for the design of the space.*

*The change in surface material around the Station building provides much more sympathy to the listed building and a stronger perception of territory. Defining areas for occupation across the square may help alleviate some anti social issues dominating the entire area.*

*The rail provider has requested parking for disabled and a suitable location for security cash collection. Allowing traffic to use the square defeats part of the original concept for the square but given that Network Rail and the operator have movement rights over this space it may appear that the original scheme was short sighted with regard to how this space will be used and inhabited.*

*The public art has been reinterpreted within the site but in principle still provides a good representation of the original concept. It is perhaps regrettable that seating has been removed from the scheme but given that rail users and attendees of the court have different agendas for the square the need to define territories and lessen a global occupation of the space may only be achieved by removing public seating.”*

8.2 Environmental Control  
No comments

8.3 Museum Resources  
No comments

8.4 English Heritage  
No comments

8.5 Historic Buildings Officer  
The proposal will have a positive impact on the setting of the listed building. A detailed consultation response has been provided by my Urban Design colleague. I suggest you determine the application in accordance with his advice.

8.6 Highway Authority comment:  
No comments

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**

9.1 n/a

## **10.0 Representations**

10.1 The Ministry of Justice (MoJ) has commented as follows:

*“The nature of the Court's operation is often highly sensitive and the MoJ would therefore like to raise a number of issues in relation to the public realm improvements to the town station forecourt, as detailed in the above application.*

*There are 5 Court rooms located within Colchester Magistrates' Court, and there is particular concern with Court 4 facing the application site. This Court deals with criminal cases. The Court rooms operate from 8.30am to 5pm Monday to Friday.*

*It is MoJ's concern that the proximity of the proposed development could undermine their ability to operate the Court building at this location in supporting the country's legal system and respectfully request that this letter be taken into consideration.*

*There will inevitably be high noise levels and vibrations caused during the construction phase of the development and these are a serious cause for concern. Increased noise levels could disturb the functioning of the Court and prevent cases being heard in a satisfactory manner. This issue is of particular concern regarding Court 4, which faces the application site. Paragraph 123 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should aim to:*

- *Avoid noise giving rise to significant adverse impact on health and quality of life as a result of new development;*
- *Identify and protect areas of tranquillity which have remained relatively undisturbed by noise.*

*We request therefore that operations which contribute to considerable noise generation should take place outside of the main Court opening times of between 9.30am and 5pm. This is to mitigate against any negative impact on the operation of the Court hearings.*

*Whilst the proposal has made provision for surface water drainage systems throughout, the MoJ are concerned that the development will intensify the amount of surface run off reaching the front of the Court building. For this reason, the MoJ seek assurance from the council that the drainage systems proposed, their design and their location are sufficient to deter surface run off from the Court.*

*The scheme proposes a Manhattan style lamp 4 metres in height in close proximity of the curtilage of the Court. We request that the proposed lamp column number 4 (application drawing reference E01 revision B) on the left hand corner of the court building be removed so as to enable the Court proceedings to progress without compromising security. There are a number of other forms of lighting proposed in this area, and for this reason we consider it unnecessary to provide this lamp post in this particular location.*

*The current proposal provides the land to the left of the Court, alongside the railway, as an open roadway. This would provide access to the station for railway maintenance and emergency services. The MoJ is concerned that during peak travel times the roadway will become congested with vehicles and pedestrians travelling to and from the station. Whilst the principle of access is supported by the MoJ, the issue lies with the potential of the increased generation of traffic to obstruct the Court operations. We request that the road is adopted as a Controlled Parking Zone or that double yellow lines are painted. This would ensure that vehicle use is restricted whilst enabling necessary access for emergency vehicles.*

*In conclusion, MoJ do not object in principle of the public realm improvements to the town station forecourt. However, as you will appreciate, MoJ has a duty to guarantee that the Court proceedings are held in a fair and reasonable manner. MoJ express concern over the open roadway, which is likely to be used by public vehicles on a daily basis. When combined with increased noise from the construction there will undoubtedly be an adverse impact on the Courts ability to operate. Security is fundamental to the Court and we ask for reconsideration on the lamp post position to ensure this is not compromised. Further to this, MoJ respectfully requests that additional information be provided to satisfy the drainage concerns.”*

- 10.2 Councillor Theresa Higgins has also commented: *“I see that the tarmac area leading into the square is to be paved. It will still be crossing point for cars, so I think there is a need for tactile paving to warn the vision impaired people who walk to the Essex Blind Charity further up the road that this is an area where cars do and will cross.”*

## **11.0 Parking Provision**

11.1 See report section below.

## **12.0 Open Space Provisions**

12.1 N/A

## **13.0 Air Quality**

13.1 The site is within an Air Quality Management Area, but will not generate significant impacts upon the zone.

## **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

15.1 Core Strategy Policy CE2a indicates the Council will seek to deliver more attractive public spaces and streetscapes in the town centre. Policy UR1 sets out the council’s regeneration and renaissance aims, listing five main areas, including St Botolph’s, to focus improvements enhancing public realm and improve accessibility. Policy UR2 requires high quality and inclusive design which enhance built character and public realm to make better places for residents and visitors. Policy PR2 indicates that the town centre and urban gateways will be priority areas for streetscape improvements and traffic management to support the development of a prestigious regional centre. Policy TA3 states that Gateways to Colchester will be enhanced to provide attractive entry points, a sense of place and excellent onward connections. The Urban Gateways at Colchester including Colchester Town Railway station at St Botolph’s will be improved to facilitate regeneration in the surrounding areas.

15.2 Development Policy DP1 requires all development to be designed to a high standard and avoid unacceptable impacts on amenity. Development proposals must demonstrate that they respect and enhance the character of the site, its context and surroundings and wherever possible remove existing unsightly features as part of the overall development proposal. Further, they must provide a design and layout that takes into account the potential users of the site, including giving priority to pedestrian, cycling and public transport access, and the provision of satisfactory access provision for disabled people and those with restricted mobility. Policy DP14 indicates that development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest. Policy DP17 states all developments should seek to enhance accessibility for sustainable modes of transport, by giving priority to pedestrian, cycling and public transport access to ensure they are safe, convenient and attractive, and linked to existing networks.

- 15.3 The Council's Masterplan Planning Guidance relating to St Botolph's Quarter states that the regeneration of St Botolph's Quarter is one of the four major regeneration projects planned as a key objective of the Council's Strategic Plan and 'Colchester 2020, the Community Strategy'. It describes how a new focus for the town is to be formed by the railway station in the form of a the new Magistrates Court and Station Square "The square integrates the improved Town Station with the new Magistrates Court building and provides a starting point for the 'Heritage Route' leading towards the new Cultural Quarter." (paragraph 4.4)

#### Design and layout

- 15.4 The proposal is essentially a hard landscaping scheme between the edge of the new Magistrates Court forecourt and Colchester Town Railway Station buildings. The area would be paved in Eco Granite paving laid in a radial pattern as shown on the submitted drawing creating a level access across the site. This proposal would continue the paving pattern generated for the Magistrates Courthouse forecourt which follows the concept design developed by the Council, but this will not now extend the entirety of the site.
- 15.5 The reasons behind these changes are manifold: The York stone arranged in more linear pattern around the station building to help to better enhance its setting; the differing patterns also help to better define the "territories" for the station, the vehicle areas and the court (though they do not strictly follow these) and the relocated rail helps to guide vehicles towards the existing right of access east-west, which tracks to the north of the court building.
- 15.6 At the request of the landowner the seating from the original proposal has been removed from the scheme, their rationale is to limit the occupation of the station by people attending the court.
- 15.7 The proposed lighting is as before. For information, this has been developed to achieve rail industry standards for the station type. The requirements are to achieve an average of 20 lux throughout with a minimum of 8 lux. To achieve this standard, 4 light columns are proposed. These are to be from DW Windsor, type Manhattan, height 5 metres.
- 15.8 Overall the design and layout of the space is considered to be a major improvement on the current situation removing existing unsightly features and obstacles and creating an attractive and welcoming arrival point in the town centre. It would improve the pedestrian experience giving priority to pedestrians and create level access to the town centre railway station. As such the proposal is considered to accord with adopted policies set out above.

#### Setting of Heritage Assets

- 15.9 The proposal has a direct impact on the settings of two designated heritage assets, the Colchester Town Centre Conservation Area and the grade II listed Station House at Colchester Town station.

