

Planning Committee

Council Chamber, Town Hall
16 January 2014 at 6.00pm

This Committee deals with

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

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

Material Planning Considerations

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

The following approach should be taken:

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

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

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

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

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

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions and Considering Reasons for Refusing Applications

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

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

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

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

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

**COLCHESTER BOROUGH COUNCIL
PLANNING COMMITTEE
16 January 2014 at 6:00pm**

Members

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

Substitute Members

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

Agenda - Part A

(open to the public including the media)

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

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

Pages

1. Welcome and Announcements

1

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

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

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

2. Have Your Say!

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

3. Substitutions

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

4. Urgent Items

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

5. Declarations of Interest

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

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

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

6. Minutes

There are no Minutes to be submitted for approval at this meeting.

7. Planning Applications

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

1. 131484 - Grass Reasons Farm, Newbridge Road, Layer Marney **2 - 34**
(Birch and Winstree)

Proposed upgrade of existing poultry unit including the demolition of 4 existing poultry sheds and erection of 2 poultry sheds (Resubmission of 122057).

2. 131488 - Layer Wood Farm, Maldon Road, Layer Marney
(Birch and Winstree)

Proposed redevelopment of existing poultry unit including the demolition of 2 existing poultry sheds, erection of 2 replacement poultry sheds and a service building with associated equipment. (Resubmission of 111647).

See report at 7.1.

3. 131974 - Land rear of Laurel Cottage, Layer Breton **35 - 43**
(Birch and Winstree)

New dwelling house (Resubmission of 130754).

8. Amendment Sheet 44 - 46

Please see amendment sheet (attached).

9. Exclusion of the Public

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

Information for Members of the Public

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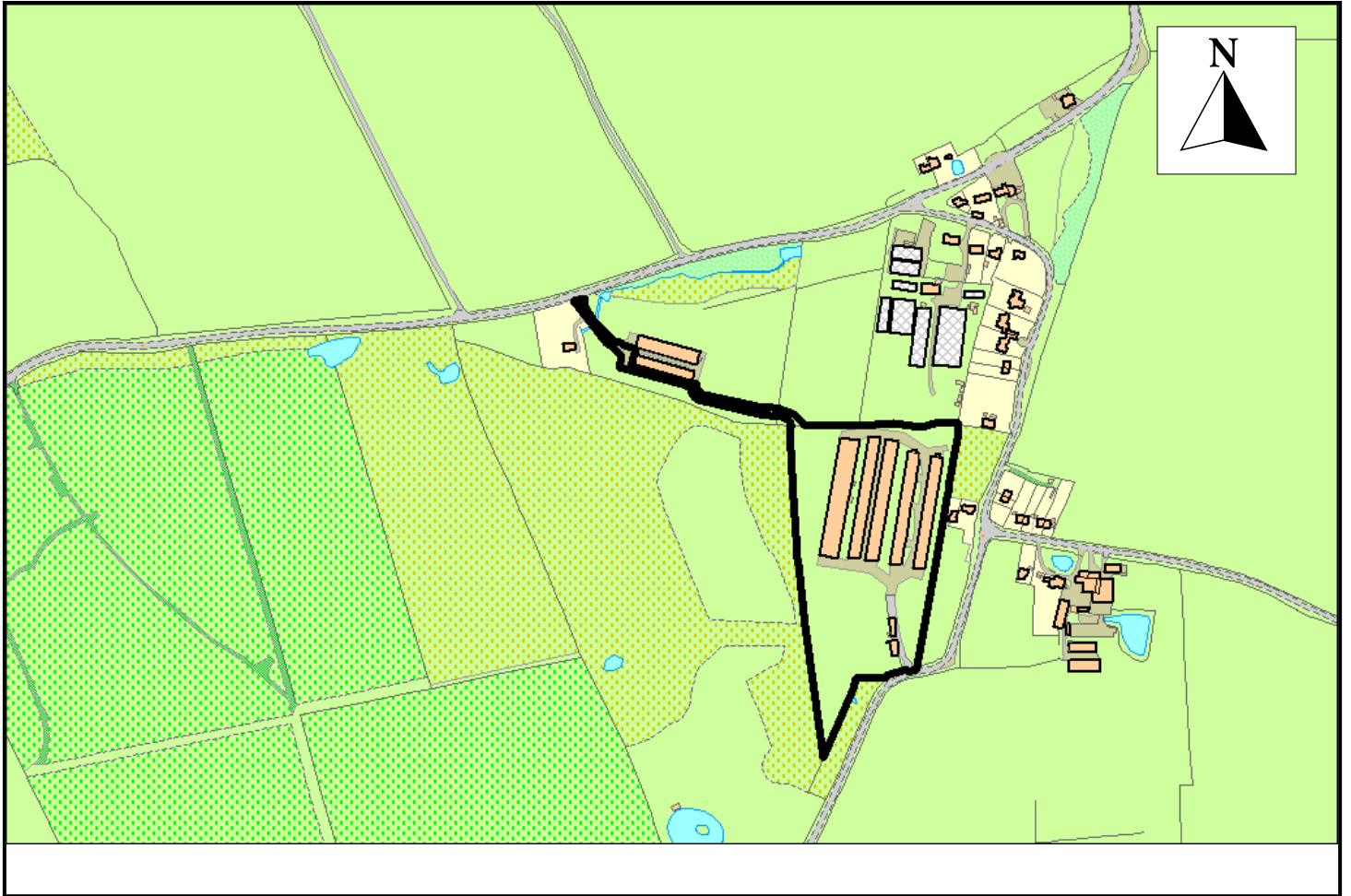
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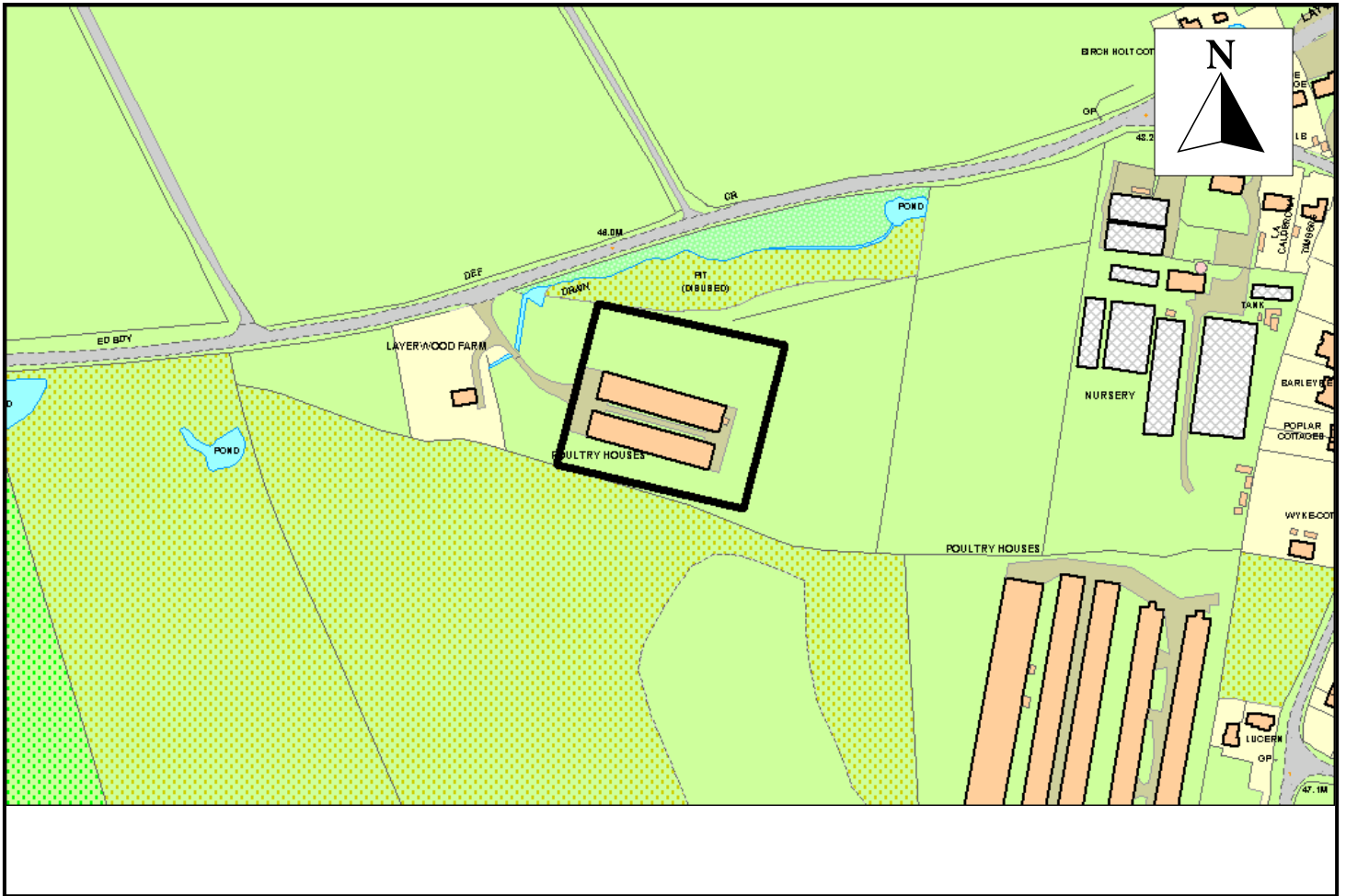
Application No: 131484

Location: Grass Reasons Farm, Newbridge Road, Layer Marney, Colchester, CO5 9XT

Scale (approx): Not to Scale

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Application No: 131488

Location: Layer Wood Farm, Maldon Road, Layer Marney, Colchester CO5 9XJ

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **16 January 2014**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Lucy Mondon Due Date: 31/01/2014

MAJOR

Site: **Grass Reasons Farm, Newbridge Road, Layer Marney, Colchester, CO5 9XT**

Application No: **131484**

Date Received: **23 July 2013**

Agent: **Acorus Rural Property Services**

Applicant: **Amber Real Estate Investments Ltd.**

Development: **Proposed upgrade of existing poultry unit including the demolition of 4 existing poultry sheds and erection of 2 poultry sheds.(Resubmission of 122057)**

Ward: **Birch & Winstree**

Summary of Recommendation: **Conditional Approval**

7.2 Case Officer: Lucy Mondon

Due Date: 31/01/2014

MAJOR

Site: Layer Wood Farm, Maldon Road, Layer Marney, Colchester, CO5 9XJ

Application No: 131488

Date Received: 23 July 2013

Agent: Acorus Rural Property Services

Applicant: Amber Real Estate Investments Ltd

Development: Proposed redevelopment of poultry unit including demolition of two existing poultry sheds, erection of two replacement poultry sheds and a service building with associated equipment. Resubmission of 111647.

