

# Planning Committee Meeting

**Council Chamber, Town Hall, High Street,  
Colchester, CO1 1PJ  
Thursday, 30 May 2019 at 18:00**

**The Planning 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. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

## Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. At Planning Committee meetings, other than in exceptional circumstances, only one person is permitted to speak in support of an application and one person in opposition to an application. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

<https://colchester.cmis.uk.com/colchester/HaveYourSay/HYSPlanning.aspx>.

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**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 30 May 2019 at 18:00**

**The Planning Committee Members are:**

Councillor Lyn Barton  
Councillor Andrew Ellis  
Councillor Pauline Hazell  
Councillor Brian Jarvis  
Councillor Cyril Liddy  
Councillor Andrea Luxford Vaughan  
Councillor Jackie Maclean  
Councillor Philip Oxford  
Councillor Martyn Warnes

**The Planning Committee Substitute Members are:**

All members of the Council who are not members of this committee and who have undertaken the required planning skills workshop training:-

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Andrew Ellis	Adam Fox	Theresa Higgins	Mike Lilley
Sue Lissimore	Sam McCarthy	Patricia Moore	Beverley Oxford
Gerard Oxford	Chris Pearson	Lee Scordis	Lesley Scott-Boutell
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

**AGENDA**  
**THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING**  
**(Part A - open to the public)**

**Please note that Agenda items 1 to 6 are normally dealt with briefly.**

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 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.

**1 Welcome and Announcements**

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

**2 Have Your Say! (Planning)**

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

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

**3 Substitutions**

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

**4 Urgent Items**

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

**5 Declarations of Interest**

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

**6 Minutes of 4 April 2019**

7 - 12

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 4 April 2019.

**7 Planning Applications**

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

**7.1 182220 Fiveways Fruit Farm, Heath Road, Stanway, Colchester**

13 - 62

Part detailed/part outline planning permission for up to 420 residential units, with associated access, parking, servicing, open space and amenity space, landscaping, and utilities (details for means of vehicular access to the site only).

**7.2 190424 Land at East Bay Mill, 19 East Bay, Colchester**

63 - 108

Construction of 20 residential units together with parking, landscaping and associated works, including refurbishment of the existing Grade II Listed Granary Barn.

**7.3 190425 Land at East Bay Mill, 19 East Bay, Colchester**

109 -  
126

Listed Building Consent for the construction of 20 residential units together with parking, landscaping and associated works, including refurbishment of the existing Grade II Listed Granary Barn.

**7.4 181783 Coopers Beach Holiday Park, Church Lane, East Mersea, Colchester**

127 -  
150

Conversion of existing barns and stables to 18 self-catering holiday accommodation units and for the erection of 14 new holiday cottages.

- |     |  |              |
|-----|--|--------------|
| 7.5 | <b>190079 New Barns, Church Lane, Stanway, Colchester</b>  | 151 -<br>164 |
|     | Removal of condition 3 of planning permission 101276 (dated 24 Aug 2010) stating 'The building hereby permitted shall only be occupied by dependent relatives of the residents of the main dwelling on this site known as Stirling Lodge and the planning unit shall not be subdivided, separated or altered so as to create two or more dwelling units'. (Retrospective Application).                                 |              |
| 7.6 | <b>172873 West House Farm, Bakers Lane, Colchester</b>   | 165 -<br>180 |
|     | Change of use of land from agriculture and erection of 6 holiday lets  |              |
| 7.7 | <b>190649 Jacks, 5 St Nicholas Street, Colchester</b>  | 181 -<br>186 |
|     | Increase in roof height to enable installation of roof insulation, while permitting internal exposure of some existing roof structure. New double doors to shopfront.  |              |
| 8   | <b>Request for Deed of Variation to the Hill Farm, Carters Hill, Boxted Section 106 Agreement in respect of mortgagee exclusion</b>  | 187 -<br>190 |
|     | Report by the Assitant Director Policy and Corporate concerning a Deed of Variation to the Hill Farm, Boxted agreement in respect of mortgagee exclusion.  |              |
| 9   | <b>Application to discharge or revoke an existing Section 106 Agreement, Planning Application No 190821</b>  | 191 -<br>194 |
|     | Report by the Assitant Director Policy and Corporate concerning an application regarding planning application no 190821 to discharge or revoke an existing Section 106 Agreement - Peldon Rose Public House and Rose Barn, Mersea Road, Peldon, Colchester   |              |
|     | <b>Planning Committee Information Pages v2</b>   | 195 -<br>206 |
| 10  | <b>Exclusion of the Public (not Scrutiny or Executive)</b>   |              |
|     | 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). |              |

**Part B**  
**(not open to the public including the press)**



# Planning Committee

Thursday, 04 April 2019

**Attendees:** Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Chris Pearson

**Substitutes:** Councillor Roger Buston (for Councillor Vic Flores)

**Also Present:**

## 679 Site Visits

Councillors Barton, Hazell, Higgins, Jarvis, Liddy and Loveland attended the site visits.

## 680 Minutes

There were no minutes for confirmation at this meeting.

## 681 181537 Land off Butt Road, Colchester

The Committee considered a planning application to vary conditions 2 and 10 and remove conditions 16, 17, 37 and 38 of planning permission 170621 at land off Butt Road, Colchester. The application had been referred to the Committee because it was an amendment to a major application, material objections had been received and a conditional planning permission was recommended subject to a legal agreement. The Committee had before it a report and an amendment sheet in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that –

- (i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:
- NHS England contribution of £12,466;
  - Cycleway contribution of £22,000;
  - Open Space Sport and Recreation – enhancements to the local environment should be included with seating and appropriate planting to the treed area on the corner of the site being recommended;

- Highway mitigation a) Upgrading of the two bus stops in Butt Road adjacent to the proposal site to include, but may not be limited to, real time passenger information b) A zebra crossing in Goojerat Road, east of the proposal site access roundabout, or any alternative mitigation agreed with the Highway Authority;
- An Essex Coast RAMS contribution of £122.30 per dwelling (5 x £122.30).

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.

**682 190212 65 John Kent Avenue, Colchester**

The Committee considered a planning application to vary condition 2 of planning permission 170475 at 65 John Kent Avenue, Colchester. The application had been referred to the Committee because it had been called in by Councillor Flores. The Committee had before it a report in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Chris Harden, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Senior Planning Officer circulated a plan illustrating the boundary of the application site which had been omitted from the plan attached to the Committee report. He also explained that the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) contribution had yet to be received and the recommendation contained in the report needed to be revised accordingly.

Marion King addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She referred to previous planning applications related to the plot dating back to 2013, listed under both John Kent Avenue and Smallwood Road locations which she considered had led to the application site becoming a small development. She referred to the potential separation of a piece of land from all neighbouring properties. She speculated this was to enable the applicant to develop the land further and questioned what the implications for the future of the site were likely to be. She considered the garden adjoining the application site to be very small, which was no longer in keeping with other properties fronting John Kent Avenue or Smallwood Road. She referred to recent other nearby planning permissions for subdivision of dwellings which had provided for adequate amenity space, in-keeping with the neighbouring area. She referred to relevant policies and was of the view it did not enhance the character of the site and would cause complications for the owners and neighbours. She was concerned about the potential for anti-social behaviour associated with the isolated area of land and she questioned the legal basis of the sale of the property without adequate planning approval. She also questioned whether a



retrospective application for the whole site would have been recommended for refusal.

Vee Bond addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that she had previously owned 65 John Kent Avenue and was the current owner of 65A John Kent Avenue following planning permission to convert the extension into a two-bedroom house. She explained that she had initially intended to stay in No 65 but opted to sell it in order to raise funds to convert No 65A. She explained that her decision to move to No 65A had prompted the reallocation of the garden areas so that she would benefit from a larger garden and this had been laid out for prospective purchasers. She had been unaware that she needed to apply for an amendment to the conditions attached to the planning application. She explained that this was an honest mistake, given the practice to sell garden areas to neighbours. She confirmed that she was aware of the minimum garden size for a three-bedroom house and she confirmed that the garden area allocated fully met this requirement. At no time during the sale of No 65 had the garden size been mentioned to her by the purchaser or her solicitor and she considered that the purchaser of the property was aware of the boundaries of the garden that had been set out. She stated her surprise and regret at the trouble that had been caused and she wished the matter to be resolved, enabling her to live at 65A, in accordance with planning rules.

Councillor Flores attended and, with the consent of the Chairman, addressed the Committee. He explained that he had been contacted by the current owners of 65 John Kent Avenue about the application as well as numerous neighbours who all opposed the application. He referred to the original intention to allocate the larger garden to No 65 but this had been changed by the developer such that it had been allocated a much smaller garden than originally planned. He referred to the Council's planning policy in relation to garden sizes and the allocation of 61 metres of garden to No 65 which accorded with the relevant standards but he questioned whether this was the relevant policy as it related to new developments not existing. He referred to more generous allocations for infill and back land developments referred to the Essex Design Guide and the mutual garden boundary line of other properties in the street. He also referred to previous applications relating to the site listed under a Smallwood Road address rather than John Kent Avenue and questioned the motives behind this. He referred to telephone calls he had received from the developer and assertions regarding her future occupation of No 65A and regarding the future of the site to the rear of No 65A. He also referred to the recent withdrawal of an application proposing development of that site and he queried the potential for an application for industrial use of the land. He requested consideration of applying a condition to prevent this eventuality and to prevent it falling into disuse. He also questioned the validity of the submission of a planning application on land not in the ownership of the applicant, without prior notification to the land owner. He sympathised with the owners of No 65 and their circumstances and hoped the determination of the application would bring improvement to this.

The Senior Planning Officer confirmed that an application had been made for a dwelling

to the rear of No 65A John Kent Avenue which had been withdrawn following severe concern from the planning case officer in relation to over development. Whilst he could not preclude any development on the site in future, he was of the view that the site was likely to be too small for a dwelling. The garden size was smaller than neighbouring plots but it did meet the standards and there was no significant impact in terms of visual character of the area. He was also of the view that the proposal did respect the character of the area. He also commented that any future anti-social use would be dealt with under relevant Environmental Health legislation. He also confirmed that the land would be allocated as amenity space for No 65A John Kent Avenue. As the garden spaces met the relevant standards and the visual area was unaffected, the fact that the garden areas had already been laid out, did not affect his recommendation to approve the application. He further confirmed that there was no planning approval to erect a dwelling to the rear of No 65A. He also confirmed that standards which had been applied to the consideration of the proposal were relevant, confirming that the property was deemed to be new development and although the garden size for the original dwelling had been reduced this was not to an unacceptable degree. He also confirmed that commercial use would not be possible without a relevant consent which would be considered at the time any such application was submitted. He considered it could be possible to apply a further condition to retain the land to the rear of 65A as amenity space, should the Committee members consider it appropriate.

One member of the Committee commented on the application for the land to the rear of No 65A which had recently been withdrawn and queried why the option had not been taken to divide the gardens equally. A suggestion was made for the Committee's consideration to be deferred to enable the applicant and objector to discuss the matter further with a view to a compromise being achieved and to resolve what appeared to be a land dispute.

The Development Manager explained that, if the applicant had completed the development and occupied the dwelling, there would have been no requirement to seek permission from the planning authority. He also explained that, providing implementation was carried out in accordance with the permission granted, ownership of land was not a planning matter. The Committee was considering the matter because the severance of the garden area had taken place before the development had been completed and occupied. He confirmed that the garden areas each complied with the relevant policies and there was no visual impact from the street whilst the potential development of the garden area to the rear of 65A would have to be dealt with when any such application materialised. Further, he confirmed that it was not possible to anticipate what the intentions of the applicant may be, it being their right to apply for planning permission as they saw fit. Applications for permission must not be pre-determined and must be considered on their merits, however, he did concur with the view that the site was too small to accommodate a further dwelling. Accordingly, he did not consider there were any grounds to support a refusal of the application and he was of the view that a deferral would serve little purpose. He considered the layout of the gardens was in evidence

when the owners of No 65 purchased the property and he therefore was of the view that there was no planning reason to require an equality of garden size, particularly given that the built form was remaining unchanged.

Another member of the Committee referred to the need to distinguish between the legal aspects relating to the site and the planning matters. He was strongly of the view that the legal issues were not a matter for the Committee to consider.

*RESOLVED* (SEVEN voted FOR, TWO voted AGAINST and ONE ABSTAINED) that authority be delegated to the Assistant Director Policy and Corporate to approve the application subject to the conditions set out in the report and the receipt of the outstanding RAMS fee.

**683 190020 45 Winston Avenue, Colchester**

The Committee considered a planning application for the part single and part two storey side and rear extension at 45 Winston Avenue, Colchester. The application had been referred to the Committee because it had been called in by Councillor Buston. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Annabel Cooper, Planning Officer, presented the report and assisted the Committee in its deliberations.

Richard Cawley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that, despite the modification of the original application, he considered that his property would suffer from a loss of light from the proposed development due to the orientation of the properties, he explained that his rear garden faced north west and his neighbour's garden was located to the south west of that and he explained the trajectory of the sun throughout the day and considered this would mean his garden would receive sunlight later in the day and for fewer months of the year. He had commissioned an assessment of light impact and had received confirmation of his view. He referred to angles of the sun at different times of the year. He also referred to the breach of the elevation test in relation to angle of outlook by the proposed development.

Keiren Cahill addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had purchased the property the subject of the application in August 2018 with the intention to create a long-term family home. He was seeking to create an open downstairs living space with larger bedrooms. He regretted the objection made to the proposals by his neighbour but these concerns had been taken into account and had modified their plans and attempted to compromise. He asked the Committee to approve the application.

The Planning Officer confirmed that the 45-degree angle of outlook test had to breach both plan and elevation tests to merit refusal of an application and the proposal constituted a marginal breach at ground floor level in respect of the elevation test only. She also explained that an existing fence was situated on the ground floor which already blocked some daylight, whilst the dimensions of the extension were within permitted development rights parameters. She confirmed the proposal was acceptable in terms of potential loss of light.

Councillor Buston explained that he had been asked to call-in the application by Mr Cawley prior to the application being modified in response to the neighbour's concerns. He confirmed that he would not vote on the issue.

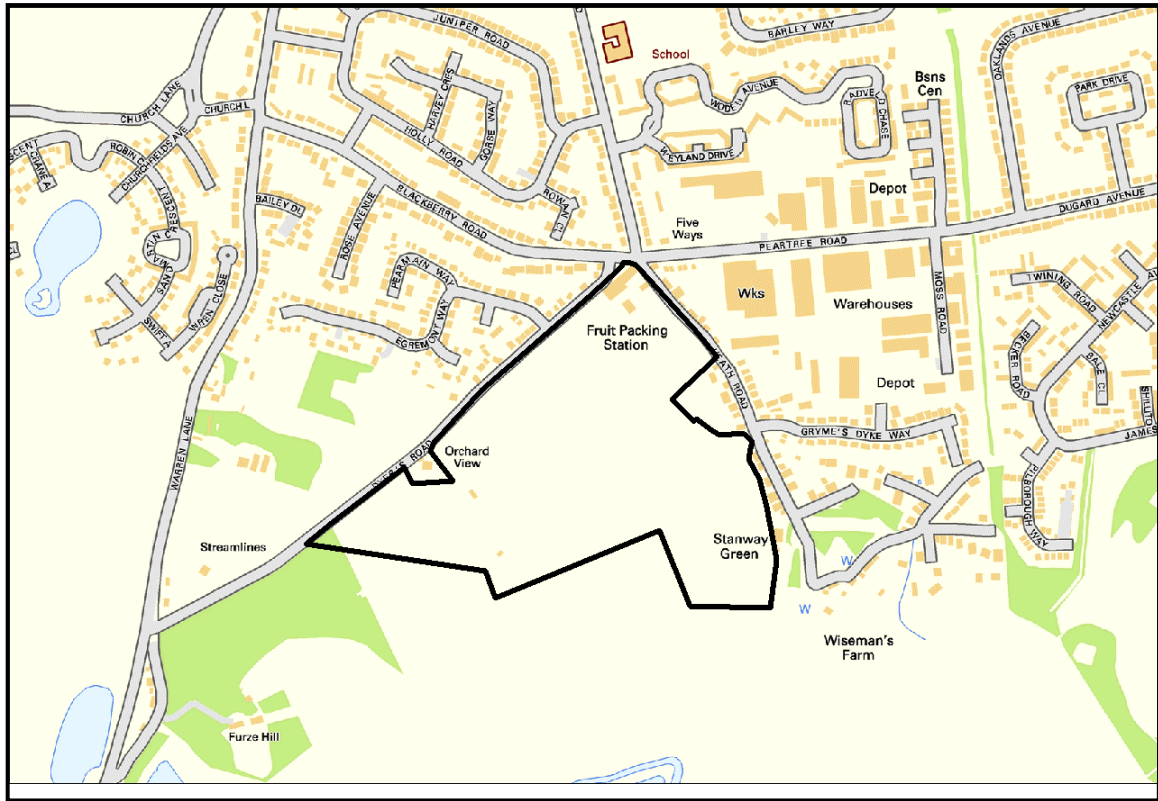
Members of the Committee referred to the revised plans which incorporated an illustration of the 45-degree angle of outlook test and the ability of the applicant to undertake the majority of the proposal within permitted development rights.

*RESOLVED* (NINE voted FOR and ONE ABSTAINED) that, the planning application be approved subject to the conditions set out in the report and the amendment sheet.

**684 190279 Swan Grove, Chappel**

The Committee considered a planning application to create hardstanding for two parking spaces at Swan Grove, Chappel, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report in which all information was set out.

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



Not to Scale

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**Item No:** 7.1

**Application:** 182220

**Applicant:** Mersea Homes And Hills Residential

**Agent:** Kevin Coleman, Phase 2 Planning & Development Ltd

**Proposal:** Part detailed/part outline planning permission for up to 420 residential units, with associated access, parking, servicing, open space and amenity space, landscaping, and utilities (details for means of vehicular access to the site only).

**Location:** Fiveways Fruit Farm, Heath Road, Stanway, Colchester, CO3 0QR

**Ward:** Stanway

**Officer:** Sue Jackson

**Recommendation:** Approval subject to signing of a Section 106 Agreement

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

- 1.1 This application is referred to the Planning Committee because it constitutes major development where a section 106 legal agreement is required and also because objections have been received.

## **2.0 Synopsis**

- 2.1 This is a hybrid application that seeks both outline and full planning permission for the development of the Fiveways Fruit Farm site in Stanway. Outline permission is sought to establish the principle of residential development and full permission for vehicular access. The report describes the site and its setting, details of the application, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.2 The key issues explored below are the principle of development and the proposed vehicular access in particular the works proposed to the existing Fiveways junction. Other material considerations are also assessed including the requirement for an agreed masterplan/design and access document/design codes prior to the submission of the reserved matters applications.
- 2.3 Following an assessment of all material planning considerations the application is subsequently recommended for approval subject to prior completion of a legal agreement.

## **3.0 Site Description and Context**

- 3.1 The application site lies south east of Dyers Road on the southern side of Stanway. The site has an area of 17.1 hectares and has been in use as a fruit farm and nursery.
- 3.2 The site is generally flat with a gentle fall from north east to south west. There are a number of mature trees and some vegetation on the site and along the boundaries. The main group of trees is next to the Dyers Road access, there are also some poor quality hedgerows which delineate original field boundaries. There is a hedgerow to the south of Dyers Road. Within the site Alder trees have been planted in rows to act as a buffer to adverse weather.
- 3.3 The majority of the site is used as a growing area; either open air (apples, plums, asparagus, Christmas trees) or beneath polytunnels (strawberries, raspberries, blueberries) and is divided by unsurfaced tracks giving access for management and harvest. Within the northern corner of the site close to the main Fiveways junction is a farm yard with a vehicular access onto Heath Road. The farm yard consists of concrete hard standing surrounding the farm house and ancillary buildings including cold stores, a fruit packing area, a machine store/workshop, general storage buildings and a farm shop. The site also includes two irrigation reservoirs.

- 3.4 The main vehicular access to the site is via Heath Road with a secondary farm access along Dyers Road to the south west providing access to the fields.
- 3.5 The site is roughly triangular in shape with the north apex abutting the Fiveways junction. The east boundary extends along Heath Road in part fronting this road and in part extending behind the rear gardens of existing properties. The NW boundary fronts Dyers Road whilst to the south is a large area of active mineral extraction. Part of the east boundary also abuts the scheduled monument of Grymes Dyke comprising a substantial linear earthworks associated with the defended settlement or “oppida” of Camulodunum.
- 3.6 Heath Road is a narrow road serving residential properties and leading to Stanway Green and Grymes Dyke. There is residential development in depth on the west side of Dyers Road. Planning permission has recently been granted for residential development on three sites on the west side of Dyers Road; one where development is nearing completion and two where development is about to commence. The east side of Dyers Road has a scatter of dwellings.
- 3.7 The existing highway network is described in the following terms “To the north of the site are Winstree Road, Blackberry Road and Peartree Road, all through roads and all on a bus route. Winstree Road provides access to residential areas and several schools including Stanway Fiveways County Primary School, The Stanway School and Stanway Primary School. Blackberry Road provides access to residential areas and a local shopping centre. Peartree Road is predominantly in commercial use and contains a number of retail stores.
- 3.8 The “Fiveways” junction comprises the Blackberry Road / Peartree Road / Winstree Road / Heath Road crossroads junction and the Dyers Road / Blackberry Road priority junction.
- 3.9 Blackberry Road follows an east – west alignment to the north of the site between the double mini-roundabout junction of Warren Lane / Villa Road / Church Lane to the west and the priority crossroad Fiveways junction around 20m east of the junction with Dyers Road. To the east of the Fiveways junction, Blackberry Road changes its name to Peartree Road and then Dugard Avenue and forms a mini-roundabout junction with Straight Road at its eastern end.
- 3.10 Heath Road follows a north- south alignment to the east of the site and serves Stanway Green at its southern end. Heath Road forms the southern arm of the Fiveways crossroads junction at its northern end. Winstree Road becomes Chapel Road at its northern end and forms a priority junction with Villa Road around 60m south of the Villa Road / London Road mini-roundabout. It is subject to traffic calming measures in the form of speed cushions at regular intervals”.

## 4.0 Description of the Proposal

4.1 This is a hybrid application (outline and full elements) and seeks outline planning permission with all matters reserved for the erection of up to 420 dwellings, full planning permission is sought for the access points. The access points proposed are:

1. Revisions to the current Fiveways junction. The existing junction will be replaced by a new four arm roundabout. One of the arms of the roundabout will form the northern end of the new spine road serving the residential site. Revised connections to Dyers Road and Heath Road are also proposed, the northern end of Dyers Road is realigned to form a priority junction with the proposed spine road. Heath Road is also realigned at its northern end to join the proposed spine road; a small length of Heath Road at its northern extremity will be modified to a shared surface serving two properties. Blackberry Road, Peartree Road and Winstree Road will form the western, eastern and northern arms of the roundabout respectively.
2. The southern end of the spine road serving the residential site. Recent planning permissions for residential development on the west side of Dyers Road include part of the new spine road and will provide a link to the roundabout on Warren lane and the Stanway Bypass. When the spine road is provided then Dyers Road will be stopped up to through traffic.
3. The creation of three shared private drives onto Dyers Road to serve up to 15 dwellings.

4.2 Following the original submission, at the request of the Highway Authority, revised drawings have been submitted showing minor amendments to the design of roundabout together with additional drawings showing the swept paths for vehicles. For clarity the amendments include;

- a) Drawing showing a swept path for a refuse vehicle accessing all the properties affected by the works in Heath Road
- b) Drawing showing a swept path for two large cars meeting at the new junction between the old and new sections of Heath Road
- c) Removing the raised table within the old section of Heath Road
- d) Relocating the 3.5 metre wide footpath/cycleway by widening the existing footway between the end of the old section of Heath Road and the roundabout
- e) Moving the roundabout further south-west to achieve the minimum 20 metres required between the proposed crossing in Peartree Road and the roundabout circulatory carriageway
- f) The proposed zebra crossing in Peartree Road amended to a toucan crossing
- g) Relocating the raised table in Winstree Road so as to be a minimum 6 metres from the roundabout circulatory carriageway
- h) Widening the footway along west side of the proposed spine road between Dyers Road and the roundabout to a minimum 3.5 metre wide footway/cycleway to enable cyclists to cross using the splitter island



The supporting information states “the reason that the vehicular access proposals are provided in detail is to create certainty over the means of access for both the local community and the applicants alike, and so that any concerns regarding the accessing of the site can be dealt with at this stage rather than deferred for future consideration”.

4.4 In addition to the plans and drawings detailing the proposal, supporting documents include:

- Land Use Parameter Plan
- Access and Movement Parameter Plan
- Dyers Road Private Driveway Locations
- Dyers Road/Blackberry Road/Heath Road Junction Proposals (proposed Fiveways roundabout)
- Dyers Road Spine Road Access Proposal
- Arboricultural Impact Assessment
- Arboricultural Method Statement
- Archaeological Evaluation
- Design and Access Statement
- Ecological Assessment
- Flood Risk Assessment
- Phase 1 Ge-Environmental Desk Study
- Geo-Technical and Geo-Environmental Site Investigation Report
- Planning Statement (Including Health Impact Assessment)
- Transport Assessment
- Travel Plan

## **5.0 Land Use Allocation**

5.1 The site is allocated for residential purposes in Site Allocations policy SA STA1 Appropriate Uses within the Stanway Growth Area in the Adopted Local Plan. This allocation is carried forward in the Emerging Local Plan Policy WC2.

## **6.0 Relevant Planning History**

6.1 The planning site history all relates to the use of the site as a fruit farm. However the following applications for residential development on the west side of Dyers Road are relevant as they include the spine road link to Warren Lane/Stanway Bypass.

152826 - Full planning permission for the development of the site for 93 dwellings, public open space, landscaping, access and car parking. This application includes the section of the spine road from the roundabout with the Stanway Bypass to the boundary with application 180873. Approved 21 December 2016

180873 - Erection of 57 residential properties with associated parking, servicing, amenity space, landscaping and utilities. This application includes a section of the spine road from Dyers Road to the boundary with application 152826. Approved 29 March 2019.

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- H1 - Housing Delivery
- H4 - Affordable Housing
- PR1 - Open Space
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- ENV1 - Environment

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP14 Historic Environment Assets
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

7.4 Some "allocated sites" also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA H1 Housing Allocations
- SA STA1 Appropriate Uses within the Stanway Growth Area
- SA STA2 Phasing of Greenfield sites in Stanway Growth Area
- SA STA3 Employment and Retail Uses in Stanway Growth Area
- SA STA4 Transportation in Stanway Growth Area

7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

Policy SG1: Colchester's Spatial Strategy

Policy SG2: Housing Delivery

Policy SG8: Developer Contributions and Community Infrastructure Levy

Policy ENV1: Natural Environment Policy NC3:

Policy WC2: Stanway

Policy DM2: Community Facilities

Policy DM8: Affordable Housing

Policy DM16: Historic Environment Policy DM18: Provision for Public Open Space

Policy DM20: Promoting Sustainable Transport and Changing Travel Behaviour

Policy DM21: Sustainable Access to Development

Policy DM23: Flood Risk and Water Management

Policy DM24: Sustainable Urban Drainage Systems

7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

Affordable Housing

Community Facilities

Open Space, Sport and Recreation

Cycling Delivery Strategy

Sustainable Drainage Systems Design Guide

Managing Archaeology in Development.

ECC's Development & Public Rights of Way

Planning Out Crime

Stanway Joint Design Statement and Parish Plan

Stanway Southern Sites Access Development Brief (2013)

## 8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

### 8.2 Environmental Protection

Should planning permission be granted Environmental Protection wish to make the following comments no objection subject to conditions

### 8.3 Essex Bat Group

As a small charity, we are unable to comment on how particular schemes may affect the local bat population or on individual ecological survey reports but we can offer some general advice on the planning process and how development may affect bats. Due to declining populations, bats and their roosts are protected by law throughout the UK, whether occupied or not. It is illegal to damage, destroy or disturb any bats or roosts without having taken the necessary precautions.

A roost is defined as any place that a wild bat uses for shelter or protection, and the roost is protected whether bats are present in it or not.

There is also government planning policy and guidance for protected species, which stipulates that the presence of bats be considered as a material consideration when a planning application is submitted. If bats are discovered after planning permission is granted, the planning permission is considered sterile and the developer must apply for a licence before undertaking any work which may disturb the bats. If bats are present on a site, it is the developer's duty to ascertain the impacts of the proposal on protected species and to ensure that bats are not affected by the development.

Specific factors which can have a significant impact on bats to consider as part of a development include: lighting, the removal of surrounding vegetation, noise, and the changing of internal temperature.

### 8.4 Contaminated Land Officer

The reports have been reviewed they describe the intrusive investigations carried out with respect to the potential sources of contamination and conclude that, generally across the site, the soils will not pose a significant risk to human health. However, localised areas of some contaminants of potential concern were identified, especially in made ground adjacent to the barn and beneath the farm yard, and at the tank located at the southern end of the site. However, the report advises that this conclusion is based on the results of a limited sampling set, not all of the site was accessible due to the presence of existing buildings and site activities, and the proposed layout of the site is not known. It has therefore been recommended that further investigation should be undertaken following suspension of farm activities or immediately following demolition of the buildings, to provide a better understanding of the contaminant distribution and the levels of risk that the contamination poses to human health.

The applicant should be advised that care must be taken to ensure that appropriate asbestos surveys have been undertaken prior to demolition, with any identified relevant material safely removed and disposed of off-site, in accordance with all duties and obligations, to ensure that no new pathways are created. Environmental Protection will expect the verification reporting to include sufficient information to show that this has been satisfactorily carried out.

The need to appropriately decommission and remove all underground and above ground storage tanks, followed by validation of the resulting excavations is noted.

Environmental Protection will expect the verification reporting to include sufficient information to show that this has been satisfactorily carried out.