- 15.10 The area around the railway station was described in both the 2003 and the 2007 Conservation Area appraisals as having a detrimental impact on the adjacent Conservation Area. The car park was described in the 2007 Conservation Area Appraisal as “a large bleak areas of tarmac, which would benefit from development or landscaping”. The setting of the Station House is currently poor and heavily worn. Outside the front door of the house is a group of parking bays and patched tarmac in the former entrance to the station car park.
- 15.11 It is considered the proposal would have a positive impact on the character and the appearance of the Conservation Area and would vastly improve the setting for the listed building, removing the visual clutter from around it and allow for it to be better appreciated. As such the proposals accord with the policies set out above.

#### Parking

- 15.12 There were previously six car parking spaces to the front of the station building for staff. These are to be removed as part of the proposals with parking for station staff being provided in Britannia Car Park to the rear of the site. The previous application was to have no vehicular access, and thus no parking. However, since that point the rail operator franchise has changed and the new operator wishes to have a single parking bay for people with disabilities.

#### Vehicular Access

- 15.13 As part of the new Magistrates Court development, a new level footpath is to be created across the site frontage where the existing bell mouth junction is situated. While the bell mouth junction and all roadways are to be removed from the site, limited vehicular access will still be necessary to the station, for essential maintenance & emergency service vehicles. This is to be achieved with a short section of splayed kerb, indicating where maintenance and emergency vehicles should gain access into the square.

#### Other Matters

- 15.14 The comments from the court service are noted. However, it must be remembered that permission has already been granted for the station square. The current proposal does little to change this. In mitigation, it is possible to condition that lamp column 4 be relocated to enhance the security which that party has voiced concern over. It is not held to be possible to restrict noisy activities to outside of court hours, but instead a condition is proposed that the applicant provide the court service with a schedule of works so that it may take evasive action if necessary. The court has already implemented its own drainage system and the scenario on the remaining part of the site will be unaltered.

### **16.0 Conclusion**

- 16.1 In summary, it is considered the proposals would result in a vast improvement to the character and appearance of the site along with the setting of the adjacent listed building and the Conservation Area. The proposal would enhance accessibility and would further the Council's regeneration objectives in the St Botolph's area of the town centre. Approval is therefore recommended subject to controlling conditions.

## **17.0 Recommendation**

17.1 APPROVE subject to the conditions below.

## **18.0 Recommended Reasons for the Decision**

18.1 The Planning Committee having considered the recommendation contained in the officer's report was of the opinion that the proposal does comply with the relevant policies in the Statutory Development Plan (as set out above). In particular Members were of the opinion that the proposal warranted approval because of the enhancements to the setting of the Listed Building, the Conservation Area and the public realm in general. Thus, having had regard to all material planning considerations the Council is of the opinion that the proposal will not cause any harm to interests of acknowledged importance that would warrant the refusal of this application.

## **19.0 Conditions**

### **1 - Time Limit for Full Permissions**

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

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

### **2 - \*Development to Accord With Approved Plans**

The development shall be implemented in all respects strictly in accordance with the submitted plan X10-5038 12 rev H, as hereby approved, in addition to the drawings agreed under planning permission 111981.

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 materials and finishes to be used shall be as stated on the application form and as indicated on the approved plans, unless otherwise approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials used on the development are of a satisfactory appearance that respects the adjacent listed building and ties in with the forecourt to the new Magistrates Court.

#### 4 - Non-Standard Condition/Reason

Notwithstanding condition 3, above the RAL colour for all metal street furniture shall be submitted to and approved in writing by the Local Planning Authority prior to its being put in place. The street furniture shall be finished in the approved RAL colour prior to the completion of development and thereafter retained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the materials used on the development are of a satisfactory appearance that respects the adjacent listed building and ties in with the forecourt to the new Magistrates Court.

#### 5 - Non-Standard Condition/Reason

Prior to the curved metal rail being installed, details of the artwork to be etched on it as part of the urban artwork scheme shall be submitted to and approved in writing by the Local Planning Authority. Such artwork shall then be etched and the rail put into place at a time to be agreed with the Local Planning Authority.

Reason: To ensure artwork is appropriate to the location in the interests of visual amenity.

#### 6 - Non-Standard Condition/Reason

Notwithstanding condition 2 above, the lamp columns shall be a maximum of 4m in height.

Reason: To ensure the lamp columns are an appropriate height to compliment the domestic scale of the station building and to be in proportion to the relatively small square.

#### 7 - Non-Standard Condition/Reason

Any lighting of the development shall fully comply with the figures specified in the current 'Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light' for zone E3. This shall include sky glow, light trespass into windows of any property, source intensity and building luminance. Upon completion of the development and prior to the use hereby permitted commencing a validation report undertaken by competent persons that demonstrates compliance with the above shall be submitted to the planning authority for approval. Having been approved any installation shall thereafter be retained and maintained to the standard agreed.

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

#### 8 - Non-Standard Condition/Reason

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 9 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.



#### 9 - Non-Standard Condition/Reason

In the event that contamination that was not previously identified 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 the Local Planning Authority, 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 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: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 10 - Non-Standard Condition/Reason

Lighting column reference LC3 shall be located to ensure it is clear of the emergency/service access off St. Botolph's Roundabout.

Reason: To protect highway efficiency of movement and safety.

#### 11 - Non-Standard Condition/Reason

No part, including the lantern, of any lighting column shall overhang existing or proposed highway.

Reason: To protect highway efficiency of movement and safety.

#### 12 - Non-Standard Condition/Reason

Prior to commencement of the development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided prior to commencement of the development and maintained during the period of construction.

Reason: To prevent the deposit of material onto the highway to protect highway efficiency of movement and safety.

#### 13 - Non-Standard Condition/Reason

Signage of a specification and content to be further agreed with the Local Planning Authority shall be displayed in locations to be agreed with the local planning authority advising the public of the location of nearby 'drop-off / pick-up' facilities prior to the opening of the Town Station Square. Such signage to remain in place thereafter.

Reason: To ensure drivers wishing to 'drop-off' or 'pick-up' rail passengers are advised of safe locations to do so that will not obstruct the free-flow of the adjacent public highway.

#### 14 - Non-Standard Condition/Reason

Within 1 month of the completion of the Town Station Square works hereby approved cycle parking facilities as shown on the drawing hereby approved shall be installed and shall thereafter be retained unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that cycle parking facilities are provided close to this new public space for those wishing to visit the area by bicycle.

#### 15 - Non-Standard Condition/Reason

Notwithstanding the details of the drawing hereby approved, the applicant shall, prior to the installation of any lighting columns, submit details of a repositioned "column 4" to the satisfaction of the Local Planning Authority. Such details shall then be put in place concurrently with the rest of the lighting scheme and retained at all times thereafter.

Reason: In the interests of sufficient lighting of the square, and to ensure security to the neighbouring court building.

#### 16 - Non-Standard Condition/Reason

Prior to the commencement of development, the applicant shall advise immediate neighbouring premises of a timetable of works, including those which are likely to create noise nuisance.

Reason: So that interested parties may make alternative arrangements if required.