Ward: Birch & Winstree

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 These applications are referred to the Planning Committee because they are major applications where objections have been received and the recommendation is for approval.

2.0 Synopsis

2.1 The applications seek planning permission for the redevelopment of two poultry farms. The applications are being considered together as they are on adjacent sites and have accumulative impacts.

2.2 The key issues explored below are: the principle of agricultural development in the countryside; design and impact on the character of the area; impact on neighbouring amenity; highway safety; biodiversity; and flood risk. Under Environmental Permitting Regulations (EPR), an Environmental Permit is required for the redevelopment from the Environment Agency. The permit will cover odour, noise, dust, and other pollutants. Whilst these matters are considered within the report, the assessment does not seek to duplicate the more technical assessment that would be undertaken by the Environment Agency as the relevant professional body determining the Environmental Permit.

2.3 These matters are considered in the report, along with the representations made by local residents and consultation comments from professional bodies, leading to a recommendation of conditional approval.

3.0 Site Description and Context

- 3.1 Grass Reasons Farm and Layer Wood Farm are two existing poultry farms. Grass Reasons Farm is host to five poultry sheds and a site manager's bungalow and Layer Wood Farm is host to two poultry sheds and a worker's bungalow. The sites are accessed separately, with Grass Reasons Farm being accessed via Newbridge Road, an unclassified road to the south of the site, and Layer Wood Farm being accessed via the B1022 Maldon Road to the north of the site. There is access between the two sites and they operate under the same ownership.
- 3.2 The existing sheds, with the exception of one more modern shed on the Grass Reasons site (to be retained), are in very poor condition. The sheds are approximately 50-60 years old, are very weathered and do not have modern design features, such as damp proof membrane, insulation, or efficient ventilation or temperature control systems.
- 3.3 The farms are located in the countryside, to the south-west of the settlement boundary of Smythes Green, Layer Marney. Layer Wood (a Local Wildlife Site) lies adjacent to both farms: to the west of Grass Reasons Farm and to the south of Layer Wood Farm. With the exception of the southern and western side of Grass Reasons Farm, which are at a higher level, the sites are relatively flat. There is a disused pit to the north of Layer Wood Farm which intermittently fills with water during wetter months.
- 3.4 There are no footpaths running through or alongside the site, although Public Footpath 7 approaches Grass Reasons Farm from the south and Public Footpath 10 approaches Layer Wood Farm from the north. Due to the hedge and tree boundaries of the site, there would not be clear views of the site from these footpaths. Public views are therefore limited to views from the B1022 and Newbridge Road at the access points to the farms. There would be occasional glimpses from the road during winter months when the trees have shed their leaves.

4.0 Description of the Proposal

- 4.1 The proposal is for the upgrade and redevelopment of both Grass Reasons Farm and Layer Wood Farm in order to comply with Environmental Permitting Regulations for 'Best Available Techniques' (BAT) for intensive poultry farms: The Environment Agency require all poultry units to operate to BAT by 2020. The applicant is also taking the opportunity to increase production on the farms by having larger units to house more birds.
- 4.2 The proposal at Grass Reasons Farm is to demolish four of the five existing sheds and erect two replacement sheds. Shed 1 would measure 103.7 metres by 22.9 metres and shed 2 would measure 122 metres by 22.9 metres. The southernmost shed (shed 1) would be cut into the higher ground of the site. A landscaping belt would be planted along the eastern boundary of the site. The access to the farm would be from the Layer Wood site, as shown on the Layout Plans submitted.
- 4.3 The proposal at Layer Wood Farm is to demolish the two existing sheds and erect two larger replacement sheds and a service building. The sheds would measure 103.7 metres by 22.9 metres.

- 4.4 All of the sheds would be 5.4 metres high (6.6 metres to the top of the chimneys). The sheds would have a low 15 degree profile roof, similar to the retained shed on Grass Reasons Farm. The sheds would have concrete walls with damp proof membrane and would be clad in profile sheeting or timber, of a colour to be agreed. Each shed would have extractor chimneys, gable end fans, heaters and heat exchangers, nipple drinkers and three 20 tonne feed bins (6.6 metres high).
- 4.5 The farms currently rear 175,000 birds. The proposal would increase this number to approximately 244,000 birds. The number of birds at Grass Reasons farm would decrease (from 150,000 birds to 140,000 birds), whilst the number of birds at Layer Wood Farm would increase (from 25,000 birds to 104,000 birds).
- 4.6 The farms operate on a 42 day rearing cycle. The whole cycle is 52 days, including the time taken to clear and clean the sheds. The birds are processed at Flixton Factory in Bungay, approximately 60 miles from the farms. The cleaning process involves clearing the sheds and washing them down in order to prepare for the next cycle. The manure produced by the end of the cycle is collected for fertilizer or for power stations. There is a mortality bin on site, which is collected each week.
- 4.7 As well as proposed plans and elevations, the applications are accompanied by an Environmental Statement which includes the following reports:
- Consultation Meeting Notes
 - Phase 1 Habitat Survey
 - Heat Exchanger Information
 - Water Disposal Information
 - Flood Risk Assessment
 - Odour Report
 - Noise Assessment
 - Ammonia Report
 - Landscape Assessment
- 4.8 The Environmental Statement has been updated with an Amphibian and Reptile Management Statement and revised Landscape Proposals.

5.0 Land Use Allocation

5.1 N/A

6.0 Relevant Planning History

6.1 There is a history of agricultural use on the site from 1949, with planning approvals relating to pig farming and chicken farming from the mid-1950s. The most recent planning applications are:

Grass Reasons Farm:

<u>122057</u>	Proposed upgrade of existing WITHDRAWN poultry unit including the erection of 4 poultry sheds.	12-03-2013
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This application was withdrawn following Case Officer comments in respect of inconsistencies in the reports submitted and the absence of information with which to assess the combined impact of the proposals at both Grass Reasons Farm and Layer Wood Farm.

Layer Wood Farm:

<u>111647</u>	Proposed redevelopment of REFUSED poultry unit including demolition of two existing poultry sheds, erection of three replacement poultry sheds and 2 service buildings with associated equipment.	26-03-2013
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This application was refused as it did not take into account the potential redevelopment of the adjoining Grass Reasons Farm and it did not include information with which to assess the combined impact of the proposals at both farms. The proposal also did not adhere to a 5 metre buffer strip from Layer Wood, as recommended in the Ecology Report submitted.

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
- UR2 - Built Design and Character
- ENV1 - Environment

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
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

Vehicle Parking Standards
Sustainable Construction
External Materials in New Developments

8.0 Consultations

8.1 Anglian Water: No comment as the proposal falls outside the threshold of what they would look to provide detail on.

8.2 Natural England: No further comments to those issued under previous application (ref: 122057).

[Case Officer Note: The comments received from Natural England in respect of planning application 122057 were: no objection to the proposal in respect of its proximity to Tiptree Heath Site of Special Scientific Interest (SSSI) and advice that impacts upon biodiversity, geodiversity, and local landscape character are considered by the Local Planning Authority. Biodiversity enhancements are encouraged.]

8.3 Policy: No comments received.

8.4 Environmental Protection: Comment that they welcome the revised scaled down proposal at Grass Reasons Farm and reduced environmental impact as a whole. The Environment Agency should be consulted. The proposal comes under IPPC regulations and an Environmental Permit from the Environment Agency will address all potential environmental impacts concerning noise, odour and dust. Should planning permission be granted, there are recommended conditions regarding noise, hours of work, and lighting.

8.5 Landscape Officer: In the medium to long term the proposed development at Grass Reasons Farm should be adequately screened by the proposed planting belt so that it has a low or no adverse landscape impact. In the short to medium term, the proposal would have a high visual impact, but as agricultural buildings set in a rural landscape they would not be uncharacteristic in landscape terms. The earth bunds proposed are uncharacteristic within the landscape and are not agreed as part of the proposal. The landscape proposals at Layer Wood Farm are considered to be acceptable. The detailed planting and maintenance specifications have not been considered and tree and shrub planting would be subject to condition, as well as a landscape management plan.

- 8.6 Arboricultural Officer: Satisfied with the Arboricultural element of the proposal, subject to the tree report being updated to current British Standards and a condition that the proposals within the report be carried out.

[Case Officer Note: The tree report has been updated as requested.]

- 8.7 Essex Wildlife Trust: Objection as protected species survey required and the vegetation survey (in respect of ammonia) was conducted in the wrong season.

[Case Officer Note: The Essex Wildlife Trust has been consulted on the revised amphibian and reptile information received, but no comments have been submitted to date.]

- 8.8 Highway Authority: The Highway Authority is 'satisfied that utilising the Layer Wood Farm access for the traffic generated by both sites will not create a major safety hazard for existing highway users'. Following receipt of traffic survey information, it is concluded that the ambient traffic speeds on Maldon Road are in accordance with the Design Manual for Roads and Bridges guidance for 130 metre visibility splays. If there was an inherent safety problem with the access, the accident figures for this stretch of Maldon Road would reflect this: no accidents have been recorded in the vicinity of this access over the last five years. No objection subject to conditions for visibility splays, parking and turning areas to be provided as shown, any gates to open inwards, no unbound material within 20 metres of the highway, and the existing access for Grass Reasons Farm to be closed to industrial and heavy vehicles.