The identification of the on-site, active groundwater abstraction well is noted. The applicant's attention is drawn to the recommended requirement for this to be appropriately decommissioned: the Environment Agency's advice should be sought with respect to this matter. Environmental Protection will expect the verification reporting to include sufficient information to show that this has been satisfactorily carried out.

As recommended in the reporting, the applicant should be advised to confirm the specification of all underground services with the relevant provider.

No unacceptable risks to controlled waters or from ground gases has been identified.

Some initial suggestions for remedial options have been outlined. As the report acknowledges, the final scope of any remediation will need to be assessed following the satisfactory completion of the proposed additional site investigations and resultant revised risks assessments.

The reports are acceptable for Environmental Protection's purposes. Based on the information provided, the conclusions would seem reasonable and it would appear that this site could be made suitable for the proposed use, with the remaining matters dealt with by way of planning condition.

## 8.5 English Heritage

The proposed development is in close proximity to a number of Late Iron Age and Romano-British scheduled monuments and is located in an area of archaeological sensitivity. The site has been subject to a degree of archaeological evaluation which has identified buried archaeological remains dating back to the Iron Age and Roman periods. The harm which would be caused to the significance of these non-designated heritage assets should be refined by further evaluation and mitigated by conditions to allow for the implementation of a programme of archaeological investigation secured by a planning condition (NPPF paras 189,199)

The proposed development would not directly affect the adjacent scheduled monument- Gosbecks Iron Age and Romano-British site, the western boundary of which is formed by Grymes Dyke, one of the substantial linear earthworks associated with the defended settlement or “oppida” of Camulodunum. Given that the proposals would introduce a large quantum of built development to the west of the dyke at this juncture, we advise that a degree of erosion to the landscape setting of the dyke would be caused which would result in some harm to the significance of the scheduled monument. However, we consider that there is scope for this harm to be mitigated through the master-planning process by the creation of public open space /landscape buffer to the west of the dyke. Were these measures to be secured, we advise that the scheme would meet the aims and objectives of the NPPF in respect of the historic environment (para 192,194,196).

## 8.6 CBC Archaeologist

This large application area adjoins a Designated Heritage Asset, a Scheduled Monument – Gryme’s Dyke at Stanway Green (NHLE no. 1019992) which conjoins Gosbecks Iron Age and Romano-British Site (NHLE no. 1002180). In terms of the indirect impact on this designated heritage asset, an assessment of the significance of the heritage asset is required, an assessment of the contribution that the setting makes to the significance of the heritage asset, together with an assessment of the impact of the proposed development on the setting of the heritage asset (in accordance with NPPF paras. 188-189 and Historic England’s Good Practice in Planning Advice Note 3, The Setting of Heritage Assets, and Policy DP14 of the Local Plan). In accordance with para. 194 of the NPPF, any harm to the setting of the designated heritage asset should require ‘clear and convincing justification’. I would advise that the south-east part of the proposed development site, adjacent to the designated heritage asset, is (re-) allocated as an area of public open space in the land use parameter plan, which will enhance the setting of the heritage asset.

In terms of below-ground heritage assets (i.e. archaeological remains) a pre-determination trial-trenched evaluation has been undertaken by Colchester Archaeological Trust and the report on this work has been submitted with the application (CAT Report 1082, May 2017). Based on the findings of the evaluation, there are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

An archaeological condition is recommended:

## 8.7 North East Essex Badger Group

This is once again a huge development alongside Dyers Road, which will virtually destroy all the open farmland in the vicinity, making it impossible for the resident wildlife to survive. I have read the Ecological Report and would like to point out that there is a large, well established badger sett almost adjacent to this proposed development. It has been there for many years and whilst it appears the building work should not infringe on any actual sett, they certainly forage on and cross the intended building land every night. The short-term danger will be badgers falling into excavation workings, footings etc. and be unable to exit. Therefore it is important mitigation measures are put into place should this development go ahead. Apart from that we would point out that the badgers are very used to the freedom of their location and as such will no doubt continue to cross the land and possibly become a nuisance with regard to domestic landscaping.

There has been a great deal of development along this area recently, displacing wildlife and although "wildlife" corridors are mentioned - they are useless to wildlife if they only lead onto a road and another housing estate. It really is time to leave the remaining green spaces exactly as they are.

The applicants ecologist has submitted the following response to comments made by North East Essex Badger Group.

*"Firstly, we should point out that the site has been surveyed for all potential wildlife groups – badgers, bats, amphibians etc. – in full to recommended guidelines. Any ecological design constraint was identified in the report and highlighted for inclusion in the subsequent Ecological design specification/management plan.*

*The principal conclusions/mitigation measures from that report were:*

- Apart from localised access, the perimeter hedgerow/tree lines and central green oak corridor are to be retained, enhanced and increased – which will protect these key avian areas. There will be some loss of avian habitat away from the hedges/treelines/corridors and it will be essential that any central tree/vegetation removal is completed between September and February inclusive to ensure no nesting birds are disturbed;*
- A post approval ecological design and management plan will be produced by applicants to protect and enhance biodiversity – including avian fauna across and through the wider site.*

*Turning specifically to badgers, the badger survey identified that there was a localised small amount of badgers foraging on the site – but determined that NO sett was present within the proposed development area. The response from NEEBG confirms that there is no sett on the site and that the proposed development will not infringe upon any off-site sett. We identified that there were two setts to the west beyond Dyers Road in and adjacent to the woodland area that would not be impacted upon by this proposed development. We further identified a fox earth within the Dyers Road boundary hedge that would be monitored. The small amount foraging field sign is not synonymous with significant badger activity on the site. NEEBG raise concerns about construction impacts and badgers falling into excavations etc. and being unable to escape – the ecological management plan will include information with regard to the use of laddered scaffold boards left in any excavation that*

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*cannot be enclosed over night to ensure any badger within can exit. Where possible, excavations will have exit points created where the excavation corner will be pulled out to make it less acute and easily traversed by any badger. Badgers from off-site may venture into the gardens of the new properties – and associated ecological green space created as part of the proposed development – as do numerous birds, foxes, frogs and bats etc., but this is not an unusual scenario”.*

#### 8.8 Lead Local Flood Authority (SUDS)

Having reviewed the Flood Risk Assessment & Surface Water Drainage Strategy and the associated documents which accompanied the planning application, acting on behalf of ECC we do not object to the granting of Outline planning permission based on conditions.

#### 8.9 Highways England

Recommend that conditions should be attached to any planning permission that may be granted.

This response represents our formal recommendations with regards to 182220 and has been prepared by Mark Norman. We have examined the Transport Assessment.

We have a number of observations and have reached the conclusion that this development will have a material impact upon the Strategic Road Network, specifically on the capacity of the A12 J26 Eight Ash Green junction. However, it appears possible to mitigate that impact and we are agreeable to the granting of permission subject to the conditions suggested below.

The impact of this development must be seen in two alternative contexts: one in which Stane Park Phase 2 (172935) and Tollgate (150239) receive planning permission and proceed to construction; the other in which they do not, or in which the development of Fiveways Fruit Farm proceeds ahead of them. Both Stane Park Phase 2 and Tollgate both have an obligation to carry out improvement works at the A12 J26 Eight Ash Green Junction. Our investigations show that, provided those works are complete before this development is occupied, its effect will be suitably mitigated.

Highways England Planning Response (HEPR 16-01) January 2016

Highways England therefore have no Objection to planning application 182220, provided the recommended condition is attached:

#### 8.10 Natural England

It has been identified that this development site falls within the ‘Zone of Influence’ (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result

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of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

**NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would: have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

As the application is currently at the outline stage, we understand that it may be acceptable to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage.

#### 8.11 Highway Authority

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions. The conditions include (summarised)

- a construction traffic management plan
- implementation of the approved Traffic Regulation Order FP/234/08/18 and associated works to prohibit vehicular traffic in Dyers Road
- requirement to construct roundabout, the realignment of Dyers Road and Heath Road and part of the spine road at and near the Fiveways junction

- contribution towards a possible future improvement at the London Road/Stanway Western Bypass roundabout and the B1022/Warren Lane junction
- requirement to construct spine road
- restrict number of occupations until improvements to the southern arm of the Tollgate West/Stanway Western Bypass roundabout completed
- Travel Plan

#### 8.12 Essex Ecology Services (Ecological consultancy of Essex Wildlife Trust CBC Ecology Consultant)

The applicant appears to have provided all the appropriate ecological reports, which appear to be based on sound surveys.

The overall ecology report indicates that an ecological management/enhancement plan will be drawn up for the site, which I imagine will be secured through planning condition. Natural England also recommend general ecological enhancement measures, which we assume can be included in the eco management/enhancement plan.

#### 8.13 Transportation Policy

##### Walking and Cycling

The proposal include reconfiguring the Blackberry Road/Peartree Road/Winstree Road/Heath Road crossroads junction and the Dyers Road/Blackberry Road priority junction to form a four arm roundabout.

A shared pedestrian/cycleway will be provided on the northern side of the spine road.

A shared footway/cycleway is also proposed from the footway/cycleway on the Spine road to link in with the current footway/cycleway on Winstree Road using zebra crossings to cross Blackberry Road and the proposed roundabout. This link is welcomed and will provide a direct link between the development and the schools along Winstree Road.

Dyers Road will be closed off to vehicular traffic once the strategic road is complete and will become a green lane. The northern part of Dyers Road will become a cul-de-sac and the southern part of Dyers Road will become a green lane. Again, this will provide a good quiet footway/cycle link through the development.

Cycle parking should be provided within the development in accordance with Parking Standards.

##### Public Transport

The Transport Assessment refers to bus routes in the vicinity of the site. It should be noted however that bus route 65 only passes the site in the eastbound (town centre) direction. In the west bound direction it goes via Holly Road and therefore does not pass the site. The stops for the 65 westbound service (Tollgate direction) are therefore further than 400m from the development site. This is also referred to in the Travel Plan.

The main spine road through the site has been designed to allow buses to operate along it. Bus stops, designed to ECC standard, should be provided along this route to ensure that all dwellings are within 400m of the bus stops.

The Transport Assessment states that 'local bus providers including Arriva and First Group have been contacted regarding proposals to determine whether new

services can be provided or existing services diverted. Arriva have indicated they would be prepared to divert their existing bus Service 1 ...' The consultation with bus operators is welcomed to encourage the provision of bus services through this residential area. It is suggested consideration should be given to any new/extended bus service serving the Tollgate area in addition to the town centre. Proposals to divert bus services to route through the Fiveways development should continue to be pursued by the developer with the local bus operators.

#### Electric Vehicles

Suitable infrastructure to recharge electric vehicles should be installed as part of the proposal. There are no details of electric vehicle charging points with this application. It would be expected that electric vehicle charging points are included within the development to encourage the uptake of electric vehicles. Electric vehicle charging points should be provided for all dwellings to enable vehicles to be charged overnight.

### 8.14 Environment Agency

Thank you for your consultation received on 28 September 2018. We have inspected the application, as submitted, and no objection to the application, however we do offer the below advice relating to the previous use of the site and neighbouring sites regulated by an Environmental Regulated Permit.

#### Previous Use as an extraction site

Previous use has been highlighted by the applicant as being a mineral extraction site. Consideration of what has been used to remediate the site after mineral extraction and drainage should be taken into account to ensure that water is not contaminated in the area.

#### Proximity to regulated sites

The proposed development is within 1km of a civic amenity site and waste transfer station which has the potential for odour disruption. The proposed development is also within 1km of an inert processing site which has the potential for dust and noise disruption. The site is also within 1.3 km of an active landfill site which has the potential for odour disruption.

The proposed site location therefore has a large number of sites within the neighbouring area which may result in impacts from these regulated sites. However if these sites are conforming to their permits we will not look to close the sites.

### 8.15 Anglian Water

No objection subject to conditions

### 8.16 Landscape Officer

The Landscape Officer has made a number of detailed comments including; the landscape element needs to be cross-checked against the Council's standard generic requirements; inaccuracies in the design and access statement, the tree planting proposed within the site and recommends exclusion of ash. The Landscape Officer indicates the existing hedgerow bounding Heath Road has been classed as important under the Hedgerow Regulations with a resulting presumption against the proposed hedgerow removal. However the removal of

any hedgerow is permitted in principle if it is required for making a new opening in substitution for an existing opening but it should be noted that this exemption is for the proposed access only, not sight splays. Reference is also made to the hedge bounding Grymes Dyke which has been classified as 'Important' under the Hedgerows Regulations in relation to its archaeological importance.

#### 8.17 Arboricultural Officer

No comment

#### 8.18 Essex Police

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 69 of the National Planning Policy Framework has been achieved, however the proposed site plan does show the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties by having the gardens backing directly onto other gardens. To ensure this development is a safe, secure place to live, e.g. uniform lighting without dark areas, effective physical security on each property, garden gates sited as near as possible to the front of the property and to comply with Colchester's Planning Policy DP1: Design and Amenity (Revised July 2014), (iv) Create a safe and secure environment, I would recommend the applicant incorporate Crime Prevention through Environmental Design and apply for nationally acknowledged and police recommended Secure By Design accreditation.

### **9.0 Parish Council Response**

9.1 The Parish Council have stated that I refer to the above application and can confirm that Stanway Parish Council OBJECTS to this proposal due to the amount of local residents concerns relative to the lack of infrastructure and overdevelopment of the site.

### **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

#### 10.2 Cllr Dundas

"I am of course aware that the site is contained in the current Local Development Framework and allocated for housing development which will inevitably frame the eventual destiny of it. Consideration must of course also be given to the shortage of supply compared to demand for housing both in the Borough and the Country together with Affordable Housing needs.

Stanway has seen massive growth and change over the last 20 years which, if anything, has accelerated in recent times. No one possibly could or should categorise the people of Stanway as "NIMBYs" when comments are made on

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further building. Stanway has regularly accepted numbers of housing in 12 months with barely a murmur of complaint the same number of which in other Wards spread over 20 years have prompted mass protests.

Bearing this in mind it is only right and fair that when further large developments such as this are brought forward we all ensure that the existing residents, and indeed the new ones, receive the fair dividend of properly planned infrastructure to mitigate the effects.

Turning to the specific applicate I understand Highways have not yet made any Comments and have requested an extension until December 7 but I can see some possible issues as the proposal currently stands;

1. There is inadequate pedestrian safety on the East/West access. Although there are crossings from North/South across Blackberry and Peartree Roads there is no way for pedestrians on the West side of the new roundabout to access anything to the East without crossing an uncontrolled road. To the East we have a school and a significant number of shops and businesses which are “cut off” from everything to the West of Winstree Road. Although there is a “raised” area on Winstree Road approaching the roundabout I would suggest this is inadequate and a proper, full, pedestrian crossing is required on Winstree Road.
2. The proposed roundabout seems to be of a slightly “enhanced” mini-roundabout style. On the assumption that the new spine road will become the generally used access from the A12 (via the western by-pass) to the existing “bulk” stores and businesses in Peartree Road it is likely a large number of HGV vehicles will be using this roundabout. I am concerned whether the roundabout as designed can accommodate these easily.
3. At peak times it would seem likely that traffic along the Spine Road may well back up when approaching the roundabout. This will block access to/from Heath Road and Dyers Road. It also isn't clear what vision there will be when exiting Heath Road turning left from traffic turning left at the roundabout from Peartree Road to the Spine Road.

When it comes to the wider impact of the development across Stanway there are Several concerns I have in relation to whether the necessary area wide improvements as detailed in the adopted plan have, or will, be complied with to ensure further development is currently sustainable.

Firstly, Section 5.155 of the LDF states that prior to any planning application being determined a full ecological survey of Jersey Cudweed *Gnaphalium* must be carried out. I have read through the application and cannot see any specific reference to this and would like confirmation it has or will be done prior to determination and the results.

*Officer comment: the case officer has raised this issue with the applicant and received confirmation that the surveys have been carried out and that no Jersey Cudweed *Gnaphalium* has been found on the site.*

Secondly, Section 5.154 refers to a “requirement for a full archaeological field Evaluation prior to any development” so I assume this would be a planning condition imposed if recommended for approval?

*Officer comment: archaeology conditions recommended by English Heritage and CBC Archaeological Advisor will be imposed.*

Section 5.165 refers to the transport infrastructure. As we are at the tail end of the Current LDF and this is probably the last major development in Stanway to be brought forward under it, it should be assumed that all the transport improvement detailed would have now been completed or will be completed concurrently with this development. It is inevitable that a significant number of vehicles will exit onto the Western by-pass and then onto the A12 at Junction 26. This junction is already over capacity and is causing delays on the A12 itself. There is planned signalization under a S106 agreement with permission for the Stane Park 2 development but this appears to be only designed to mitigate extra traffic created by Stane Park, not the extra traffic generated by growth taken place during the current LDF period. The LDF is clear in this and states "improvements to the A12/A1124 Eight Ash Green Junction 26 as well as the surrounding highway network are required to accommodate the forecast growth in the area". There is no ambiguity here – it states "are required" yet they have not happened. Our own plan clearly implies that further development is unsustainable without these.

*Officer comment Highways England have requested a condition to ensure improvements works to junction 26 of the A12 are completed before any development is occupied and comment that provided those works are complete before this development is occupied, its effect will be suitably mitigated.*

As well as exiting onto the A12 some traffic will also head towards the B1022 via Warren Lane. This is already a dangerous and over capacity junction which sees regular accidents and very long queues. This is again mentioned in the LDF which says "A S106 Agreement has already secured funding as well as land to enable improvements at the B1022/Warren Lane junction if needed at some stage in the future". Apart from some very, very minimal changes a number of years ago there have been no improvements to this junction and they are long overdue. As with the A12 junction I would suggest the improvements are needed if this development is to occur.

*Officer comment the recommendation from Highways England does not require any works to the Maldon Road junction. However the Highway Authority has requested a financial contribution towards possible future improvements.*

Policy STA4 states that the following schemes will (no ifs, no buts) be delivered by the end of the current LDF:

- a) Completion of the Stanway Western Bypass
- b) Improvements to the A12/A1124 Junction 26 as well as the surrounding highway network
- c) Stanway road improvements
- d) Possible widening of the Stanway Western Bypass

I would venture to suggest that although (a) has occurred the only things which are proposed and may shortly happen with regards to (b) and (d) are to mitigate extra traffic from Stane Park and/or Tollgate Village neither of which were anticipated when the LDF was written. (c) is a very vague statement but I suspect few, if any, in Stanway would be able to point to many.

I hope that the comments raised by residents and others will be taken account of when considering this application. I further hope that all aspects of our LDF – not just the part which says where the houses should go – will be given equal weighting so that if this does go ahead it is done in a sustainable manner which

means Stanway continues to be a pleasant place to live for existing and new residents alike.

Further comment “having read through the Transport Assessment I note that the manual and automatic traffic and queuing surveys were carried out in November 2016 so are nearly 2 years out-of-date.

Since this time there have been significant changes in the local area not least the completion and occupation of several hundred houses including the Lakelands 2 and Wyvern Farm developments plus the opening of businesses on Stane Park.

I think anyone who knows this area would confirm that traffic levels and queuing issues are significantly different to those of November 2016. I would therefore suggest that the data used for this Assessment is inaccurate and it needs to be carried out again. Any research which relies on out-of-date data is inevitably open to question as to whether the conclusions are valid.”

*Officer comment: Highways England and the Highway Authority have both considered the information in the Transport Assessment and are satisfied with the data provided.*

### 10.3 Councillor Scott-Boutell

“I have concerns because the Fiveways junction is a known accident area. The Casualty Reduction Partnership have undertaken some work here looking at traffic flows and identifying what was causing the accidents. Their recommendation was traffic control signals.

*Officer comment The Highway Authority considers a traffic signal controlled junction would be unacceptable as it would be unlikely to provide sufficient capacity and as they do not have a good safety track record.*

There will be a high number of pedestrians, leaving the south side of Fiveways junction travelling to the schools, Children's Centre, doctors and shops and human nature is such that they will follow natural desire lines. This often means that they will not walk to the designated crossing point, the London Rd zebra crossing being a good illustration of that--with people getting off the bus and choosing to cross at the mini roundabout at the top of Lucy Lane South instead of the zebra crossing near the roundabout. Another reason for concern is the high number of drive throughs that take place on Zebra crossings in Stanway. This is because the east/west routes are very busy with a lot happening--for example; the zebra crossing by the parade of shops in Blackberry Rd--I've recently applied for funding to upgrade this to a light controlled crossing because of the high number of drive throughs and complaints. I believe the drive throughs happen because the driver is looking ahead at vehicle movements by the shops and they are not seeing the pedestrian waiting to cross, or even crossing, in front of them. I can see this behaviour being replicated if the proposed roundabout and zebra crossings go ahead.

You will be aware that the zebra crossing in Blackberry Rd by the Fiveways junction has had attended accidents at this site. I'm very worried that by creating a roundabout with 2 zebra crossings either side, instead of resolving a problem, will in fact exacerbate it.

Another point to bear in mind is that with the school expansions and the new Lexden Springs School, there will be an increase in traffic/pedestrian movements in Winstree Rd which will put further pressure on this junction in the near future.

Another factor to now take into account, will be the consultation which will be starting shortly regarding Winstree Rd. Winstree Rd is one of the roads at the Fiveways junction and is affected by the proposals. The consultation project, which is estimated to run between 18 months to 2 years, will be looking to change/improve the highway issues which include parking, obstruction and congestion in Winstree Rd.

At this point in time I'm unsure which recommendations that residents make which will be trialled and finally implemented as the consultation has yet to start but the decisions reached will ultimately impact on the Fiveways junction."

#### 10.4 116 objections representations objecting to the application have been received

One representation supporting the provision of affordable housing

##### Summary of objections

- There are already too many houses being built in Stanway (64)
- The road infrastructure cannot cope there is already queuing on the A12 sliproad, local roads and around Tollgate. More cars will mean more gridlock, noise, pollution, poor air quality and increased danger to pedestrians and school pupils (95)
- Local services cannot cope, dentists, doctors, schools and hospitals (75)
- No facilities for the young (2)
- Loss of countryside (8)
- Too many fast food outlets adding to congestion (2)
- The proposed roundabout will still mean it is difficult to get out of Dyers Road as the majority of traffic will be coming along Blackberry Road and Dugard Avenue. Any proposed zebra crossings should have traffic controls to ensure safety for local residents and school children.
- Consideration should be given to existing residents regarding placing of social housing
- Wildlife will suffer (8)
- Archaeology value of the dyke must be protected
- Crime/antisocial behavior is rising (4)
- Existing trees should be retained
- Tree/hedgerows behind existing residential properties in Heath Road should be retained (3)
- Flats will cause loss of privacy to residents in Heath Road



- Residents amenity should be protected (3)
- Impact on property values
- The three private drives onto Dyers Road will add more cars, cars will still race along the road even when it is stopped up, the speed limit is already broken and traffic calming is required
- Residents of Dyers Road have commented on the illustrative masterplan and object to houses proposed directly opposite their houses (2) *Officer comment whilst this plan will not form part of any planning permission the principle of new dwellings fronting Dyers Road is acceptable in principle*
- Infrastructure required first including improvements to the A12 junction and Warren Lane (1)
- The realignment of Heath Road and Dyers Road into the Spine Access Road will cause a massive traffic overload at the southern entry to the proposed roundabout.
- The proposed roundabout appears to be of the "mini" variety, this will be totally inadequate to meet the traffic loading from cars, vans, busses and up to 40 tonne articulated trucks, connected the local business', throughout the day. (2)
- A review of installing a one way system of South on Winstree Road, East on Blackberry Road and North on Villa Road should be carried out
- The roundabout should be replaced by a traffic light controlled junction (4)
- It should be noted that the base drawing for Heath Road is incorrect in that it shows a single dwelling on this land; however, the land is now the location of a small development of 3 bungalows, whose entrance driveway appears partially aligned with the proposed Raised Table at the entry to Heath Rd North. Please review the design to ensure there is no conflict is caused by the proposed new layout.  
*Officer comment: the applicant has confirmed the revised drawings address this issue*
- Why close Heath Road? Dyers Road and Heath Road are smaller roads, if we have to wait to get out onto the main road, then that's fine, we very rarely have to wait. The new housing estate should be directed to the other direction, Warren Lane. Why close Heath Road? Need to concentrate on directing the 840 vehicles from the new housing estate, if this goes ahead. It would be ridiculous and dangerous to allow this volume of traffic onto these roads.
- Tarmac operates an active sand and gravel quarry to the south of the planning application area. The development proposals as part of application 182220 should consider the existing quarry development and incorporate appropriate mitigation measures.  
*Officer comment: bunds have already been provided along the south boundary of the site.*

Member will note a significant quantity of comments has been received regarding highway matters, in particular the works to the Fiveways junction. A Highway Authority Officer will be invited to attend the committee meeting to assist with consideration of these issues.

## **11.0 Parking Provision**

11.1 Parking is not a matter for consideration at this time

## **12.0 Accessibility**

12.1 As this is an outline application there are no details of any buildings and accessibility is therefore not a matter for consideration at this stage of the application process.

## **13.0 Open Space Provisions**

13.1 Policy requirement is at least 10% of the site area as public open space in accordance with Development Plan Policy DP16. Open Space is secured in the legal agreement. The current restoration proposals for the quarry land abutting the south boundary of the site is the provision of a strategic area of public open space.

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The exact trigger points, mechanisms, and associated clauses will need to be discussed further with the Solicitors for each party, but the obligations that would be agreed as part of any planning permission would be as follows

- Archaeology a contribution of £16,810 (£4000 for on-site interpretation £12,000 to display any finds, £810 for enhancement of HER). The contribution for on-site interpretation and display of finds is only payable if there are archaeological finds on site.
- Open Space Sport & Recreation off site contribution of £275k, onsite provision of Paddle Tennis facility (or other agreed facility), a LEAP and 2.83 hectares of Public Open Space. Commuted sums if CBC manages the facilities/open space or alternatively an Open Space Management Plan to be submitted and approved.
- NHS Contribution of £152,352
- ECC Education requested contributions for Early Years, Primary and Secondary Education. The applicant has agreed the principle of these off-site contributions. The detail as to how these costs are calculated is still being discussed with ECC and will be finalised prior to the section 106 agreement being completed
- Community facilities contribution of £680,000 towards the extension phase 2 of the Western Approaches community building.
- Affordable Housing 20% to be provided in accordance with policy

In addition to the Development Team requirements the legal agreement will include an obligation for a RAMS payment of £122.30 per dwelling

## 16.0 Report

16.1 The main issues in this case are:

### The Principle of Development

16.2 It is a statutory requirement for a planning application to be determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is also reflected in guidance set out in the NPPF Paragraph 11 of the National Planning Policy Framework states that at the heart of the NPPF is a presumption in favour of sustainable development.

16.3 The site is allocated within the Adopted Local Plan for residential development under Site Allocation Policies SA STA1 Appropriate uses within the Stanway growth area. The Stanway Growth Area also includes Lakelands, land between Dyers Road and Warren Lane and Wyvern Farm. Land at Fiveways Fruit Farm is identified as a new green field allocation.

16.4 Policy SA STA1 states

“A Master Plan will be prepared to ensure that the development is planned comprehensively and delivered in a co-ordinated manner. All planning applications will be expected to comply with the Master Plan and have regard to the following:

1. The use of SuDS to reduce pollution levels in the water, recharging minor aquifers in the area and also to enable surface water to percolate into them keeping water levels maintained *Officer comment: SUDS is proposed and has been agreed in principle with the Lead Local Flood Authority*

2. For sites within 250m buffer zones of closed landfill sites there is the possibility of landfill gas migrating from the landfill sites into the strata below the proposed development. Any developer should appoint a suitably qualified and experienced engineer to carry out a site investigation prior to the submission of any planning application; *Officer comment: the application includes appropriate reports which have been considered and agreed with CBC Contaminated Land Officer*

3. Where the site area exceeds 1 hectare or more in Flood Zone 1, or falls within Flood Zone 2 or 3, the applicant should provide a Flood Risk Assessment that complies with Planning Policy Statement 25;

*Officer comment a satisfactory Flood Risk Assessment has been submitted*

4. Applicants should check if there would be a requirement for archaeological field evaluation before submitting a planning application. If nationally important archaeological remains are discovered the development would need to be designed to ensure that these were preserved in situ. If archaeological remains of lesser importance are discovered, these would require excavation (preservation by record) prior to development;

*Officer comment a pre- determination trial-trenched evaluation has been carried out and both English Heritage and CBC Archaeological Advisor have raised no objection to the application subject to the imposition of a condition*

5. Public open space will be required immediately to the west of the Gryme's Dyke, a Scheduled Monument, in order to secure its management and improved public access; *Officer comment: this will be secured as part of the master planning process.*

6. Where protected species are known or suspected to be present on a proposed development site then an ecological survey by an appropriately qualified consultant must be submitted prior to the planning application being determined; *Officer comment: ecological surveys have been undertaken which have been independently verified by the councils consultant*

7. Planning permission will not be granted for development unless it can be demonstrated that the wastewater and sewerage infrastructure can accommodate the development within the confines of existing consents". *Officer comment: Anglian Water and the Lead Local Flood Authority have raised no objection subject to conditions*

#### 16.5 Fiveways Fruit Farm (supporting text summarised )

- The site lies in an area of some archaeological sensitivity being close to Gryme's Dyke (a Scheduled Monument), Gosbecks and only 600 metres north of the important Stanway Burial site. *Officer comment: English Heritage and CBC Archaeological Advisor have raised no objection to the application subject to the imposition of a condition*
- Natural England is aware of a population of Jersey Cudweed *Gnaphalium luteoalbum* present on land comprising orchards and arable grassland within the quarry site. *Officer comment: the applicant has confirmed surveys have not found Jersey Cudweed *Gnaphalium luteoalbum* present on the site.*

#### 16.6 Policy SA STA4 Transportation in Stanway Growth Area

All developments in the Stanway Growth Area will be expected to contribute to a package of sustainable transport measures including walking, cycling and public transport. A comprehensive programme of Travel Planning and promotion of "smarter choices" is required including individualised Travel Planning. For the scale of development envisaged area wide Travel Planning will be required. Residential Travel Packs will be required and measures delivered. For non-residential developments, where there is not an area wide Travel Plan, organisations will need to provide Travel Plans. In addition the following road schemes shown on the Proposals Map will be delivered;

- a) Completion of the Stanway Western Bypass *Officer comment: completed*
- b) Improvements to the A12/A1124 Junction 26 as well as the surrounding highway network *Officer comment secured*
- c) Stanway road improvements *Officer comment: secured*
- d) Possible widening of the Stanway Western Bypass *Officer comment: the Highway Authority has requested a contribution for possible improvements to the London Road/Stanway Western Bypass roundabout.*

- 16.7 Within the Emerging Local Plan (2017 – 2033) the site continues to be allocated in Policy WC2 where sites off Dyers road including Fiveways fruit Farm for approximately 490 dwellings  
Development of this site will be supported where it provides:
- (i) A mix and type of approximately 490 dwellings;
  - (ii) Proposals which accord with the agreed masterplan for the Stanway Growth Area;
  - (iii) Local road improvements, including, but not limited to, the closure of Dyers Road to through traffic and;
  - (iv) Strategic area of open space to the south of the site
  - (v) Contributions to education facilities in Stanway
  - (vi) An ecological survey with appropriate mitigation.
- 16.8 The Council has published the Stanway Southern Sites Access Development Brief (2013) this document considers residential development at the southern end of the Stanway Growth Area and includes Fiveways Fruit Farm. Paragraph 4.6 and Appendix 2 demonstrate the requirement and support for the reconfiguration of the Fiveways junction and the provision of a Spine Road connecting the Fiveways Junction with the Stanway Western Bypass.
- This development Brief includes land on the west side of Dyers Road together with the Fiveways site. The section of the spine road from the Stanway Western Bypass to Dyers Road has already been secured but the larger part to the Fiveways junction is still to be secured and is proposed as part of this application.
- 16.9 The proposal is considered to comply with the requirements of the site allocation policies as set out above and the proposal is therefore considered to be acceptable in principle.
- 16.10 Whilst residential development is acceptable in principle this is a major proposal which will be implemented in phases and by two housebuilders. A master plan approach is therefore required to provide certainty in respect of the provision of land use and agreement to design codes to establish high quality places. This will be secured by condition.