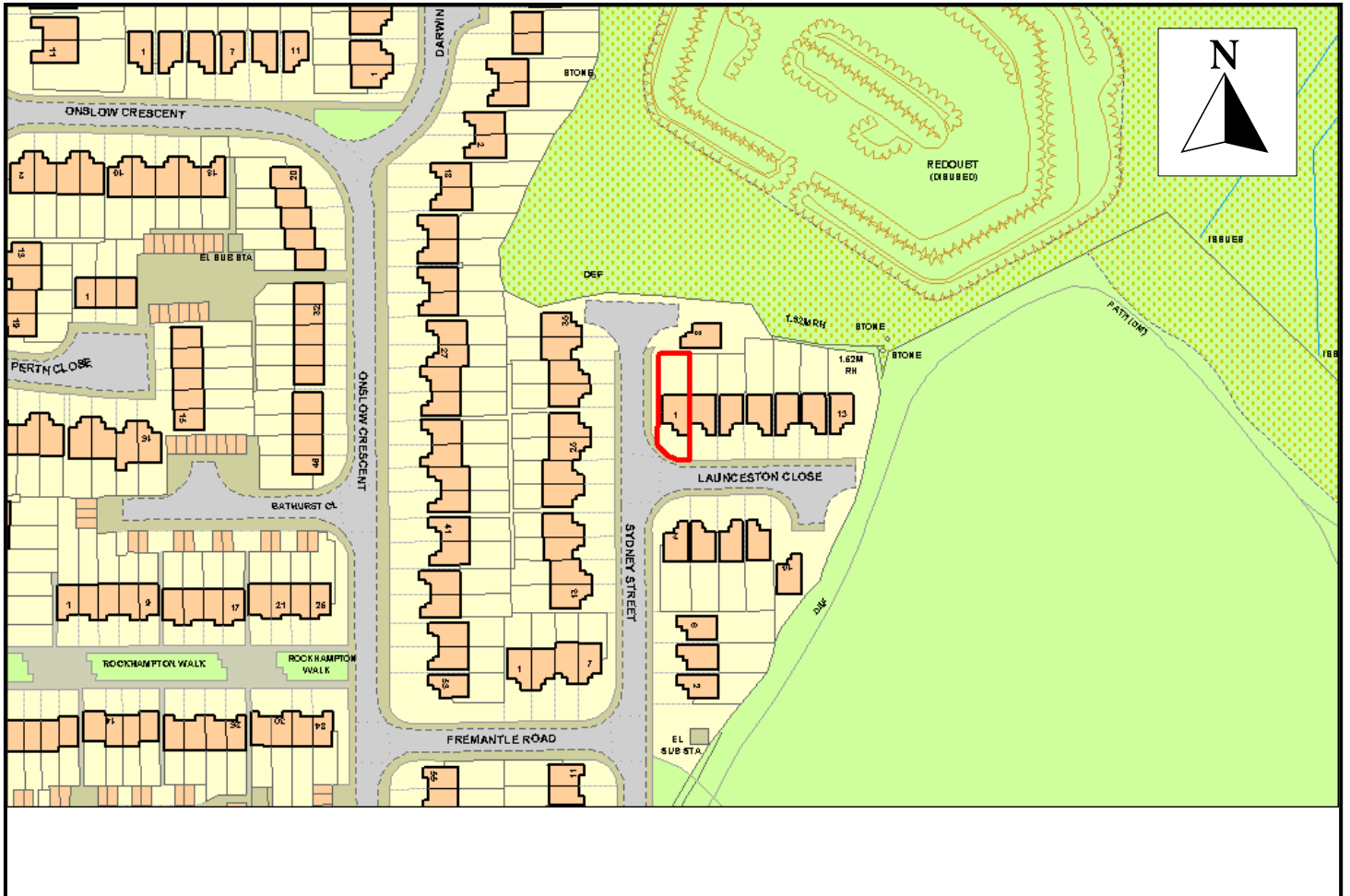
### 20.0 Informatives

(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.

### 21.0 Positivity Statement

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



**Application No:** 131210

**Location:** 1 Launceston Close, Colchester, CO2 8UR

**Scale (approx):** 1:1250

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**7.9 Case Officer: Mark Russell**

**Due Date: 16/08/2013**

**HOUSEHOLDER**

**Site:** 1 Launceston Close, Colchester, CO2 8UR

**Application No:** 131210

**Date Received:** 21 June 2013

**Agent:** The Gateway Partnership

**Applicant:** Colchester Borough Homes

**Development:** Single storey extension to create disabled facilities

**Ward:** Berechurch

**Summary of Recommendation:** Conditional Approval

## **1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee because Colchester Borough Homes is the applicant.

## **2.0 Synopsis**

2.1 A brief description is given of this non-contentious application for a garage conversion and provision of ramps. It is noted that the garage conversion has been undertaken at several other residences in the vicinity, and would not require planning permission in any event. It is also noted that the proposed rear ramp would not require permission, but the front ramp does indeed require permission.

2.2 It is accepted that the front ramp will be apparent in the streetscene, but it is accepted that this, along with the other items are required to enable use of the dwellinghouse by people with disabilities. Approval is recommended.

## **3.0 Site Description and Context**

3.1 1 Launceston Close is a corner dwelling of red-brick and white weatherboarding. It is on the "Little Australia" estate in Berechurch, which comprises a similar style of property throughout and was built in the 1970s.

## **4.0 Description of the Proposal**

4.1 The proposal is threefold:

1. Conversion of a garage to a living room;
2. Creation of a rear ramp;
3. Creation of a front ramp.

## **5.0 Land Use Allocation**

5.1 Predominantly residential

## **6.0 Relevant Planning History**

6.1 20051 - Residential Development. Approved 30<sup>th</sup> May 1969

## **7.0 Principal Policies**

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

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

UR2 - Built Design and Character  
TA5 - Parking

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

DP1 Design and Amenity  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP19 Parking Standards

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

Vehicle Parking Standards  
Extending Your House?  
External Materials in New Developments

## **8.0 Consultations**

8.1 None

## **9.0 Parish Council Response**

9.1 n/a

## **10.0 Representations**

10.1 None

## **11.0 Parking Provision**

11.1 No change to the existing, the garage size is already deficient under the current standards.

## **12.0 Open Space Provisions**

12.1 n/a

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

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

## **15.0 Report**

15.1 The proposed making good of the front of the former garage is sympathetic to the original house with brick to match. The rear ramp is beyond public view. It is accepted that the ramp to the front would be physically apparent, especially as viewed from the corner. However, it does fall away against, and is obstructed from view by, the garage.

15.2 There are two other examples of such a garage conversion (neither requiring planning permission) in the vicinity.

## **16.0 Conclusion**

16.1 In conclusion, the only works requiring planning permission are those connected to the ramp at the front of the house. Whilst visible, these are largely set against the garage and are required for the dwelling to be used by people with disabilities, Approval is, therefore, recommended.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions

## **18.0 Recommended Reasons for the Decision**

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

## **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 Number 777 /01 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.

## **20.0 Informatives**

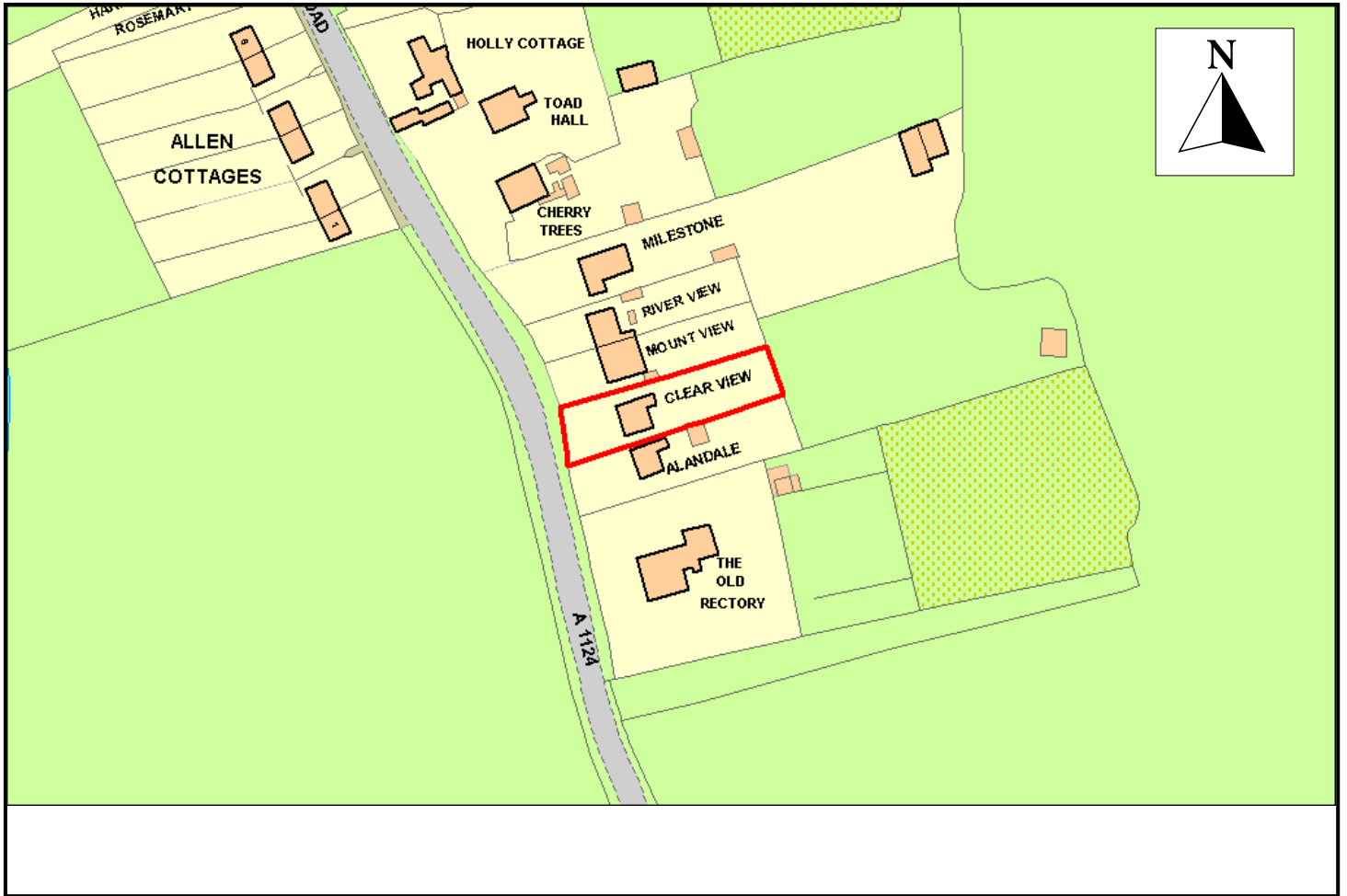
### **(1) ZT0 – Advisory Note on Construction & Demolition**