- 8.9 Environment Agency: The Flood Risk Assessment submitted assesses the impact of the proposed development on flood risk, and details how the risk will be minimised through the use of sustainable drainage systems. The proposal would not increase flood risk subject to a condition for a detailed scheme of surface water drainage. The existing Environmental Permit for the site will need to be varied to include the proposed changes. Permit controls include: odour, noise and dust emissions, both in terms of releases to air and water. The permit seeks to ensure that 'best available techniques' (BAT) are used to prevent pollution.

- 8.10 CPREssex (The Essex branch of the Campaign to Protect Rural England) have objected to the applications, although they welcome the increase in animal welfare. The main concerns are: the adverse visual impact of the large industrial buildings; pollution problems from noise, dust, and smells; the impact of pollution upon the Local Wildlife Site; and highway safety issues from heavy lorry movements.

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

9.0 Parish Council Response

9.1 Layer Marney Parish Council object to the proposal on the following grounds:

- Inappropriate format of applications: two separate applications for the joint proposal, draft ammonia report, and no plans submitted for the service building proposed;
[Case Officer Note: the applications have been submitted separately but have been considered concurrently, a final ammonia report has been submitted, and plans have been submitted for the service building proposed.]
- The site has a history of creating nuisance in terms of odours, dust, noise, and flies;
- Failure to apply for an Environmental Permit, which would have ensured a proper technical evaluation of the issues;
- Proximity to homes and businesses;
- Proximity to Local Wildlife Site;
- Unacceptable scale of expansion: a like-for-like redevelopment is the maximum that should be considered as 40% more birds will create as much if not more nuisance;
- Highway impacts: there will be incremental increases in traffic on the B0122 and B1023 from the Layer Wood Paintball site, the Birch Airfield composting site, the Wilkin & Sons housing development in Tiptree, and Colchester Zoo. The traffic movement information provided is considered to be understated.
- Slow turning vehicles into and out of the site would pose a hazard to road users;
- The single entrance onto the B1022 would be substandard.
- The current entrance to Grass Reasons Farm should be prohibited to all commercial traffic;
- The noise report submitted understates potential noise nuisance: background noise is overstated, the noise levels are shown as averages only, only noise from plant machinery is included, the greenhouses at Layer Marney Nurseries have not been taken into account as a receptor, and the night-time use of gable-end fans would exceed BS4142 by up to 15.7dB. Planning conditions should limit the hours of use of the gable-end fans;
- Concern that cheaper and noisier fans will be used;
- The ammonia, nitrate, odour and dust reports submitted are flawed as they are based on unrepresentative wind rose data and, therefore, the nuisance is understated. The wind readings have been based on an area of open farmland with nothing to break the wind, as opposed to the poultry farm sites which are adjacent woodland that diminishes wind flow. The use of lower thresholds are criticised, as is the use of 'averages'. Many properties will experience odour and dust levels that exceed maximum levels;
- Bioaerosol risk to human health. The Health Protection Agency has recommended that a bio-aerosol risk assessment be carried out to take into account the proximity of the proposed development to both Thorrington Pig Farm and the Birch Airfield composting site;
- Harm to Local Wildlife Site and Protected Species;
- Detrimental impact to visual amenity. The scale of the buildings and the height of the feed bins would be intrusive in the landscape;
- Flood risk;

- Potential contamination from surface water drainage.

9.2 Messing Parish Council object to the proposal on the following grounds:

- The Applicants have not applied to the Environment Agency for an Environmental Permit so details data about dust modelling, odour release, noise pollution and ammonia pollution are not available to consider;
- Concern that, if planning permission is granted, the Environment Agency would struggle to refuse a subsequent permit application;
- The site has a history of causing concern to residents and the present operation does not meet Environment Agency standards;
- The proposal is for a 40% increase in the flock size. The Parish Council would be happier if the same flock size were maintained, but in new and more spacious conditions;
- The traffic movements reported appear to be low;
- The increase in traffic movements will exacerbate the traffic problems to those residents who live on the B1023, which has a history of accidents;
- The increase in the volume of traffic is detrimental to quality of life by noise and air pollution;
- Concern that the Transport Assessment has considered the development in isolation and not cumulatively with other developments actual and planned in the area (e.g. the expansion of Tiptree);
- Request that the works required by the Highway Authority are carried out before any works starts on site: the planting needs to be widely cut back for visibility;
- Request a planning condition restricting work in the evenings and at weekends in the interests of the amenity of local residents;
- Local residents report issues with foul smells from the site. Share the same concerns as Layer Marney Parish Council in respect of the basis used for the Odour Impact Assessment and have concerns about the amount of ammonia and nitrate that may heighten the level of odour from the site;
- Layer Wood traps smells from the farm and spoil peoples enjoyment of the woodland;
- The site is directly related to Layer Wood and Grassreasons Local Wildlife Site and the Parish Council support the views of the Essex Wildlife Trust;
- Concerned about the drainage to a pit adjacent to the B1022 and potential overflow water from the site;
- A Bio-Aerosol Risk Assessment requested by the Health Protection Agency should be carried out;
- Concern about the increase in noise pollution from plant and machinery.

9.3 Tiptree Parish Council object to the proposal as they do not consider that the following issues have been satisfactorily addressed:

- Impact on the environment;
- Highway issues; particularly the use of the B1022 as access;
- Flooding; and
- Noise issues

10.0 Representations

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

- Any expansion of the farm is unacceptable;
- The proposal provides little or no additional local employment;
- The site is unsuitable for intensive chicken farms. The site has been used as a chicken farm since the 1950s when there were very few houses nearby, but today there are over a dozen properties in close proximity to the farm. Even with mitigation there will still be odour and noise problems for nearby residents;
- The proposal is a breach of NPPF paragraph 109 that seeks to prevent new development from contributing to unacceptable levels of soil, air, water, or noise pollution;
- Past experiences of the farm have not been good: issues with odour, noise and dust;
- Increase in operation by 40% is of concern due to the problems with noise and odour previously experienced;
- The number of birds should be limited to 175,000 to avoid nuisance;
- Breach of human rights by causing nuisance odour and noise;
- The ecological desk study does not identify protected species (protected species were identified 2011 as part of proposals on the adjacent Layer Wood Site). The wood is a BAP Priority Habitat and Ancient Woodland, with evidence of great crested newts, dormice, and nightingales, which would be affected by noise and odours;
- Harmful impact to adjacent nursery: the odour gets trapped inside the glasshouses and dust reduces light and causes algal growth;
- Noise disturbance from fans and clearing out;
- Risk of flooding: drainage will be to an old pit, which does not drain away readily;
- Risk of pollutants to pit from surface water drainage;
- Lack of information: the Ammonia Report is a draft document, there are no details of the heat exchangers, no information has been provided for the noise generated during the cleaning process, and no information has been provided for the Best Available Techniques to be employed;
- The entrance on the B1022 is very close to the entrance to the paintball site entrance. The road is used for overtaking in both directions and there are high traffic speeds;
- The increase in heavy lorries will have an impact on highway safety;
- Increased traffic from the Layer Wood Paintball site and the Birch Airfield composting site;
- The odour and ammonia reports are flawed as they do not take into account the geography and wind conditions of the site;
- Negative visual impact as the site will be industrial in scale;
- Increased landscaping is required;
- Noise from lorries.

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

11.0 Parking Provision

- 11.1 Poultry Farms are classified as a sui generis use and as such there are no specific parking requirements under the Vehicle Parking Standards SPD. There is room on site for car parking, as well as turning facilities for larger vehicles and therefore there are no objections to the proposal in terms of parking provision.

12.0 Open Space Provisions

- 12.1 N/A

13.0 Air Quality

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

14.0 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 Development Team noted the application and it was considered that no Planning Obligations are required as part of a Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 The main planning considerations are: the principle of agricultural development in the countryside; design and impact on the character of the area; impact on neighbouring amenity; highway safety; biodiversity; and flood risk.

Principle of development

- 15.2 Core Strategy Policy ENV1 seeks to control development outside of settlement boundaries to new development that needs or is compatible with a rural location. In such circumstances it should be appropriate in terms of its scale, siting and design, and protect or enhance landscape character. Policy DP8 in the adopted Development Policies (2010) generally supports existing agricultural uses: new agricultural buildings requiring planning permission will be guided to farm locations which are sensitive to their environment. The proposal is for agricultural development which is, by its nature, suited to a countryside location. The proposal is not, therefore, unacceptable in principle, but further consideration needs to be paid to its visual impact, as well as other material planning issues.
- 15.3 The NPPF confirms that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. In rural areas the aim is to promote a strong rural economy that creates jobs and prosperity. The NPPF does not stipulate how planning decisions should be made in respect of rural economic development, but does set out how local and neighbourhood plans can promote a strong economic economy by (inter alia) supporting the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings. There is, therefore,

Government support for the expansion of businesses in the countryside and the proposal has been considered with this aspiration in mind, whilst taking into account the provisions of the Local Plan which shall be discussed below.