#### Highway Issues

- 16.11 Policy DP17 seeks to ensure developments enhance accessibility for sustainable modes of transport. Access to development should be created in a manner that is safe and where there is physical and environmental capacity. The adopted Core Strategy seeks to promote more sustainable patterns of transport and behaviour. Policy TA1 aims to improve accessibility by focusing future development in the most sustainable locations and encouraging development that reduces the need to travel. Walking and cycling improvements and connections will be promoted through Policy TA2 and Policy TA3 aims to improve public transport services. Policy STA4 of the Site Allocations document states that all new developments in the Stanway Growth Area will be expected to contribute to a package of sustainable transport measures including walking, cycling and

public transport. A comprehensive programme of Travel Planning and promotion of “smarter choices” is required including individualised Travel Planning. In addition, other road improvement schemes will be delivered.

- 16.12 A Transport Assessment (TA) submitted with the application includes evidence and consideration on current vehicle movement data relating to the Stanway area and how this relates to the quantum of the proposal taking into account other future development proposals. The TA also provides consideration of the development in accessibility terms and provides details personal injury accident data, junction capacity assessment, trip rates and traffic distribution in and around the site.
- 16.13 The TA indicates there are wide footways on both sides of Blackberry Road and Peartree Road in the vicinity of the site. There is also a pedestrian zebra crossing on Blackberry Road between the Dyers Road and Winstree Road junctions. Dyers Road provides a footway on its northern side for around 200m from its junction with Blackberry Road. The northern end of Dyers Road, Blackberry Road and surrounding residential streets are all street lit and provide a good level of pedestrian footways to assist pedestrian movement throughout the surrounding area including all routes to the nearest bus stops, schools and shops.
- 16.14 The southern end of Dyers Road will be closed to vehicles to provide a shared use pedestrian / cycle route. In addition, a footpath / cycleway will be provided to Egremont Way and Dyers Road.
- 16.15 The TA concludes that the proposed redevelopment is well connected to existing and future sustainable travel modes including cycle routes and public transport services. It is also contributing to improving and encouraging sustainable modes of travel in the area by creating new walking and cycle facilities through the site which will connect to the wider network during construction of surrounding residential developments. The proposed Fiveways roundabout junction has been assessed and the results demonstrate that the proposed Fiveways roundabout junction will operate with spare capacity during both AM and PM peak hours when all committed and proposed development is included.
- 16.16 The application seeks full planning permission for three elements, reconfiguring the Blackberry Road / Peartree Road / Winstree Road / Heath Road crossroads junction and the Dyers Road / Blackberry Road priority junction to form a four arm roundabout, the access point for the spine road, serving the development, onto Dyers Road and three shared private driveways onto Dyers Road
- 16.17 A spine road will be constructed through the application site; and whilst this application does not include the route through the site it does include the junction at either end, namely the southern arm of the roundabout and the access onto Dyers Road. The spine road will be designed with a carriageway width suitable for bus access. The submitted information indicates Local bus providers have been contacted regarding the proposals to determine whether new services can be provided or existing services

diverted to accommodate the development. The proposals include a 3.5m off-road shared pedestrian / cycle route on one side of the spine road, pedestrian / cycle route through public open spaces, and along the southern boundary of the site. The cycle facilities and routes provided will create a direct connection between the existing off-road cycle routes on Winstree Road and Stanway Western Bypass

- 16.18 The northern ends of Dyers Road and Heath Road will be realigned to form priority junctions with the Fiveways spine road. Blackberry Road, Peartree Road and Winstree Road will form the western, eastern and northern arms of the roundabout.
- 16.19 The three shared private driveways on the southern side of Dyers Road will each serve 5 dwellings.
- 16.20 A draft Travel Plan identifies the following objectives
- to reduce single occupancy vehicles accessing the site;
  - to increase the proportion of people that walk when accessing the site;
  - to increase the proportion of people that cycle when accessing the site;
  - to increase the proportion of people using public transport to access the site;
  - to promote the health, social, and environmental benefits of sustainable travel;
  - to inform all site users of the TP and to encourage alternative ways to travel to the site, therefore helping reduce road congestion and reduce CO2 emissions; and
  - to review the TP in a timely manner.
- 16.21 Highway England and the Highway Authority accept the conclusions of the TA and support the proposed reconfiguration of the existing Fiveways junction. The Highway Authority considers a traffic signal controlled junction, referred to by residents, would be unacceptable as traffic signals would be unlikely to provide sufficient capacity and these types of controls do not have a good safety track record
- 16.22 Highways England and the Highway Authority support the application subject to conditions.

#### Heritage Assets (Archaeology)

- 16.23 Paragraph 194 of the NPPF states any harm to the setting of the designated heritage asset should require 'clear and convincing justification'. Policy DP14 states "Development will not be permitted that will adversely affect a listed building, a conservation area, historic park or garden or important archaeological remains. Development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest. In all cases there will be an expectation that any new development will enhance the historic environment in the first instance"

- 16.24 There are two issues to be considered firstly the impact of the development on the scheduled ancient monument and secondly the impact on below ground heritage assets.

Impact on the scheduled ancient monument

- 16.25 English Heritage has confirmed the proposed development would not directly affect the adjacent scheduled monument- Gosbecks Iron Age and Romano-British site the western boundary of which is formed by Grymes Dyke, one of the substantial linear earthworks associated with the defended settlement or “oppida” of Camulodunum.
- 16.26 However as the proposals would introduce a large quantum of built development to the west of the dyke they advise that a degree of erosion to the landscape setting of the dyke would be caused which would result in some harm to the significance of the scheduled monument. English Heritage consider that there is scope for this harm to be mitigated through the master-planning process by the creation of public open space /landscape buffer to the west of the dyke. This view is shared by CBC Archaeology Advisor.

Below Ground Assets

- 16.27 The proposed development is in close proximity to a number of Late Iron Age and Romano-British scheduled monuments and is located in an area of archaeological sensitivity. The site has been subject to a degree of archaeological evaluation which has identified buried archaeological remains dating back to the Iron Age and Roman periods. However further evaluation and mitigation by conditions is required to fully assess the harm which would be caused to the significance of these non-designated heritage assets.
- 16.28 CBC Archaeology Advisor confirms a pre-determination trial-trenched evaluation has been undertaken by Colchester Archaeological Trust. Based on the findings of the evaluation, there are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage however a condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed is recommended.
- 16.29 Subject to the imposition of conditions and an agreed master-plan the provisions of the NPPF and Local Plan policy are satisfied.

Landscape and Trees

- 16.30 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester’s natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.



- 16.31 The application is supported by a Arboricultural Impact Assessment and Arboricultural Method Statement. These documents indicate two continuous hedges with scattered trees run along the north-western boundary of Dyers Road and a maintained tree-hedge line with intermittent gaps extends along the eastern, Heath Road, side of the site. There are several lines of pollarded trees along the southern side adjacent to the mineral workings. In addition there are a few trees north of the site on highway land at the junction of Dyers Road and Blackberry Road. Within the site there are a range of trees and linear tree groups however most are of low value due to structural defects or poor historical management. Much of the internal vegetation is pollarded linear tree groups used for shelterbelts.
- 16.32 The tree survey assesses the tree population as consisting predominantly of low to poor quality trees. Of the 117 tree entries 38 were deemed to be of moderate quality and value (B category), 75 were assessed as being low quality and value (C category) and the remaining four were poor quality (U category). The proposed development will necessitate the removal of a total of 21 trees or groups; and parts of five groups or hedges. However most of the vegetation to be removed is of low quality due to its overall condition, poor historical management and will be replaced. Where hedge sections are removed for access points on Dyers Road, new hedges will be planted in suitable locations or there will be suitable alternative planting as appropriate.
- 16.33 Most of the internal vegetation will be removed this comprises predominantly pollarded linear tree groups used for shelterbelts which is considered a negligible loss to public amenity due to its overall condition and lack of visual presence.
- 16.34 The Arboricultural officer agrees with the assessment and conclusions in the reports and has no objection to the application.
- 16.35 A landscape strategy for the site will secure significant new planting of appropriate indigenous species to enhance public amenity and provide new habitat.

#### Ecology and Biodiversity

- 16.36 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.

- 16.37 The application is supported by an Ecological Assessment and Surveys for badgers, amphibians, dormice, reptiles, invertebrates, bats and nesting birds .
- 16.38 The ecological report concludes no part of the proposed development site has any type of statutory or non- statutory conservation designation. The proposed development site is within a zone of influence for Abberton Reservoir S.P.A. - RAMSAR site, Essex Estuaries Special Area of Conservation, and Colne Estuary S.P.A. The proposed development will not reduce the size or conservation status of these designated sites, nor affect their management regimes or future ecological potential. The proposed development area does not create new access to these Natura 2000 sites.
- 16.39 The proposed development could however have some minor recreational/disturbance impact alone or when considered alongside other new developments within the same zone of influence for these Natura 2000 Sites and so is subject to a Habitat Regulations Assessment (H.R.A.). Natural England advise that a suitable contribution to the emerging Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) would enable the local authority to be able to reach a conclusion of “no likely significant effect” - and addressing the need for the suggested H.R.A. The legal agreement will secure the RAMS contribution.  
There are Priority Deciduous Woodland habitats off-site to the west and south west. The proposed development will not reduce the size or conservation status of these habitats, nor affect their management regimes or future ecological potential.
- 16.40 Most of the site is an active intensive market garden/fruit farm with little biodiversity or conservation value. Where localised habitat features were present survey have been completed which conclude:
- There are two active irrigation reservoirs an e-D.N.A screening for both reservoirs confirmed a Great Crested Newt absence.
  - A negative result nine-month tube and hazel nut-based survey of the hedge line site boundaries and through the green mature oak corridor into the centre of the site from the adjoining site to the North of Dyers Road to the west – confirmed a Dormouse absence from the site.
  - There is no active badger sett of any type within or adjacent to the survey area. A single entrance active out-lying sett was identified within the land North of Dyers Road to the west and an adjacent dis-used annexe sett – neither of these setts are directly impacted upon by the proposed development within the Fiveways Fruit Farm.
  - There is an active fox earth within the hedgerow boundary adjacent to Dyers Road. It will be important to monitor this fox earth and other embanked areas within the site post any planning approval to ensure any possible new sett creation is identified.
  - The site has very little invertebrate value.
  - The wider site had negligible bat foraging activity. Activity/commuting/foraging is mostly associated with the linear boundaries and internal hedge/tree habitat features. A high activity route associated with the central line of Italian Alder through the site will be

lost as part of the proposed development. All retained hedge/tree lines to the boundary and into the site will be protected, enhanced and created to retain and improve upon the existing bat foraging and dispersal routes. Two trees were identified as having moderate value in relation to their potential as having a bat roost feature which are to be retained. illumination design across the site will be required to be minimal, bat friendly and follow all relevant guidelines. Bat provisions/enhancements have been identified and will be included within a Ecological Design and Management Plan for the whole site.

- Most avian activity is focused on the perimeter hedge and central green corridor habitats. The majority of the perimeter hedgerow/tree lines and central green oak corridor are to be retained, enhanced and increased - which will protect these key avian areas. Any tree/vegetation removal will be required to be completed between September and February to ensure no nesting birds are disturbed.

16.41 Whilst the surveys indicate there will be no impact on protected species section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on the local planning authority to conserve and enhance biodiversity; a condition will therefore be imposed requiring the reserved matters application/s to include an ecological design, implementation and management plan to protect and enhance biodiversity across and through the wider site.

#### Drainage and SuDS

16.42 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water

16.43 A Flood Risk Assessment and Drainage Strategy have been submitted with the application. The site is located within Flood Zone 1 which means that there is low probability of flooding any floodplain with <1in1000yr probability of river or sea flooding. The development itself is, therefore, unlikely to be susceptible to flooding. Although within flood-zone 1, consideration has also been given to the flood risk presented from other potential sources such as overland water, groundwater, sewers and retained water features. The site, proposed levels and existing topography of the site have been assessed for these threats, such that in the event of large storm events, surface water flows would not threaten life or property.

16.44 A surface water drainage strategy has been designed and accompanies the application. It shows how surface water is retained on site and stored within the green spaces (which run broadly from north to south with the topography) prior to infiltration on site. The drainage strategy would incorporate swales, bioretention and cellular soakaways which will be designed to accommodate all surface water runoff expected up to 1 in 100-year storm plus 40% climate change with the additional 10% urban creep. As the application is seeking outline permission at this stage with all matters

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reserved, this figure has been estimated and the detailed design of the SuDS would be adjusted accordingly within a detailed site layout.

- 16.45 Essex County Council SUDs (as Lead Local Flood Authority) and Anglian Water have both been consulted. Essex County Council SUDs have confirmed that they have no objection to the proposal subject to conditions to secure a detailed surface water drainage scheme and a surface water drainage maintenance and management. This is considered appropriate in order to mitigate any impacts in terms of surface water run-off and flooding.
- 16.46 Anglian Water have confirmed that the foul drainage from the development is in the catchment of Colchester Water Recycling Centre, which has available capacity for the flows. No objections raised subject to the imposition of a condition.
- 16.47 The proposal is not, therefore, considered to be susceptible to flooding or cause flooding elsewhere, it will manage surface water run-off, and would be adequately served in terms of foul drainage subject to conditions. The proposal complies with policies SD1 and DP20.

#### Impact on the Surrounding Area/Neighbouring Properties

- 16.48 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 16.49 The development proposes to reconfigure the existing 'Fiveways' priority crossroads junction to provide a four arm roundabout with improved capacity and safety plus improvements to existing pedestrian crossing facilities. The development will incorporate new pedestrian and cycle facilities to encourage sustainable travel behaviour and provide links to existing off road cycle routes and footpaths. The new spine road will provide a more direct route to Stanway Bypass and the A12. The stopping up of Dyers Road to through traffic will have a positive impact on those residents.
- 16.50 The construction phase is likely to cause noise and disturbance and, as such, the Council's Environmental Protection team have recommended conditions to limit the hours of work and establish a construction method statement. This is considered necessary to ensure that the amenity of local residents is protected as far as reasonable.
- 16.51 The application site shares a boundary with dwellings in Heath Road and Dyers Road and there are dwellings on the opposite side of both of these roads. The privacy and amenity of these residents will be considered as part of the masterplan process and consideration of the reserved matters applications.

## **17.0 Conclusion**

- 17.1 To summarise, the application is considered to be acceptable with regards to the relevant policies contained in the Council's adopted development plan. The criteria listed in the site allocation policies in respect of highway works, archaeology, SUDS, flood risk, land contamination and protected species are satisfied. The proposed reconfiguration of the Fiveways junction is supported by the Highway Authority and Highways England has raised no objection subject to the prior improvement of the A12 junction 26.
- 17.2 A masterplan approach is required for the residential development and this is secured by a condition.
- 17.3 In conclusion it is considered that the full application for the access works, including the new Fiveways junction, and the outline application for residential development are acceptable and Members are recommended to resolve to grant planning permission subject to the legal agreement and conditions set out below.

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement.

Agreement with the Agent/Applicant to the wording of the conditions and delegated authority to make changes to the wording of conditions as necessary;

The legal agreement to secure:

- Archaeology a contribution of £16,810 (£4000 for on-site interpretation £12,810 display any finds)
- Open Space Sport & Recreation off site contribution of £275k, onsite provision of Padel Tennis facility (or other agreed facility), a LEAP and 2.83 hectares of Public Open Space. Commuted sums if CBC manages the facilities/open space or alternatively an Open Space Management Plan to be submitted and approved.
- NHS Contribution of £152,352
- Education contribution the details of this contribution are still being discussed with ECC Education and Members will be updated at the meeting.
- Community facilities contribution of £680,000 towards the extension phase 2 of the Western Approaches community building.
- Affordable Housing 20% to be provided in accordance with policy
- a RAMS payment of £122.30 per dwelling

- A financial contribution sufficient to secure a scheme of improvements to A12 junction 26 (the Eight Ash Green junction), similar in form to that shown in outline on Cannon Consulting Engineers Drawing number F/171 rev C dated 24th May 2017, including both the elements labelled 'committed' and those labelled 'proposed'. This contribution will not be required if these works have been commenced to the satisfaction of the Local Planning and Highway Authorities, in consultation with Highways England prior to the occupation of the first residential unit.
- A £25,000 index linked contribution (plus 2% of the contribution value or no more than £2,000 as a monitoring fee) towards a possible future improvement at the London Road/Stanway Western Bypass roundabout to be paid prior to the occupation of the 50<sup>th</sup> dwelling.
- An index linked contribution (plus 2% of the contribution value or no more than £2,000 as a monitoring fee) towards a possible future improvement at the B1022/Warren Lane junction (details shall be agreed with the Local Planning Authority prior to commencement of the development) to be paid prior to the occupation of the 50<sup>th</sup> dwelling.

The Permission will also be subject to the following conditions:

**FULL APPLICATION** (means of vehicular access to the site and reconfiguration of Fiveways junction)

**1. ZAA Time Limit for Full Permissions**

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

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

**2. ZAM - Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1629/19-1 1629/19-7 1629/19-6 1629/19 1629/19-3 1629/19-4 1629/19-5 1629/16 1629/16A 1629/14E

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

**3. Non Standard Condition - Construction traffic management plan,**

Prior to commencement of each phase of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan

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

#### **4. Non Standard Condition - Construction Method Statement**

No works shall take place, including any 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.

#### **5. Non Standard Condition - Limits to Hours of Work**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

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.

### **OUTLINE PLANNING PERMISSION residential development**

#### **1. ZAC - Time Limit for Outline Permissions**

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the ACCESS, APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

#### **2. ZAD - Time Limit for Outline Permissions**

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

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

### **3. ZAE - Time Limit for Outline Permissions**

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

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

### **4. ZAM - 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 OPA /15014

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

### **5. Non Standard Condition - Masterplan and Design Codes**

The reserved matters application/s shall comply with a masterplan and design codes previously agreed with the local planning authority. Each Reserved Matters application shall be accompanied by a drawing showing how it fits in with the approved master plan, provisions of the Section 106 and other agreed commitments.

Reason: In order to ensure the phased development of the site is carried out in a co-ordinated and coherent manner and in accordance with an over-arching design and access strategy.

### **6. Non Standard Condition - Construction Method Statement**

No works shall take place, including any 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. Non Standard Condition - Limits to Hours of Work**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

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. Non Standard Condition - Construction traffic management plan**

Prior to commencement of each phase of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2

### **9. Non Standard Condition - Street Name Signs**

Prior to the first occupation of any of the dwellings hereby approved street name signs shall have been installed at the junction of the new highway with the existing road network.

Reason: To ensure that visitors to the development can orientate themselves in the interests of highway safety.

### **10. Non Standard Condition - Air Quality**

The reserved matters application/s shall be accompanied by a detailed assessment undertaken by a competent person of the impact the proposed development will have on local air quality. Such layout and building design/appearance details as shall be submitted to the Local Planning Authority shall have regard to the air quality assessment and any mitigation measures it suggests as appropriate. Such measures as shall have been agreed shall be implemented prior to the first OCCUPATION OF ANY BUILDING WITHIN the development (or approved phase) hereby permitted and these shall be retained thereafter to the agreed specification.

Reason: To ensure that the proposed development does not give rise to any unnecessary increase in atmospheric emissions which will have an adverse impact on local air quality for the surrounding area and/or neighbouring properties, as there is insufficient information within the submitted application.

### **11. Non Standard Condition - Contaminated Land Part 1 of 4 (Site Characterisation)**

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

#### **12. Non Standard Condition - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)**

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

#### **13. Non Standard Condition - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

#### **14. Non Standard Condition - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

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

#### **15. Non Standard Condition - Validation Certificate**

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 12, and 13.

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

#### **16. Non Standard Condition - Site Levels Plan**

The reserved matters application/s shall include detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill. The development shall thereafter be completed in accordance with the agreed scheme before the development (or any approved phase) is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

#### **17. Non Standard Condition - Materials To Be Agreed**

The reserved matters application/s shall include precise details of the manufacturer and types and colours of the external facing and roofing materials. Such materials as may be approved shall be those used in the development.

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

### **18. Non Standard Condition - Full Landscape Proposals**

The reserved matters application/s shall include full details of all landscape works have been submitted and the works shall be carried out prior to the occupation of any part of the phase of the development to which it relates unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

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

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

### **19. Non Standard Condition - Landscape Management Plan**

Prior to the first occupation of any phase 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.

### **20. Non Standard Condition - Earthworks**

The reserved matters application/s shall include details of all earthworks. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

#### **21. Non Standard Condition - Boundary Treatments**

The reserved matters application/s shall include a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall then be completed in full accordance with the agreed details BEFORE EACH INDIVIDUAL DWELLING TO WHICH THE BOUNDARY TREATMENT RELATES IS OCCUPIED / TO A TIMETABLE THAT WILL HAVE ALSO PREVIOUSLY BEEN AGREED, IN WRITING, BY THE LOCAL PLANNING AUTHORITY. The treatments shall be retained in their approved forms at all times thereafter.

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

#### **22. Non Standard Condition - Tree and Natural Feature Protection**

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

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

#### **23. Non Standard Condition - Tree and Hedgerow Protection**

The reserved matters application/s shall include an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree/Hedgerow Protection Plan in accordance with BS 5837. Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree/hedgerow works, tree/hedgerow protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

#### **24. Non Standard Condition - Tree Canopy Hand Excavation**

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

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

#### **25. Non Standard Condition - RAMS Mitigation**

The reserved matters application/s shall include a detailed mitigation scheme to demonstrate the development secures full adherence with the Essex Coast RAMS. The approved scheme shall be implemented in accordance with an agreed timetable.

Reason: To ensure the development does not have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

## **26. Non Standard Condition - Surface Water Drainage scheme**

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme should demonstrate compliance with the NSTS and ECC's Sustainable Drainage Systems design Guide and shall subsequently be implemented prior to occupation and should include but not be limited to:

The scheme, and should include but not be limited to:

- It is noted that some infiltration tests have not been undertaken in accordance with BRE 365 requirements, where a 75% draindown has not been achieved. The detailed drainage scheme should provide further testing undertaken which confirms that infiltration is suitable in the proposed soakaway location and at the soakaway depth required, or provide details of a secondary surface water drainage disposal method.
- Limiting discharge rates from the site to as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event for the 1 in 1 year and 1 in 100 year rainfall events, or to an absolute minimum of 50% betterment on existing runoff rates with reasoning for this approach.
- Provide sufficient surface water storage so that the runoff volume is discharged or infiltrating at a rate that does not adversely affect flood risk and that unless designated to flood that no part of the site floods for a 1 in 30 year event, and 1 in 100 year event in any part of a building, utility plant susceptible to water within the development.
- Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus climate change event. Provide details of pre- and post 100 year, 6 hour runoff volume.
- Provision of suitable 'urban creep' allowance
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- Please provide details on how management company services for the maintenance of shared drainage features shall be funded and managed for the lifetime of the development.
- Evidence that adequate attenuation storage applied with appropriate controlled runoff rates has been provided to ensure a half empty time of 24 hours for the critical event is provided, or enough volume is provided to contain a 1 in 10 year rainfall event within the storage within 24 hours of the 100 year rainfall event.

- Details of the preferred attenuation crate system and evidence that the system can be constructed as per drawing no. IP16\_164\_08\_SK003.  
The scheme shall subsequently be implemented prior to occupation.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

### **27. Non Standard Condition - Maintenance Plan for surface water drainage system**

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

### **28. Non Standard Condition - Bats and Artificial Lighting**

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the Institute of Lighting Professionals (ILP) Guidance Note 8 Bats and Artificial Lighting (2018).

Reason: In order to minimise risk of disturbance of potential features that may provide bat commuting and foraging habitat.

### **29. Non Standard Condition - Car Electric Charging Points**

The reserved matters application/s shall include details to demonstrate provision of at least 1 No. electric vehicle (EV) charging point per dwelling with dedicated parking and at a rate of at least 10% provision for unallocated parking spaces. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

**30. Non Standard Condition - Ecological Mitigation and Management Plan (EMMP)**

The reserved matters application/s shall include an Ecological Mitigation and Management Plan (EMMP) including an Implementation Timetable. The EMMP shall include, but not be limited to, the proposed mitigation detailed in the submitted Ecological Assessment. The development shall then be carried out and maintained in accordance with the approved EMMP.

Reason: In order to mitigate the impact of the development upon ecology and biodiversity and in the interest of ecological enhancement.

**31. Non Standard Condition - Implementation of the approved Traffic Regulation Order**

No occupation of the development shall take place until implementation of the approved Traffic Regulation Order FP/234/08/18 and associated works to prohibit vehicular traffic in Dyers Road has been provided or completed

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

**32. Non Standard Condition - Spine Road to be completed**

No occupation of any dwelling served off the spine road shall take place until a roundabout, the realignment of Dyers Road and Heath Road and part of the spine road at and near the Fiveways junction as shown on planning application drawing number 1629/19 dated March 2019, or such alternative works as may be agreed by the Local Planning Authority in writing pursuant to the submission of details relating to this condition, has been provided or completed

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

**33. Non Standard Condition - Spine road to be completed**

No more than 150 dwellings served off the spine road shall be occupied until the spine road has been completed and open for use by general traffic between where it meets that part of the spine road to be provided by planning permission reference 152826 and the works specified under requirement 32 above.

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



**34. Non Standard Condition - Improvement to the southern arm of the Tollgate West/Stanway Western Bypass**

No more than 150 dwellings served off the spine road shall be occupied until an improvement to the southern arm of the Tollgate West/Stanway Western Bypass roundabout as shown in principle on planning application drawing number 1629-TW/WB-01A dated June 2018 has been provided or completed

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

**35. Non Standard Condition - Restriction on number of dwellings served by private drive**

There shall be no more than five dwellings served from each of the private drives off Dyers Road, unless otherwise agreed, and none of these dwellings shall be occupied until the relevant drive's connection to Dyers Road as shown in principle on planning application drawing number 1629/16 dated June 2018 has been provided or completed

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

**36. Non Standard Condition - Details of spine road construction**

The spine road shall be laid out and constructed to ensure the following is provided or completed:

- a) As it is likely to be the route of a bus service or services, it and any new bus stops shall be positioned to ensure all dwellings are within 400 metres of it
- b) A minimum 6.75 metre wide carriageway, one minimum 3.5 metre wide footway/cycleway and one minimum 2 metre wide footway

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

**37. Non Standard Condition - Travel Plan**

The development shall be carried out in accordance with the Travel Plan submitted with the planning application.

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

### **38. Non Standard Condition - Written Scheme of Archaeological Investigation**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

CBC Archaeologist will, on request of the applicant, provide a brief for each stage of the archaeological investigation. In this case, a further trial-trenched archaeological evaluation will be required in advance of the granting of reserved matters (to ensure preservation in situ of any important archaeological remains defined by the evaluation). Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

It is recommended that the applicant undertakes the further trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

### **39. Non Standard Condition - Drainage Phasing Plan**

The reserved matters application/s shall include a Phasing Plan setting out the details of the phasing of the development. Thereafter, the development shall be carried out on complete accordance with the approved phasing plan.

Reason: To ensure the development is phased to avoid an adverse impact on drainage infrastructure.

### **40. Non Standard Condition - Foul Water Drainage Work**

The reserved matters application/s shall include a scheme for on-site foul water drainage works, including connection point and discharge rate. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme Reason: To prevent environmental and amenity problems arising from flooding.