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.

## **21.0 Positivity Statement**

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



**Application No:** 131043

**Location:** Clear View, Colchester Road, Chappel, Colchester CO6 2AE

**Scale (approx):** 1:1250

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**7.10 Case Officer: Mr David Whybrow**

**HOUSEHOLDER**

**Site:** Clear View, Colchester Road, Chappel, Colchester CO6 2AE

**Application No:** 131043

**Date Received:** 28 May 2013

**Agent:** Nigel Valentine

**Applicant:** Mr & Mrs Frazer Rampley

**Development:** Single storey rear extension,loft conversion including roof alterations and the formation of front and rear roof dormers (Revisions to design of previous planning application granted planning permission).

**Ward:** Great Tey

**Summary of Recommendation:** Conditional Approval

**1.0 Reason for Referral to the Planning Committee**

1.1 This application is referred to the Planning Committee as a result of a call in by Cllr Chillingworth who considers the scheme to be overdevelopment and of poor design.

**2.0 Synopsis**

2.1 The following report will describe the application and refer to previous planning history at the site. The reasons for the call in will be assessed along with the representations of neighbours. It will be concluded by your officer that notwithstanding these concerns the proposal is acceptable from a planning point of view and is recommended for approval.

**3.0 Site Description and Context**

3.1 Clear View is a detached, pebble-dashed bungalow on rising ground north of the A1124. It has composite slates on the roof. Bungalows to either side have rooms in the roof and there are no main side windows to Alandale, the property to the south, but two to the flank wall of Mount View to the north appear to serve habitable rooms. There is 1.7m fencing to Alandale's boundary but little screening to Mount View.

## **4.0 Description of the Proposal**

4.1 The proposal consists of two elements :

- a rear addition to create a kitchen/dining area and utility room, in flat roofed form
- a bedroom, bathroom and dressing room addition at first floor level with the existing hipped roof converted to a fully gabled roof and flat roofed box-dormer to rear. A wide central dormer feature to the front elevation has been amended to two more conventional and proportionate dormers.

4.2 An earlier planning permission approved in January 2012, under ref 112088 proposed rear additions of similar extent but with a taller hipped roof and the hipped roof maintained to the original structure. This also provided for a vehicular access and parking spaces. In 2012 (121757) another application for a larger single storey extension was submitted and subsequently withdrawn following officer concern regarding the impact of the proposed development on the amenity of the adjacent dwelling. Subsequent to this withdrawal a further application, 122271, was approved with pitched roof rear addition extending into the rear garden to the same extent as the present proposal. The ridgeline was shown at the same height as the existing roof and at an equivalent height to Alandale. To the rear it terminated in a full gable.

## **5.0 Land Use Allocation**

5.1 Within village settlement boundary.

## **6.0 Relevant Planning History**

6.1 see 4.2.

## **7.0 Principal Policies**

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

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

UR2 Built Design & Character

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

DP1 Design and Amenity  
DP12 Dwelling Standards  
DP 13 Dwelling alterations, extensions, etc.  
DP 19 Parking Standards

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

Extending Your House?  
The Essex Design Guide

## **8.0 Consultations**

8.1 None

## **9.0 Parish Council Response**

9.1 The Parish Council is concerned at the impact on neighbouring properties regarding loss of privacy and light. The extension is not considered in character and is overbearing and over-sized.

## **10.0 Representations**

10.1 Representations have been received from two neighbouring residents. The occupiers of Alandale write "the new proposal will encroach on our privacy and we believe that it has always been a two bedroom bungalow and is not on a plot big enough to allow such a large extension. We will lose our skyline and privacy from next door. If these people want a much larger development then why do they not acquire a much larger existing house on a more suitable plot. All this has made us very unhappy and we oppose it strongly. We will have no privacy in our back garden with all the proposed windows and glass doors and the noise factor should be also be considered. The noise from next door is paramount as we can hear every word and it is a disturbance to us. We moved here for a quiet life which is obviously going to be disturbed on a regular basis if this large extension and privacy loss is allowed to go ahead. We will take this higher if this is allowed to be endorsed to protect our human rights".

10.2 The occupier of Mount View indicates: "In looking at the new roof plan this is not in keeping with the surrounding roof designs. Having the front and back dormers. This will take away my sky line and possibly light to my second bedroom and side lounge window. We had no objections with regard to the previous plans."

10.3 For Members' information, the agent has responded to certain matters raised by the neighbours as follows :

- "The roof alterations/rear dormer element of the proposals could be carried out as "permitted development"; regardless, I have shown it on the application to justify the reason for a parapet wall around the flat roof over the rear extension, and the pitched roof dormers on the front elevation."

- Both adjoining properties occupy similar sized sites, they have both been substantially extended and have altered their original front elevations.
- The footprint of the rear extension is no different to that which was previously approved.
- The alterations made to the roof design ie; flat as opposed to pitched, must reduce the impact of the extension on the adjoining properties.

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

## **11.0 Parking Provision**

- 11.1 A minimum of two car parking spaces will be retained at the site, in accordance with the adopted parking standard for a three bedroomed dwelling.

## **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 householder 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 There is no basic land use objection to this development given its location within the settlement limits and previous planning history. This is a sizeable site and there should be no concerns regarding overdevelopment, nor the scale of the development, having regard to the relative sizes of other property in the locality.
- 15.2 The extant approval, 122271, is part implemented and this submission now seeks to vary the form of the scheme as described above. The approved rear extension projected 5.75m from the rear of the bungalow and incorporated a ridged and gabled roof. The present proposal extends the same distance rearwards, however, the flat roofed form creates less mass and bulk. It may therefore be considered to have a lesser impact on the amenity of neighbours, particularly as this version still safeguards the 45 degree zone drawn from the nearest corner of each adjoining property and thereby protects the light and outlook of their occupiers. Members will note there are no side facing windows to overlook the neighbours and your officers conclusion is that these proposals will not unduly affect the light, outlook, privacy or amenity of neighbouring householders.

15.3 The design of the extension, particularly the flat roofed built forms as proposed, is a material consideration in this case and while not ideal is considered to have a limited impact on the character of the wider area as a result of their position to the rear of the property. As identified previously the lower profile of the flat roofs is in fact seen as beneficial in terms of the impact of the works on the adjoining dwellings. From the perspective of the front elevation, there can be no objection to the fully gabled roof, examples of which are found throughout the area and which could in any event be constructed as permitted development. The revised form of dormers is considered satisfactory.

## **16.0 Conclusion and Suggested Reasons for Decision**

16.1 Notwithstanding the concerns of Cllr Chillingworth and two neighbours, for the reasons suggested above, on balance, this is considered a satisfactory proposal and a suitable alternative to the existing approval, 122271. Although it is accepted that there may be reservations over the use of flat roofs it is argued that this will have little visual impact on the wider area and will have some benefits for neighbours' amenity. A conditional approval is recommended.