Design and impact on the character of the area

- 15.4 Policies ENV1 and DP8 state that new development in the countryside should be appropriate in terms of its scale, siting and design, being sensitive to their environment. Agricultural buildings are a common feature in rural areas, indeed the site has been used for chicken farming for over 60 years and the chicken sheds are established buildings, so the presence of chicken sheds at this site is not unusual and therefore considered acceptable in this area. The main consideration in terms of their impact upon the character of the area is whether the scale, siting, and design of the proposed buildings is appropriate.
- 15.5 The existing buildings are modest in height and well screened from the public realm so that they are not a prominent feature in the street scene. The buildings are not of any particular architectural or historic merit and are not, therefore, considered to have a positive impact on the character of the area and their replacement is considered to be acceptable on this basis.
- 15.6 The proposed replacement buildings would be larger in scale and built-form than the existing. At Grass Reasons the number of buildings would be reduced from five buildings to three, but the footprint would increase by approximately 1,284 square metres. The number of buildings at Layer Wood Farm would remain at two, but the replacement buildings would be much larger than the existing, with an increase in footprint of approximately 3,313 square metres. The height of the new buildings would be slightly greater than the existing (approximately 1.5 metres). Despite the increase in scale, the proposal is not considered to have an adverse impact on the character of the area. As concluded by the Council's Landscape Officer, the buildings are essentially agricultural buildings set in a rural landscape and would not be uncharacteristic in the landscape. It is considered that the sheds should be clad in timber as this would soften their appearance within the landscape; this can be secured by condition, along with the colour finish of the buildings.
- 15.7 Furthermore, the new sheds, whilst clearly larger than the existing ones, will still be contained within existing tree and hedge lines and would be suitably screened. Additional planting is proposed which the Landscape Officer concludes will adequately screen the development so that it has a low or no adverse landscape impact. In the shorter term, before the additional planting has time to mature, the development would be more readily visible. However, this is not considered to justify refusal of planning permission as the buildings would not be an uncharacteristic feature in the landscape and will, in time, be screened from public view. There is likely to be some loss of existing planting at the access to the site (off the B1022) in order to accommodate the visibility splays required by the Highway Authority, but this can be replaced by additional planting as part of the planting scheme required by condition. Proposals at Layer Wood Farm show that there would be new lengths of hedgerow on both sides of the entrance, with some coppicing of existing trees and restocking of trees within the site.

- 15.8 Whilst the landscape proposals are considered to be acceptable in concept, the bunding proposed at Grass Reasons Farm is not considered to be characteristic of the landscape and would not be agreed as part of the landscape proposals. A condition will make it clear that the bunding has not been agreed and is not acceptable.
- 15.9 The Arboricultural Officer has assessed the tree reports submitted with the applications and has no objections to the scheme.

Impact on neighbouring amenity

- 15.10 The application has generated a number of objections from the local community. These have in particular referred to a history of problems from the site in terms of odour nuisance and noise. There is understandable concern that an increase in the number of birds will intensify these issues, given the historical problems experienced. However, reports submitted show that the new buildings would result in a decrease in odour, noise, and dust levels.
- 15.11 Of the two farms, Grass Reasons Farm is closest to sensitive receptors (i.e. residential properties). The closest property is Lucern, whose boundary is approximately 10.5 metres from the closest existing shed. The proposal would result in the sheds closest to Lucern being demolished, with the replacement sheds being 70 metres from the boundary and with a landscaping strip in between. The closest properties to Layer Wood Farm are Wyke-cote and Birch Holt Cottages (approximately 270 metres and 287 metres respectively) and Layer Marney Nursery (182 metres). The proposal would increase the size of the sheds at Layer Wood Farm, bringing them closer to these properties by approximately 20-60 metres. Therefore, in terms of immediate impact, the proposals at Grass Reasons Farm would significantly improve the relationship between the farm and neighbouring properties by creating greater distance between them. The proposals at Layer Wood Farm would bring the sheds closer to neighbouring properties, but they would still be some considerable distance away.
- 15.12 In terms of odour, the main cause of high levels of odour at poultry farms is due to damp litter, although there are other factors including the number of birds housed, building design and management, methods of provision of drinking water, age of the birds and manure management techniques. The existing chicken sheds are in a poor condition, with damp and poor ventilation and therefore odour issues are likely to occur. In contrast, the proposed sheds would be constructed with modern techniques so that the risk of damp is reduced and ventilation is improved. The proposal also includes nipple drinkers so that water does not drip or spill onto the litter within the building. By reducing the risk of damp or wet litter, odour levels can be significantly reduced. Other technical improvements include temperature controls and high-speed ridge mounted fans to disperse odours, as well as a piped dirty water system that has already been installed at Layer Wood Farm under Environment Agency instruction. Environmental Protection have recommended a condition that the doors to the sheds are to remain closed during preparation of the litter for clearing out, which would further reduce the likelihood of odours during this period. At a more basic level, the MET Office data provided shows that the wind is from a north-easterly direction, meaning that receptors are upwind of the farms. Further, the number of birds at Grass Reasons Farm (closest to receptors) would be reduced and, along with the improvements in build quality and technology of the buildings, would suggest that smells would be reduced.

- 15.13 The odour report submitted shows that all nearby residences are currently exposed to odour levels in excess of the Environment Agency's benchmark of 3.0 ouE/m³ (odour units per cubic metre of air) from the existing farms. The proposed scheme would significantly reduce odour levels overall, in some cases by 90%. Although some receptors would remain marginally above the Environment Agency's benchmark, the reduction in odour exposure levels is such that the change would be very noticeable and would represent a marked improvement in air quality.
- 15.14 The noise report submitted also shows a significant reduction in impact to neighbouring properties. The results in the report demonstrate that internal noise levels from the proposed replacement units are predicted to be well within the World Health Organisation 'good' criteria at all the sensitive receptors with windows open or closed. Noise levels from the proposed scenario are predicted to be up to 18.9 dB lower than existing noise levels from the existing poultry units at the identified sensitive receptors. Noise levels are shown to be higher if all plant, including gable end fans, were operating simultaneously. However, this is a worse case scenario and the gable end fans would only operate very infrequently in high temperatures.
- 15.15 The proposal would result in increased traffic movements to and from the site, which would increase noise disturbance levels at the farms. The activity levels at Grass Reasons Farm should be relatively unchanged as fewer birds are proposed here. However, due to the increase in bird numbers at Layer Wood Farm, over the seven week rearing period there would be an extra 25 vehicle movements. There would generally be one to three additional vehicle movements per week, apart from week seven (clearing out) which would have 21 extra vehicle movements. This increase in vehicle movements is not considered to give rise to an increase of noise that would be detrimental to neighbouring amenity. One or two additional vehicle movements per week are unlikely to be noticeable. The extra traffic in week seven would be more significant, but conditions to limit the hours of work would restrict disturbance in the evening or early morning. It is understood that, due to animal welfare regulations, the birds will occasionally be dispatched from the site in the early hours of the morning. This is to enable the birds to reach the factory and be processed immediately rather than waiting in crates. This system is undertaken now, so there will not be any new unexpected activity. Environmental Protection have assessed the proposals in terms of noise and do not have any objections, subject to such conditions. In order to reduce traffic disturbance to the properties to the north-east of the site along the B1022, it has been discussed with the Agent whether traffic to and from the site can be to the south-west. The Agent has confirmed, verbally, that this can be accommodated and traffic routing can be established as part of a transport management plan condition.
- 15.16 Matters relating to dust, including ammonia and nitrogen deposition, would be considered by the Environment Agency as part of the Environmental Permit applications for the farms. In terms of amenity, the proposal would, again, result in an improvement to the current situation as levels of ammonia concentrations are significantly reduced so that no receptors are at 100% critical level, and nitrogen deposition rates are halved.
- 15.17 Local residents have expressed concern regarding flies at the farms. As confirmed by Environmental Protection and Environment Agency guidance, there are no perceived issues with flies from modern poultry units and, as such, this is not considered to be an issue.

- 15.18 Having considered the information submitted with the applications, it is concluded that the proposals, whilst increasing production on the farms, would reduce the impacts to neighbouring amenity experienced from the existing farms. Objections have been received, particularly from Layer Marney Parish Council in respect of the reliability of data used in the reports, as well as the fact that some levels reported exceed Environment Agency guidelines. With regards to the data used in the reports, some baseline data, such as the wind rose data for the odour and ammonia reports, is not site specific. The wind rose data used is from a weather file for an area 15 km south-east of the site, as this was considered to be more accurate than the closest meteorological station records which are based over 30 km from the site in more coastal areas with higher winds. This justification for why the particular baseline data was used is considered to be reasonable. Although the baseline data is from a site that has different characteristics to the application sites, both the existing and proposed odour levels are based upon this baseline data and can therefore still be correlated to show the significant decrease in odour levels from the new buildings.
- 15.19 With regards to some levels being over the Environment Agency guidelines, this will need to be considered by the Environment Agency as part of the Environmental Permit required to be submitted to them. The Environment Agency have not objected to the proposal on planning grounds and have commented that matters of odour, noise and dust emissions would be considered as part of the Environmental Permit. Therefore, whilst it is necessary for the planning authority to consider these issues in terms of their impact on neighbouring amenity as a material planning consideration, the technicalities of these issues in terms of pollution and Environment Agency guidelines must be considered by the Environment Agency as part of the the required permit. It is considered to be unreasonable to refuse the applications because there are slight infringements of guidelines that are controlled by other legislation, especially as the proposals would result in a significant decrease in overall odour and noise levels so that neighbouring amenity is improved. The recommended conditions to control hours of operation and noise levels are considered necessary in planning terms in order to ensure this improvement. More stringent conditions, for example requiring levels to meet Environment Agency guidelines, are not considered reasonable as these matters would be considered under the permit application. Should the planning applications be granted, this would not remove the need for the Applicant to obtain the Environmental Permit nor does it imply that such permit will necessarily be forthcoming. Should the Environment Agency require any changes to the scheme in order to meet their requirements, amendments to the planning permission, or a revised planning application would be required. It is recommended that this is made clear to the applicant as an informative note to the Decision Notice.

15.20 Highway safety

A traffic speed survey has been submitted. This was undertaken by the applicant over the course of a week during school term time, when traffic levels are generally higher. The survey was conducted across a weekend thereby collecting data on both weekdays and weekend days. The Highway Authority has assessed this information and have commented as follows:

‘Under the Design Manual for Roads and Bridges guidance, 130m visibility splays equates to a traffic speed of approximately 48mph; i.e. it would give vehicles approaching the access on Maldon Road travelling at 48mph enough time to see an egressing vehicle, thinking time, and braking distance.