### **41. Non Standard Condition – Scheme of Improvements**

No residential unit hereby granted shall be occupied unless and until a scheme of improvements to A12 junction 26 (the Eight Ash Green junction), similar in form to that shown in outline on Cannon Consulting Engineers Drawing number F/171 rev C dated 24th May 2017, including both the elements labelled ‘committed’ and those labelled ‘proposed’, have been commenced to the satisfaction of the Local Planning and Highway Authorities, in consultation with Highways England.

Reason: To ensure that the A12 junction 26, Eight Ash Green Roundabout, will continue to fulfill its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980, Circular 02/13 ‘Planning and the Strategic Road Network’, and to satisfy the reasonable requirements for road safety.

## **19.0 Informatives**

19.1 The following informatives are also recommended:

### **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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled ‘Application for approval of details reserved by a condition following full permission or listed building consent’ (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### **3. ZTC - Informative on Noise and Sound Insulation Competent Persons**

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

### **4. ZTG - Informative on Section 106 Agreements**

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

### **5 ZTJ - \*Informative on Land Contamination Advisory Note\***

PLEASE NOTE that the site is known to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime.

Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.

The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an "Appropriate Person". In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.

Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those acting on his behalf will be liable under Part IIA of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment.

During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes.

The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site.

The Local Planning Authority will provide a Validation Certificate mentioned in the conditions for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

## **6. ZTL - Informative on Air Quality for Outline Permissions**

PLEASE NOTE: With regard to air quality assessment, a competent person is defined as 'someone who has demonstrable experience in complex air quality modelling, using current DEFRA approved software applications, with specific emphasis on urban and traffic-related situations'. Their assessment should take full account of the Local Air Quality Management Process including, where relevant, the presence of any Air Quality Management Areas.

## **7. ZTB - Informative on Any Application With a Site Notice**

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

## **8. Non Standard Highway Informatives**

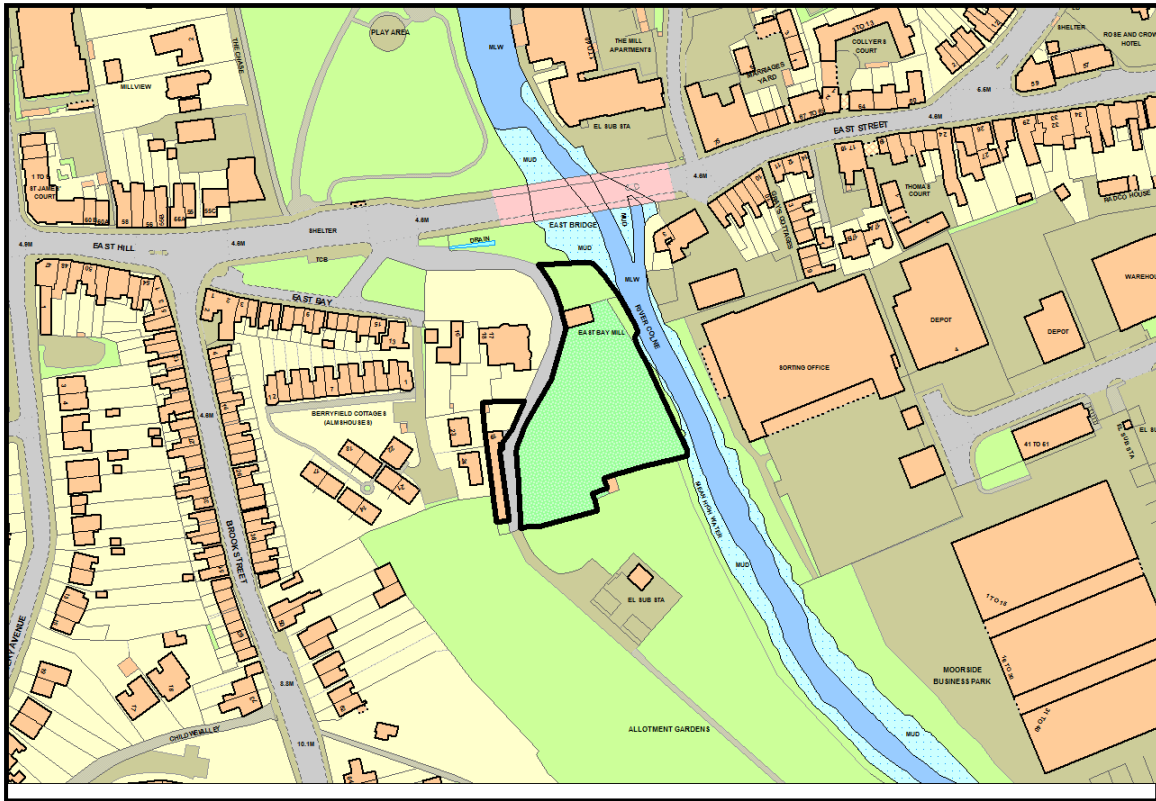
In making this recommendation the Highway Authority has treated all planning application drawings relating to the outline element of the planning application as illustrative only

- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or SMO1 – Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

## **9. Non Standard Informative on Archaeology:**

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk>





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**Item No: 7.2**

**Application:** 190424  
**Applicant:** Regent Land And Developments  
**Agent:** Avison Young  
**Proposal:** Construction of 20 residential units together with parking, landscaping & associated works, including refurbishment of the existing Grade II Listed Granary Barn  
**Location:** Land At, East Bay Mill, 19 East Bay, Colchester, CO1 2UD  
**Ward:** Castle  
**Officer:** Alistair Day  
**Recommendation:** Approval

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

1.1 This application is referred to the Planning Committee because it has been called in by Cllr Crow on the following grounds:

- Design - the proposed houses make no concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development in any town or city and therefore would look completely out of place in this setting.
- Parking - providing 26 parking spaces for 20 three bedroom family homes will be unmanageable and add to existing problems in the area.
- Access – this is unsuitable for large vehicles and due to the narrow nature of the track, there is concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

1.2 This application would also have needed to come before the Planning Committee because it is a major development to which objections have been received and a s106 legal agreement is required.

## **2.0 Synopsis**

2.1 The key issues explored below are land-use, design, traffic and highway implications, flood risk, impact on ecology and built heritage. The impact on neighbouring amenity and the surrounding area are also discussed in the report. The report concludes that subject to appropriate mitigation measures (conditions and s106 obligations), the development is acceptable and is consequently recommended approval

## **3.0 Site Description and Context**

3.1 The application site (East Bay Mill) is located on the south side of East Hill and is bounded by the River Colne to the east and by the East Bay Allotments to the south. To the west of the site is East Bay House, a large late Georgian building which is listed grade II for its special architectural and historic interest, with further residential dwellings beyond.

3.2 The application site was formerly used for the sale of animal feed with associated residential accommodation. The site has been vacant since about 2004. Within the site there is a derelict Granary Barn (listed grade II) which has been severely damaged by fire and is currently enclosed by wrapped scaffolding. The remainder of the site contains areas of overgrown shrubs, fly-tipping and mounds of rubble. Access to the site is from East Hill and a non-adopted lane bisects the site. The lane forms part of National Cycle Route 1 and the Wivenhoe Trail. The northern part of the site is located within Colchester Conservation Area No.1 (Town Centre). The Sycamore tree in the centre of the site is the subject of a tree preservation order (18/02). The group of trees to the boundary of East Bay House are also protected by a tree preservation order (169/10). The trees that stand between the access and East Hill are also important in terms of their contribution to character of the area;



these trees stand within the highway and are not covered by a tree preservation order.

- 3.3 The character of the surrounding area is varied. To the north and west, the character is predominantly residential with two and three storey terraced properties. Large footprint industrial development is situated to the east of the site across the River Colne and there is an area of open space and playing fields to the north. To the south is an area of allotments and The Moors.

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

- 4.1 The application seeks permission for the construction of 20 residential units together with parking, landscaping & associated works, including the refurbishment of the redundant Grade II Listed Granary Barn. A listed building application has also been submitted for the alteration of the former Granary Barn.

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

- 5.1 Open space  
Green Link  
Conservation Area (northern part of the site)
- 5.2 Emerging Plan; Residential – up to 22 units including the listed building

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

- 6.1 The relevant planning historic for this site includes:
- O/COL/02/1697 Outline permission for demolition of existing agricultural outbuildings and the retention, refurbishment and change of use of existing Grade II granary building to lounge and the erection of 49 retirement apartments (including 9 affordable units) with access, parking and associated works)
  - RM/COL/04/0884 - Application for Reserved Matters concerning Siting, Design and Access for demolition of existing buildings shown on plans and erection of 55 no. retirement apartments with access road, parking and associated works
  - 072117 Application for Reserved Matters concerning Landscaping for demolition of existing buildings and erection of 55 retirement apartments
  - LB/COL/03/0459 and CA/COL/02/1782 – conversion and alteration of listed building (the Granary Barn) and the demolition of ancillary buildings

In addition to the above, an appeal against an enforcement notice (ref. 200-000-090) was dismissed on 6th March 2013. This confirmed that the consented retirement apartment scheme had not been lawfully implemented and this permission has now lapsed.

6.2 More specific to the current application are the following preliminary enquires:

- 180838 - Restore former mill building for flexible A1/A3 use and to develop apartment buildings to provide 48 new homes.
- 182522 Preliminary Enquiry – Erection of 20 residential units together with parking, landscaping and associated works. This Preliminary Enquiry was also subject of an early Member Engagement Meeting.

## **7.0 Principal Policies**

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the following documents:

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP15 Retention of Open Space and Indoor Sports Facilities
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

#### 7.4 Emerging Local Plan

In addition to the above, consideration also needs to be given to the Submission Draft Colchester Borough Local Plan 2017-2033 (the emerging local plan). The following emerging policies are considered to be relevant:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP3 Meeting Housing Needs
- SP5 Infrastructure and Connectivity
- SP6 Place Shaping Principles
- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM3 Education Provision
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM18 Provision of Public Open Space
- DM19 Private Amenity Space

- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to Development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water, Waste and Recycling

Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

- (1) the stage of preparation of the emerging plan;
- (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and
- (3) the degree of consistency of relevant policies to the policies in the Framework.

As to the first limb, the Local Plan was submitted to the Planning Inspectorate in October 2017 and the formal examination commenced in January 2018. The Plan is at an advanced stage and may therefore be taken into consideration in the determination of planning applications. Many of the Development Management Policies follow similar principles to those of the current Local Plan and reflect national policy in the NPPF..

- 7.5 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.6 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.
- 7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
  - EPOA Vehicle Parking Standards
  - Backland and Infill
  - Affordable Housing
  - Community Facilities
  - Open Space, Sport and Recreation
  - Cycling Delivery Strategy
  - Sustainable Drainage Systems Design Guide
  - Street Services Delivery Strategy
  - Planning for Broadband 2016
  - Managing Archaeology in Development.
  - Developing a Landscape for the Future

- Planning Out Crime
- Air Quality Management Guidance Note, Areas & Order

## **8.0 Consultations**

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

### Landscape Officer

8.2 The Landscape Officer has advised there are no objections to this application on landscape grounds. Conditions are recommended

### Archaeological Advisor

8.3 The development affects a designated heritage asset (Grade II Listed building, The Old Mill, NHLE no. 1350373) and the site of East Bay Mill, which was located to the south of the Listed Building (granary). The Heritage Statement Addendum, by the Heritage Collective, provides adequate information relating to the Mill. A condition should be attached requiring an historic building recording survey of the barn.

8.4 In terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established. Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

### Environmental Protection

8.5 Environmental Protection do not wish to raise an objection to this application and have recommended conditions to cover a Construction Method Statement.

### Contamination Land Officer

8.6 The Council's Contaminated Land Officer has not raised an objection to this application and has recommended conditions.

### Environment Agency

- 8.7 The site is currently protected by flood defences with an effective crest level of 5.5m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.28m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change.
- 8.8 We have inspected the application, as submitted, and we have no objection to this planning application because the site is currently defended and the SMP policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future.

### SUDS

- 8.9 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we recommend no objection to the granting of planning permission subject to conditions.

### Urban Design Officer

- 8.10 The comments from the Council's Urban Design Officer (on the amended submission) can be summarised as follows:
- 8.11 Proposals are good in many ways, though have some non-ideal elements. In this respect, I understand the scheme has questionable viability and making previously suggested improvements (dated 19/3/19) would make it distinctly unviable. Crucially, the proposed development would on balance improve the area and restore the listed mill building. I would therefore support the application subject conditions to cover: landscaping and boundary treatments (particularly to the river and western and northern boundaries); the widening of parking space 2.5 to 2.7m; materials and architectural features.

### Arboricultural Officer

- 8.12 The Arboricultural Officer has confirmed that he is in agreement with the tree survey and impact assessment provided and has stated that the proposal will have minimal impact on important landscape features to be retained. The trees shown to be removed are categorised as low value as per BS5837: 2012. However, the extent of pruning suggested within the document, specifically the height of crown raising, needs to be reconsidered as it is too high and will distort the shape of the crown.

### Essex Fire and Rescue

- 8.13 The access for fire service appliances appears not to comply with ADB B5 in regard to the necessary dimensions required for an appliance turning point. More detailed observations on an access and facilities for the Fire Service will be considered at the Building Regulation consultation stage.

### Council for British Archaeology

- 8.14 The summary from the Council for British Archaeology (CBA) is set out below:
- The CBA are supportive of a degree of development at this site, if it is deemed necessary to ensure the conservation-led restoration of East Bay Mill.
  - To meet the requirements of the National Planning Policy Framework, your Authority should be satisfied that the harm to the Conservation Area and the setting of East Bay Mill is outweighed by public benefit.
  - The CBA strongly advise that the conservation-led restoration of the mill should be secured by a section 106 agreement, or similar, should your Authority be minded to permit development at this site.

### Anglian Water

- 8.15 The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has available capacity for these flows.
- 8.16 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

### Historic Buildings and Areas Officer

- 8.17 The comments from the HBAO can be summarised as follows:
- The former granary barn has been vacant since 2002/3 and is currently in a very poor state of repair after having suffered extensive damage from fire. Unless a viable use is secured for the building, its condition is expected to keep deteriorating, resulting in further loss of its evidential and historical value. The scheme to convert the building into a residential unit is welcomed in compliance with NPPF's Par. 192(a)

which states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The Heritage Addendum provides an analysis of the structure's present condition and this has informed a new set of proposals for its conversion. There is some margin for further improvements, e.g. by a more limited use of the proposed rooflights whose number, size and distribution on both sides of the roof results in a strong visual impression that detracts from the building's character, the benefit from the development of the redundant heritage asset to secure its viability, outweighs the concerns regarding specific details which can be addressed at a later stage.

- The redundant East Bay Mill is seen in conjunction with East Bay House and its present fire damaged condition reflects poorly on the setting of the listed house. Any harm caused to the setting of listed buildings will need to be weighed against the public benefits. The public benefit of securing a viable use for the barn which is currently at risk is considered to outweigh any resultant harm identified.
- The site falls partly within the limits of the Conservation Area. The damaged structure is very visible when crossing East Bridge and its very dilapidated condition leaves an impression of neglect that detracts from the quality of the Conservation Area. The redevelopment of this derelict site is expected to benefit the Conservation Area by addressing this situation.
- Taking the above into consideration, there are no objections heritage objections to the proposals.

## **9.0 Parish Council Response**

9.1 The site is not parished.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Insufficient parking is proposed for the development, which when combined with the inadequacy of the existing availability will cause substantial problems. It is a fallacy to think that people will not have cars.
- The access is inappropriate - the existing lane is not wide enough for emergency service or refuse vehicles and is frequently obstructed by parked cars.
- There will be a conflict between vehicle users and users of the National cycle path.
- The development is of inappropriate density - the proposed number of dwellings and scale of properties is disproportionate to the scale and nature of the site (which is a conservation area).
- The design of the buildings is inappropriate. The style and layout of the dwellings is inconsistent with the listed buildings in the immediate vicinity



- The proposal to build 3-storey houses will be unacceptably intrusive and detrimental to the amenity of adjacent residents
- The development should comprise c12-14 bungalows, with a 30-40 parking provision.
- It is stated that in highway terms the proposed development is more akin to a mews. This is significant because the maximum permitted development of a mews is 20 dwellings, and the minimum width of the road must be 6m.
- It is stated that the nearest bus stop to the site is located on East Street and “accommodates a high frequency of bus services (every 2-5 minutes or so on average).” This is very misleading – the majority of services are every 30 minutes or more. Furthermore, the Department for Transport’s ‘Transport Statistics Great Britain 2017’ (published November 2017) found that just 7% of the population nationally use the bus as the usual mode of transport to work. It is unrealistic to suggest that car need for these proposed family dwellings isn’t necessary.
- The report suggests that the redevelopment of the site is not likely to cause a significant impact on local air quality; the current levels are already unacceptable.
- The proposed development has a Risk banding of ‘Black 1’ – the fourth out of a possible fifth ranking in terms of exposure to flood – which corresponds to a high probability of flooding according to the Environment Agency.
- It is stated that all windows passed the 25 degrees line test and were therefore automatically excluded from the detailed day light / sun light assessment. Our own assessment concludes that the windows would not pass the 25 degrees test and therefore a detailed assessment must take place.

10.2 The following comments have been made by Cllr Crowe:

- Design - The surrounding area of East Street and East Bay contains many unique buildings. Recent new builds in the area at Grosvenor Place and Riverside Place have borrowed and replicated architectural features from the Mill, and the new build cottages in Marriages Yard mimic a Tudor style with render and an overhanging first floor. By contrast the proposed houses make no such concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development and would look completely out of place in this setting.
- Parking - If there were one- or two-bedroom flats then it might work, but providing only 26 parking spaces for 20 three bedroom family homes is completely unrealistic. With the best will in the world people's needs change, someone in the household may get a new job requiring the household to need an additional car, a child passes their driving test and wants a car, and visitors need somewhere to park. This will be unmanageable and add to problems in existing problems in East Bay, Grosvenor Place and nearby Rouse Way as people search for places to park.
- Access - Essex County Fire and Rescue service have informed that the site does not comply with the guidance in ADB B5 with regard necessary dimensions for an appliance turning point. Additionally, residents are

concerned that access to the site for fire engines can only be made via a gap of less than 4 metres between the barn and a listed boundary wall. I am told that the dustbin lorries do not attempt to enter the site due to this restriction, and with such a narrow opening there is also great concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

10.3 The Civic Society comments on the amended plans can be summarised as follows:

- We have studied the amended scheme and do appreciate the changes made to address some of the issues attending the original design.
- We note the efforts to improve the visual appearance of the housing by the use now of more sympathetic materials in keeping with the historic nature of the conservation area and the considerable work to reuse the Mill building itself as a modern house.
- The problem remains of the continuing use of the three storey houses which are not a reflection of the local character of the area. The result is a large massing of repeated forms of heights and blocks. There has been no change to produce a mix of building heights that would be more in keeping with the landscape and the historic setting.
- We remain concerned by the dominant nature of the parked cars adjacent to the National Cycle route and the pedestrian pathway. This parking has a detrimental effect on the tranquility of the lane and the strategic nature of the routes. These will include not merely the residents but all the many types of service traffic that housing brings: fire service, delivery vans, refuse service etc. We are quite unconvinced that some surface detail to the road surface can provide the necessary safety that this route deserves.
- We have concerns for the under provision of parking places for the development and unconvinced by the data and arguments in favour of this.
- In conclusion it is our belief that this development would not bring an improvement to the adjacent conservation area and the gain of the restoration of the Mill building will be largely lost in the massing of the site.

## **11.0 Parking Provision**

11.1 Parking provision is considered in the main body of the report.

## **12.0 Accessibility**

12.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

### **13.0 Open Space Provisions**

13.1 The provision of public and private amenity space is referred to below in the main body of the report.

### **14.0 Air Quality**

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

### **15.0 Planning Obligations**

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that would be agreed as part of any planning permission would be:

- Archaeology £14,627.5+VAT Display, promotion and management of archaeological discoveries on the site (£12,000+VAT for museum quality display case, design and display material, £2,000+VAT for an interpretation panel, £627.50+VAT for enhancement of the Colchester HER and £290+VAT will be required if no archaeological remains are affected by the development, to integrate the information from the archaeological).
- Parks and Recreation - £136,632.25 was requested for Castle Park and East Bay Walk.
- Communities - £33,000. This contribution was being put forward to St Botolphs Church
- Affordable Housing - Standard 30% Policy
- Highways - Bus stop (eastbound) immediately opposite the site on East Street, Level entry kerbing, new post and flag (approx. £5000).
- NHS - No request as the scheme is under 50 dwellings.
- Education - £30,000.00 for early years, £90,000 towards St James Primary School
- Transportation - £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.

If the site was shown to not be viable, a proportionate approach to the contributions (excluding affordable housing, which would not be required) was recommended.

### **16.0 Report**

#### The Proposed Development

16.1 Planning permission is sought for the construction of 20 residential units together with parking, landscaping & associated works, including refurbishment of the existing Grade II Listed Granary Barn. A concurrent listed building application has also been submitted.

## Principle of the Development and the Planning Background

- 16.2 The site was last used for sale of agricultural feed with a linked residential property. These activities ceased in about 2003 with the sale of the land for redevelopment. At that time, the site comprised an eighteenth-century Granary Barn with a modern framed building attached and mid twentieth century brick extension. To the south of these structures were various outbuildings arranged around a courtyard. Set against the west boundary was a group of much altered cottages.
- 16.3 In 2004, outline planning permission was granted for the erection of 49 two-bedroom retirement apartments with access, parking and associated works. Listed building consent was also granted for the alteration and conversion of the former Granary Barn to a lounge for the retirement apartments and for the demolition of other listed curtilage buildings. Reserved matters applications pursuant to the outline planning permission were submitted in 2004 (siting, design and access) and 2007 (landscaping). The approved development was essentially 3 storeys in height with the main entrance rising to four storeys to create a focal feature. The layout of the proposed building was 'L' shaped, providing a continuous frontage to the river and a courtyard style development to the interior of the site. The form of the proposed development was designed to reflect the historic layout of the former granary yard. The approved development was not however commenced and this planning permission has now lapsed.
- 16.4 Today, with the exception of the listed Granary Barn, all of the buildings have been cleared from the site due repeated problems of vandalism, anti-social behaviour and arson. The listed building has also suffered from vandalism and arson and is currently in a very poor condition.
- 16.5 The Council's Core Strategy (CS) provides the spatial strategy for the Borough and this directs development towards the most accessible and sustainable locations. The application site is located in close proximity to the town centre and is thus considered to be in an accessible and sustainable location.
- 16.6 The adopted Proposals Map identifies the site as forming part wider riverside 'open space / green link'. Notwithstanding this, the site, due to its past use, is a brownfield site where the principal of development can be accepted.

16.7 The emerging local plan shows evolved thinking in respect of this site and takes into account that this site is previously developed land (brownfield land) and the planning history. The relevant policy in the emerging plan is Policy EC3. This policy states that development will be supported where it provides:

- (i) Up to 22 new dwellings of a mix and type of housing to be compatible with surrounding development, including the Listed Building;
- (ii) Adequate access including appropriate treatment / diversion of the existing Public Right of Way;
- (iii) A satisfactory NPPF flood risk exception test and if met, provide flood risk mitigation measures;
- (iv) Protection and enhancement of the setting of listed buildings and the conservation area;
- (v) Appropriate conversion of the listed mill;
- (vi) Satisfactory contamination mitigation measures as required;
- (vii) An air quality assessment and mitigation against any harmful effects to the AQMA likely to be caused by proposals.
- (viii) Access to river frontage”

16.8 Given that the site constitutes previously developed land and is located in an accessible location, there is not an objection in principle to its redevelopment. Officers are also mindful that that planning permission has in the recent past been granted for the redevelopment of this site, albeit the previous permission has now lapsed. With regard to the emerging policy for this site, officers do not consider that the current scheme conflicts with the criterion set out in Policy EC3 (for the reasons set out in the report).

#### Heritage and Design Considerations

16.9 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester’s historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies reflects the requirements of currently adopted policies in terms of design, place shaping principles and heritage matters.

- 16.10 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.
- 16.11 Objections have been received to this application claiming the design of the proposed buildings is inappropriate for this context, they are too large (tall) and that the proposal constitutes overdevelopment. Objection has also been received alleging, due to the design and layout, that the scheme will have a detrimental impact on the character and appearance of the conservation area / setting of nearby listed buildings.
- 16.12 The proposed development has been designed to create an enclave of terraced housing arranged around the principal trees on the site. Most of the proposed dwellings are three storey units while the westernmost unit has been limited to part one/part two storeys. The Planning Statement explains that the size of the smaller unit has been designed to ensure that it has an appropriate relationship to the adjacent dwellings. The listed Granary Barn is also proposed to be converted into a two-storey dwelling with a mezzanine level. The proposed new buildings adopt a traditional domestic form and use materials that are typically found in Colchester. The use of weatherboarding, in addition to two types of brick, has been proposed to visually tie the new development to the former Granary Barn. The concerns raised regarding the three-storey nature of the dwellings are appreciated. It is however important to note that the scheme previously approved by the Planning Committee was for a denser development which ranged in height between two and four storeys. Given this fact, provided it can be adequately demonstrated that the current application does not have a significant detrimental impact on the amenity of the adjacent residential properties, it is not considered that an objection can be sustained to the height of the proposed dwellings. The concerns expressed regarding the design of the proposed dwellings are also noted. As originally submitted, large picture windows were set in a random disposition. Through negotiation, the treatment of the facades has been amended so that they now adopt a more ordered composition and, in doing so, reflect more closely the pattern found on traditional Victorian dwellings, albeit reinterpreted in a contemporary style. There is not an objection to this approach, provided high quality materials are used and architectural features are appropriately detailed. Conditions to cover such elements are accordingly recommended. Whilst the design of the scheme is generally

considered acceptable, further amendments have been requested to house type 5 and the listed building. Amended drawings are expected prior to the Planning Committee meeting.

- 16.13 The impact that the proposed development will have on the character and appearance of the conservation and the setting of the nearby listed building is an important consideration. The group of buildings at East Bay are described as follows in the draft Colchester No.1 Conservation Area Character Appraisal:

*“East Bay, with its green and trees in front, has something of a village character. The curving block of houses (nos.1-13) mostly dates from the early and mid 19th century, but nos.1 and 2 incorporate the remnants of a 15th century cross wing with screens passage. No.16 (Bay Cottage) is a detached timber-framed and plastered cottage dating from the 18th century. Further towards the river is East Bay House (nos.17/18), a large late Georgian red brick house c1780, with a doorcase with Ionic columns”*

The views north and south from the bridge are also considered:

*“The view north from the bridge is pleasant, with the green open space on one side and the restored and new buildings and terraced walkway on the other. In contrast, the view south is not so attractive and there is little or no public access to the riverbanks. On the west bank stands the dilapidated remains of the old East Bay Mill, built of Baltic pine and weatherboarding in the 18th century. “*

- 16.14 The Colchester No.1 Conservation Area Appraisal (Area 4) identifies the “derelict site” of the old East Bay Mill as the one area in need of significant improvement. In its current form, the site detracts from the character and appearance of the conservation areas and its redevelopment has the potential to enhance both the site and its surroundings.
- 16.15 The listed Granary Barn is an important building in terms of the historic development of Colchester and the Colne river frontage. It originally formed part of a wider complex of mill buildings (located to the south). The barn itself was converted by the Doe family into a feed mill in about 1923. A large lorry shed was added to the south side of the building in the 1930s and a brick extension add to the east gable in the 1940s. The barn has been vacant since about 2003 and is currently in a very poor condition due to extensive fire damage. In its present condition, the building is of diminished ‘evidential’ value, with its upper floors substantially destroyed and with it, limited ability to understand or interpret the way in which the building was constructed and/or used. Even before the fire, the alterations to the barn and the wider site made it difficult to appreciate how the building once functioned and/or its relationship with river transport. The overall significance of the Granary Barn in its present state remains high, but the ability to appreciate it as low. The barn remains at extreme risk. The current application proposes the full repair and conversion of the Granary Barn which is welcomed. The comments made by the Archaeological Officer

regarding the need for further historic context analysis and building recording are noted. A further Heritage Statement has been submitted to address these concerns. With regard to building recording, a condition is proposed, and the result of this analysis will be used to inform the repair of the listed building.

- 16.16 It is accepted that the proposed new development will affect (change) the setting of nearby listed buildings, most notably the Granary Barn and East Bay House. Whilst the proposed new housing is taller than the listed barn, the height difference is not considered to be so great so as to dominate (and therefore significantly detract) from the setting of this building. The harm caused is therefore considered to be less than substantial and, as such, the public benefits need to be weighed against the harm caused. In this instance, the public benefits constitute the repair and re-use of the listed building 'At Risk' and this is considered to outweigh the harm caused by the new development to the setting of the barn. The enhancement of the conservation area is also considered to be a public benefit. With regard to East Bay House, the proposed development is subservient to the height and presence of this building and set at a distance from it. In view of this, it is not considered that the proposed development would introduce a new element of built form that would significantly detract from the setting of this building. Any harm caused to the setting of East Bay House would again be outweighed by the public benefits of securing the repair of the listed barn and the enhancement of the conservation area. The comments made by some residents that the scheme constitutes overdevelopment are noted. The density of the proposed development is 54 dwellings per hectare which is reasonable given the site's central location and the pattern of surrounding development. Member should also note that the emerging local plan for this site indicates that up to 22 dwellings would be suitable; the current application provides fewer dwellings than that anticipated by the emerging plan.
- 16.17 An archaeological assessment has been undertaken to assess the likelihood of archaeological remains existing on the application site. The Council's Archaeological Officer has advised that in terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken. Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. A planning condition to record and advance understanding of the significance of any buried heritage asset is recommended.
- 16.18 The design and layout of the proposed development is considered to be consistent with relevant adopted and emerging policies and the guidance set out in the NPPF in so far as they promote high quality design and the conservation of heritage assets. Viewed from the north (within the conservation area), the refurbished Granary Barn will reassume a positive role as part of a group of 18th and 19th century buildings. Any harm that will be caused by this development will be less than substantial. In this instance, the public benefits (which include the redevelopment of a derelict site, which



detracts from the appearance of the conservation area, and the repair and reuse of an 'At Risk' listed building) weigh heavily in favour of the scheme. Given this, the proposed development is considered to be consistent with the aforementioned relevant adopted local plan policies and national planning policy guidance in relation to the historic environment.