## **17.0 Recommendation – Approved with Conditions**

### **18.0 Recommended Reasons for the Decision**

???

## **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 Number NV 1628.02A 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 - Parking Space/Hardstanding Sizes (Open)**

Car parking facilities for at least two vehicles shall be maintained at all times within the site.

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

#### 4 - Materials as Stated in Application

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

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

### 20.0 Informatives

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

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

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

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

### 21.0 Positivity Statement

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



# Planning Committee

1 August 2013

<b>Report of</b>	<b>Head of Environmental and Protective Services</b>	<b>Author</b>	<b>Andrew Tyrrell</b>
<b>Title</b>	<b>Request to Amend the Scheme of Delegation to Officers Following Changes to the General Permitted Development Order</b>		
<b>Wards affected</b>	<b>All</b>		

**his report sets out proposed changes to the Scheme of Delegation in order for Officers to determine all “Prior Approval” applications generated by the changes to the General Permitted Development Order that were introduced by Government on 30 May 2013.**

## 1 Decision Required

- 1.1 Members are asked to agree that all application for a determination as to whether the prior approval of the authority will be required under The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (hereon in called “Prior Approval” for ease of reference) will be exempt from the Member Call-In Process. This will allow officers to determine all “Prior Approval” applications without referral to the Planning Committee.

## 2. Reasons for Decisions

- 2.1 Members are being asked to agree this decision so that the decisions can be made in a timely manner. For Householder“ Prior Approvals” there is a deadline of 42 days from receipt of the application after which consent is granted “by default” if there has been no decision. On other “Prior Approval” applications there is a 56 day cut off. However, in all instances only certain objections trigger consideration and this does not include Member objections. This is set nationally and cannot be changed by Colchester Borough Council. Therefore, if no objection has been received from the named parties within the GPDO (which does not include elected members) then the Local Planning Authority is not at liberty to consider the application anyway, and must grant the consent as soon as is reasonably possible. For Householder “Prior Approval” applications only the adjoining neighbours can make an objection that allows the Council to then consider the merits of the case. On other Notifications the “valid” list of objectors includes people such as the Highways Authority, Environment Agency and Contaminated Land Officer.

### **3. Report on the Proposed Changes**

- 3.1 The proposed changes relate solely to “Prior Approval” applications that came into force on 30 May when the Government introduced new Permitted Development Rights that allow householders to extend their properties rearwards by up to 8m (Detached houses) or 6m (Semis and terraced). However, these rights contain a caveat that prior to starting works the applicant must notify the Council and we must then carry out a 21 day consultation with any adjoining neighbour (see Appendix A for more details). In that 21 days, if we do not receive an objection then we must issue consent for the works (we cannot refuse it). If we do receive an objection from an adjoining neighbour then we are allowed to consider the impacts on the amenity of neighbours against our policies. However, nobody other than the adjoining neighbour can trigger this consideration, and we can not consider any other material planning matters. If we do not issue a decision to approve or refuse the consent within 42 days from receipt then the application is granted by default.
- 3.2 A similar system now also applies to certain changes of use of certain commercial properties too. The difference here is that we consult certain expertise consultees, such as the Environment Agency on flooding, the Highway Authority on highway safety and our contaminated land officer on contamination issues. Only these consultee views can affect the process. There is no statutory requirement to consult ward members and their objections would not trigger any further consideration. If the consultees do have objections on the stated considerations in the General Permitted Development Order then we can consider that issue (i.e. if there was a contamination issue suspected) and we can ask for more information. However, like the householder process, we again usually have only a limited time to make a decision, in this scenario it would be 56 days.
- 3.3 In many cases, by the time that the application had gone through the consultation process and it was known whether or not the application could be considered, it would be too late to schedule it onto an Agenda (due to the publication time beforehand and the 2/3 week cycles). In such cases consent would be gained because no decision had been issued by the Planning Authority. Furthermore, given the specific list of people who need to be consulted and who can affect the process, there would seem no purpose in consulting the Planning Committee on “Prior Approval”s.
- 3.4 The Government have been very clear that this system is designed to cut red tape on applications where they feel there is little cause for concern, and have stated that they believe that these new streamlined measures will help boost the construction economy. On this basis, it is suggested that the Scheme of Delegation be amended to allow Officers to determine all “Prior Approval” applications without the need to refer them to the Planning Committee.

### **4. Alternative Options**

- 4.1 An alternative option is to decline the proposed changes and require that where a member calls in an application it be referred to the Planning Committee. However, given that the opinion of the Committee would not then alter the consideration of the application and that in many cases the time limits would have expired so that consent was granted by default, it would not be recommended that this option were taken.

### **5. Financial implications**

- 5.1 There are no significant financial implications.



## **6. Equality, Diversity and Human Rights Implications**

6.1 There are no significant equality, diversity or human rights implications

## **7. Publicity Considerations**

7.1 Because the changes relate to a new process and are minor there is no need to undergo any public consultation. The changes to the General Permitted Development have been highlighted on our website and discussed at a recent Planning Agents Forum.

## **8. Risk Consideration**

8.1 There is no significant risk.

## **9. Strategic Plan References**

9.1 The Planning Service contributes to all of the Council's key objectives.

## **10. Community Safety Implications**

10.1 The proposed changes do not significantly affect community safety.

## **11. Background Papers**

11.1 Members should be familiar with the changes to the General Permitted Development Order that were introduced on 30<sup>th</sup> of May 2013. A summary is attached in Appendix A.

## **Appendix A – Changes to the General Permitted Development Order on 30 May 2013**

The below is a summary only. Please refer to the actual Order and do not rely solely on this information. Please also note that Householder Permitted Development Rights have also changed but are covered in a separate section of our website.

### **Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2013**

This Order amends the Town and Country Planning (General Permitted Development) Order 1995

#### **New Permitted Development Limits For Dwellinghouses**

From 30<sup>th</sup> May 2013 the limits for extending dwellinghouses will change. The changes are temporary and any extension started under this new right MUST be COMPLETED by 30<sup>th</sup> May 2016. The changes relate to adding a single storey extension to the rear of a dwellinghouse. During this period, if the property is outside of a conservation area or a Site of Special Scientific Interest (SSSI), and it is not a listed building the following changes apply:

- on detached houses, a single storey extension of up to 8 metres in length (measured from the original rear wall of the building) and less than 4 metres in height may be added subject to the prior approval of the Local Planning Authority.
- on semi-detached or terraced houses, a single storey extension of up to 6 metres in length and less than 4 metres in height may be added subject to the prior approval of the Local Planning Authority.

A form is available for use on the Colchester Borough Council Website.

It is important to note that the following requirements must also be met in order for a single storey extension to not require planning permission:

- the property must not have had its permitted development rights removed by a condition on a previous planning permission
- the extension cannot exceed 50% of the total area of ground around the house, within its boundary.
- the extension must not be higher than the highest part of the existing house
- the extensions eaves cannot be higher than the eaves of the existing house
- Any eaves within 2 metres a boundary cannot be higher than 3 metres.
- the materials used in any exterior work (other than in the case of a conservatory) must be of a similar appearance to those of the original house.

#### **Important**

Before beginning the work that may benefit from the permitted development rights described above the developer must submit the following information to the Local Planning Authority:

- A written description of the proposed extension that includes the following information:
  1. how far the new extension would extend from the original rear wall of the dwellinghouse
  2. the maximum height of the extension
  3. the height of the eaves of the extension
- A site plan showing the proposed extension added to the dwellinghouse
- The addresses of any premises adjoining the site
- The contact address of the developer (including an email address if electronic communication is acceptable to the developer)

When this information is received by the Local Planning Authority it will be checked to make sure that the proposal meets with all relevant permitted development restrictions and that the submission includes the above information. The developer will be advised if the submission is not in the correct form and/or the proposal would not benefit from permitted development allowances.

#### What the Local Planning Authority will do

The Local Planning Authority will write to the owners or occupiers of any adjoining premises to advise them of the proposed development. This notification will include the information provided by the developer regarding the size of the extension. A copy of the notification is also sent to the developer. The persons notified have 21 days, from the date of the letter, to respond to the notification.