Speed survey shows that 85%ile speeds were;

4 Sept = 48.85mph

5 Sept = 43.18mph

6 Sept = 42.75mph

7 Sept = 43.30mph

8 Sept = 43.68mph

9 Sept = 48.98mph

10 Sept = 48.70mph

It can be seen that the survey records show the ambient traffic speeds on Maldon Road are in accordance with the DMRB guidance for 130m visibility splays. Further, if there were an inherent safety problem with this access the accident figures for this stretch of Maldon Road would reflect this. The local road traffic accident figures have been interrogated and over the last five years no accidents have been recorded in the vicinity of this access.

In this regard, this Authority is satisfied that utilising the Layer Wood Farm access for the traffic generated by both sites will not create a major safety hazard for existing highway users.'

- 15.21 Some local residents have commented that the traffic report should consider recently approved development in the locality as well as future development. The traffic report was prepared using actual existing traffic levels, an approach that the Highway Authority is satisfied with. It is considered inappropriate to base the report on future development, even development that already has planning permission, which may or may not happen. The recent permission at Birch Airfield recycling depot has been cited (County Council Reference ESS/41/13/COL) as having the potential to increase traffic along the B1022. However, this permission would not increase the overall number of traffic movements previously permitted; it merely allows the total permitted number of traffic movements to be distributed across different days depending upon service need.
- 15.22 Having considered the Highway Authority comments, as well as local representation it is considered that the proposal would not generate a highway safety risk, subject to the conditions recommended by the Highway Authority.

Biodiversity

- 15.23 Both farms are adjacent to Layer Wood, a Local Wildlife Site (LWS), which has records of protected species including Great Crested Newts. However, the area of proposed development has not been identified by the planning authority as being a suitable habitat for protected species: the land is either hardstanding for the existing chicken sheds or regularly mowed grass. The proposal is not, therefore, considered likely to have a direct impact on protected species. With regards to the Layer Wood Farm site, there is a pond and a pit to the northern side of the site which may be suitable habitat for Great Crested Newts. There may, therefore, be some disruption to newts during the construction period if newts are traversing between the LWS and the pond. The Applicant has considered this matter in a revised reptile and amphibian report submitted November 2013, proposing a precautionary approach during demolition, clearance, and construction works, as well as making recommendations for habitat enhancements. The proposals accord with Natural England Standing

Advice regarding mitigation for Great Crested Newts. The report proposes a watching brief and code of construction be prepared, which can be conditioned so that the content can be agreed by the planning authority, in consultation with Essex Wildlife Trust, before works start on site. Both the NPPF and Core Strategy Policy ENV1 support proposals to enhance biodiversity and, therefore, the proposed enhancement measures, to include pond management, planting and creation of wood piles for improved habitat, are fully supported and can also be conditioned.

- 15.24 It is not considered that the proposal would harm potential habitats on the site. Water run-off would be directed to the disused pit, which has been identified as a suitable habitat, but it is confirmed that 'dirty' water would not be directed here, as water from cleaning out the sheds would be piped to a dirty water tank and disposed of separately. The Environment Agency have not expressed any concerns regarding pollution from drainage, but this matter will be fully considered by them as part of the Environmental Permit. A detailed drainage scheme is required by condition.
- 15.24 Ammonia and nitrogen emissions can affect plant life. However, this matter would be fully considered by the Environment Agency under the Permit application and guidelines on emission levels would be applied. It is not, therefore, considered appropriate to duplicate the assessment of this matter when it will be technically assessed by the Environment Agency under separate legislation.

Flood risk and contamination

- 15.25 The site is located within Flood Zone 1 and is therefore unlikely to be susceptible to flooding. The main issue to consider is whether the proposal would contribute to surface water flooding from hard surfacing.
- 15.26 In terms of the amount of hard surface areas proposed, there would be a reduction at Grass Reasons Farm and therefore surface water run-off would be reduced. There would be an increase in hard surface area at Layer Wood Farm, but this has not been considered to be a flood risk following assessment by the Environment Agency.
- 15.27 The Environment Agency have considered the flood risk assessment submitted with the application and are satisfied with its results, subject to detailed drainage information being submitted under condition. The disused pit, to be used for soakaway drainage, is considered to have adequate capacity, even during heavy rainfall. Drainage would be operated so that water is directed to either a dirty water tank or clean water drains by a diverter valve. Some works to drainage have already occurred at Layer Wood Farm under instruction of the Environment Agency.
- 15.28 Matters of contamination and pollution would be considered by the Environment Agency as part of the Environmental Permit so considerations on this matter have not been duplicated here. Environmental Protection have recommended an informative to advise that the Applicant ensure that the land is free from significant levels of contamination before the commencement of development, given the sites agricultural use which is potentially contaminative.

Other matters

- 15.29 Some comments have been received regarding bio-aerosol risks, with reference to the Health Protection Agency. The Health Protection Agency have released a position statement in respect of intensive farming proposals on their website, within which they acknowledge that fugitive emissions, such as bio-aerosols are regulated under Environmental Permitting Regulations (i.e. not planning regulation). The statement makes specific reference to the lack of information surrounding bio-aerosols and potential public health issues from intensive farming, but does state that measures to address the occupational health of workers will also contribute to the protection of local communities. Therefore, by meeting requirements to protect the health of employees, the local community will also be protected. As this matter will be dealt with under separate legislation to planning, and does not affect the consideration of the current planning applications, it is not considered appropriate to comment any further on this matter.
- 15.30 Comments have also been received regarding the lack of local employment from the development. The proposal would not generate additional employment over and above the existing use. However, the proposal is still considered to have a positive social and economic impact by providing a local food source that would otherwise be sourced from much further afield or abroad. Further social and environmental improvements are gained from the decrease in emissions from the farms. The increase in traffic movements is not considered to outweigh these benefits. The proposal is therefore considered to adhere to the principles of sustainable development.

16.0 Conclusion

- 16.1 This application has attracted opposition, particularly from the local community of Layer Marney, on the grounds of potential odour nuisance and additional impacts including the increase in traffic movements and potential disturbance to local wildlife in Layer Wood. The relevant specialists including the Environment Agency, Natural England and the Highway Authority do not object to the application and an assessment of the impacts has led to the conclusion that the proposal is acceptable, subject to conditions. Essex Wildlife Trust have objected to ammonia emissions and further objections have been received in respect of odour, noise and dust levels in terms of Environment Agency regulations. However, these issues would be assessed as part of the Environmental Permit, which is required even if planning permission is granted. It is considered that the proposed increase in the size of the poultry houses can be accommodated within the wider landscape without undue visual detriment, subject to additional planting, and that the proposal is acceptable in land use terms. The proposal is considered to represent acceptable sustainable development in a rural location.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Conditions

The conditions for the two applications have been listed separately as there are some differences in wording in the conditions relating to access, as well as some additional conditions (i.e. a condition requiring works to be carried out in accordance with the tree report) for the Layer Wood Farm application.

Grass Reasons - 131484

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 200-02 Rev B, 200-03 Rev C, 200-04 Rev B, and 200-05 Rev B, received on 25th July 2013, and Drawing Number 200-06, received on 4th November 2013.

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

3 – Tree or Shrub Planting

No development shall commence until details of tree and/or shrub planting and an implementation timetable is submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

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

4 - Landscape Management Plan

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

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

5 – Construction Method Statement

No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period 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.

6 - Limits to Hours of Work

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

Weekdays: 0800 - 1800

Saturdays: 0800 - 1300

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.

7 -Site Boundary Noise Levels

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

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

8 – Cleaning and Washing

No equipment to be used for cleaning/washing of the site shall be used before 0700 or after 1900 Monday to Saturday and not at all on Sundays or Bank/Public Holidays.

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

9 – Clearing out

Apart from when the old litter is being removed, the doors of each unit shall remain closed during the cleaning and washing down process.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue odour emission.

10 – Management Plan

Prior to the development being first used, a management plan detailing measures taken to control noise and odour during the cleaning process shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the management plan shall be implemented as approved.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue odour and/or noise emission.

11 - Access

All vehicles shall access and egress via the Layer Wood Farm entrance on the B1022 and the existing Grass Reasons Farm access on Newbridge Road, as shown on the site layout plan, shall be suitably and permanently closed to industrial and heavy vehicles (incorporating measures to ensure it is retained only for private residential vehicles), in accordance with details previously submitted to and approved, in writing, by the Local Planning Authority, before the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

12 - Deliveries

No deliveries shall be received at, or despatched (except for the dispatch of poultry) from, the site outside of the following times:

Weekdays: 0700 to 1900

Saturdays: 0700 to 1900

Sundays and Public Holidays: No deliveries

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 having considered matters of animal welfare.

13 - *Light Pollution for Minor 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 EZ2 rural, small village or dark urban areas.

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

14 – Visibility Splays

Prior to occupation of the development, the vehicular access onto Maldon Road at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 215 metres to the west and 2.4 metres by 130 metres to the east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall thereafter be retained free of any obstruction at all times.

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

15 – Vehicular Turning

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

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

16 - Gates

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 20 metres from the back edge of the carriageway.

Reason: To enable vehicles using the access the stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway in the interest of highway safety.

17 – Surface Material

No unbound material shall be used in the surface treatment of the vehicular access within 20 metres of the highway boundary.

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

18 – Surface Water Drainage

No development shall commence until a detailed scheme to accommodate all surface water drainage arising from the development hereby permitted has been submitted to and approved, in writing, by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme and maintained for the life of the development hereby permitted.

The scheme shall include:

- Infiltration testing in accordance with BRE 365 of the proposed pit to be used as the soakaway;
- Details of the location and sizing of the proposed infiltration drainage system used to dispose of the surface water;
- Attenuation storage shall cater for the 1 in 100 year critical storm plus allowance for climate change;
- A drainage plan for the site including the proposed location/size of any infiltration attenuation device;
- Details of a future adoption and maintenance of the proposed surface water scheme for the lifetime of the development.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development.

19 - Materials

The external facing materials shall be timber cladding and the external roofing materials shall be profile steel sheeting.