### Residential Amenity

- 16.19 DPD Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. DPD Policy DP12 requires high standards for design, construction and layout in new residential development. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity. Emerging Policy SP6 states that all new development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light and overlooking.
- 16.20 Objections have been made to this application on the grounds that it would have a detrimental impact on the existing residential properties (including loss of private amenity and outlook). Concern has also been raised regarding noise and disturbance from construction and additional residential traffic.
- 16.21 East Bay House and 23 Berry Fields are the two existing properties that are potentially most affected by this application. The Essex Design Guide considers that where properties are set parallel to one another, a back-to-back distance of 25m is sufficient to protect private amenity. The proposed terrace of housing to the south of the listed barn is set (at its nearest point) approximately 18m from the side return of East Bay House and is angled away from it. The first and second floors of the new dwellings (facing East Bay House) contain bedrooms and bathrooms. It is understood that bedrooms are also located on the upper floors of side return of East Bay House. The relationship between the proposed development and East Bay House is more akin to a situation where a side return of a house addresses a street and the properties opposite front onto that street. In such circumstances the key consideration is the potential impact on daylight / sunlight (discussed below). There are also two proposed dwellings that 'face' directly towards the south elevation of East Bay House (which is considered to be the rear elevation of the property). Plot 20 is located directly adjacent to the southern boundary of East Bay House. There are two windows on north elevation of the ground floor of the proposed dwelling which serve a kitchen and bathroom. These windows, although facing directly towards East Bay House will not cause an overlooking issue due to the intervening boundary wall. At first floor level, no windows are proposed on the north elevation of the new dwelling and therefore an issue of overlooking is not created. Plot 15 is also located south of East Bay House. This property is set at an angle to and some 27m from the rear elevation of the East Bay House. Given the degree of separation between these properties, a significant issue of overlooking is not created. With regard to 23 Berry Field, the nearest proposed dwelling (plot 20) has been designed so that

there are no windows in the west elevation at first floor level (i.e. directly looking towards the property). Furthermore, the number of windows to the first-floor bedroom on the south elevation of this plot have also been reduced from two to one and the window has been moved further to the east (i.e. away from the boundary) to help prevent the perception of overlooking of 23 Berry Fields. Regarding the siting and design of the other proposed dwellings, these have been detailed with careful consideration to the orientation of windows and the use of obscured glazing for the proposed roof terraces to mitigate the potential overlooking to neighbouring properties. Given the sensitivity surrounding potential overlooking, it is recommended that conditions are attached removing permitted development rights for the insertion of new windows and that balcony screens are installed prior to the occupation (and thereafter retained)

16.22 Concern has been expressed that the development will also result in the overshadowing of existing properties. The Building Research Establishment's Report "Site Layout Planning for Daylight and Sunlight 1991" suggests that acceptable daylight to interiors is achieved if a 25° vertical angle from a point two metres above the floor is not obstructed. Details submitted with the application show that the proposed development will not result in the infringement of this guideline. It is also stated the layout of the proposed development has followed the methodology of the BRE Guidelines in assessing the area of the neighbouring amenity spaces receiving more than 2 hours of sunlight, as this is the BRE criterion for adequate sunlight provision throughout the year. With the exception of plot 20, the proposed development is largely located away from existing residential properties and it is not considered that these units will have an unacceptable impact on neighbouring properties. Plot 20 is located in close proximity to the adjacent properties (notably East Bay House and 23 Berry Field). Given this, and in order to safeguard the amenity of these properties, the height of this building has been limited to part 1 and part 2 storeys. The BRE tests described above have been applied and demonstrate that the proposals would have minimal to no impact on the lighting levels to existing properties.

16.23 With regard to noise and disturbance from construction work, it is accepted that this can have an adverse impact on local residents and, as such, it is recommended that a condition is attached requiring the submission of a Construction Method Statement.

16.24 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the amenity of neighbouring properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 and DP12 or the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings

### Trees and Landscape

- 16.25 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in the NPPF.
- 16.26 There are a number of mature trees within and adjacent to the application site, which make an important contribution to the character of the area. An Arboricultural Impact Assessment (AIA) has been prepared in support of this application. The Council's Tree Officer confirmed that he is in agreement with submitted report and that the trees proposed for removal are low value. The concerns expressed regarding the extent of proposed pruning work are noted and a condition is proposed recommending a revised pruning scheme to be agreed.
- 16.27 In terms of landscaping, the scheme provides a central communal area and a landscaped path alongside the river embankment. The hard and soft landscaping proposals will result in a significant visual enhancement of the site and its immediate surroundings. It is proposed that the open space is maintained by a management company; it is recommended that this is secured in the legal agreement and that the general public have access to this space. The comments made by the Council's Urban Design Officer regarding the boundary treatment to the river bank frontage are noted. The Council's Landscape Officer has not however raised an objection to these elements and it is considered the concerns raised can be adequately controlled through the detailed landscape scheme (condition).
- 16.28 In terms of the tree protection and the landscaping proposals, the planning application is considered to accord with CS Policy ENV1 and policies DPD DP1 and DP21 that require development schemes to respect and enhance the landscape and assimilate it into new development.

### Outdoor Space and Private Amenity Space

- 16.29 DPD Policy DP16 sets out standards for private amenity space and public open space as part of new housing developments. Regarding public open space, this policy states that open space provision will depend on the location of the proposal but as a guideline, at least 10% of the gross site area should be provided as useable open space. The emerging local plan sets out a similar requirement to the adopted local plan in respect of amenity space.
- 16.30 With regard to private amenity space, Policy DP16 sets out a range of garden sizes which are as follows for houses:
- One or two bedroom houses – a minimum of 50m<sup>2</sup>
  - 3 bedroom houses – a minimum of 60m<sup>2</sup>
  - 4 bedroom houses – a minimum of 100m<sup>2</sup>

- 16.31 The proposed development provides each dwelling with a private garden that range in size from 20sqm to 58sqm. In addition to this, 12sqm roof terraces are also proposed to maximise amenity space provision to all units (other than to the Granary Barn and western most detached dwelling). Notwithstanding this, some of the amenity areas fall short of the required 60sqm. Whilst it is a clear aspiration to achieve a policy compliant scheme in respect of garden sizes, it has not been possible to achieve this due to the constraints of the site. Moreover, in constrained / historic urban areas, it is not unusual for residential properties to have smaller gardens. In this instance, the proposed private amenity space is, on balance, considered to be acceptable.
- 16.32 With regard to public open space, the scheme provides a landscaped central communal area of 303sqm. There is also a landscaped riverside path for the enjoyment of residents which provides further communal amenity space. This amenity space exceeds the 10% policy requirement.
- 16.33 In terms of the private and public amenity space, it is accepted that the scheme does not fully comply with policy DPD 16, however given the site's context and constraints, the proposal is, on balance, considered to be acceptable.

#### Ecology and Biodiversity

- 16.34 Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. DPD Policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Conserving and enhancing the natural environment is also a core principle of the NPPF.
- 16.35 The application site largely consists of rough ground. In terms of biodiversity, a Phase 1 Habitat Survey has been undertaken to support the application. This survey notes that the site itself does not fall within a statutory/non-statutory designation, but that there are three statutory designated sites and 17 non-statutory designated sites within 2 km of the site. The Local Wildlife Site of the Moors is found 0.2km to the south, beyond the East Bay Allotments.
- 16.36 The original submitted habitat assessment notes that the site has the potential to support reptiles, bats, nesting birds, invertebrates and hedgehogs, with possible otters using the connectivity provided by the River Colne. The original report notes that the remains of a Granary Barn and a single mature sycamore tree have the potential for bat roosts. The site was further inspected by a licenced bat surveyor and the tree was re-assessed

as being of low potential and the barn, in its current condition, as being of negligible to low roost potential. The supplemental report does however comment that a survey at a later date could be used to identify species active in the area and inform enhancement in the form of new roosting provision in the restored building and wider development. With regard to reptiles, the supplemental report notes that the site contains a limited amount of potential for reptiles but is connected to suitable habitats. This report goes on to state that it will be necessary to determine whether common reptile species are present; if they are, the proposed landscape buffer will provide a connecting habitat and a suitable receptor area during construction. If reptiles are not found, an exclusion fence is recommended along the southern boundary of the site to prevent reptiles entering the site during construction. The supplemental report states that, with a few exceptions most invertebrates are not legally protected or considered to be species of principal importance. Of those with potential to be present in Colchester town centre only *Lucanus cervus* (stag beetle) is anticipated in the wider area and however there are currently no suitable habitat for this species within the site. Finally, the supplemental report notes that both otters and water voles are present in the River Colne but that the application site does not provide a suitable habitat for these species. Conditions are recommended for the additional survey works described above and for the submission of a scheme of ecological mitigation and enhancement. In addition to the above, the installation of bird boxes is also recommended.

- 16.37 The application site also lies within a zone of influence of a European designated site and to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of any recreational impact will be required in accordance with the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This will equate to a financial contribution that can be secured via S106 agreement
- 16.38 The ecological potential of the site has been carefully considered and the potential for European Protected Species to use the habitats on site assessed. The fauna protected by the Wildlife and Countryside Act 1981 and species listed as of principal importance in Section 41 of the Natural Environment and Rural Communities Act 2006 are material considerations for local planning authorities. Subject to conditions to secure ecological enhancement measures, it is considered that the proposed development accords with the relevant statutory provisions, the adopted policy ENV1 and the requirements of the NPPF which seek to minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity.

#### Transport and Accessibility

- 16.39 CS Policies TA1 to TA4 seeks to improve accessibility and change travel behaviour. Public Realm Policy PR2 requires that the design creates secure attractive, safe and people friendly streets. The Adopted Cycling SPD (January 2012) sets out several measures to enhance and promote cycling. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway

safety, or the residual cumulative impacts on the road network would be severe.

- 16.40 The existing vehicular access to the site is currently afforded from the southern side of East Street via a track, the northern part of which is public highway (under the jurisdiction of ECC); the remainder of the track is owned by Colchester Borough Council. The access road is used by cyclists (as part of cycle route NCR51) and pedestrians, as well as serving East Bay House, the electricity substation and the allotments.
- 16.41 It is proposed to retain the access road along its existing alignment and widened this, where possible, to around 6.0 metres. The Transportation Statements explains that the widening of the access road would be undertaken to ensure that two vehicles could generally pass each other without causing inconvenience to other users of the track. The Transportation Statement also states that the access track would be suitable for emergency vehicles and provides a turning loop within the site to allow for larger servicing and delivery sized vehicles to turn and egress the site in a forward gear safely. The Statement does acknowledge that the access road narrows adjacent to the Granary Barn but opines that due the straightening of the lane in this location, larger vehicles would be able to access the site and drivers would be afforded with suitable forward inter-visibility. In addition to the above, upgrade works are proposed to the junction with East Street to improve this junction.
- 16.42 Representations have been made claiming the access road is inadequate to accommodate additional traffic due to its width and that the intensification of its use will create a conflict with pedestrian and cycle users. The Highway Authority has been consulted on the application and have requested a number of amendments to the scheme. These concerns principally relate to the possibility that residents will pass the southern end of the loop looking for a parking space, not be successful in finding a space and will then be required to reverse back along the road; that some of the car parking spaces are 'tight' and that high quality cycle parking should be within the curtilage of the properties and this should be safe and convenient to access. Revised drawings have been submitted which seek to address the concerns raised. At the time of writing this report, updated comments from the Highway Authority are still awaited.
- 16.43 Comment has been made from a local resident that the width of road between the Granary Barn and the boundary wall of East Bay House is incorrectly stated on the submitted drawings. This comment is the result of misinterpreting a spot height as the width of the access track.
- 16.44 Provided the comments raised by the Highway Authority are satisfactorily addressed, it is considered that the proposed development would accords with relevant development plan policies and national planning policy guidance set out in the Framework.

## Parking

- 16.45 CS Policy TA5 refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. DPD Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009. Emerging Policy DM22 states that parking should be provided in accordance with the most up to date parking guidance taking into account the following factors:
- i. Levels of local accessibility;
  - ii. Historic and forecast car ownership levels;
  - iii. The size, type, tenure and location of the dwellings; and
  - iv. The appropriate mix of parking types including opportunities for car-sharing (e.g. unallocated, on-street, visitor, car club etc).
- 16.46 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this, provision for visitor parking at a ratio of 0.25 spaces per unit is required. The guidance does however state that in accessible location, such as town centres, a reduction in car parking can be considered.
- 16.47 A selection of parking arrangements are proposed which would provide parking for up to 26 cars; this represents a parking provision of 1.3 spaces per unit. Two sets of tandem parking spaces are proposed, whilst the remaining 22 spaces would be independently accessible spaces.
- 16.48 Objection has been made to this application on the grounds that insufficient car parking is being provided and that this will exacerbate parking problems in the area.
- 16.49 The application site is located in an accessible location, due to close proximity to the town centre and public transport facilities. Given this, the site is considered to have good accessibility and sustainability credentials and is therefore a site where a reduced level of parking can be accepted.
- 16.50 Notwithstanding the above, the Transport Statement also considers car ownership levels in the local area (Castle Ward) and notes that there is an average car ownership of 0.85 cars per household. If this figure is applied to this development this would lead to an anticipated car parking demand of 17 vehicles. Assuming the maximum number of visitors is provided (i.e. 0.25 spaces per unit), an overall parking provision of 22 vehicles would be required.

16.51 The Transport Statement acknowledges that, during the public consultation several residents identified a concern relating to the potential for parking on the access road. The Transport Statement goes on to explain that:

- The widened and private sections of the access road would be the subject to parking enforcement through a management company responsible for the private areas of the site.
- The proposed layout is designed such that private parking is accessed from the access road thereby meaning that drivers would not be able to park in certain locations due to the fact that it would block access to designated parking spaces.
- The width of the looped arrangement is designed to be tight; the reduced width of the loop ensures that it is not practical for a car to park on the loop without obstructing the roadway and therefore would be self-policing.
- The lack of parking including on street parking outside the application site will discourage car ownership. All other parts of the public highway within 250 metres of the site are restricted by double yellow lines where no parking can occur. It is typical for residents to park up to a maximum of 200 metres (as per the Lambeth parking stress methodology) from their home if parking on street, hence 250 metres represents a robust assumption.

16.52 The potential problems associated with car parking are fully appreciated. The design and layout of the site has been carefully considered to reduce the risk of indiscriminate parking as far as possible. The potential for unauthorised parking will be further managed by the introduction of formal parking control measures across the development (secured by the s106 legal agreement). It is considered that an acceptable balance has been struck between need to accommodate an appropriate level of parking to serve the development and need to ensure that car parking is not so overly dominant so as to detract from the landscape qualities of the site and/or the nearby heritage assets.

16.53 In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling to be provided. Each dwelling is to be provided with a secure cycle parking stores and it is proposed that a planning condition cover this matter.

16.54 The sensitivities surrounding parking are fully appreciated however in this instance, given the site's sustainable location and the unique constraints of the site, the proposed parking provision is considered to be acceptable.

#### Drainage and Flood Risk

16.55 CS Policy ENV1 sets out the strategic policy approach to safeguard people and property from the risk of flooding. ENV1 seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk. CS Policy ER1 relates to Energy, Resources, Waste, Water and Recycling in



Colchester. DPD Policy DP20 supports development proposals that include flood mitigation/ attenuation measures as well as flood resilience measures.

16.56 Most of the site is classified as Flood Zone 3 with the remainder classified as Flood Zone 2. The Flood Risk Assessment (FRA) states that the site is shown to benefit from the presence of established flood defences; these comprise high ground along the edge of the site and also the Colne Barrier (located approximately 5.9km downstream at Wivenhoe). The FRA goes on to state that, as the site benefits from defences which protect it from tidal flooding, the fluvial risk represents the more significant threat to the site.

16.57 The NPPF requires a Sequential Test to be applied at all stages of the planning process. This approach is designed to steer new development away from high risk areas towards those areas at lower risk of flooding. In this instance, the FRA has established that while a proportion of the site lies within Flood Zone 2 (and is therefore suitable for residential development) the remainder of the site is classified as Flood Zone 3a and therefore subject to the Exception Test. The FRA explains that there are three elements to the Exception Test, all of which must be satisfied. These are:

- Sustainability – it must be proven that the development confers wider benefits to community at large that outweigh the potential flood risk;
- Brownfield land – the site should be previously developed land; and
- Safe – a site specific FRA must demonstrate that the development will be safe, without increasing flood risk elsewhere and where possible will reduce flood risk overall

The FRA concludes that:

- the proposal will provide much needed family homes while also supporting the regeneration in this part of Colchester.
- The site is currently vacant and classified as brownfield having been formerly occupied by the now derelict East Bay Mill.
- The FRA has demonstrated that the site is safe from flooding originating from the River Colne, being protected by defences for all fluvial events up to and including the 1% AEP. Finished floor levels can be set above the design flood level, including an allowance for climate change. There is no significant risk of groundwater, pluvial, artificial or sewer flooding.

16.58 Given the above the FRA concludes that the redevelopment of this site is acceptable from a flood risk (fluvial and/or tidal) perspective. It is important to note that the Environment Agency has not raised an objection to this application. In their letter, the Environment Agency has drawn to the Council's attention a number of flooding related matters, including that consideration should be given to the preparation of a Flood Warning and Evacuation Plan and the incorporation of Flood Resilient Measures and that Council's Emergency Planning Officer should be consulted on these. Conditions are proposed in respect of Flood Warning and Evacuation Plan and Flood Resilient Measures and the Emergency Planning Officer can be consulted prior to approving these details.

- 16.59 Regarding surface water drainage, it is standard practice for new developments to limit surface water discharges to Greenfield rates of runoff, via the use of sustainable drainage techniques. The FRA however, comments that as the adjacent watercourse is tidally influenced, the impact of the total runoff from the site is insignificant compared to the overall capacity of the river and, as such, it is typically accepted by the Environment Agency that there is no need to restrict the rate of runoff. In this instance, the site already includes a significant proportion of building footprints and hardstanding, any change in the impermeable surfacing, has the potential to have a significant impact on the surface water regime and therefore the use of a sustainable drainage system will be crucial in preventing future flooding, both on and off-site. The FRA therefore recommends that tanked permeable paving is used on the circulation road and parking bays. This will allow all surface water runoff from the areas of hardstanding to be captured within the sub base and released gradually. It is proposed that roof runoff will also be discharged into the sub-base prior to undergoing an unattenuated discharge into the River Colne. Neither the Lead Local Flood Authority nor the Environment Agency have raised an objection to this approach. The former has however recommended a suite of planning conditions.
- 16.60 Anglian Water has a number of assets in the area and they have therefore been consulted on this application. Anglian Water has confirmed that the sewerage system at present has available capacity for the flows associated with this development. Anglian Water also note that the preferred method of surface water disposal would be to a sustainable drainage system (SuDS). Anglian Water has advised that, from the details submitted, the proposed method of surface water management does not relate to Anglian Water operated assets and that the Lead Local Flood Authority should be consulted. The Lead Local Flood Authority have confirmed that they do not have an objection to this application subject to condition.
- 16.61 For the reasons given above, the proposed development is not considered to generate an unacceptable flood risk and, as such, is considered to accord with local and national policy guidance in respect of this matter.

#### Contamination

- 16.62 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 16.63 A desk top based contamination report accompanies this application. The Council's Contamination Land Officer agrees with the conclusions of the submitted reports and has recommended conditions to provide a framework for further assessment, and remediation works (as appropriate).

## Air Quality

- 16.64 The Core Strategy contains policies for the delivery of development, infrastructure, facilities and services in Colchester to 2021. Whilst the Council does not have a specific policy on air quality within the Core Strategy; Policy TA4 does however state that "The demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character." The adopted Colchester Borough Council - Air Quality Guidance Note is a material consideration. In the emerging plan, Policy ENV5 states that proposals will be supported that will not result in an unacceptable risk to public health or safety or the environment. This policy goes on to state that proposals for developments within designated Air Quality Management Areas (AQMAs) will only be granted where the Council is satisfied that after selection of appropriate mitigation the development will not have an unacceptable significant impact on air quality, health and well - being. Emerging Policy EC3, furthermore, requires "*An air quality assessment and mitigation against any harmful effects to the AQMA likely to be caused by proposals.*"
- 16.65 The site is located approximately 50m east of Colchester's 'Central Corridors' Air Quality Management Area (AQMA) and 50m west of the 'East Street and adjoining end of Ipswich Road' AQMA. Both AQMA's have been declared due to measured exceedances of the long-term air quality objective for nitrogen dioxide (NO<sub>2</sub>). The primary source of emissions of this pollutant in the area is road traffic.
- 16.66 An Air Quality Assessment has been submitted in support of this application. During the construction phase, the site has the potential to generate dust nuisance beyond the application boundary. The assessment however states that through the implementation of appropriate air quality dust management measures as part of the Construction Management Plan, the impacts will be effectively minimised and are unlikely to be significant. The assessment notes that construction traffic will contribute to existing traffic levels on the surrounding road network. The increase in traffic will however be temporary and is unlikely to be significant in terms of total flow or construction duration. Given this, the impact of vehicular emissions of NO<sub>2</sub> and PM<sub>10</sub> from construction traffic and on-site machinery on local air quality is therefore considered to be negligible.
- 16.67 With regard to operational traffic the Air Quality Assessment notes that the proposed development will include parking and it is anticipated that this will not normally generate more than 56 additional vehicle movements on East Street per day. Given this, the assessment opines that the impact on local air quality of emissions from operational traffic will be negligible. Dispersion modelling of emissions from traffic on East Street and Brook Street has also been undertaken to predict pollutant concentrations at the proposed development to determine whether on-site mitigation will be required to protect future occupants from poor air quality. The assessment indicates that concentrations will be well within the relevant long-and short-term air

quality objectives. In view of the above, the Air Quality Assessment states that air quality would not pose a constraint to the redevelopment of the site as proposed. The Council's Environmental Protection Team have not raised an objection to this application on the ground of air quality impacts.

16.68 With regards to air quality, therefore, the proposals are considered to be acceptable and in accordance with policy.

#### Development Obligations

16.69 Policy SD2 of Colchester's Core Strategy provides that new development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. This policy goes on to state that the Council will seek to employ standard charges where appropriate to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. The viability of developments will also be considered when determining the extent and priority of development contributions. Further policies on specific topic areas are provided within the Core Strategy and the Development Plan Policies (for example on affordable housing, health, community facilities and open space etc).

16.70 The NPPF provides guidance on when planning obligations should be used. Planning obligations must only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The NPPF goes on to state that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

16.71 The Council's Development Team considers all major planning applications submitted to this Council and makes recommendations in respect of priorities for s106 obligations. The Development Team requested that the following obligations were required to mitigate the impact of this development proposal:

- Archaeology - £14,627.5+VAT
- Parks and Recreation - £136,632.25
- Communities - £33,000.
- Affordable Housing – Standard 20% Policy
- Highways – Upgrading of the bus stop on East Street, (level entry kerbing, new post and flag (approx. £5000)
- Education - £30,000.00 for early years, £90,000 towards St James Primary School

- Transportation - £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.

16.72 The Development Team noted that the applicant had stated that the proposed scheme was not viable and therefore it could not fund all s106 obligations. The Development Team recommended that an independent viability assessment was undertaken to verify the applicant's claim in respect of this matter.

16.73 BPS has audited the developer's viability appraisal, which currently shows a profit 5.83% of Gross Development Value (GDV), against the proposed target of 20% or £1,434,000. BPS has advised that the site has no existing value in planning viability terms (which effectively constitutes a write down in the suggested land value of £211,200). BPS has also recommended that a developer's profit of 17.5% is used (rather than 20% as suggested by the applicant). BPS has advised that the submitted cost plan is considered reasonable by reference to BCIS elemental analysis but that the abnormal costs appear very high. The total abnormal costs included in the construction cost estimate is £1,385,000 comprising: facilitating works £98,000, abnormal costs £337,000 (secant piled wall to river, upgrade access route, extra renovation to mill building), site works drainage and external services £610,000 and risk items £340,000 (asbestos, ground remediation, ground obstructions, substation, flood attenuation). Included in the abnormal costs are allowances for asbestos removal and scaffolding (£48,000 and £50,000 respectively) which are not considered to be justified as abnormal costs. BPS has also advised that insufficient information / justification has been provided on the other abnormal costs to demonstrate whether these are reasonable.

16.74 In addition to the above, BPS has noted that the appraisal uses the planning obligations provided at the preliminary enquiry stage £263,197. The updated contributions (£338,260) include requests from the Highway Authority and Education Authority neither of whom comment on preliminary enquiry applications. The appraisal does not include the provision of affordable housing. BPS also note that the NPPF (Paragraph 64) requires all major developments involving the provision of housing to provide at least 10% affordable housing (unless it falls within an exemption category, which the current development does not).

16.75 In order to gain a greater understanding of the viability of the development, the developer has been asked to re-run their assessment to include nil value for the land and to exclude the abnormal costs. This shows a developer's profit of about 11.17%. If the updated s106 contributions are included (excluding the affordable housing) the profit level falls to 10%.

16.76 Given the above, it is concluded that the current proposal does not deliver a market return for the developer and officers accept the current proposal cannot viably support all the requested planning obligations. Notwithstanding the viability position of the development, the applicant has offered £165,000

to cover the transport, archaeology and education contributions and agreed to a viability review.

16.77 The reduced level of s106 contribution means that the development will fail to mitigate its full impact. Given this, Members may wish to take the view that the failure to provide the requested s106 obligations and to deliver a minimum of 10% affordable housing means that the proposal does not constitute sustainable development and should be refused on this basis. Officers would however caution against such an approach. The application site, due to its poor condition, has attracted anti-social behaviour for many years. Officers believe that the current scheme offers a pragmatic solution to the redevelopment of this derelict site and that would secure the repair of an 'At Risk' listed building and the enhancement of this part of the conservation area. (These benefits are in addition to the more generic ones such as maintaining the supply of housing, potential employment creation etc). For this reason, it is recommended that the s106 contributions offer is accepted and that the development is the subject of a viability review.

16.78 In addition to the planning obligations requested by the Development Team, it is also recommended that there are obligations requiring RAMS payment, a trigger point for refurbishment of the listed building, undertaking a Viability Review and the introduction of a Parking zone Control

## **17.0 Conclusion**

17.1 The current application will deliver 20 residential units in a sustainable and accessible location. The development will contribute positively towards the Borough's supply of housing. There would be economic benefits as a result of construction activity, the regeneration of the East Bay Mill area and the possible creation of additional jobs. There is sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of local residents, ecology, flood risk, air quality or would not have a severe impact upon the highway network in terms of capacity.

17.2 The NPPF has at its heart the promotion of sustainable development. The proposal has significant sustainability credentials. A core planning principle of the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The proposal would secure the repair and reuse of Granary Barn, a grade II listed building and will serve to enhance the character and appearance of this part of Colchester Conservation Area No.1. It is considered that the scheme would acceptably fulfil the environmental dimension of sustainable development by preserving and enhancing the identified heritage assets and by promoting new development of a high quality design. The failure to fully mitigate its impact by through the provision of s106 obligations weighs against this scheme; however, on balance, the benefits of this scheme are considered to outweigh this shortcoming.

17.3 In conclusion, it is considered that the benefits of the scheme significantly outweigh any adverse impacts and, as such, Members are asked to endorse the officer recommendation that planning approval should be granted subject to the suggested conditions heads and the signing of the s106 agreement.

## **18.0 Recommendation**

18.1 It is recommended that Members resolve to grant planning permission, subject to:

(1) The receipt of a favourable consultation response from the Highway Authority and the incorporation of conditions recommended by them or conditions to address any concerns that they may raise;

18.2 Following the submission of the above, the Assistant Director for Policy and Corporate is authorised to enter into and complete a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting to provide the following:

- Archaeology - £14,627.5+VAT
- Highways – Upgrading of the Bus stop (eastbound) immediately opposite the site on East Street; works to comprise level entry kerbing, new post and flag
- Education - £30,000.00 for early years, £90,000 towards St James Primary School
- £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.
- All sums to be index linked
- RAMS payment
- Management of open space and public access to this
- Trigger points for refurbishment of the listed building
- Viability Review
- The introduction of a Parking zone Control

18.3 In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director is authorised at their discretion to refuse the application.

## **Conditions**

### **1. ZAA - Time Limit**

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

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

## **2. ZAM - Development to accord with Approved Plans**

The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below.

0502 PL\_1100 REV C Proposed Ground Floor Plan  
0502 PL\_1300 REV C Proposed House Type 1 - Listed Building  
0502 PL\_1301 REV B Proposed House Type 2  
0502 PL\_1302 REV C 1302 Proposed House Type 3  
0502 PL\_1303 REV B Proposed House Type 3A  
0502 PL\_1304 REV C Proposed House Type 3B (received on 14 May 2019)  
0502 PL\_1305 REV B Proposed House Type 3C  
0502 PL\_1306 REV C Proposed House Type 4 (received on 14 May 2019)  
0502 PL\_1307 REV C Proposed House Type 5 (received on 14 May 2019)  
2018 4413 019 Rev 1 Surface Materials Plan

No variation from the approved plans should be made without the prior approval of the Local Planning Authority. Amendments may require the submission of a further application

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

## **3. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)**

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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



#### **4. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)**

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

#### **5 ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

#### **6. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be

carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

### **7. ZG3 - \*Validation Certificate\***

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

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

### **8. Non Standard Condition - Construction Method Statement**

No works, including works of demolition and/or enabling works shall take place 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. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) hours of deliveries
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the hours of work
- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities
- vii) measures to control the emission of dust and dirt during construction
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- ix) a method statement for piling works

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.