If no comments are received, the development may commence, following receipt of a written notice from the Local Planning Authority that prior approval of the proposed extension is not required, and that no planning permission is required.

If an objection is received within the consultation period, from the owner or occupier of any adjoining premises, the developer requires the prior approval of the Local Planning Authority. It is at this stage that the LPA has to consider the impact of the extension on the amenity of any adjoining premises. In order to consider the impact on amenity the Local Planning Authority can ask the developer for further information that is reasonably required to enable a proper consideration to take place.

The Local Planning Authority has a maximum of 21 days (following the 21 day neighbour consultation period) to consider the impact of the extension on amenity. During this period the Local Planning Authority can determine that:

1. Prior approval is granted for the proposed development
2. Prior approval is refused for the proposed development

If no response is received from the Local Planning Authority within the entire 42 day period, the developer may commence the extension as proposed in the notification provided that they meet all of the permitted development criteria and do not need planning permission.

#### Important additional information

If prior approval is refused by the Local Planning Authority the developer has a right of appeal to the Planning Inspectorate using the same arrangements provided for a refusal of planning permission.

The extension that is allowed under the process described above must be completed by 30<sup>th</sup> May 2016. The developer must notify the Local Planning Authority, in writing, of the completion of the development as soon as possible.

The process can not be applied for retrospectively.

### **New Prior Approval Procedure for Changes of Use**

Where you are required to go through a prior approval process this must be undertaken prior to any works – you cannot apply retrospectively. Once the correct information has been received by Colchester Borough Council we must consider if any of the impacts are potentially triggered. If so, then we must notify the relevant consultees giving them 21 days to comment. We must also put up a site notice for 21 days or serve a notice on any adjoining owner /occupier. We can ask for more information about impact / risks assessment and any mitigation

We must take into account any representations and the NPPF but we can only take into account highways, flood risk areas and contamination issues.

Development cannot commence until

- (a) we give written notice prior approval is not required;
- (b) we give written notice of our prior approval (or refusal); or
- (c) the expiry of 56 days without such a decision being given

Development cannot take place other than

- (a) where prior approval is required, in accordance with the details approved
- (b) where prior approval is not required or 56 days has expired, in accordance with the details provided in the application

Unless the local planning authority and the developer agree otherwise in writing (i.e. a mutually agreed extension of time).

Below are the changes to Permitted Development for Changes of Use. Where these are subject to the Prior Approval method above this will be stated below.

### **School Fences and Walls Adjacent to a Highway**

The new changes allow schools to build a higher boundary fence or wall adjacent to a highway - up to 2m, provided it does not create an obstruction which is likely to be a danger for highway users. If it does, it should be reduced in height to 1m.

This includes new free school premises, provided the relevant Minister has approved the school, and buildings being used for a temporary period as a school – see below.

### **Increased Thresholds for 'B' Use Classes**

The new changes allow increased permitted development thresholds for changes of use from B1 or B2 to B8, or from B2 or B8 to B1, from 235m<sup>2</sup> to 500m<sup>2</sup>.

### **B1(a) Offices to C3 Residential Changes for Use**

The new changes allow buildings in B1(a) office use to be used for C3 residential purposes subject to a prior approval process. The procedure for applying for approval set out above. Through the prior approval process Colchester Borough Council can only consider the impacts against transport and highways, contamination and flooding issues.

The new permitted development right is temporary in that no prior approvals can be implemented after 30th May 2016. The rights do not apply on land in certain areas including certain military sites, safety hazard areas, listed buildings or scheduled monuments and areas described as Article 1(6A) land. There is no Article 1(6A) land in Colchester so this will not be mentioned in relation to other classes below due to the lack of relevancy.

### **Changes of Use to State Schools**

The new changes allow B1, C1, C2, C2a and D1 uses to change use to a state school subject to a prior approval process (see above). The site must not form part of a military explosives or safety hazard area, or be a listed building or scheduled ancient monument. For the prior approval process Colchester Borough Council can only consider transport and highways, noise and contamination issues.

### **Changes of Use from Agricultural Buildings to a 'Flexible Use'**

The new changes allow existing agricultural buildings to change use to a 'flexible use' falling within use class A1, A2, A3, B1, B8, C1 or D2 subject to notification (under 150m<sup>2</sup>), or subject to the prior approval of Colchester Borough Council (if between 150 and 500m<sup>2</sup>). No more than 500m<sup>2</sup> (cumulatively) of floor space in the building can be converted to a new use and the site must not form part of a military explosives or safety hazard area, or be a listed building or scheduled ancient monument. The new 'flexible use' will then be classed as a sui generis use. Any prior approval can only be considered against transport and highways, noise impacts, contamination and flooding. The procedure for applying for approval set out below.

### **Use as a State School for a Single Academic Year**

The new changes allow a temporary permitted development right allowing any building to change to a school for a single period of one academic year, provided the building has been approved for school use by the relevant Minister, the Secretary of State responsible for schools. It can only be used once for this purpose and must revert to its previous lawful use at the end of the academic year.

### **Flexible Uses and Changes within them**

The new changes allow a new permitted development right for any building within use classes A1, A2, A3, A4, A5, B1, D1 and D2 to change to a flexible use falling within either use class A1, A2, A3 or B1 where the floor space is no more than 150m<sup>2</sup>. Developers have to notify Colchester Borough Council of the initial change, plus any other change within the 2 year period. The new use may only be operated for up to 2 years, after which it reverts to its previous lawful use. During this period it can be used for other uses within the flexible use, but the initial 2 years does not extend each time a change occurs.

### **Temporary Increased Thresholds for Industrial and Warehouse Use Classes**

The new changes increase Permitted Development thresholds to erect, extend or alter industrial and warehouse premises from the previous 25% of gross floor space or 100m<sup>2</sup> (whichever is the lesser) to 50% or 200 m<sup>2</sup>. This new permitted development right is temporary and will expire on 30th May 2016. Developers must notify Colchester Borough Council of completion.

### **Telecoms Installations**

The new changes allow the construction, installation or replacement of telegraph poles, cabinets or lines for fixed-line broadband services that will not require prior approval in Conservation Areas for a 5 year period. Development must be completed before 30th May 2018.

### **Extensions permitted to temporary schools**

The new changes mean that buildings which qualify for the right to change temporarily to school use are also given the benefit of existing permitted development rights which allow schools to carry out building works (including the erection, extension or alteration of buildings and the provision of hard surfaces) subject to various conditions and limitations. This will apply from the date Colchester Borough Council are notified by the relevant Minister that the site has been approved for school use.

### **Temporary Increased Thresholds for Offices**

The new change increases Permitted Development thresholds to erect, extend or alter office premises from 25% of gross floor space or 100m<sup>2</sup> (whichever is the lesser) to 50% or 200m<sup>2</sup>. The new permitted development right is temporary and will expire on 30th May 2016. The developer must notify Colchester Borough Council in writing when the development is complete.

### **Temporary Increased Thresholds for Shops, Catering, Professional or Financial Services**

The new change increases Permitted Development thresholds to erect, extend or alter a shop, catering, professional or financial services establishment from 25% of gross floor space or 100m<sup>2</sup> (whichever is the lesser) to 50% or 200m<sup>2</sup>. The new permitted development right is temporary and will expire on 30th May 2016. The exclusion of development within 2m of the boundary of the curtilage is removed during the same period except in relation to premises which adjoin land or buildings in residential use. The developer must notify Colchester Borough Council in writing when the development is complete.

# AMENDMENT SHEET

Planning Committee  
1 August 2013

## AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 121949 – Highfields Farm, Highfields Lane, Messing

1. The applicant has submitted a further late change to the proposed dimensions of the control room, which will be 10.12m long, 2.61m wide and stand 2.5m above ground level.

*(Officer Response: This late amendment has not given the LPA the opportunity to notify other parties. The position of the control room is similar to that of the most easterly inverter cabinet referred to in paragraph 15.10 of the original report, albeit about 20m closer to The Old Rectory. Nevertheless it will be seen end-on and will of similar height and the amended details are not considered to have a significantly detrimental impact on the local landscape or on neighbouring amenity.)*

2. Natural England has submitted comments on the Ecological Management Plan provided. This welcomes the efforts of the developer to use the development to increase the value of the land for biodiversity. To ensure the reversion of the agricultural land to species-rich grassland, they strongly recommend soil-testing is undertaken to inform the best approach and the appropriate seed mix and also a monitoring condition for the grassland development is imposed. They suggest “Neutral grassland-lowland meadows” is the appropriate target UK BAP habitat. They are also of the opinion that bats roosting in the churchyard will not be directly affected by this proposal, especially as the existing arable use will be of limited value to a foraging bat (hedgerows aside).