Reason: To ensure that materials are of an acceptable quality appropriate to the area and for the avoidance of doubt as to what has been approved.

20 – Colour finish

No works shall take place until details of the colour finish of external materials to be used has been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason: This is a prominent site where types and colours of external materials to be used should be polite to their surroundings in order to avoid any detrimental visual impact.

21 – Transport Management Plan

Prior to the development first coming into use, a transport management plan, detailing the routes to be taken by delivery and servicing vehicles, shall be submitted to and approved, in writing, by the Local Planning Authority. Thereafter the plan shall be implemented as approved.

Reason: In the interests of limiting disturbance to local residents.

22 – Protected Species

No works shall commence until a protected species watching brief and code of construction has been submitted to and approved, in writing, by the Local Planning Authority. The works shall then be carried out in accordance with these approved details.

Reason: In order to ensure minimal disruption to protected species and their habitats.

23 – Habitat Enhancement

Ecological enhancement measures shall be undertaken as set out in the habitat creation, restoration and enhancement measures set out on page 8 of the Eco-Check Consultancy Ltd Amphibian and Reptile Mitigation Method Statement, dated November 2013.

Reason: In the interests of ecological enhancement.

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) **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.

(3) Informative - Contamination

The applicant is advised that the site to which this planning permission relates is recorded by Colchester Borough Council as being in the vicinity of land of previously potentially contaminative use: agricultural.

Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. The LPA should be given prior notification of any proposed remediation scheme. The applicant is advised that this must be conducted in accordance with current official guidance, including Approved Document C of the Building Regulations, 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'.

The LPA has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

(4) Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 with regard to the necessary application and requirements.

(5) Informative – Turning and Off-loading

Steps should be taken to ensure that the Developer provide sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

(6) Informative - Landscaping

The Applicant is advised that the bunding proposed at Grass Reasons Farm is not approved as it is not considered an appropriate feature within the landscape.

(7) Informative – Protected Species

The Applicant is advised that the protected species mitigation measures may require a license from Natural England. In the majority of cases, a mitigation licence is required to install Temporary Amphibian Fencing (TAF) as the fencing acts as a barrier to movements of great crested newts in their terrestrial phase, which could cause disturbance, injury or killing of great crested newts, require their capture, or damage resting sites, which would be deemed an offence without an appropriate licence. Natural England advises that TAF is normally only required where there is a reasonable chance of newts encountering the fence line and therefore in most cases would require a licence.

(8) Informative – Environmental Permit

The Applicant is advised that an Environmental Permit is required through the Environment Agency under Environmental Permitting Regulations (EPR). Should any amendments to the scheme be required through the permit process, this is likely to require amendments to be made to this permission or a revised planning application. The Applicant is further advised that this planning permission does not remove the need for the Applicant to obtain the Environmental Permit nor does it imply that such permit will necessarily be forthcoming.

Conditions for Layer Wood Farm - 131488

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 200-04 and 200-03, received on 25th July 2013, and Drawing Number 6266/-04, received on 21st August 2013.

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

3 – Tree or Shrub Planting

No development shall commence until details of tree and/or shrub planting and an implementation timetable is submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

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

4 - Landscape Management Plan

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

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

5 – Tree Report

The development hereby permitted shall be carried out in accordance with Cedar Land management Ltd Tree Report, dated December 2011, unless the Local Planning Authority agrees in writing to a variation.

Reason: In the interests of visual amenity and the character and appearance of the area.

6 – Construction Method Statement

No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period 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 -Limits to Hours of Work

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

Weekdays: 0800 - 1800

Saturdays: 0800 - 1300

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.

8 – Site Boundary Noise Levels

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

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

9 – Cleaning and Washing

No equipment to be used for cleaning/washing of the site shall be used before 0700 or after 1900 Monday to Saturday and not at all on Sundays or Bank/Public Holidays.

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.

10 – Clearing Out

Apart from when the old litter is being removed, the doors of each unit shall remain closed during the cleaning and washing down process.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue odour emission.

11 – Management Plan

Prior to the development being first used, a management plan detailing measures taken to control noise and odour during the cleaning process shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the management plan shall be implemented as approved.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue odour and/or noise emission.

12 - Access

All vehicles shall access and egress via the Layer Wood Farm entrance on the B1022.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

13 - Deliveries

No deliveries shall be received at, or despatched (except for the despatch of poultry) from, the site outside of the following times:

Weekdays: 0700 to 1900

Saturdays: 0700 to 1900

Sundays and Public Holidays: No deliveries

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 having considered matters of animal welfare.

14 - *Light Pollution for Minor 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 EZ2 rural, small village or dark urban areas.

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

15 – Visibility Splays

Prior to occupation of the development, the vehicular access onto Maldon Road at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 215 metres to the west and 2.4 metres by 130 metres to the east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall thereafter be retained free of any obstruction at all times.

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

16 – Vehicular Turning

Prior to the first occupation of the development, a vehicular turning facility as shown on the submitted plan shall be constructed, surfaced and thereafter 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.

17 - Gates

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 20 metres from the back edge of the carriageway.

Reason: To enable vehicles using the access the stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway in the interest of highway safety

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No unbound material shall be used in the surface treatment of the vehicular access within 20 metres of the highway boundary.

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

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No development shall commence until a detailed scheme to accommodate all surface water drainage arising from the development hereby permitted has been submitted to and approved, in writing, by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme and maintained for the life of the development hereby permitted.

The scheme shall include:

- Infiltration testing in accordance with BRE 365 of the proposed pit to be used as the soakaway;
- Details of the location and sizing of the proposed infiltration drainage system used to dispose of the surface water;
- Attenuation storage shall cater for the 1 in 100 year critical storm plus allowance for climate change;
- A drainage plan for the site including the proposed location/size of any infiltration attenuation device;
- Details of a future adoption and maintenance of the proposed surface water scheme for the lifetime of the development.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development.

20 - Materials

The external facing materials shall be timber cladding and the external roofing materials shall be profile steel sheeting.

Reason: To ensure that materials are of an acceptable quality appropriate to the area and for the avoidance of doubt as to what has been approved.

21 – Colour Finish

No works shall take place until details of the colour finish of external materials to be used has been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason: This is a prominent site where types and colours of external materials to be used should be polite to their surroundings in order to avoid any detrimental visual impact.

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Prior to the development first coming into use, a transport management plan, detailing the routes to be taken by delivery and servicing vehicles, shall be submitted to and approved, in writing, by the Local Planning Authority. Thereafter the plan shall be implemented as approved.

Reason: In the interests of limiting disturbance to local residents.

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No works shall commence until a protected species watching brief and code of construction has been submitted to and approved, in writing, by the Local Planning Authority. The works shall then be carried out in accordance with these approved details.

Reason: In order to ensure minimal disruption to protected species and their habitats.

24 – Habitat Enhancement

Ecological enhancement measures shall be undertaken as set out in the habitat creation, restoration and enhancement measures set out on page 8 of the Eco-Check Consultancy Ltd Amphibian and Reptile Mitigation Method Statement, dated November 2013.

Reason: In the interests of ecological enhancement.

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. and application for the necessary works should be made by initially telephoning 08456 037631.

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

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(3) Informative - Contamination

The applicant is advised that the site to which this planning permission relates is recorded by Colchester Borough Council as being in the vicinity of land of previously potentially contaminative use agricultural.

Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. The LPA should be given prior notification of any proposed remediation scheme. The applicant is advised that this must be conducted in accordance with current official guidance, including Approved Document C of the Building Regulations, 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'.

The LPA has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

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PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631 with regard to the necessary application and requirements.

(5) Informative – Turning and Off-loading

Steps should be taken to ensure that the Developer provide sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

(6) Informative – Protected Species

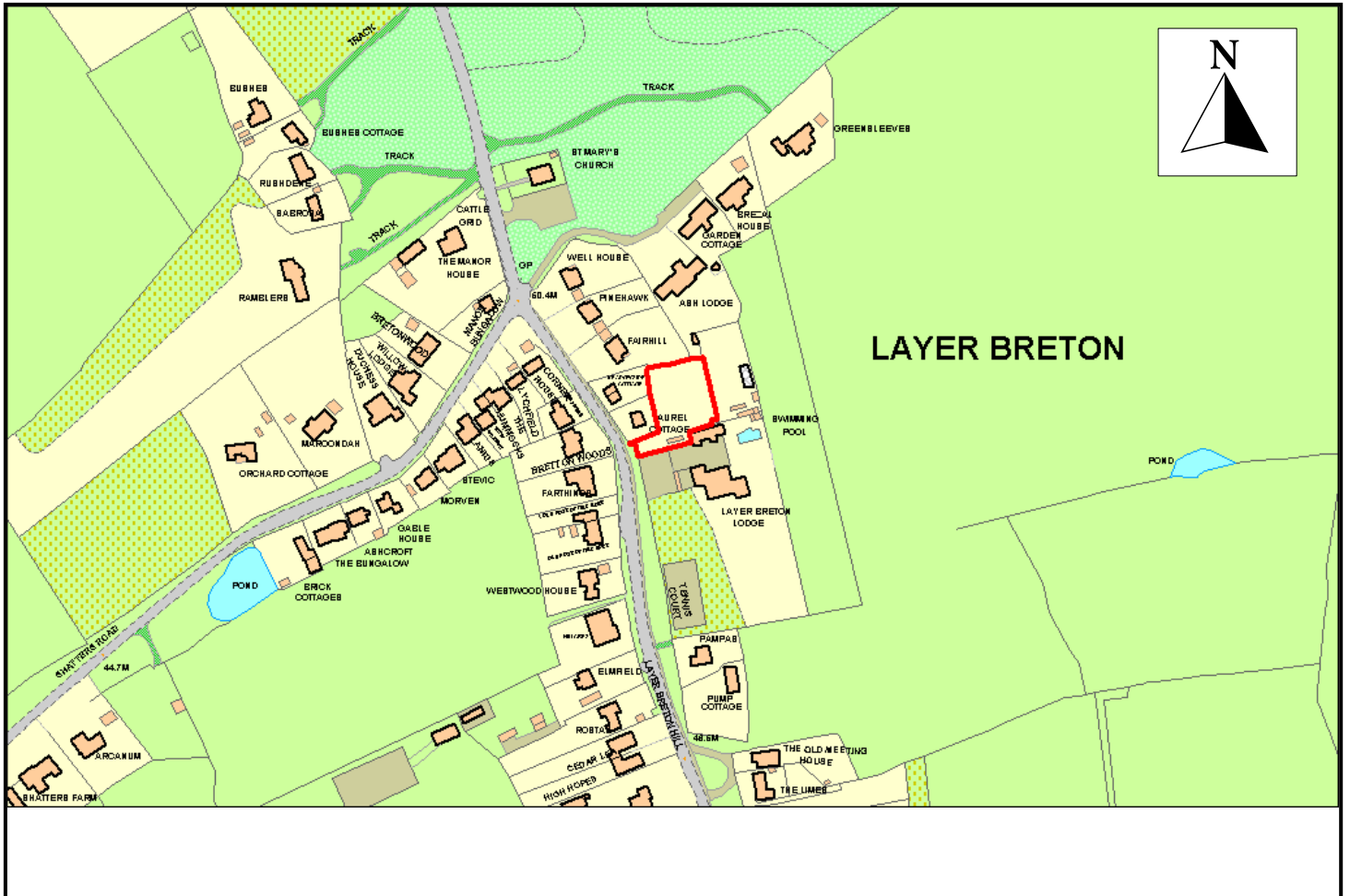
The Applicant is advised that the protected species mitigation measures may require a license from Natural England. In the majority of cases, a mitigation licence is required to install Temporary Amphibian Fencing (TAF) as the fencing acts as a barrier to movements of great crested newts in their terrestrial phase, which could cause disturbance, injury or killing of great crested newts, require their capture, or damage resting sites, which would be deemed an offence without an appropriate licence. Natural England advises that TAF is normally only required where there is a reasonable chance of newts encountering the fence line and therefore in most cases would require a licence.