### **9. Non Standard Condition - Recording and Protection of Heritage Assets**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

#### **10. Non Standard Condition – Programme of building recording**

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

#### **11. Non Standard Condition - Materials and detailing**

No development shall take place (except for underground enabling works) until full details of the materials (including brick bond and mortar type) to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to ensure that suitable materials are used on the development and to safeguard the character and appearance of the heritage assets and their setting.

#### **12. Non Standard Condition – Additional drawings**

Notwithstanding the details submitted, no works shall start (except for underground enabling works) until additional drawings that show details of any proposed new windows (including the depth of reveals), doors, eaves, verges, cills, arches, plinths, porches, balconies and screens, brickwork / stonework detailing, roof features and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: In order to ensure that the architectural detailing of the development is appropriate and to safeguard the character and appearance of the heritage assets and their setting.

### **13. ZFQ - Tree and Natural Feature Protection: Protected Areas**

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

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

### **14. ZFS - Tree and Hedgerow Protection: General**

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

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

### **15. Non Standard Condition – Tree Pruning Details**

Notwithstanding the submitted tree pruning details, a revised package of tree pruning works (including a timeframe for implementation) shall be submitted to and approved in writing prior to the commencement of any works on site. The development shall be implemented in accordance with the agreed details.

Reason The proposed pruning works are too high and will distort the shape of the trees crown.

### **16. ZFB - \*Full Landscape Proposals TBA\***

No works of development shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- proposed finished levels or contours;
- means of enclosure;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);

- proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
- Works to the river embankment;
- proposals for restoration;
- planting plans;
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- implementation timetables and monitoring programs.

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

### **17. ZFE - 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.

### **18. Non Standard Condition – Boundary walls**

All boundary walls that front onto a public or semi public space shall be enclosed by a brick wall unless otherwise agreed in writing by the Local Planning Authority. Brick walls shall be finished with a brick on edge coping and terminated at each end by either a pier or return. Where changes in the height of walls occur, the higher wall shall be raked smoothly downwards to the level of the lower wall.

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

### **19 – Non Standard Condition – Bat Survey**

No works shall take place until a Bat Survey has been undertaken and a scheme of mitigation and enhancement (which shall include as a minimum the provision of bat boxes, an implementation timetable and responsibilities for maintenance) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of bats during the course of this development and to ensure that there is appropriate and enhancement.

### **20. Non Standard Condition – Reptile Survey**

No works shall take place until a Reptile Survey has been undertaken and a scheme of mitigation and enhancement strategy (including an implementation timetable and responsibilities) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in

accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of reptiles during the course of this development and to ensure that there is appropriate enhancement

### **21. Non Standard Condition – Provision of bird boxes**

Prior to the occupation of the dwellings hereby permitted, a scheme for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of any the dwellings.

Reason: To ensure that appropriate provision is made for birds as a part of the development.

### **22. ZCF - Refuse and Recycling As Shown**

The refuse and recycling storage facilities shall be implemented in accordance with the details shown on the approved plans and made available prior to the occupation of each building they are intended to serve. Such facilities shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority

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

### **23. Non Standard Condition – Parking Provision**

No unit shall be occupied until the car parking space(s) intended to serve that unit and any associated unallocated visitor car parking space(s) intended to serve that part of the development have been hard surfaced, sealed, marked out and made available for use to the satisfaction of the Local Planning Authority. The respective spaces shall thereafter be retained at all times for their designated purpose.

Reason: To ensure that each unit is provided with an appropriate parking space and that the unallocated parking space available for use by all residents and their visitors and in the interest of highway safety.

### **24. Non Standard Condition – Cycle Parking space**

Each residential unit shall be provided with at least one secure covered cycle parking space that is convenient to access / use. No unit shall be occupied until cycle parking for that unit has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be retained in accordance with the agreed details.

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

### **25. Non Standard Condition - Travel Pack**

On the first occupation of each dwelling, the residents shall be provided with Travel and Information Packs, the contents of which shall previously have been agreed in writing by the Local Planning Authority, in consultation with Essex County Council.

Reason: To promote modal shift towards more sustainable forms of transports.

## **26. Non Standard Condition - Drainage**

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- A Management and Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system, the maintenance activities/frequencies and the retentions of maintenance of logs.

The scheme shall subsequently be implemented prior to occupation

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development; to provide mitigation of any environmental harm which may be caused to the local water environment and because the failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

## **27. Non Standard Condition – Offsite flooding**

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater

level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. The construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### **28. Non Standard Condition - Drainage**

The development hereby permitted shall not be commenced until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Reason: To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site. The failure to carry out the required maintenance before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### **29. Non Standard Condition - Flood Resilient Measures**

Prior to the commencement of the development hereby permitted details of the Flood Resilient Measures to be incorporated within the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To minimise flood risk of damage to property.

#### **30. Non Standard Condition - Flood Warning and Evacuation Plan**

Prior to the occupation of the units hereby permitted a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Flood Warning and Evacuation Plan shall be adhered to at all times

Reason: To minimise flood risk to residents.

#### **Permitted Development Rights**

##### **31. ZDC - Removal of PD for All Residential Extensions & Outbuildings**

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

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and to safeguard the character and appearance of heritage assets and their setting



### **32. ZDI - \*Removal of PD for Windows Above Ground Floor Level\***

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

### **33. Non Standard Condition - Permitted Development Rights**

Notwithstanding the provisions of Part 40 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no micro-generation equipment shall be installed unless otherwise approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to safeguard the character and appearance of heritage assets and their setting.

## **19.0 Informatives**

The following informatives are also recommended:

### **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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### **3 ZTB - Informative on Any Application With a Site Notice**

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

#### **4 Informative on Archaeology:**

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

#### **5 Informative on Anglian Water**

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

Notification of intention to connect to the public sewer under S106 of the Water Industry Act

Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

## **6 Informative – Works on River Bank**

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Colne, is designated a 'main river'.

## **7 Informative Refuse Collection**

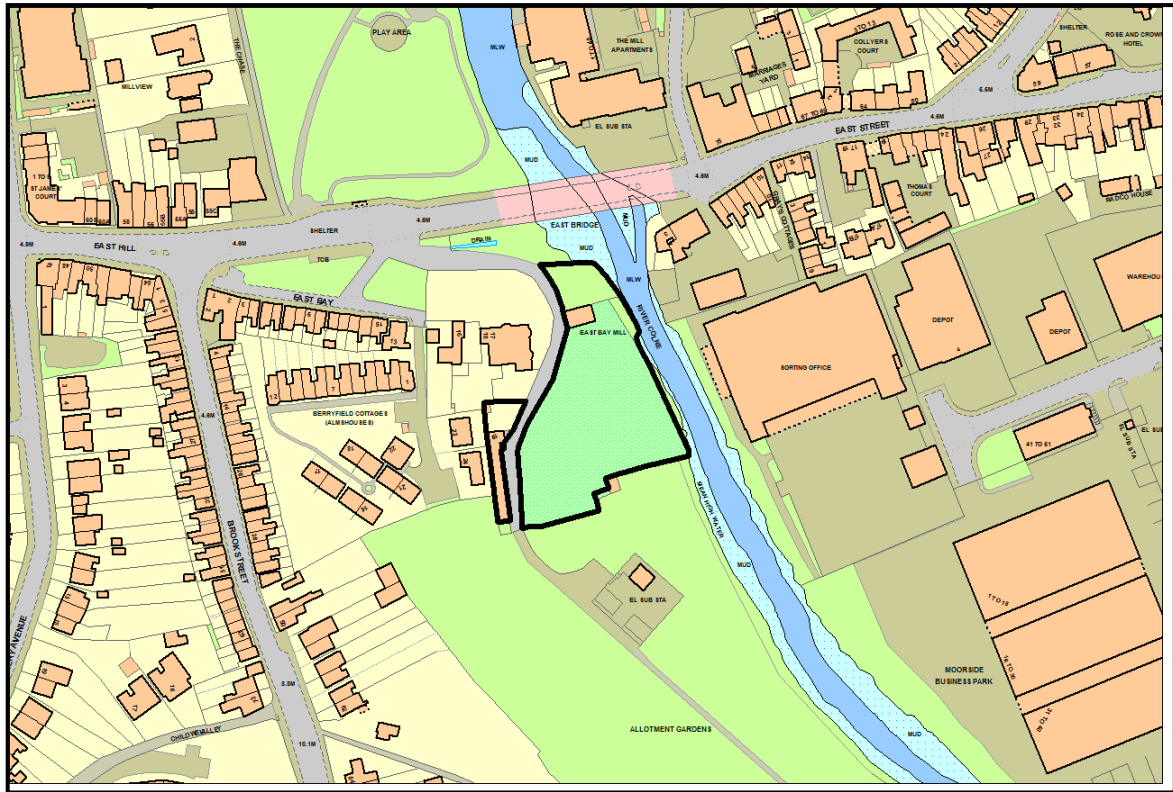
Please Note: The Council is under no obligation to collect refuse from properties on private streets and/or private drives that are located more than 25m from the adopted highway. Prior to the Council agreeing to the collection of refuse and recycling from properties located on private roads, the applicant will need to provide evidence that each relevant residential property is party to a covenant that stipulates that Colchester Borough Council (or any future third party provider) has:

- rights of access the road at all times (including the ability to turn collection vehicles around free from obstruction);
- no-one at any time can refuse the collection provider access;
- the Council has no maintenance liability; and

If the above is not provided, the Council will not collect refuse and/or recycling from the said properties and alternative collection arrangements will need to be made. It should also be noted that should the Council encounter a problem with the collection of waste from the private roads within this development, it reserves the right to withdraw its waste collection service.

The applicant is asked to draw to the attention and fully explain the implications of the above requirements to all purchasers of these properties.





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### Item No: 7.3

Application:	190425
Applicant:	Regent Land & Developments
Agent:	Avison Young
Proposal:	Listed Building consent for erection of 20 residential units together with parking, landscaping and associated work including the refurbishment of the redundant Granary Barn
Location:	Land At, East Bay Mill, 19 East Bay, Colchester, CO1 2UD
Ward:	Castle
Officer:	Alistair Day
Recommendation:	Approval

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

1.1 This application (along with application 190424) is referred to the Planning Committee because it has been called in by Cllr Crow on the following grounds:

- Design - the proposed houses make no concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development in any town or city and therefore would look completely out of place in this setting.
- Parking - providing 26 parking spaces for 20 three bedroom family homes will be unmanageable and add to the existing problems in the area.
- Access – this is unsuitable for large vehicles and due to the narrow nature of the track, there is concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

## **2.0 Synopsis**

2.1 The key issues for consideration are impact that the proposed alteration works would have on the special interest of this grade II listed building, the setting of nearby listed buildings and the character and appearance of Colchester Conservation Area No.1.

2.2 The application is recommended for conditional approval.

## **3.0 Site Description and Context**

3.1 The Granary Barn is a modest timber framed building that dates from the eighteenth century. It has a rectangular footprint with its western gable end adjacent to the lane. The building is listed grade II for its special architectural or historic interest. The List Description is as follows:

Granary, subsequently mill for animal feed, store at time of inspection [November 2002]. Mid/late-C18 with C20 additions. Timber-framed and weatherboarded, on rebuilt brick plinth. Corrugated asbestos roof covering. Brick stack. Aligned E-W on west bank of river. EXTERIOR: 2 storeys with loft. Loft door opening to West gable. C20 additions to East and South not of interest.

INTERIOR: Timber frame of Baltic pine, retaining primary bracing. Massive E-W chamfered spine beam supporting first floor with large oak hanging knees, both ends with finely worked stops. Incised assembly marks visible on spine beam (east end, north face) and on east gable construction in roof. Possible Baltic pine merchant's identification mark visible on tie-beam at first floor level. Roof with single purlins to each side, carried by brackets on the rafters, which are pegged at the apex. Collars have been cut-away. Rudimentary bolted scarf joint in wall plate. Re-used oak timbers throughout, especially in roof. East gable re-built in brick for C20 extension, and

considerable interventions to south wall where C20 shed extends, but principle framing remains.

**HISTORY:** The building is identified on a watercolour of East Bridge dated c.1775 (Colchester Museum Collections) where it appears to be thatched, and is depicted as part of a 'Farm Yard' on Sparrow's Map of Colchester 1767. Interior formerly weatherboarded but removed mid-C20 when framing in-filled with brick and blockwork.

A small urban riverside agricultural building with much of its mid/late-C18 frame, including a massive stopped and chamfered spine beam of Baltic pine, and both group value and townscape value

3.2 The Granary Barn is located on the south side of East Hill and to the east of the River Colne. East Bay House, a large late Georgian building which is listed grade II for its special architectural and historic interest, is located to the west of the barn. To the south of the barn is the main East Bay Mill site which is composed of areas of hard standing and rough grass. Access to the site is from East Hill via a unadopted lane. The lane forms part of National Cycle Route 1 and the Wivenhoe Trail. The Granary Barn is located within Colchester Conservation Area No.1.

3.3 The character of the surrounding area is varied. To the north and west, the character is predominantly residential with two and three storey terraced properties. Large footprint industrial development are situated to the east of the site across the River Colne and there is an area of open space and playing fields to the north. To the south is an area of allotments and The Moors.

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

4.1 The application seeks consent for the alteration and conversion of the barn to a single dwelling house. It is proposed that these works will be undertaken in conjunction with proposed redevelopment of the land to the south of the Granary Barn.

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

5.1 Open space  
Green Link  
Conservation Area (northern part of the site)

## **6.0 Relevant Planning History**

6.1 The relevant planning historic for this site includes:

- O/COL/02/1697 Outline consent for demolition of existing agricultural outbuildings and the retention, refurbishment and change of use of existing Grade II granary building to lounge and the erection of 49 retirement apartments (including 9 affordable units) with access, parking and associated works)
- RM/COL/04/0884 - Application for Reserved Matters concerning Siting, Design and Access for demolition of existing buildings shown on plans and erection of 55 no. retirement apartments with access road, parking and associated works
- 072117 Application for Reserved Matters concerning Landscaping for demolition of existing buildings and erection of 55 retirement apartments
- LB/COL/03/0459 and CA/COL/02/1782 – conversion and alteration of listed building (the Granary Barn) and the demolition of ancillary buildings
- In addition to the above, an appeal against an enforcement notice (ref. 200-000-090) was dismissed on 6th March 2013. This confirmed that the consented retirement apartment scheme had not been lawfully implemented and this permission has now lapsed.

6.2 More specific to the current application are the following preliminary enquires:

- 180838 - Restore former mill building for flexible A1/A3 use and to develop apartment buildings to provide 48 new homes.
- 182522 Preliminary Enquiry – Erection of 20 residential units together with parking, landscaping and associated works. This Preliminary Enquiry was also subject of an early Member Engagement Meeting.

## **7.0 Principal Policies**

7.1 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.



7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the following documents:

7.3 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- ENV1 - Environment
- ENV2 - Rural Communities

7.4 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP14 Historic Environment Assets

7.5 Emerging Local Plan

In addition to the above, consideration also needs to be given to the Submission Colchester Borough Local Plan 2017-2033 (the emerging local plan). The following emerging policies are considered to be relevant:

- DM15 Design and Amenity
- DM16 Historic Environment

Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

- (1) the stage of preparation of the emerging plan;
- (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and
- (3) the degree of consistency of relevant policies to the policies in the Framework.

As to the first limb, the Local Plan was submitted to the Planning Inspectorate in October 2017 and the formal examination commenced in January 2018. The Plan is at an advanced stage and may therefore be taken into consideration in the determination of planning applications. Many of the Development Management Policies follow similar principles to those of the current Local Plan.

7.6 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.

## 8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

### Historic Building and Areas Officer

8.2 The comments from the HBAO can be summarised as follows:

- The former granary barn has been vacant since 2002/3 and is currently in a very poor state of repair after having suffered extensive damage from fire. Unless a viable use is secured for the building, its condition is expected to keep deteriorating, resulting thus in further loss of its evidential and historical value. The scheme to convert the building into a residential unit is welcomed in compliance with NPPF's Par. 192(a) which states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The Heritage Addendum provides an analysis of the structure's present condition and this has informed a new set of proposals for its conversion. There is some margin for further improvements, e.g. by a more limited use of the proposed rooflights whose number, size and distribution on both sides of the roof results in a strong visual impression that detracts from the building's character, the benefit from the development of the redundant heritage asset to secure its viability, outweighs the concerns regarding specific details which can be addressed at a later stage.
- The redundant East Bay Mill is seen in conjunction with East Bay House and its present condition reflects poorly on the setting of the listed house. Any harm caused to the setting of listed buildings will need to be weighed against the public benefits. The public benefit of securing a viable use for the barn which is currently at risk is considered to outweigh any harm caused
- The site falls partly within the limits of the Conservation Area. The damaged structure is very visible when crossing East Bridge and its dilapidated condition leaves an impression of neglect that detracts from the quality of the Conservation Area. The redevelopment of this derelict site is expected to benefit the Conservation Area by addressing this situation.
- Taking the above into consideration the above comments of the development's impact on heritage, there are no objections on heritage grounds to the support of the proposals.

### Archaeological Advisor

- 8.3 The development affects a designated heritage asset (Grade II Listed building, The Old Mill, NHLE no. 1350373) and the site of East Bay Mill, which was located to the south of the Listed Building (granary). The Heritage Statement Addendum, by the Heritage Collective, provides adequate information relating to the Mill. A condition should be attached require the historic building recording of the building.
- 8.4 In terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established. Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. A planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed is required.

### Council for British Archaeology

- 8.5 The summary from the Council for British Archaeology (CBA) is set out below:
- The CBA are supportive of a degree of development at this site, if it is deemed necessary to ensure the conservation-led restoration of East Bay Mill.
  - To meet the requirements of the National Planning Policy Framework, your Authority should be satisfied that the harm to the Conservation Area and the setting of East Bay Mill is outweighed by public benefit.
  - The CBA strongly advise that the conservation-led restoration of the mill should be secured by a section 106 agreement, or similar, should your Authority be minded to permit development at this site.

### Historic England

- 8.6 On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

## **9.0 Parish Council Response**

- 9.1 The site is not parished.

## 10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all the representations received is available to view on the Council's website. The representations made in respect of this application highlight general planning matters (rather than those specific to listed building considerations) and can be summarised as follows:

- The development is of inappropriate density - the proposed number of dwellings and scale of properties is disproportionate to the scale and nature of the site (which is a conservation area).
- The design of the [new] buildings is inappropriate. The style and layout of the dwellings is inconsistent with the listed buildings in the immediate vicinity
- The proposal to build 3-storey houses will be unacceptably intrusive and detrimental to the amenity of adjacent residents
- Insufficient parking is proposed for the development.
- The access is inappropriate.
- There will be a conflict between vehicle users and users of the National cycle path.
- The bus services are not as frequent as claimed.
- The site is in a flood zone.
- The development will have an adverse impact on the private amenity of existing residents.
- Listed building needs to be developed and evolve to aid their protection.

10.2 The following comments have been made by Cllr Crowe:

- Design - The surrounding area of East Street and East Bay contains many unique buildings including the renovated Charlie Brown's, the historic Siege House, the former Marriages Mill and numerous houses and cottages of varying ages. Recent new builds in the area at Grosvenor Place and Riverside Place have borrowed and replicated architectural features from the Mill, and the new build cottages in Marriages Yard mimic a Tudor style with render and an overhanging first floor. By contrast the proposed houses make no such concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development in any town or city and therefore would look completely out of place in this setting.
- Parking - If there were one or two bedroom flats then it might work, but providing only 26 parking spaces for 20 three bedroom family homes is completely unrealistic. With the best will in the world people's needs change, someone in the household may get a new job requiring the household to need an additional car, a child passes their driving test and wants a car, and visitors need somewhere to park. This will be unmanageable and add to problems in existing problems in East Bay, Grosvenor Place and nearby Rouse Way as people search for places to park.

- Access - Essex County Fire and Rescue service have informed that the site does not comply with the guidance in ADB B5 with regard necessary dimensions for an appliance turning point. Additionally, residents are concerned that access to the site for fire engines can only be made via a gap of less than 4 metres between the barn and a listed boundary wall. I am told that the dustbin lorries do not attempt to enter the site due to this restriction, and with such a narrow opening there is also great concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

10.3 The Civic Society comments on the amended plans can be summarised as follows:

- We have studied the amended scheme and do appreciate the changes made to address some of the issues attending the original design.
- It is our belief that is the large additional costs that have led to the need for an over development of the modest size of the site.
- We note the efforts to improve the visual appearance of the housing by the use now of more sympathetic materials in keeping with the historic nature of the conservation area and the considerable work to reuse the Mill building itself as a modern house.
- The problem remains of the continuing use of the three storey houses which are not a reflection of the local character of the area. The result is a large massing of repeated forms of heights and blocks. There has been no change to produce a mix of building heights that would be more in keeping with the landscape and the historic setting.
- We remain concerned by the dominant nature of the parked cars adjacent to the National Cycle route and the pedestrian pathway. This parking has a detrimental effect on the tranquility of the lane and the strategic nature of the routes. These will include not merely the residents but all the many types of service traffic that housing brings: fire service, delivery vans, refuse service etc. We are quite unconvinced that some surface detail to the road surface can provide the necessary safety that this route deserves.
- We have concerns for the under provision of parking places for the development and unconvinced by the data and arguments in favour of this.
- In conclusion it is our belief that this development would not bring an improvement to the adjacent conservation area and the gain of the restoration of the Mill building will be largely lost in the massing of the site.

## **11.0 Parking Provision**

11.1 N/A.

**12.0 Accessibility**

12.1 N/A

**13.0 Open Space Provisions**

13.1 N/A.

**14.0 Air Quality**

14.1 N/A.

**15.0 Report**

The Proposal

15.1 Listed building consent is sought for the alteration and conversion of the Granary Barn to a single dwellinghouse. A concurrent planning application has been submitted for the erection 20 residential units (including the conversion of the barn) together with parking, landscaping & associated works.

Principle of the Development and the Planning Background

15.2 The site was last used for sale of agricultural feed with a linked residential property. These activities ceased in about 2003 with the sale of the land for redevelopment.

15.3 In 2004, outline planning permission was granted for the erection of 49 two-bedroom retirement apartments with access, parking and associated works. Listed building consent was also granted for the alteration and conversion of the former Granary Barn to a lounge for the retirement apartments and for the demolition of other curtilage buildings. The planning permission and the listed building consent was never implemented and has now lapsed.

15.4 Today, with the exception of the listed Granary Barn, all of the ancillary buildings have been cleared from the site due repeated problems of vandalism, anti-social behaviour and arson. The listed building has also suffered from vandalism and arson and is currently in a very poor condition.

## Heritage and Design Considerations

- 15.5 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies (DM16 in particular) reflects the requirements of currently adopted policies in terms of design, place shaping principles and the protection of the heritage.
- 15.6 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.
- 15.7 The Granary Barn is extensively fire damaged and consists of timber framed construction with brick infill panels. A brick extension formerly abutted the eastern gable and a portal framed building (wagon shed) formerly stood adjacent to the south elevation. The barn comprises four bays defined by substantial posts on each long side, with central ridge posts in each gable end and straight diagonal braces. Access is by way of a single width door in the southern elevation, there is evidence of other openings in the south elevation and a single door into the eastern gable. The west gable features two crittall type windows at ground floor. At first floor level there is evidence of fewer openings, a single loading door in each gable and two openings in the southern wall. The northern elevation appears to have been without any openings at any level. Running east to west through the ground floor is a substantial timber spine beam supported on curved braces. The western end of the ground floor is divided into two rooms by brick walls; the southern room has been adapted to form an entry office. In the northern half of the building at ground floor level there are two pieces of machinery equipment. At first floor level there are two cylindrical storage tanks (grain bins?) and one cast iron set of wheels/gears.
- 15.8 The Granary Barn is an important building in terms of the historic development of Colchester. It originally formed part of a wider complex of mill buildings (located to the south). The barn itself was converted by the

Doe family into a feed mill in about 1923. The barn has been vacant since about 2003 and is currently in a very poor condition due to extensive fire damage. The fire damage is most severe at first floor and roof level, the southern side wall and roof framing is substantially gone. At ground floor level, the fabric of the building is less damaged though there is evidence of graffiti, vandalism and unauthorised occupation. Due to the condition of the building, the applicant has stated that it has not been possible to undertake a full detailed survey of the building.

- 15.9 The Heritage Statement explains that the proposals seek to restore the primary historic timber frame, with timber replacements wherever the fire damage has resulted in elements being structurally unstable or insufficient to form a useable structure. Such replacements will maintain historic timber frame joinery techniques and be in a suitable material. The Heritage Statement goes on to state that any additional structural requirements will be provided by a new structure (steel) located outside the timber frame and concealed by the external cladding. It is stated that this double layer construction will enable the addition of insulation to provide a warm dwelling while leaving historic wall fabric expressed internally. The windows have been retained in their original locations on the western gable and the majority of openings are focused on the southern elevation where architectural evidence suggests they were located originally and through later adaptations of the building. Additional windows at first floor are proposed in the eastern gable. The blank northern wall will be retained. The re-use of existing openings is welcomed however the use of Crittal-style windows and the form of some of the openings does however give cause for concern. This has been raised with the applicant and amended drawings are expected before the committee meeting. Roof lights are proposed to provide light to the interior of the building. Whilst it is accepted that these will not affect historic fabric, the number and size of roof lights is not considered appropriate for a former barn. Again, this issue has been raised with the applicant and amended drawings are expected prior to the committee.
- 15.10 Regarding internal works, the ground floor is currently subdivided into three spaces by brick walls. The Heritage Statement explains that walls with their early brickwork are to be retained and left exposed to preserve a sense of the building's fabric and simple nature. The large spine beam and its angled braces will remain legible and exposed becoming features within the new spaces. The Heritage Statement goes on to explain that the proposed new subdivisions take their positional clues from the existing structure. The proposal also involves the creation of a first floor and a mezzanine floor. The Heritage Statement opines that the creation of a single open plan living space to the west and full height living room area to the east with mezzanine at the current loft level to the west, will preserve a single open space at this level and a mimicking of the current open platform. It is considered that whilst the first floor and mezzanine will change the character at this level, the proposals will both restore fabric and preserve a generally open plan arrangement in keeping with the historic spaces.



- 15.11 The Heritage Statement notes that the proposal would remove the extant equipment which provide evidence of the Doe Company's time; this is considered to cause some harm to historic values. The proposed insertion of a stair and revised front door position will affect an area which has already been altered; this area formed the early 20th century entrance and the timber framing here has been replaced by modern brick. The original position for first floor access is not clearly legible within the building, it could simply have been by way of a hatch and ladder. The Heritage Statement opines that the works at ground floor level are considered to erode the historic and architectural values of the building to a small degree. This is primarily due to the loss of the extant machinery which directly illustrate the former function of the building.
- 15.12 In its present condition, the Granary Barn is of diminished 'evidential' value, with upper parts interior substantially destroyed and with it, limited ability to understand or interpret the way in which the building was constructed and/or used. Even before the fire, the alterations to the barn and the wider site made it difficult to appreciate how the building once functioned and/or its relationship with river transport. The overall significance of the Granary Barn in its present state remains high, but the ability to appreciate it as low.
- 15.13 Given the condition of the Granary Barn, the barn remains at extreme risk. The current application proposes its full repair and conversion to a long-term viable use. The comments originally made by the Archaeological Officer regarding the need for further historic context analysis and building recording are noted. A further Heritage Statement has been submitted to address these concerns. With regard to building recording, a condition is proposed, and the result of this analysis will be used to inform the repair of the listed building. The comments made by the Council for British Archaeology regarding a conservation-led restoration of the mill and that this is secured by a section 106 agreement, or similar, are noted and endorsed.
- 15.14 The proposed alteration works to the Granary barn are considered to be consistent with relevant adopted and emerging policies and the guidance set out in the NPPF in so far as they promote the conservation of heritage assets. Viewed from the north (from within the conservation area), the refurbished Granary Barn will reassume a positive role as part of a group of 18th and 19th century buildings. The identified harm to the heritage asset by the proposed alteration works will be less than substantial and, as such, the public benefits need to be weighed against the harm caused. In this instance, the public benefits (which include the redevelopment of a derelict site, which detracts from the appearance of the conservation area, and the repair and reuse of an 'At Risk' listed building) weigh heavily in favour of the scheme. Given this, the proposed development is considered to be consistent with the aforementioned adopted local plan policies and national planning policy guidance in relation to the historic environment.

## **16.0 Conclusion**

- 16.1 Taking account of the advice in the Framework and evidence submitted, it is considered that the level of harm caused by the submitted application is 'less than substantial' as set out in the Framework. Considerable importance and weight is attached to harm. The public benefits that flow from the proposed alteration works, namely securing the repair and long-term reuse of an 'At Risk' listed building and the resultant enhancement to this part of the town centre conservation area are considered to outweigh the harm caused. Given this, the proposed development is considered to be consistent with the adopted local plan policies and national planning policy guidance in relation to the historic environment.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for APPROVAL of listed building consent subject to the following condition:

### **1. ZAB - Time Limit for LBCs**

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

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

### **2. ZLA - Only Works Shown Within Application**

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

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

### **3. Non Standard Condition - Building Recording**

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site and to inform the proposed alterations works.