*(Officer Response: Recommend proposed condition 13 is replaced by the following three conditions:*

*Additional Condition 1: Prior to the commencement of the development hereby permitted, details of the proposed seed-mix, suitable to provide a “Neutral grassland-lowland meadows” UK BAP habitat shall be submitted to and agreed in writing by the Local Planning Authority. The agreed mix shall be planted within the first planting season following commencement of the*

*development in general accordance with the Ecological Management Plan submitted.*

*Reason: To enhance the ecological value of the site and because insufficient information, including soil-testing to inform the appropriate choice, has been provided on this.*

*Additional Condition 2: The development hereby permitted shall be implemented in accordance with the programme of habitat enhancement and subsequent management proposed by with the Ecological Management Plan submitted, subject to the provisions of the foregoing condition and the monitoring being undertaken over a 5-year period during the months of April to June in years 1, 3 and 5, following implementation of the development.*

*Reason: To enhance the ecological value of the site.*

*Additional Condition 3: The results of the monitoring referred to in the foregoing condition and any appropriate adjustments as may be necessary to secure a "Neutral grassland-lowland meadows" UK BAP habitat shall be submitted to and agreed in writing by the Local Planning Authority within two months following each monitoring event.*

*Reason: To enhance the ecological value of the site.*

3. Further comments have been received from Messing-cum-Inworth Parish Council withdrawing its opposition to this development, but making reference to various recommendations within the report as follows:

The Planning Committee of Messing cum Inworth Parish Council met on 25/7/13 in the presence of the landowners and three Inworth residents whose properties are very close to the proposed development.

This is the third public meeting that has been held about this matter and represents our final response before this application is considered by the Full Planning Committee of Colchester Borough Council on 1/8/13.

The Parish Council has since this application appeared, never been against the concept of generating electricity via a solar farm but was concerned by the original planned location and size of the development and has worked for the last eight months to secure relocation and appropriate conditions that protect as far as possible, the rights and benefits enjoyed by those living in the village of Inworth. Given the recent goodwill, progress and movement shown by Pegasus, the Parish Council now wishes to formerly withdraw it opposition to this development.

At the latest meeting, new definitive drawings were provided and these show for the first time that a large inverter and security room are to be located very near to the boundary fence with the Old Rectory. The residents of that property have asked whether these two items and the access gate to the site could be moved

as they felt that these three items were very intrusive to their enjoyment of their property and whether the gate could be screened as well, thus restricting their view into the site.

The Planning Officer had previously expressed concern about the increase in the size of the inverter and had sought to mitigate its presence on the eye line of residents by having it placed so that it is end on to the Old Rectory.

The Parish Council notes the 20 proposed Planning Conditions and would seek re assurance that they will be vigorously enforced during both the construction and operating phases of this development and would make the following comments:

Condition 2- we think later drawings have now been submitted- post writing and submission of the Planning Officers report /recommendation- please confirm the numbers of the definitive plans.

Condition 7- given the limited road access to this site and our detailed knowledge of the congested local road system- we would once again seek a restriction so that delivery only occurs to the site between 10am and 4pm.

Condition 15- This is a vital condition if complete grid lock on local roads is to be avoided. Lorries must come straight from the A12 and onto site as there is no where for them to wait in Kelvedon, Feering, Tiptree or Inworth.

We understand that movement detectors are to be fitted to the two listed buildings closest to the site (Marlborough Hall and Theobalds) and that a condition report on Windmill Hill Lane has been requested but can find no trace of these items in the recommendations/report.

The Parish Council and residents close to the site would like to be advised of conditions as they are agreed especially in relation to out standing matters on Inverters and Control Rooms (Cond.4), Security cameras (Cond.5), Security Fencing (Cond.6), Site Lighting (Cond.10) and ongoing Landscape management (Conds.11 and 12).

*(Officer Response: The site layout drawing referred to in Condition 2 is still current. However, the details of the control room referred to in condition 3 are out of date resulting from the latest amendment. It is also noted that condition 4 requires details, including location of the control room and inverter cabinets to be submitted, to ensure that the units nearest to The Old Rectory are sited end-on in relation to that property.*

*The Highway Authority has not sought to restrict deliveries to a particular period (10.00am to 4.00pm); however, given the comments made by the Parish Council regarding delivery times, the developer has been asked to respond and further thought can be given to this at the meeting.*

*It is understood that the applicant has offered to fit movement detectors to Marlborough Cottage, although Theobalds is beyond the anticipated vehicle route to the application site.*



*Ultimately any liability for damage resulting from vehicle movement rests with the developer rather than being a matter that the LPA would seek to enforce. It is suggested this is dealt with as an Informative.*

*The details submitted by planning condition are available for the public to view, but they are not routinely consulted upon.*

*Proposed Amended Condition 3: The development hereby permitted shall be carried out in accordance with the details submitted as part of the application, as amended, unless otherwise subsequently agreed, in writing, by the Local Planning Authority. This shall include:*

- The maximum height of the solar panels not to exceed about 2.2 metres above ground level*
- The security fencing not to exceed 2 metres above ground level*
- The control room to accord with the details shown on the Delivery Cabin drawing received on 25 July 2013.*

*Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning and in accordance with the amendments submitted by the applicant during the processing of this application.*

*Proposed Additional Informative: The developer has offered to place movement detectors on Marlborough Cottage, Windmill Hill as a precaution to any movement taking place during the construction period. As the developer is ultimately responsible for any liability arising from damage caused by traffic movement during the construction period, the developer is recommended to enter into a private agreement with the occupier of that property.*

4. An additional letter of objection was received from The Old Rectory. This highlighted the detrimental impact of the updated plan on landscape and residential amenity, with the construction compound, access gate, control room and inverter proposed for a field with strong inter-visibility with the PROW, residences and a public highway. The control room is absent from the photomontages (viewpoint 15) and so too CCTV cameras. No information on lighting during the construction period. Requests the control room is re-sited. The proposal will also have a detrimental effect on bats. Concern was also raised that the site could be sold on with the layout subsequently being changed.

*(Officer Response: The impact of the inverter units and control room has been considered under paragraph 15.10 of the report and earlier in this amendment sheet. English Nature has advised they do not think the bats will be unduly affected by the proposal. The layout of the site is controlled by condition 2 of the approval and any changes to this would need the agreement of the LPA.)*

5. One additional amendment is proposed by the planning officer to condition 12 so that it reads: "Prior to the commencement of the development ..." rather than "prior to occupation ...."
- 7.2 120110, 120112, 120115, 120859 & 121700 – Formerly Jewsons Ltd., Hawkins Road, Colchester

Following additional information submitted by the applicant to the Environment Agency, the latter has removed its objection to the proposal. This is because it has been confirmed that the finished floor levels in respect of applications 120110, 120115 and 120859 will be set at 5.54m AOD, which relates to the 1 in 200 year event inclusive of climate change with a freeboard allowance of 300mm. This is acceptable to the Agency and accords with the Master Plan for this development area as set out in the Council's Strategic FRA. The small adjustments required to achieve the internal first floor levels can be achieved without external impact. The Agency has recommended an appropriate condition and has further recommended the LPA consider the emergency planning implications arising from their development.

In respect of the two units fronting Hawkins Road (subject of application 120112), the Environment Agency stated they have no objections to the proposal, subject to the LPA being satisfied, through consultation with the emergency planner and emergency services, that the development has a tolerable level of safety. In this respect they noted that the existing built construction does not allow floor levels to be raised above 4.44m AOD, but the proposed external terrace at 5.54m AOD can be partitioned with an additional wall to reduce flood risk to either of these units.