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The Applicant is advised that an Environmental Permit is required through the Environment Agency under Environmental Permitting Regulations (EPR). Should any amendments to the scheme be required through the permit process, this is likely to require amendments to be made to this permission or a revised planning application. The Applicant is further advised that this planning permission does not remove the need for the Applicant to obtain the Environmental Permit nor does it imply that such permit will necessarily be forthcoming.

19.0 Positivity Statement

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



Application No: 131974

Location: Land rear of, Laurel Cottage, Layer Breton, Colchester CO2 0PP

Scale (approx): 1:2500

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7.3 Case Officer: Carl Allen

MINOR

Site: Land rear of, Laurel Cottage, Layer Breton, Colchester CO2 0PP

Application No: 131974

Date Received: 18 October 2013

Applicant: Miss Yee Cheung

Development: New dwelling house. Resubmission of 130754

Ward: Birch & Winstree

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because a spouse of a member of staff has made comments on the application.

2.0 Synopsis

2.1 The key issues explored below are design, amenity and the position of part of the dwelling outside the settlement limit of Layer Breton. It is considered that the proposal would occupy a backland position out of character with the dominant pattern of development. Although a small infringement into the countryside it underlines the inappropriateness and difficulty of development at the site, which would result in a significant loss of amenity to the nearest neighbours (Laurel Cottage in particular), would involve the loss of trees and constitutes poor design. For these reasons refusal is recommended.

3.0 Site Description and Context

3.1 The site is a plot of land behind the dwellings of Laurel Cottage and Meadowside Cottage. The plot measures approximately 30m by 35m with a track to the south-west that leads to the public highway. The plot is grassed with many trees (both well established and young) on the site and several piles of pallets and other materials. Just under half of the site is outside the settlement limit of Layer Breton. To the north of the site is a wooden panel fence with the rear gardens of 'Fairhill' and 'Ash Lodge' beyond. To the east is a brick wall. To the south is a building (Coach House) associated with Layer Breton Lodge – which is Grade II Listed Building, whilst to the west is a post and rail fence with the rear gardens of Laurel Cottage and Meadowside Cottage beyond.

4.0 Description of the Proposal

- 4.1 The proposal is for a new dwelling approximately 11m long, 10m wide and 7m high. A driveway would be formed along the existing track. Some of the trees would be removed and a hedge would be planted along the western boundary.

5.0 Land Use Allocation

- 5.1 Part village envelope, part unallocated.

6.0 Relevant Planning History

- 6.1 130754 – ‘New dwelling house and garage’. Refused for being an undesirable form of backland development, overlooking to Laurel Cottage, out of keeping with the existing pattern of development in the area, partly outside the settlement limit, loss of trees that have a public amenity value and the garage being intrusive and overbearing to Laurel Cottage.

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
UR2 - Built Design and Character
H1 – Housing

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

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

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

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

8.0 Consultations

8.1 Highways – no objection raised.

8.2 Environmental Protection – if approved should include a condition regarding encountering contamination during construction.

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 object to the proposal due to:

- more of the dwelling would be outside the village envelope than the plan suggest
- out of scale and would be overbearing to near-by residents
- would impact on the setting of a Listed Building
- undesirable backland development
- would be clearly visible from the road and surrounding countryside
- could set a precedent for dwellings with large gardens in the village.

10.0 Representations

10.1 Seven objections have been received and comment:

- the access track is unsuitable for builders lorries and will result in highway safety issues, as well as damaging the surface of the highway
- 15 - 20% of the dwelling outside the village envelope.
- the site has never been 'developed land' and as such does not comply with Policy H1
- until 1995 the land formed the curtilage of Layer Breton Lodge and is therefore the curtilage of a Listed Building, and Listed Building Consent is required
- should take into account the setting of the Listed Building
- is not sympathetic to the Listed Building in regards to its size, location, design and materials
- would have an adverse impact on the Listed Building and historic walls and outbuildings
- too big for an 'in fill' plot
- height would dwarf both cottages, would loom over the Listed Building and be seen from the highway
- would overlook other dwellings
- the site is not designated for development in the Council's plans and would be contrary to the NPPF
- site is unsuitable for residential use

- the loss of significant trees at the site would be a significant amenity loss
- unsustainable development as it is outside the village envelope
- overshadows habitable rooms and gardens – reducing the usable amenity space
- out of character with the locality
- no design input from the local community
- design has little respect for the character, history and distinctiveness of the area and site
- has no frontage
- view from the front would be the cottages with a much larger, incongruous new dwelling behind
- no justification to remove some of the trees – which can be seen outside the site
- Contrary to DP12 & Backland SPD
- would overshadow buildings and gardens
- a clear visual intrusion and a loss of space between buildings
- a Tree Preservation Order should be served at the site
- no other backland development in the area
- endangers wildlife at the site
- the drive would create noise and light disturbance from vehicles to neighbours
- only slightly smaller footprint from the previous scheme
- Colchester Borough Council has a 5 year supply of housing and does not need this site for housing
- the applicants Planning Statement says that "it is unclear from the Council's Proposals Map why the development (sic) boundary is demarcated in this way". There is no mystery. At the time the settlement boundary was first drawn through this plot, CBC chose to follow the line of a very robust fence that ran (broadly) north/south through the site. It is reasonable to assume that, by choosing to take the line of this fence as marking the edge of the settlement boundary, the planning officers of the day intended that there should not be any development behind Laurel Cottage.

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

11.0 Parking Provision

- 11.1 Two off-street parking spaces would be provided.

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 Just over half the site is inside the physical limits of Layer Breton and the proposed dwelling itself would be positioned so that a small part of the dwelling would be outside the physical limits and therefore in the countryside. This position is an improvement on the previous (refused) application that had about 60 percent of the dwelling located outside the physical limits. Although this is an improvement from the refused scheme it is still contrary to the Council's Policies SD1 and DP13 where development in the countryside is not encouraged and new dwellings are directed to sites within settlement boundaries. That the dwelling still remains partly positioned as such on the plot is not a serious concern in itself, however, it does underline the inappropriateness and difficulty of the site for residential development – which is another symptom of backland development. Whilst the existing brick wall on the eastern boundary would screen the ground floor of the proposed dwelling from the immediate countryside, the first floor and the roof would be clearly seen from outside the site to the east and would result in the built form being visible in the countryside. Whilst there are residential curtilages between the site and the open countryside the structures in the curtilages are all low key, whereas the proposed dwelling would be 7 metres in height (a reduction of approximately 1m from the previous scheme) and would have a much more visible impact when viewed from the countryside to the east, when compared to existing structures around it.
- 15.2 The position of the dwelling in relation to existing properties is also out of keeping with existing patterns of development in the immediate area and the proposal would be an undesirable form of backland development, without any frontage to a highway with the access lacking any visual interest in the street scene and enclosed by rear gardens. As such the proposal would not accord with the guidance in the Council's 'Backland and Infill' Supplementary Planning Document.
- 15.3 The proposed dwelling would be 5.5 metres from the boundary with Laurel Cottage's rear garden, and it is proposed to plant a new hedge along the boundary. The rear garden of Laurel Cottage is approximately 4 metres wide and the rear elevation of the cottage has kitchen windows on the ground floor and small secondary bedroom windows at the first floor. Whilst it would be unlikely that these windows would be affected by overshadowing from the proposed dwelling, the proposal would appear over-dominating, overbearing and intrusive to Laurel Cottage and Meadowside Cottage by virtue of the proposed length, height, position and distance to the neighbours, and is therefore considered to have an unacceptable impact on the amenity of Laurel Cottage in particular. This amenity would be further eroded by the position of the driveway along the side garden of Laurel Cottage and the driveway area to the rear of Laurel Cottage. The use by vehicles on the driveway would result in vehicle noise and vehicle lights causing disturbance to Laurel Cottage which would be seriously detrimental to its amenity, given that in these areas (the side and rear gardens) there is a greater expectation of privacy and lack of disturbance. Again, this underlines the undesirable backland qualities of the site and its inappropriateness for residential development.