#### **4. ZLP - Hitherto unknown**

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

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

#### **5. Non Standard Condition - Schedule of Repair**

Prior to the commencement of works, a schedule of repair works supplemented by detailed drawings where appropriate shall be submitted to and approved in writing by the Local Planning Authority. The repair works shall be implemented in strict accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

#### **6. Non Standard Condition - Details of floors and walls**

Notwithstanding the details submitted and prior to their installation, full details of the proposed new internal walls and the first floor and mezzanine floor (including their precise relationship with the fabric of the building and method of structural support) by section and elevation at a scale of 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the Local Planning Authority. The position of the new internal walls and floors shall be informed by the results of the building record report. The agreed works shall be implemented in strict accordance with the approved details.

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

#### **7. Non Standard Condition - Architectural Details**

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

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building.

#### **8. Non Standard Condition - Architectural Details**

Prior to the commencement of any works, details of the methods of fire protection, sound proofing, insulation and damp proofing for the walls, floors and ceilings at an appropriate scale shall be submitted to and approved in writing by the Local Planning Authority. The works of fire protection, sound proofing, insulation and damp proofing shall be carried out in accordance with the approved details.

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

### **9. Non Standard Condition - Materials**

Notwithstanding the details submitted, no external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: To ensure that suitable materials are used on the development.

### **10. Non Standard Condition - Rainwater Goods**

All rainwater goods (gutters, downpipes, hopperheads and soil pipes) shall be finished in metal and painted black and shall be of the round / half round profile.

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

### **11. ZLR - Making Good**

Within one of the month of the works being carried out to, all adjoining surfaces which have been disturbed by the works shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

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

## **19.0 Informatives**

19.1 The following informatives are also recommended:

### **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.

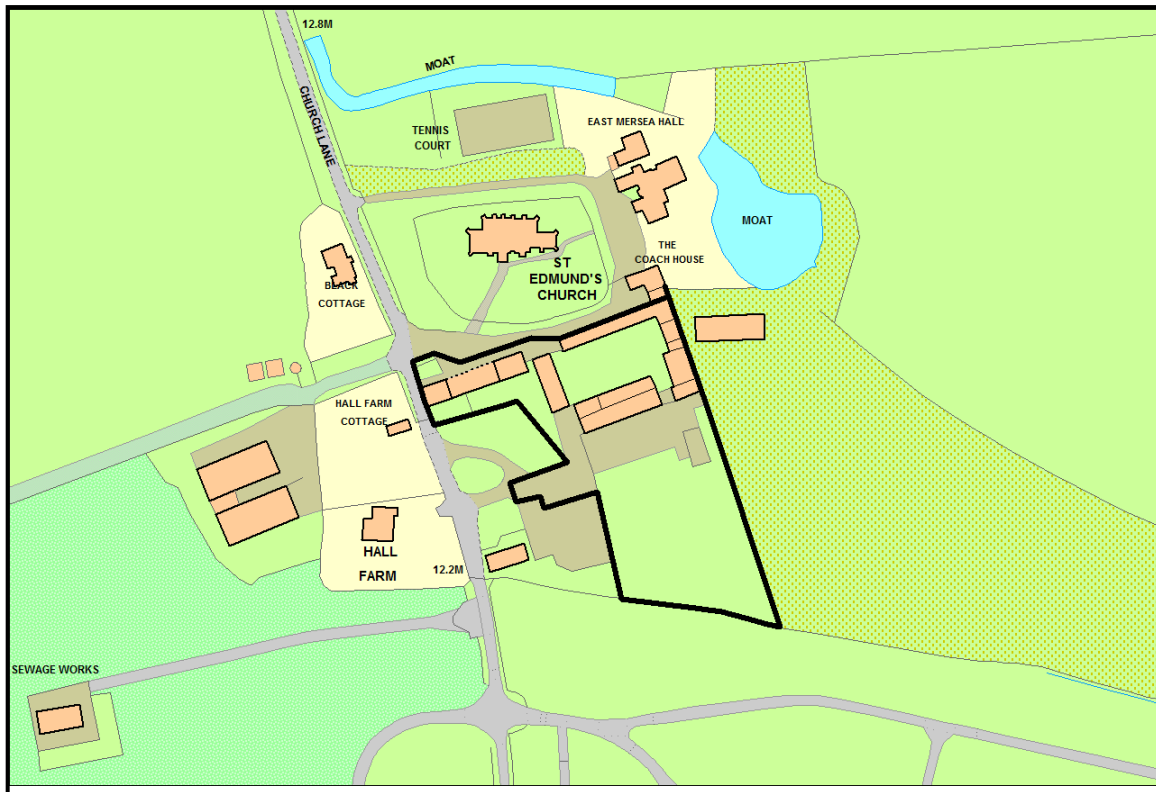
### **2. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### **3. ZTB - Informative on Any Application With a Site Notice**

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





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**Item No:** 7.4

**Application:** 181783

**Applicant:** Parkdean Resorts Ltd

**Agent:** Mr Martin Taylor

**Proposal:** Conversion of existing barns and stables to 18 self catering holiday accommodation units and for the erection of 14 new holiday cottages.

**Location:** Coopers Beach Holiday Park, Church Lane, East Mersea, Colchester, CO5 8TN

**Ward:** Mersea & Pyefleet

**Officer:** Eleanor Moss

**Recommendation:** Approval with conditions

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

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

While not objecting to the conversion of the barns the 14 proposed new holiday cottages should be treated as domestic dwellings and assessed as such. The site which is outside the village envelope must be regarded as non sustainable as there is no public transport and no facilities outside the caravan park for several miles. Cycling from this site would be extremely dangerous. The area is already over supplied with caravans and holiday lodges, more so than when permission was granted some years ago. The applicants planning statement is spurious and inaccurate and should be disregarded.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are history of the Coopers Beach Holiday Park, policy and highway considerations.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The site forms part of Coopers Beach Holiday Park, an established site comprising over 600 static holiday caravans, a club house, pool and recreation facilities, site reception/sales offices, maintenance buildings, redundant agricultural buildings and an area used for the display of caravans for sale.
- 3.2 The Holiday Park is in East Mersea and it is accessed from Church Lane leading off East Road, East Mersea. The holiday caravans are on a triangular shaped area of land with a direct frontage to the water. The entrance to the site is to the north of the holiday caravans and this area contains the offices and reception building.
- 3.3 The Holiday Park is located to the south of St Edmunds Church, a Grade 1 Listed Building and to the north of the church is East Mersea Hall, a Grade 2 Listed building. To the west and east of the site are areas of agricultural land.
- 3.4 The application site is an irregular shaped parcel of land located immediately north of the main holiday complex and can be divided into two parts. The northern part consists of a group of single storey former agricultural buildings. These buildings provide an enclosure along the northern boundary, with an inner courtyard, and a barn, which is used for storage/workshop. It also includes land used for caravan sales.
- 3.5 The other area of land lies to the south of the barn and is currently overgrown with a limited area of open storage. The eastern boundary is enclosed by an area of woodland.



## **4.0 Description of the Proposal**

4.1 The application proposes the following:

- The conversion of the existing group of former agricultural buildings to provide 18 self catering holiday accommodation units and
- The erection of a group of 14 new holiday cottages. These are in the form of three groups of terraced, one-and-a-half storey, two and three bedroom buildings

4.2 Parking areas between the self catering units and holiday cottages will provide 32 parking spaces. The scheme also proposes the provision of secure cycle parking racks, together with an on-site cycle hire facility.

4.3 The application is supported by a Planning Statement, a Transport Statement, a Travel Plan, a Noise Report, a Heritage Statement, a Structural Survey, a Contamination Report, a Tree Survey and an Ecology Report.

## **5.0 Land Use Allocation**

5.1 Caravan Park

## **6.0 Relevant Planning History**

6.1 110953 Application for the conversion of existing barns and stables to form 18 self catering holiday accommodation units and erection of 14 new holiday cottages approved 21 February 2012.

6.2 145513 Application for the conversion of existing barns and stables to form 18 self catering holiday accommodation units and erection of 14 new holiday cottages approved 10 November 2017.

6.3 The submitted application is identical to the above planning permissions.

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- UR2 - Built Design and Character
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP9 Employment Uses in the Countryside
- DP10 Tourism, Leisure and Culture
- DP14 Historic Environment Assets
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP22 Dedham Vale Area of Outstanding Natural Beauty
- DP23 Coastal Areas

7.4 Further to the above, the Site Allocations Document (adopted 2010, amended 2014) identifies a 7.8 hectare site as an extension to the Coopers Beach Holiday park site.

7.5 Submission Colchester Borough Local Plan 2017-2033:  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
East Mersea Village Design Statement

## 8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

**Essex Police** - Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development.

Incorporating Secured by Design into your development is always preferable in order that security and lighting considerations are met for the benefit of the intended residents and those neighbouring the development.

Essex Police, in supporting the ethos of Sections 58 & 69 of the NPPF, provide a free, impartial advice service to any applicant who request this service; we are able to support the applicant to achieve the requirements to gain Secured by Design accreditation and would invite them to contact Essex Police via [designingoutcrime@essex.pnn.police.uk](mailto:designingoutcrime@essex.pnn.police.uk).

**Natural England** – No objection

**Highway Authority** – No objection

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 3147-210-REV B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Travel Information Packs for sustainable transport sufficient for the occupants of each unit on site approved by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and

DM10 of the Highway Authority's Development Management Policies February 2011.

Informative1: The public's rights and ease of passage over Public Footpath No.5 (East Mersea) shall be maintained free and unobstructed at all times.

Informative2: The Highway Authority observes that only one off street parking space per unit is proposed although some units may accommodate more than the occupants of one car and no overflow or additional parking is being shown.

Informative3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

**Landscape Advisor** - No objections The following condition(s) is/are recommended.

Standard:

ZFE – Landscape management plan

Bespoke:

Z00 – No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Proposed finished levels or contours.
- Means of enclosure.
- Car parking layouts.
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans.

- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables.

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

Recommended informative:

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape webpage under Landscape Consultancy by clicking the 'read our guidance' link).'

**Archaeological Advisor –** No objections subject to recommended conditions  
This application concerns the conversion of farm buildings that are of potential historic interest (undesigned heritage asset), and which are present on the First Edition OS Map dating to the 1880s.

The following condition (Z00) relating to historic building recording is recommended in accordance with the National Planning Policy Framework (Paragraph 199):

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works. In this case, a historic building survey should be carried out, by a historic buildings specialist. The objective should be to compile a record of the affected building at Historic England Level 2, as described in Understanding Historic buildings: A Guide to Good Recording Practice (Historic England 2016). I will, on request of the applicant, provide a brief for the investigation.

The proposal is also located in an area of archaeological interest and within the area of a medieval (or possibly earlier) enclosure, which contains St Edmunds Church and East Mersea Hall (HER Monument no. MCC8792). There is, therefore, high potential for encountering early occupation remains at this location. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

The following archaeological condition (Z00) is recommended:

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions;

and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority.

The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

I will, on request of the applicant, provide a brief for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

Pre-determination archaeological evaluation is not required for this proposal.

However, I would recommend that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

Informative on Archaeology:

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk>.

**Contaminated Land Officer – No objection**

It is noted that this report has been commissioned with respect to an earlier application (110953). The reporting of the proposed intrusive works should

therefore confirm whether or not there have been any additional potentially contaminative uses on the site since 2011, also that the assumed Conceptual Site Model remains relevant for the current application.

Notwithstanding the above, this is an acceptable report for Environmental Protection's purposes. I note that it has been recommended that some intrusive works are undertaken and assessed to clarify the potential risks identified. However, based on the information provided it would appear that the site could be made suitable for the proposed use.

The applicant's attention is drawn to the recommendation for an appropriate asbestos survey to be undertaken and any recommendations carried out in accordance with all relevant legislation and best practice, prior to any demolition works.

Consequently, should this application be approved, we would recommend inclusion of the following conditions:

ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

ZG3 - \*Validation Certificate\*

#### **Heritage Officer – No objection**

The proposals for the conversion of the agricultural complex and the erection of 14 new cottages to its South is not expected to have any detrimental impact to the complex itself and the setting of the listed buildings within its vicinity and therefore, there are no objections from a heritage standpoint to their approval.

#### **Arboricultural Officer – No objection**

I am in agreement with the arboricultural impact assessment provided.  
Recommended Landscape Conditions:  
Make the AIA an approved document

## **9.0 Parish Council Response**

### **9.1 The Parish Council have stated the following:**

East Mersea Parish Council has discussed this resubmission of a significant building programme to provide 18 self-catering cottages and 14 new holiday homes on the northern part of Coopers Beach. Whilst we accept that the last submission was approved in late 2014, we do have significant reservations arising from infrastructural and other changes since that time.

Firstly, however, we would reiterate our objection submission dated 25/09/14 to the previous application Ref: 145513 and would emphasise all the points we made against approval at that time, particularly the following -

1. The matter of full time, permanent residency by caravan occupants is becoming more rife, especially at Coopers Beach, despite the Parish Council

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providing ample evidence of this to the Borough. The total lack of action by both the Borough and the Coopers Beach management in policing this is most frustrating and is causing much anti-tourist feeling in the parish due to individuals openly bragging that they live on sites full-time and pay no council tax. Thus, our fears, expressed in our previous submission that this illegal practice would increase, have turned out to be absolutely true.

2. The Transportation Statement and the Travel Plan are both by Stilwell Partnership and dated May 2011 and are hopelessly inaccurate and misleading, apart from being 7 years out of date! Eg. there are no buses to West Mersea and only one a week to Colchester, there is no Post Office and local store in East Mersea, the Fox PH is in West Mersea, the site is certainly not within reasonable walking distance of West Mersea. These documents recommend cycling as the means of alternative transport to and from the site – amazingly supported by ECC Highways – which is about the most dangerous pursuit possible in East Mersea due to the traffic density and speed. Local inhabitants have long since abandoned this mode of transport because of this. Walking is also a perilous activity due to the lack of any pedestrian pavements and street lighting. This application will result, we are told, in an additional 4,000 visitors a year – the roads will not support it.

Another point concerns the economic figures submitted by the applicant in support of their case, including additional local jobs. This is patently rubbish and unsupported by reality – there are no local shops!

Since the original applications for this additional accommodation were approved, there has been much growth in traffic due to the installation of a children's playground by ECC at Cudmore Grove Country Park. This uncalled for intrusion into the park has caused traffic chaos on most good-weather days in the school holidays and at week-ends, blocking the access road to the park and preventing local residents from leaving and returning to their homes. This situation is intolerable and has not yet been addressed with any sustainable solution and will be made worse by this proposed increase in accommodation and thus visitors in cars.

The above represents further aggravation to the local roads system, noise and general pollution, including litter and, to add to this there is the current appeal by Away Resorts against their application to site a further 67 static caravans on their site. The country village of East Mersea cannot absorb this number of additional visitors and their cars.

In conclusion, East Mersea Parish Council reflects the vast majority of local residents' views on this incremental growth in the caravan parks, whether mobile, static or conversion of existing buildings and the message to the Borough is enough is enough, please refuse this application.

East Mersea Parish Council objects to any further units be it conversions or new build as the village infrastructure cannot cope with any further units on any of the caravan sites but also with emphasis to the way that Parkdean flout the conditions of their licence by allowing residential use and allowing people to travel to work from the site (it is for holiday use only).



## **10.0 Representations from Notified Parties**

10.1 The application resulted in 35 notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- Lack of ecological information
- Concerns regarding permanent occupation of caravans
- Lack of infrastructure on Mersea
- Harmful impact upon countryside
- Lack of wider benefits
- Highway safety concerns
- Concerns regarding impact upon heritage
- Objections to any further caravans on Mersea
- Refusal at Away Resorts
- Flood concerns
- Requirement for farmland at Mersea
- Misleading supporting documentation and data
- Contrary to East Mersea Design Statement
- Noise concerns
- Litter concerns
- Light pollution concerns

## **11.0 Parking Provision**

11.1 The parking standard for Caravan Parks is one space per pitch and one space per full time equivalent, cycle parking is one space per five pitches. There is no specific standard for this type of holiday accommodation.

11.2 The application shows the provision of 32 parking spaces; 28 of these are within an area of land between the converted outbuildings and the holiday cottages, the remainder are on land occupied by sales caravans. The main parking area has been divided up by the use of planted spacers between the groups of three and four bays. There would be secure cycle parking racks provided for the proposed holiday cottages and an on-site cycle hire facility to encourage holiday makers to use alternative modes of transport.

11.3 There is space within the site to accommodate vehicles generated by this proposal.

## **12.0 Accessibility**

12.1 A planning condition has been suggested in order to ensure the proposal is compliant with the Disability Discrimination Act.

### **13.0 Open Space Provisions**

13.1 There is no standard for holiday accommodation but the development proposes a central courtyard for the self-catering accommodation and the converted holiday lets each have an amenity area.

### **14.0 Air Quality**

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

### **15.0 Planning Obligations**

15.1 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 (s.106) of the Town and Country Planning Act 1990.

### **16.0 Report**

#### Principle:

16.1 This site is a small part (0.7 hectares) of a much larger area (7.8 hectares) allocated for holiday caravan use within the Site Allocations Document and forms an extension to the Coopers Beach Holiday Park. The main area of the extension relates to land on the opposite side of the access road. The allocation document lists a number of considerations that need to be addressed within any application. The main issues are: delivery of or contribution towards highway and access improvements as well as public transport, cycling & walking; a Code of Conduct to be agreed between land owners, Natural England and Colchester Borough Council; occupancy restrictions; landscaping scheme to minimise impact and no detrimental impact upon St Edmunds Church. These issues are all addressed in the application proposals.

16.2 The principle of the proposed use complies with Colchester Borough Council's planning policies. Paragraph 8.17 of the Site Allocations DPD recognises the valuable contribution caravan parks such as Coopers Beach make to the supply of holiday accommodation in the Borough.

16.3 Planning Policy supports the conversion of the existing rural buildings as part of the proposals; this accords with national policy particularly paragraphs 83 and 84 of the NPPF which supports sustainable rural businesses which involve the expansion of existing rural businesses and the re-use of existing buildings. The conversion of the existing buildings also accords with local planning policies DP9 and DP10 of the DPD relating to tourism use in the countryside.

16.4 The Site Allocations DPD requires the delivery of or contribution towards highway and access improvements required as well as the public transport, cycling and walking and policy DP10 also requires tourism proposals to promote accessibility. Due to the nature of the proposed use it is highly likely that the

DC0901MWeV9.3

majority of visitors will arrive by car. The submitted Travel Plan proposed new cycling facilities as part of the development. The caravan park owners should also be provided additional information promoting walking and cycling routes in the local area for those staying at Coopers Beach. This would accord with proposals in the East Mersea Village Design Statement to improve cycling facilities between West and East Mersea.

16.5 The land that is subject to this planning application is allocated for caravan use in the current Local Plan and emerging Local Plan. On balance, the reuse of the existing buildings and expansion of Coopers Beach is supported in policy terms.

16.6 Planning permission was granted for an identical development under application reference 110913 and 145513. These are material considerations.

### Design

16.7 Core Strategy policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy policy UR2 seeks to promote and secure high quality design. Development Policies DP1 and DP12 set out design criteria that new development must meet. These require new development to be of a high quality and respect the character of the site and its context.

16.8 The scheme has been amended since submission in order to ensure materials are of a high quality. Whilst the buildings are not listed they are of traditional design. The buildings when converted will have slate roofs and brick and weather boarded elevations and will provide an attractive edge to the holiday park site. The new build units have steeply pitched slate roofs and dark stained weather boarded elevations. On balance, the proposal is considered to be of an acceptable design and is in compliance with the aforementioned policies.

### Scale Height and Massing

16.9 The proposal involves the conversion of existing buildings mainly single storey but including one 2-storey building. The new build cottages are 1 - 1.1/2 storeys in height. The new build reflects the scale of existing buildings and are mainly hidden from public views by existing holiday park development. As such, the proposal is considered to be acceptable in this regard.

### Highway Matters

16.10 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access. Relevant paragraphs of the NPPF provide guidance on transportation matters, including that application should only be refused on highway grounds if the impact (on safety or capacity) is severe.

- 16.11 The application is supported by a Transport Assessment and Travel Plan. There are approximately 600 static caravans within the complex. The proposal is to provide an additional 32 units and whilst it will add to the existing vehicular activity within the area it is not of a scale that would justify withholding permission. The response from the Highway Authority does not raise an objection to the scheme.
- 16.12 The Travel Plan seeks to encourage staff & visitors to use cars more efficiently and to encourage alternative travel modes (walking, cycling & public transport).
- 16.13 It is noted that many of the objections that have been received in relation to the proposed development have identified the perceived inadequacy of the local highway network and the problems experienced by motorists at present, especially during the school summer holidays. The concern is that the proposed development would exacerbate current problems and also create highway safety issues. These views are fully acknowledged and appreciated.
- 16.14 Notwithstanding these concerns the Highway Authority has advised in its consultation response (available to view on file) that the impact of the proposal is acceptable to the Highway Authority. As such, the proposal is considered to be acceptable in this regard.

#### Heritage Issues

- 16.15 Core Strategy policy UR2 seeks to enhance Colchester's unique historic character and protects features which contribute positively to the character of the built environment from demolition or inappropriate development, these features include buildings and Conservation Areas. Development Policy DP14 seeks to protect the Council's Conservation Areas from inappropriate development.
- 16.16 The application site is in proximity to a Grade I Listed Church and a Grade II Listed Hall. The Historic Buildings and Areas Officer does not raise an objection to the scheme. These buildings are separated from the new buildings by the existing former agricultural buildings, which are to be converted, as well as by the new parking area between the existing and the proposed buildings. The conversions in themselves will not adversely impact upon these listed building or their wider settings.

#### Landscape and Trees

- 16.17 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within section 11 of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.

16.18 In this instance, the application was accompanied by an Arboricultural Impact Assessment, Tree Protection Document and Landscaping Scheme. Both the Arboricultural Officer and Landscape Advisor do not raise concerns in relation to the scheme, and recommend planning conditions in order to ensure tree protection and landscaping measures are secured. In this regard, the proposal is considered to be acceptable and recommended conditions are suggested.

### Ecology

16.19 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.

16.20 The application has been supported by an Ecological Report. The report provides an ecological appraisal of the site within the context of the surrounding area. It outlines the habitat features on the site, the likelihood of protected species being present and any potential effects of the proposed development on protected species.

16.21 The report notes that no significant ecological constraints were identified that would adversely affect the development of the site. A number of mitigations and enhancements were recommended to be incorporated, as encouraged by the NPPF. For these reasons, it is considered that the proposed redevelopment of this site would not have a significantly adverse effect on protected species and that any impact could be suitably moderated through ecological enhancement and mitigation measures, secured by suggested planning conditions.

### Flooding

16.22 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures 0.7 hectares and as such a FRA is not required to support the application. Given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.

### Contamination

16.23 Development Policy DP1 requires all development to avoid unacceptable environmental impacts. The application has been supported by a Contamination Report which confirms the level of risk assessed is unlikely to have an adverse effect on the property and would not be designated "contaminated land" within the meaning of Part IIA of the Environmental Protection Act 1990. Further to this, the Contaminated Land Officer has not raised an objection and notes that contamination could be suitably controlled by suggested planning conditions. As such, the proposal is considered to comply with the aforementioned policy.

### Comments on objections raised

- 16.24 The comments made by the parish council and residents refer to the 12 month occupancy of the caravans and refer to possible breaches of the site license in respect of residential rather than holiday use. The occupancy on the Coopers Beach site is controlled by the site license only. Planning permission was granted at appeal in the 1960's and the Planning Inspector decided it was not necessary to impose a planning condition restricting the occupancy period as this would be secured under the site license. The Council's Licensing Team and Enforcement Team investigate the site on a bi-annual basis in order to ensure the site is operating in line with the license. Should breaches occur, then these are dealt with. If any additional information comes to light that should be investigated, these can be reported to the Enforcement and Licensing Team for further investigation. The current application does not propose 12 month occupancy and a new planning application would be required to vary any of the conditions.
- 16.25 It is understood new bases are proposed within the authorised caravan site area and the total number will not exceed the maximum number imposed on the license.
- 16.26 This application has to be determined on planning policy, its planning merits and the earlier permissions for an identical development are a material consideration.
- 16.27 A number of objections raised an application 162442 as a concern. This application sought planning permission for 67 static holiday caravans at Cosways Holiday Park. This application was refused by the Council and dismissed at appeal. The reasons for dismissal are based on the impact upon the landscape character and coastline. In this instance, the application at hand does not create a harmful impact upon the landscape character and or wider area. Further to this, all applications should be determined on their own planning merits.
- 16.28 A significant number of representations also included concerns in relation to the perceived inadequacy of the local highway network around the application site to deal with the impacts of the proposed development. These concerns are fully acknowledged by the Council. However, it is the case that Essex County Council, as highway authority, did not raise an objection to the proposals, subject to the imposition of conditions on a grant of planning permission.

### **17.0 Conclusion**

- 17.1 The site is allocated for holiday use and is therefore acceptable in principle and in accordance with policy. The development is also considered to be acceptable in terms of the design and layout and in terms of the landscape impact. A condition is proposed to restrict the period that the accommodation can be occupied.

## 18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

### 1. ZAA - Time Limit for Full Permissions

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 3147-215 Revision B, 3147-216 Revision B, 3147-217 Revision C, 3147-227 Revision A, 3147-228 Revision A, 3147-210 Revision E, 3147-225 Revision B and 3147-226 Revision B

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

### 3. Non Standard Condition - Holiday occupation

The new accommodation hereby permitted shall only be used to provide holiday accommodation as an extension to the existing Coopers Beach Holiday Park and shall not be occupied other than as follows:-

- (i) Between 1 March to 31 October; and then
- (ii) At weekends from 1 November to 14 January in the subsequent year (weekends being defined as mid-day Friday to mid-day Monday) both dates inclusive together with
- (iii) A period of 14 consecutive days from 23 December to 5 January, both dates inclusive.

Reason: The site is within an area where it is the policy of the Local Planning Authority to prevent permanent residential use. Planning permission is given in this instance for holiday use only as an extension to the existing Holiday Park.

### 4. Non Standard Condition - Parking

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 3147-210-REV E. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

### **5. Non Standard Condition - Cycle parking**

Cycle parking facilities, together with cycle hire facilities, shall be provided in accordance with the submitted Travel Plan, or as agreed in writing by the Local Planning Authority in consultation with Essex County Council Highway Authority in the form of any amendments to the Travel Plan. These facilities shall be maintained thereafter to serve the development.

Reason: In order to provide adequate cycle facilities and to encourage the use of alternative modes of travel.

### **6. Z00 – Travel packs**

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Travel Information Packs for sustainable transport sufficient for the occupants of each unit on site approved by the Local Planning Authority.

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

### **7. Non Standard Condition – DDA Compliant**

Notwithstanding the details shown on the approved drawings, the accommodation to be provided by the conversion of the existing outbuildings and the new holiday cottages shall be compliant with the Disability Discrimination Act.

Reason: For the avoidance of doubt and to ensure that the development is DDA compliant.

### **8. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)**

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

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

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination,



CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

#### **9. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)**

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

#### **10. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

#### **11. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8, and where remediation is necessary a remediation scheme must be prepared in accordance

with the requirements of condition 9, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 10.

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

## **12. ZG3 - \*Validation Certificate\***

Prior to the first use of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 9.

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

## **13. Non Standard Condition – Materials**

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

Reason: To ensure the use of appropriate materials and finishes within this site which lies within the open countryside and in close proximity to Listed Buildings.

## **14. ZFE – 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.

## **15. Non Standard Condition – Landscaping**

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation

programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Proposed finished levels or contours.
- Means of enclosure.
- Car parking layouts.
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables.

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

#### **16. ZGT - No External Light Fixtures**

No external lighting fixtures shall be constructed, installed or illuminated at any time.

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

#### **17. Non Standard Condition – Ecology**

No works shall take place until details of a programme of biodiversity enhancements, including implementation timetable, has been submitted to and agreed, in writing, by the Local Planning Authority. The programme shall be in line with the recommendations provided in the submitted Ecological Appraisal referenced HDA 742.1 dated November 2018. The development shall thereafter be carried out in accordance with such agreed details.

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

### **18. Z00 - Heritage Assessment**

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

### **19. Non Standard Condition – Archaeology**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

### **20. Non Standard Condition – Trees**

The development hereby approved shall be carried out in strict accordance with the submitted Tree Protection Plan (ref:742.6/02 HAD T2) for the lifetime of the construction works:

Reason: In order to safeguard the amenity of the trees.

## **21. Non Standard Condition – Travel Plan**

The development hereby approval shall be carried out in strict accordance with the submitted Travel Plan Framework Version 1.0 dated 18/05/11.

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

## **19.0 Informatives**

19.1 The following informatives are also recommended:

### **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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### **3. ZTB - Informative on Any Application With a Site Notice**

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

### **4. Non Standard Informative – Archaeology**

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

<http://www.colchester.gov.uk>

### **5. Non Standard Informative - Highways**

The public's rights and ease of passage over Public Footpath No.5 (East Mersea) shall be maintained free and unobstructed at all times.

### **6. Non Standard Informative – Highways**

The Highway Authority observes that only one off street parking space per unit is proposed although some units may accommodate more than the occupants of one car and no overflow or additional parking is being shown.