The emergency planner has provided appropriate comments to allow the LPA to give proper consideration to this. Finished floor levels of 4.44m AOD give around a 1:100 year level at present (compared with a 1:200 level in the Council's SFRA). The onset and rise time for a flooding event of 5.54m AOD is approx 6-8 hours, therefore onset and rise for 4.44 will be slightly less, approx 5-6 hours. The flood warning area of which the application site is a part, has a mixed land-use but with a large population living within the flood zone. This population will also grow as developments in the area are completed. All properties in this flood warning area are protected to the highest standard as they are behind the Colne Barrier. It is therefore very unlikely that any property here will be flooded, hence no flood warning threshold. There is a severe flood warning area and threshold (5.77m AOD) set to cover any tide that would overtop the barrier or, if there was a failure of the barrier, it would still be possible to warn the people at risk under this unlikely scenario. The risk threshold at which the Colne Barrier will be staffed is 3.1m AOD and closed at 3.3m AOD. Failure of the Colne Barrier would be seen as a Major Incident, but with sufficient lead in, the Colne Barrier is able to provide protection for a 1:1000 year level event.

The level of protection offered by the Colne Barrier is therefore significant. However, whilst contingency plans and procedures presently exist, none of these override the need for the developer to produce their own detailed Flood Warning and Evacuation Plan. At present communities are only notified of Severe Flood Warnings, whereas alert, warning and severe warnings are issued to those signed up to Flood Warnings Direct. The emergency planner has recommended that these properties (and those subject of applications 120110, 120115 and 120859) should be signed up to this, which can be secured by a planning condition. Accordingly, the planning officer recommends that this application is also approved, notwithstanding the lower threshold than stated in the SFRA.

Therefore, these applications are all recommended for approval subject to the signing of a legal agreement and planning conditions as set out in the officer report and, also the following additional conditions:

Applications 120110, 120115 and 120859

Additional Condition 1: The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment prepared by Richard Jackson plc dated May 2013 (and emailed to the Environment Agency 16 July 2013), and the following mitigation measure detailed within the FRA:

- Finished floor levels are set no lower than 5.54m AOD  
(Reason: To reduce the risk of flooding to the proposed development and future occupants)

Application 120112

Additional Condition 1: The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment prepared by Richard Jackson plc dated May 2013 (and emailed to the Environment Agency 16 July 2013).

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

Applications 120110, 120112, 120115 and 120859

Additional Condition 2: Prior to the commencement of the development hereby permitted, full details of any changes to the appearance of the residential units hereby permitted and the enclosure to their external spaces, that need to be made in accordance with the previous condition, shall be submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the agreed details.

(Reason: In the interests of flood safety and visual amenity)

Additional Condition 3: The development hereby permitted shall not be occupied until a Flood Warning and Evacuation Plan has been provided in accordance with details that shall first have been submitted to and agreed in writing by the Local Planning Authority. The details to be submitted shall include provision for the residents being signed up for Flood Warnings Direct.

(Reason: To ensure that an appropriate emergency plan and details of rescue and evacuation arrangements are known in the event of a flood)

7.4 130858 – Colchester Wine Company (Mixing Bowl), 117 Gosbecks Road, Colchester

Members are advised that the following additional condition is recommended for inclusion –

*Prior to commencement of development, details of a watching brief to be carried out by a suitably qualified archaeologist (during construction works) shall be submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with these agreed details. In the event that any significant archaeological features or remains are discovered which are beyond the scope of the watching brief (and require fuller rescue excavation) the construction work shall cease immediately and shall not recommence until a revised programme of archaeological work including a scheme of investigation has been submitted to, and approved in writing, by the Local Planning Authority.*

*Reason: To enable the inspection and recording of any items of archaeological importance.*

Additional standard landscaping conditions are also required:-

ZFB – Full Landscape Proposals

Prior to the commencement of development, full details of all landscape works shall have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);

- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
  - RETAINED HISTORIC LANDSCAPE FEATURES;
  - PROPOSALS FOR RESTORATION;
  - PLANTING PLANS;
  - WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
  - SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
  - IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.
- Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

ZFQ - Tree and Natural Feature Protection: Protected Areas

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

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

ZFR - 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.

ZFS - Tree and Hedgerow Protection: General

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

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

7.5 122238 – International Farm Unit, Hall Road, Tiptree

A late objection has been received from a resident who had previously not objected to the application, as follows:

I would like this application refused on the following grounds.

When the original application 121071 was granted, Colchester Borough council, thought it important to include a number of conditions. These conditions include 10,11,12,13 & 14.

All related to sizes of garages and parking areas. Hall Road was a special case development on green belt land, and conditions were added for the benefit of residents and future residents of Hall Road.

It is also important to note that these conditions were asked for by Essex County Council Highways.

Hall Road is a very narrow highway, which two cars find difficult to pass. If sufficient parking is not provided by the development, this could lead to overflow parking along Hall Road.

In Fact Essex Highways did make a comment on the original application, "that they would not normally support a development down a country road like Hall Road, by due to the exceptional circumstances they would not object. they also added these conditions in a letter to the council dated 3rd June 2011

The Hall Road development consists of 10 high quality executive houses, and condition 13 & 14 relate to the garage sizes, the condition reads,

Condition 13. All Single garages should have a minimum internal measurement of 7m x 3m and shall be provided with vehicular doors minimum width of 2.3m.

Reason: To encourage the use of garages for their intended purposes and to discourage on street parking, in the interests of Highway safety.

Condition 14. All Double garages should have a minimum internal measurement of 7m x 6m and shall be provided with vehicular doors minimum width of 5.1m

Reason: To encourage the use of garages for their intended purposes and to discourage on street parking, in the interests of Highway safety.

The executive homes are mainly 4 & 5 bedroom homes, so potentially there could be 5 - 6 adults with cars. I myself have three teenagers with cars, plus my wife's and mine, totalling five

.The developer is arguing the original conditions are unreasonable, and the proposed new garages meets the minimum garage sizes.

In the original planning design and access statement.

"9.13; As can be seen the EPOA standards of 2 spaces per dwelling will be met. The garages will all comply with the recently introduced Essex County Council adopted standard for internal garages namely 7m x 3m. Visitor car parking is also available in the front of these garages.

The location of Hall Road, does not justify, garages of a minimum size, and by supporting this application would be going against the advice and recommendations of Essex Highways authority.

This application is dated 18th December 2012, it was turned down by the Parish Council, I cannot understand why this has not already been refused, and why its been 6 months before going to committee.

Councillors please note, the builder is so confident of winning this application, footings have already been dug and concreted, and bricked up to damp course.!

This is a developer not expecting refusal.

*OFFICER COMMENT – That the application has taken several months to determine is accepted. However, this is a matter between the Local Planning Authority and the applicants. The latter has not appealed against non-determination, has not complained, and is content with the process.*

*It is not for a Parish Council to 'turn down' an application. That body is a consultee, whose views are listened to and responded to, as they have been in this case.*

*Regarding the substantive matter of parking provision. The report makes it clear that the provision is in excess of standards (at 300 per cent as opposed to the required 225 per cent) and Members are advised that a refusal for this reason could not be sustained at appeal.*

7.6 131131 – Land adj to 20 Swan Grove, Chappel

Paragraph 8.3 contains the views of the Highway Authority.

7.8 131130 – St Botolphs Circus, Colchester

- 1) Correction – the ward is New Town rather than Castle.
- 2) Paragraph 4.3 – Minimal vehicular access was already to be allowed for maintenance and service vehicles.
- 3) Paragraph 4.4 – cycle parking was previously to be provided off site at the entrance to the Britannia car park.
- 4) Paragraph 4.6 – the crankshaft was previously to be relocated in the north east corner, the new location gives a more prominent position.
- 5) Paragraph 12.11 re-worded as follows:

*There were previously six car parking spaces to the front of the station building for staff. These are to be removed as part of the proposals with parking for station staff being provided in Britannia Car Park to the rear of the site. One staff parking space will be provided on site for staff working on the late shift. Since the previous application, the rail operator franchise has changed and the new operator wishes to have a single parking bay for blue badge holders. Currently designated blue badge parking is not provided.*

- 6) Condition 13 is no longer required and is hereby removed.
- 7) A further comment has been received from a resident of Gladstone Road, as follows:

May I suggest that the existing lighting columns have heritage value, being traditional railway design and could easily be refurbished with a new LED module. Manhattan columns are fine, as long as you are not contemplating the twin headed ones which are not very elegant. Just a suggestion.

*Officer Comment – this matter will be discussed by the presenting Officer at Committee.*





## **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.*