- 15.4 Regarding overlooking, the proposed dwelling would be between 5.5 metres and 9 metres from the boundaries with the nearest neighbours (Laurel Cottage and Meadowside Cottage) gardens – with the actual dwellings themselves between 10 metres and 23 metres from the proposed dwelling. With the loss of trees from within the site and on boundaries – the proposed hedging would take some time to fully establish and screen - the neighbours' rear gardens would have the perception of being overlooked from the proposed two roof-lights on the west elevation, as these would serve the main bedroom. It is noted that the plans state that the roof-lights would be above eye level - but no section drawing has been provided to confirm this. However, the position of these proposed roof-lights could be conditioned which would certainly help reduce the perception of overlooking. Laurel Cottage has a very close relationship with the proposed dwelling being 5.5 metres from the boundary and 10 metres dwelling to dwelling distance. The proposed west elevation (which would be closest to Laurel Cottage) would have a glazed sun room that would look out onto the rear garden of Laurel and Meadowside Cottages. Given that there would be glazing in two sides of the sun room (with a solid roof covering – not glazed) this room could be used throughout the year rather than just during the summer, and together with the two ground floor living room windows in the gable end, would have clear views into the rear garden of Laurel Cottage, and to a lesser extent the rear garden of Meadowside Cottage. Whilst new hedging is shown along the boundary, it would take some time to establish and would not prevent overlooking into these rear gardens in the meantime. Additionally if the hedging were to be deciduous, then even when established the hedging would not provide satisfactory screening during the autumn, winter and early spring. The proposal is therefore considered to be contrary to the amenity requirement of DP1.
- 15.5 The design of the proposed scheme is considered to be poor as the positions and heights of the scheme result in serious amenity issues for neighbours, and the contrived position of the dwelling actually brings part of the dwelling out of the settlement limit – which only re-enforces the unsuitability of the site for residential development. The proposed height and position is out of character with the dwellings in the immediate area. As such the proposal constitutes poor design and does not accord with Policies UR2 and DP1 which require new development to respect the context and surroundings with regards to height and so on.
- 15.6 The comment has been made that as the site is in the (former) curtilage of a Listed Building, Listed Building Consent is required. It is noted that Listed Building Consent is only needed where a development would be physically attached to a Listed structure. A free standing structure would not require such consent. However, as the land was in the ownership and curtilage of Layer Breton Lodge when the Lodge was Listed, the impact on the setting of the Listed Building – and its curtilage Listed structures – is a valid consideration for the application. It is considered that given the size of the coach house that is in between the site and the distance to the Listed Building of Layer Breton Lodge, the proposed dwelling would be unlikely to be detrimental to the setting of the Listed Building. The proposal would therefore comply with DP14.

- 15.7 The site has many trees both within it and on its boundaries. These trees range from large, well established specimens to younger trees that have self seeded. The proposal would result in the loss of some of these trees and this raises some concern as it would result in the proposal being more visible to the immediate neighbours. The Council's Arboriculturist has visited the site and has indicated verbally that he has concerns about the loss of the trees, although he has yet to make his official comments. When the official comments have been made they will be reported to the Committee.
- 15.8 Regarding the comment that the proposal would endanger wildlife at the site, there are no records of protected species at the site, and no evidence has been provided as to what wildlife would be endangered. The site would appear to have once been in the curtilages of Layer Breton Lodge, Laurel Cottage and Meadowside Cottage, but now is not associated with any dwelling. Given that the Government has removed gardens from the definition of previously developed land, the status of the land would be undeveloped. The site is not shown for development in the Council's Proposals Maps, but sites for single dwellings would not be shown on such plans given that single dwellings do not have any strategic worth. As a single dwelling, there is no requirement for the applicant to consult the community on the proposed design prior to making an application.

16.0 Conclusion

- 16.1 The proposal is considered to result in an undesirable form of backland development with a poorly designed access, out of keeping with the existing pattern of development and would be seriously detrimental to the amenity of neighbours – especially Laurel Cottage.

17.0 Recommendation - REFUSE planning permission for the reasons set out below.

18.0 Recommended Reasons for the Decision

The proposal for a detached dwelling on a plot of land to the rear of Laurel Cottage is unacceptable as it would result in an undesirable form of backland development without a frontage onto a highway with an access without any visual interest. It would result in overlooking to Laurel Cottage and would be out of keeping with the existing pattern of development in the area. The proposed dwelling would be positioned to be partly outside the defined settlement limit of Layer Breton and would be in the countryside. The infringement into the countryside underlines the unsuitability of the site for residential development and the poor design of the scheme.

Additionally the proposed dwelling would cause significant harm to the amenity of nearby residents – especially Laurel Cottage – by virtue of being intrusive and overbearing in its height and distance from the boundary. Policy DP1 (Design and Amenity) of Colchester Borough Council's Local Development Framework Development Policies (adopted October 2010) and Policies SD1 (Sustainable Development Locations) and UR2 (Built Design and Character) of the Council's Core Strategy (adopted December 2008) support development that is well designed and which avoids unacceptable impacts on amenity. In these regards the proposal is contrary to DP1, SD1 and UR2 in that it fails to meet the policy criteria and the dwelling is positioned partly outside the physical limits and results in significant harm to the amenity of neighbours.

19.0 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

AMENDMENT SHEET

Planning Committee
16 January 2014

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

- 7.1 131484 – Grass Reasons Farm, Newbridge Road, Layer Marney
7.2 131488 – Layer Wood Farm, Maldon Road, Layer Marney

1. At paragraph 15.12 the following sentence should be omitted: 'At a more basic level, the MET Office data provided shows that the wind is from a north-easterly direction, meaning that receptors are upwind of the farms.'

The omission of this part of the report does not alter the overall assessment of the proposals.

2. Following consultation on the revised amphibian and reptile information submitted, the Essex Wildlife Trust confirmed that, due to current work commitments, they have no further comments to make in respect of the reports submitted. They confirm that their objection still stands.
3. Layer Marney Parish Council have forwarded an email from the Environment Agency (dated 4th December 2013) following a complaint regarding odour. The content of the email is as follows:

'I am writing to update you on the situation at Grassreasons/Layerwood Farm. I have reported your recent complaint (3 December) to the site's Environment Manager (excluding your details) and have asked him to investigate the incident and report back with any actions taken.

Previously, you reported an odour back in October. I visited the site on 10 October and detected a moderate to strong odour outside their boundary. I found a couple of issues with site management, for which they were scored under the odour condition within their permit. You also reported an odour incident to us on 27 November. This was passed on to the site's Environment Manager and he reported to me that they had had a minor problem with bird disease on that occasion, which led to higher moisture levels in the litter. This was dealt with at the time.

The birds will be coming to the end of the current 'crop cycle' shortly. I have asked for the dates that the thinning/depletion of the sheds will take place. If you would like this information then please let me know.'

Layer Marney Parish Council then comment as follows:

'I am forwarding this email (addressed to me in response to personal complaints to the Environment Agency) as it evidences the on-going nature of the nuisance residents of the Parish suffers as a result of the poor operational management of Grassreasons/Layer Wood poultry farms. I trust you will take the history and on-going nuisance into consideration when a decision is made on whether to recommend approval of these two applications. The nuisance has gone on for years, and this Parish has absolutely no confidence that matters will improve if these developments are approved. I would point out that my complaints were made after major expenditure by the site owners on infrastructure improvements (believed to be in the region of £200k). It goes to show that no matter how good the build quality might be in future - poor management will still cause complaints.

I would also draw to your attention a recent road traffic accident on the B1022 alongside the Layer Wood Farm site. The accident closed the B1022 for a period. The police will no doubt be able to provide you with further details - the road edge where the barriers were demolished remains coned-off and we currently have a set of flashing warning lights in place. A vehicle crashed through the concrete posts and retaining metal poles into what in future will be the pond/pit containing all the surface water run-offs from both poultry farm sites. I need hardly point out the additional danger to the occupants had the vehicle landed in deep water.

The Parish remains seriously concerned about the Essex County Council Highways response (no objections) regarding the entrance onto the B1022. The following website:

<http://www.essexworkstraffweb.org.uk/> provided to us by Essex Police in response to a Parish request for accident information, shows that between the junction of the B1022/Haynes Green Road and the junction of the B1022/Blind Lane (the length of road which passes by the proposed new entrance to these poultry units and the entrance to the approved Paintball site) there were 8 injury causing accidents between 6 Oct 2010 and 28 April 2013. 3 caused serious injury (28/4/11, 4/11/11, 28/8/13) and 5 caused slight injury (6/10/10, 9/10/11, 22/2/12, 25/6/12, 22/6/13, 28/8/13). The accident mentioned above is not yet listed. As you will doubtless be aware, only accidents which cause injury are logged; there are frequent non-injury accidents on this section of road, which many local residents can attest to. This section of road is used frequently for overtaking, following as it does, a series of bends (in each direction) - frustrated motorists use it to get past slow moving vehicles. The Parish is of the view that Colchester Borough must take into account local road knowledge when coming to a decision on this application."

4. Corrections:

- At Paragraph 15.6 it should read that the footprint of buildings at Grass Reasons Farm would decrease by approximately 450 m².
- At Paragraph 15.21 the explanation of the Birch Airfield recycling depot permission (County Council Reference ESS/41/13/COL) should be corrected to: However, this permission should not increase the overall number of traffic movements due to capacity issues: the number of traffic movements has been permitted to increase on weekdays (the number of traffic movements at weekends and Public Holidays would actually decrease from the previous permission), but the capacity of the site remains unaltered meaning that an increased number of loads could not be accommodated. Therefore it is considered that traffic movements would be distributed across the week depending upon service need, rather than an increase in overall operation.

5. In order to comply with Regulation 3(4) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, it is recommended that the following informative be added:

The Environmental Statement submitted has been fully taken into consideration in the assessment of the application.



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.