## **7. Non Standard Informative – Landscaping**

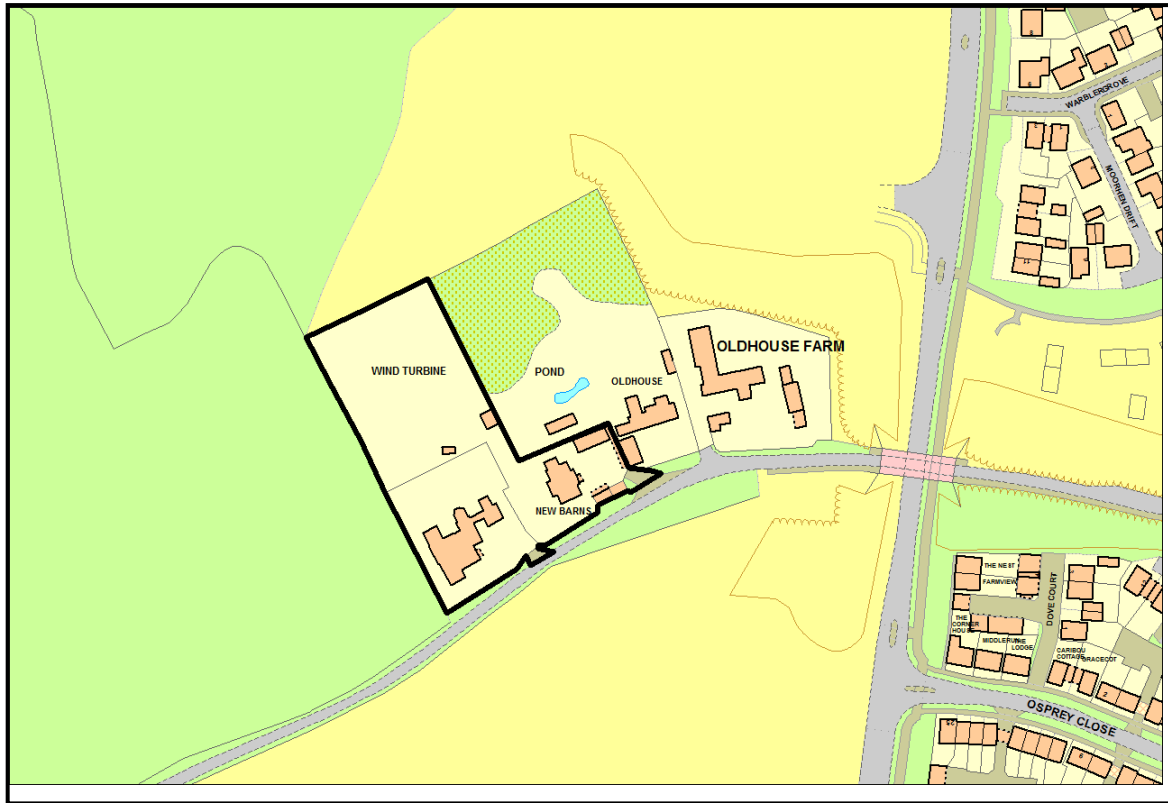
Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape webpage under Landscape Consultancy by clicking the 'read our guidance' link).'

## **8. Non Standard Informative – Highways:**

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
**CO4 9YQ**



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**Item No:** 7.5

**Application:** 190079

**Agent:** Manor Services

**Proposal:** Removal of condition 3 of planning permission 101276 (dated 24 Aug 2010) stating 'The building hereby permitted shall only be occupied by dependent relatives of the residents of the main dwelling on this site known as Stirling Lodge and the planning unit shall not be subdivided, seperated or altered so as to create two or more dwelling units'.  
(Retrospective application.)

**Location:** New Barns, Church Lane, Stanway, Colchester, CO3 8LP

**Ward:** Marks Tey & Layer

**Officer:** Annabel Cooper

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because the site is outside the adopted settlement boundary for Colchester in an area shown as countryside and relates to the creation of an independent dwelling in lieu of an existing annexe. The proposal is therefore a Departure to Policy.

## **2.0 Synopsis**

- 2.1 The key issue for consideration is the principle of development; in particular the location of the site outside the settlement boundary. The proposal has accordingly been advertised as a Departure to policy as the scheme relates to an independent dwelling in the countryside. Other issues covered in the report include impact on the character of the area; impact on residential amenity and parking provision, setting of the nearby Listed Building and a Wildlife mitigation payment.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable, a Departure from Policy is justified and that approval is recommended.

## **3.0 Site Description and Context**

- 3.1 The site lies in the countryside outside of the settlement limits for Colchester. At its closest the settlement boundary is 75m from the annex. In the Emerging Local Plan a residential allocation has been identified to the north of the site 75m away from New Barns.
- 3.2 A new highway bridge has been created that serves Church Lane connecting the site to the new Lakelands development to the east.
- 3.3 The annex is situated between Stirling Lodge, the host dwelling and the Oldhouse. The annex is served by its own access off the highway. This access is also used to serve a parcel of land to the NW of the site which is part of the Stirling Lodge Estate. There is a Grade II Listed Building known as Oldhouse to the North West of the site.
- 3.4 The annex is a single storey chalet style building. There are several outbuildings that serve the annex directly.



## **4.0 Description of the Proposal**

- 4.1 The proposal is to change the use of the annexe to a single 2 bedroom, independent dwellinghouse by removing condition 3 of planning permission 101276 (dated 24 Aug 2010) which stated: 'The building hereby permitted shall only be occupied by dependent relatives of the residents of the main dwelling on this site known as Stirling Lodge and the planning unit shall not be subdivided, separated or altered so as to create two or more dwelling units'.
- 4.2 This is a retrospective application as independent occupation has already commenced.
- 4.3 A parking area is shown in front of the annexe that would provide independent parking area that will easily serve 2 or more vehicles. No external alterations are proposed.
- 4.4 The Statement of Support presented by the applicants gives a brief history to New Barns to demonstrate how the current living arrangements have evolved and the arguments for the removal of the condition. Please see summary below:
- 4.4.1 New Barns was granted planning permission as an annexe to Stirling Lodge eight years ago, the purpose was to provide assisted living accommodation to the applicant's mother and father, the parents of the applicants sadly have passed away. The applicants now live in New Barns and rent Stirling lodge to an elderly gentleman with full time care.
- 4.4.2 The Statement of Support argues that the local area has changed considerably since the permission was granted 8 years previously, with new residential, commercial and retail development and the development of the Church Lane bridge. The land abutting Church Lane to the south of both Stirling Lodge and New Barns has outline Planning Permission for 'Commercial Leisure'. Rather than let the building stand empty the applicants moved into the annex whilst renting out Stirling Lodge.
- 4.4.3 It is also argued that the change to the condition would not have a harmful impact on neighbouring properties or the surrounding area.

## **5.0 Land Use Allocation**

- 5.1 Countryside and domestic curtilage.

## **6.0 Relevant Planning History**

- 6.1 101276  
29/6/2019 – Full  
New detached 2 bedroom single storey annexe in the grounds of Stirling Lodge.  
Approved Conditional - 24/08/2010

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

UR2 - Built Design and Character

TA5 - Parking

ENV1 - Environment

ENV2 - Rural Communities

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings#

DP14 Historic Environment Assets

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

DP17 Accessibility and Access

DP19 Parking Standards

7.4 There are no relevant policies within the adopted Borough Site Allocations Policies (adopted 2010, amended 2014).

7.5 There are no relevant Neighborhood Plans.

7.6 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

7.7 There are no relevant adopted Supplementary Planning Documents (SPD).

## **8.0 Consultations**

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

### 8.2 Highway Authority:

The Highway Authority does not object to the proposals as submitted.

### 8.3 Conservation Officer:

#### 1.0\_ Scope of Works: Summary

1.1 The planning application seeks to remove Condition 3 of Planning Permission 101276 which involves the occupancy of New Barns: according to the condition, the building could only be occupied by dependent relatives of the residents of Stirling Lodge and could not be subdivided, separated or altered so as to create independent dwelling units.

#### 2.0\_ Comments on Impact Upon Heritage

2.1 New Barns is a contemporary building that was added to the site of Stirling Lodge about 3 years ago according to the Supporting Statement. Stirling Lodge is a modern bungalow too and therefore neither of the two buildings has any historic interest. They are however situated at close distance to the Grade II listed Oldhouse Farmhouse (List UID 122485) to the and therefore any scheme that involves them has the potential to affect the historic building's setting.

2.2 The present application involves the occupancy status of New Barns and Stirling Lodge. The relevant arrangements haven't required any material alterations to the buildings or its surroundings which could have potential impact on the adjacent heritage asset.

2.3 However, the issue can potentially raise some concerns regarding the impact on Oldhouse Farmhouse if the review of the application takes also into consideration planning application 182467, which seeks permission for the demolition of a single storey outbuilding to the NE of New Barns and right next to the listed property and its replacement by a building of increased footprint and size. In this case, it could be argued that the use of New Barns as an independent dwelling appears to generate new demands for additional floor space which seek to be met by the increase of density within the setting of the listed building. In that sense, the use of the two buildings as individual dwellings may have the potential to impact the setting of the listed buildings by prompting further changes on the site (addition of new auxiliary outbuildings, additions/increase of the existing ones, extensions to the main buildings etc). On the other hand, the use of New Barns as an annexe to Stirling Lodge would not rule out that the owners would still wish to change the use and appearance of the existing outbuildings and would have submitted planning application 182467 anyway.

### 3.0\_ Conclusions and recommendation

3.1 The planning application involves a change of occupancy which did not have any material impact on the setting of the adjacent listed building. Although it must be pointed out that the division of Sterling Lodge and New Barns in two separate dwellings may generate a requirement of changes in the site that can reflect on the historic asset, the review of the application on the basis of the existing situation can hardly provide sufficient reasons for objection on heritage grounds.

### 8.4 Archaeologist states:

"No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation."

### 8.5 Environmental Protection

"no comments" to make on the application.

## 9.0 **Parish Council Response**

9.1 Stanway Parish Council OBJECTS to this proposal and feel condition 3 should stay in place.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No representations have been received.

## **11.0 Parking Provision**

11.1 Sufficient space for two parking spaces at both the host dwelling and the proposed new dwelling.

## **12.0 Accessibility**

12.1 The scheme complies with the provision of the Equalities Act and complies with DP17 which covers accessibility and access.

## **13.0 Open Space Provisions**

13.1 N/A

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

15.1 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 (s.106) of the Town and Country Planning Act 1990.

## **16.0 Report**

- 16.1 The main issues in this case are:
- The Principle of Development
  - Impact on the Countryside
  - Private Amenity Space Provision
  - Parking Provision
  - Impact Upon setting of Listed Building
  - Wildlife Mitigation Payment

### Principle of the Development and Impact on the Countryside

16.2 The main issue in terms of the principle of the proposal is that the site is located outside the settlement boundary and accordingly the creation of an independent dwelling in lieu of the existing annexe is a Departure to the development plan that needs to be justified. Whilst such development would be acceptable in principle within the settlement boundary (Core Strategy Policy SD1), development outside settlement boundaries is strictly controlled in order to protect and enhance the character of the countryside, as well as safeguard the

biodiversity, geology, history, and archaeology of undeveloped sites (Core Strategy Policy ENV1). Accordingly, the application has been advertised as a Departure to the Local Plan as it involves the provision of a new, independent residential unit in the countryside. It is important to note, however, that planning policy does not rule out development in the countryside altogether, but there are tighter controls to development in these locations. The main planning considerations for the principle of development in these cases are: whether the proposal represents sustainable development, having either a positive or negligible impact upon economic, social, and environmental factors; and its impact upon the character of the countryside.

16.3 The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

16.4 The NPPF goes on to state that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. It also states that to ensure sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

16.5 The annex is on the edge of the Colchester settlement boundary, it is approximately 0.5 miles from the Tollgate Retail Park and other services in this area. The site is also the same distance to numerous bus stops and bus routes including to Colchester and Braintree.

16.6 Both the use of the building as an annexe and as a private dwelling would support these facilities and businesses, as occupants would be likely to use them. The proposal is therefore likely to have a positive economic impact. There would also be an environmental benefit as the services are within walking distance from the site and there is access to a wider range of facilities and job

opportunities by means other than private car, which would reduce pollution from regular private car use. If the building remained empty because there was no one to occupy it because of the restriction, there would be a negative impact on the social and economic benefits.

- 16.7 The context of the site is relevant in determining the likely impacts upon the character of the countryside. The site not visually part of the open countryside, it being located between longstanding residential development in the form of the host dwelling and the Oldhouse. The development appears as part of a ribbon of development along Church Lane. The surrounding area is well screened by a brick walls and hedging enclosing the Stirling Lodge Curtilage including New Barns. There is a strong boundary to the surrounding countryside. The frontage of the site where the building is located already reads more as part of the settlement than it does as part of the countryside. The building already exists and it is considered the development would not be harmful to the character or appearance of the wider countryside.
- 16.8 Since planning permission was granted in 2010 the settling of the site has change considerably. There has been the construction of the Lakeland development to the east of the site. As well as the creation of a new road bridge connecting Church Road to the new development. In the Emerging Local Plan which is at an advanced stage and should be given some weight a site 75m to the north of the site has been allocation for residential development. Further, evidencing that although outside of the settlement boundary the site is in a sustainable location.
- 16.9 The building itself is a single storey chalet style bungalow with hipped gables and black cladding. The interior of the building incorporates a kitchen, living room, hallway, two bedrooms and two en-suite bathrooms. The building already has permission for a residential use albeit ancillary to the main dwelling. No physical works are required to the building to allow the use to operate and there will be no change to the appearance of the site or surrounding area. The specific annexe use is also no longer required as family circumstances have changed since the time of the original approval, as outlined earlier.
- 16.10 As stated above, applications should be determined in accordance with the development plan unless material considerations indicate otherwise. One such consideration is the expression of Government policy. Paragraph 79 of the updated Framework, states that isolated new homes in the countryside should be avoided unless, amongst other things, the development would involve the subdivision of an existing residential dwelling. This exception is a recent addition to the framework following a recent revision in July 2018. By explicitly setting out this exception, national policy is acknowledging that there will be some circumstances where rural development will be acceptable despite non-compliance with the general aspiration to locate housing within settlement boundaries. In this instance it has been demonstrated that the building is not isolated, it is well located in relation to Colchester and close to facilities.

- 16.11 A recent appeal decision (28/9/18) at Winslade Manor, Exmouth Road, Cyst St Mary Exeter (APP/U1105/W/17/3191044) has some parallels with this case albeit in a more isolated location than the current proposal in Langham village. That appeal related to the occupation of an annex without complying with the condition that stated “The dwelling hereby permitted includes accommodation which may be used as an annex to the main dwelling but shall not be used as an independent unit of residential accommodation separate from that house.” The Inspector allowed the appeal and concluded the following:

*“Para 16. The appeal proposal would divide the existing residential unit into two houses. There is therefore, no doubt that the proposal before me would involve the subdivision of an existing dwelling. Consequently, it is my view that the exception contained in Paragraph 79 (d) of the Framework, namely that the subdivision of an existing dwelling is acceptable in isolated locations, applies in this case.*

*Para 19. The Framework sets out a clear and recent statement of the Government’s policy in respect of the acceptability of residential subdivisions in isolated rural locations. As such, it is a material consideration that carries substantial weight in my decision and, in the particular circumstances of this case, outweighs the conflict with the development plan.”*

- 16.12 Given all of the above factors, it is considered that a Departure to Policy has been justified.

#### Residential Amenity, Private Amenity Space and Parking Provision

- 16.13 It is considered that the new independent dwelling and the original dwelling known as Stirling Lodge can co-exist without there being any significant impact upon the residential amenity of the occupants of both properties, including from noise and disturbance, which accords with Policy DP1. There is plenty of space to provide adequate parking for both properties which is existing and separate. Essex County Council as the Local Highway Authority do not object to the proposal. It should be noted that regardless of whether the building is occupied as an annexe or as a separate unit, the occupiers are likely to own cars. Policy DP19, which states that two car parking spaces should be provided, has been met. There is also sufficient and separate private amenity space retained for both properties in accordance with Policy DP16.

#### Setting Of the Adjacent Listed Building

- 16.14 New Barns is situated at close distance to the Grade II listed Oldhouse Farmhouse and therefore has the potential to affect the historic building’s setting. The current proposal to remove condition 3 does not require any material alterations to the buildings or its surroundings which could have potential impact on the adjacent heritage asset. However, it could be argued



that the use of New Barns as an independent dwelling could generate new demands for additional floor space which may have the potential to impact the setting of the listed buildings by prompting further changes on the site. Therefore, to mitigate this concern Permitted Development rights for New Barns will be removed should the application be approved. Any future application could therefore be considered on its merits, including consideration of the impact upon the setting of the Listed Building.

### Wildlife

- 16.15 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site.
- 16.16 Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In Colchester we have the Colne Estuary Special Protection Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.
- 16.17 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the Government's advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £122.30, which applies to all residential development within the Zone of Influence (Zoi). The whole of Colchester Borough is within the Zoi. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.
- 16.18 Therefore should the application be granted approval a payment of £122.30 will be required.

## Summary

16.19 Given the specific, physical circumstances of the proposal described above, and the lack of harm to the character and appearance of the area, the proposed development would not conflict with Core Strategy Policy ENV1 which aims to conserve and enhance Colchester's countryside. Overall it would achieve the three dimensions of sustainable development sought by Core Strategy Policies SD1 and H1, and which the Framework promotes.

## **17.0 Conclusion**

17.1 Whilst the proposal is contrary to planning policy in terms of its location outside the village settlement boundary, planning approval is justified due to the particular site circumstances which would enable a change of use to take place without any negative impacts. The environmental aspects of the application are considered to be neutral but the proposal will provide limited social and economic benefits by affording a permanent new home for a family. The views of the Parish Council have been taken into account but are not considered to outweigh the benefits. Although such benefits would be small, nevertheless, it would fulfil the social and economic dimensions of sustainable development as set out in Paragraph 8 of the Framework which is a material consideration which outweighs the minor harm and conflict with the development plan. A conditional approval is recommended.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

### **1. ZAM- 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: 11097-01 indexed 17<sup>th</sup> Jan 2019 and 'Site Location Plan' indexed 17<sup>th</sup> Jan 2019.

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

### **2. ZDC-Removal of PD for All Residential Extensions & Outbuildings**

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity, to ensure the development avoids an overdeveloped or cluttered appearance and in the interests of preserving the setting of the nearby Listed Building.

## **19.0 Informatives**

19.1 The following informatives are also recommended:

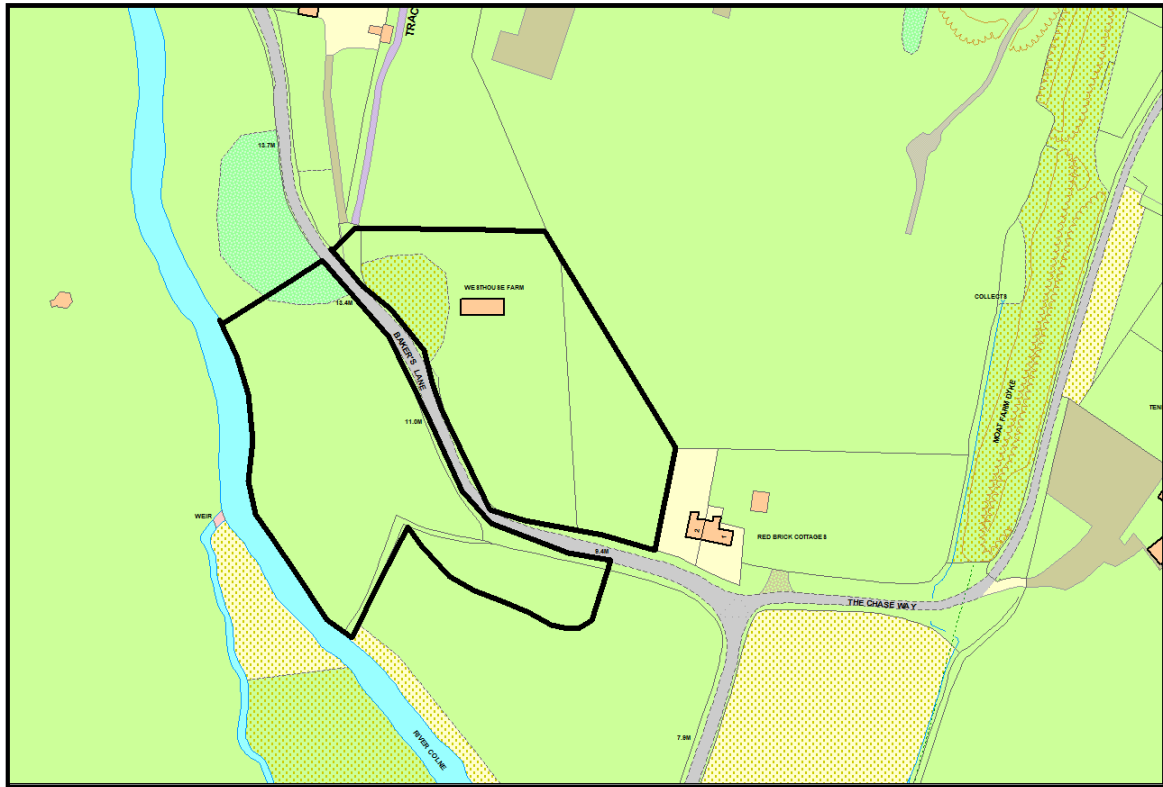
### **1, ZT0 – Advisory Note on Construction & Demolition**

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. ZTB - Informative on Any Application With a Site Notice**

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





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**Item No:** 7.6

**Application:** 172873

**Applicant:** Mr Stephenson

**Agent:** Mr Robert Pomery

**Proposal:** Change of use of land from agriculture and erection of 6 holiday lets

**Location:** West House Farm, Bakers Lane, Colchester, CO3 4AU

**Ward:** Lexden & Braiswick

**Officer:** Benjy Firth

**Recommendation:** Approval

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

- 1.1 This application has been called-in for determination by the Planning Committee by Councilor Barber on the following basis:

*Considerable opposition received from local residents and the fact it is not in keeping with local surroundings nor in the Local Plan.*

## **2.0 Synopsis**

- 2.1 The key issues for consideration are whether an appropriate scale and design of development is proposed that ensures its compatibility with the rural character of the site and mitigates its impacts upon the wider landscape setting.
- 2.2 The application is subsequently recommended for Approval.

## **3.0 Site Description and Context**

- 3.1 The application site comprises of two parcels of agricultural land totalling just under 1ha. in area, located either side of Bakers Lane and forming part of the agricultural holding of West House Farm. Bakers Lane essentially connects the Spring Lane roundabout to the B1508 and has the character of a rural lane. The River Colne runs adjacent to the holding's western boundary, whilst a golf complex sits to the east and residential properties to the north and south.

## **4.0 Description of the Proposal**

- 4.1 The proposal seeks permission for the change of use of the land within the application site from agriculture and the erection of six holiday lets, along with associated landscaping, parking and access arrangements.

## **5.0 Land Use Allocation**

- 5.1 The site is located outside any settlement boundary and is considered agricultural "white" land.

## **6.0 Relevant Planning History**

- 6.1 None identified.

## 7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- UR2 - Built Design and Character
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP8 Agricultural Development and Diversification
- DP10 Tourism, Leisure and Culture
- DP14 Historic Environment Assets
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

7.4 Publication Draft Colchester Borough Local Plan 2017-2033

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing. The following emerging policies are considered to be relevant:

- Policy ENV1: Environment
- Policy OV2: Countryside
- Policy DM5: Tourism, Leisure, Culture and Heritage
- Policy DM15: Design and Amenity
- Policy DM23: Flood Risk and Water Management

Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

- (1) the stage of preparation of the emerging plan;
- (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and

(3) the degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and may therefore be afforded some weight in the determination of this application. In the context of this application proposal there are no fundamental unresolved objections to the relevant policies in the emerging plan and it is considered, at this stage, that the relevant policies in the emerging Local Plan are consistent with the Framework. The Emerging Local Plan is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Council's Arboricultural Officer is satisfied with the arboricultural content content of the proposal subject to conditions.
- 8.3 The Council's Landscape Officer confirmed that the strategic proposals lodged on 06/02/19 would appear satisfactory. In conclusion, there are no objections to this application on landscape grounds.
- 8.4 The Council's Environmental Protection Team requested a condition be applied to any permission regarding external lighting.
- 8.5 The Council's Contaminated Land Officer made no comment on the application.
- 8.6 The Council's Archaeological Adviser has confirmed that an adequate trial trenched archaeological evaluation was undertaken in 2018 (CAT Report 1300). This work demonstrated that no material harm will be caused to the significance of below-ground archaeological remains by the proposed development. As a result, there will be no requirement for any archaeological investigation.
- 8.7 The Environment Agency have confirmed that they have no objection to the proposal as the application expands the proposed site outside of the flood zone areas and therefore poses no further flood risk.
- 8.8 The Highway Authority confirmed that from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions.
- 8.9 The ECC SUDs Team made no comment on the application.
- 8.10 Highways England made no comment on the application.
- 8.11 Natural England made no comment on the application.



8.12 Historic England made no comment on the application.

8.13 Anglian Water provided no comment on the application.

## **9.0 Parish Council Response**

9.1 No comments received.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below;

- Concerns regarding highway safety
- Intensification in the use of Bakers Lane
- Unsafe access arrangements
- Inadequate visibility splays
- Impact on ecology and wildlife
- Disposal of waste/foul water
- Potential flooding
- Potential noise pollution
- Potential light pollution
- Impact on neighbouring amenity
- Impact on the character of the area
- Lack of benefits for local community
- Impact on national monument
- Sustainability of location
- Inadequate landscaping
- Visual impact
- Design

## **11.0 Parking Provision**

11.1 The proposal includes the provision of two parking spaces per unit. This is consistent with the requirements of dwellings of similar size. The level of parking provided is therefore considered appropriate and acceptable considering the size of the units and the proposed use.

## **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 Planning Obligations**

14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was not considered that any Planning Obligations should be sought.

## **15.0 Report**

### The Principle of Development

15.1 Adopted policy DP10 states that development for new visitor accommodation will be supported in suitable locations where it is compatible with the rural character. Policy goes on to state that where accessibility is poor proposals should be small scale. Both adopted and Emerging policy (DM5) acknowledges that proposals for leisure and tourism schemes may require a countryside location and states they will be supported if they are of an appropriate scale, minimise negative environmental impacts, and harmonise with the local character and surrounding countryside where they are being proposed.

15.2 On this basis, policies within both the adopted, and emerging, Local Plans are supportive of new visitor accommodation subject to achieving an appropriate scale and minimising their impact on the surrounding area. As a result, the proposed development is acceptable in principle and the key considerations are the scale of the development and its impact on the surrounding area.

### Layout

15.3 The proposal seeks to install three holiday lets on twin opposed parcels of land set to either side of Bakers lane. The structures and associated access tracks will be laid out in a linear pattern, running parallel to the site’s boundaries, the adjacent lane and the river. The layout of the proposal therefore reflects the existing grain of the area. The proposed layout also allows for all the proposed development to be positioned on areas of the site beyond the flood zone and adjacent to existing developed land and infrastructure. This minimises the impact of the proposal’s intrusion into the rural landscape and enables existing landscape features such as hedging and site levels to contribute to mitigating the visual impact of the proposal. It is therefore considered that the proposed layout provides a relatively optimal means of facilitating the proposed development within the site in question and as such the layout is considered acceptable.

## Design

- 15.4 The proposed holiday lets take the form of six independent and identical structures. Designed to appear as relatively low-key lodges, the structures have a footprint measuring 6.3m by 17.1m and a height measuring 2m to the eaves and 4m to the ridge. The walls are to be timber clad above a plinth, whilst the roof will be slate, adopting a dual pitch. Precise details of materials would be agreed by condition in order ensure an acceptable standard of quality is achieved and the rural design character is not undermined.
- 15.5 In light of the above, it is considered that the proposed lodges are of a relatively modest size, adopt a traditional architectural approach and a traditional rural design. The design of the lodges is sensitive and befitting of their setting, achieving an acceptable degree of compatibility with the site's rural location. Paragraph 170 of the NPPF states that policies and decisions should contribute to and enhance the natural and local environment by ..b) recognising the intrinsic character and beauty of the countryside." The Council's Landscape Officer advises that the proposals are generally satisfactory subject to appropriate landscape screen planting to enclose the development and filter views.
- 15.6 Each unit has a veranda running along the length of the rear elevation, comprising of a timber deck enclosed by a timber balustrade railing. This veranda will not have any significant impact on the appearance and openness of the site by virtue the its open character of its design and the low height of the balustrade. Additionally, the veranda is accessed from within the unit and as a result the veranda and its associated enclosure act as a barrier between the proposed use and the wider site. Restricting the access and the impact of the proposed use on the wider rural area.
- 15.7 On this basis, the design of the proposed development is considered appropriate and would have an acceptable impact on the character of the site.

## Public Amenity

- 15.8 Public vantage points of the proposed development will primarily be afforded from Bakers Lane, however some long-distance views may be afforded across the river valley from the A12 and associated slip road. The proposed layout of the development along with its sensitive design seek to minimise its impact upon public amenity. A landscaping scheme has been submitted that seeks to further mitigate any impact in conjunction with existing site levels and planting.
- 15.9 The landscaping scheme ensures any existing hedging that is removed along the site boundary to facilitate site splays is replaced. The planting then seeks to ensure that the proposed development is surrounded by native hedging on all sides. The Councils Landscape Officer is satisfied with the assessment provided within the submitted Landscape and Visual Issues Scoping Note and the subsequent landscaping scheme.
- 15.10 Following implementation of the proposal, views of the development from Bakers Lane looking east will be obtained through the existing hedgerow along the highway boundary, up the slope of the valley and filtered through

additional proposed planting. The development to the west of the lane will be viewed through existing and replacement hedging. Additionally, the development to the west will sit at a lower ground level than the lane, thus reducing its mass. As a result, views of the development from Bakers Lane will be fleeting and largely obscured by landscaping. The limited views of the development from the A12 and corresponding slip road would present the proposed structures as part of the existing loose ribbon of development sat above the river valley associated with Bakers Lane itself. These views will also be filtered by existing and proposed planting. Additionally, it should be noted that neither highway affording vantage points of the development is served by pavements. As such the development would largely be observed by receptors within passing vehicular traffic and would not be the primary focus of observation.

- 15.11 The development will potentially have a more significant impact on public amenity at night if any external illumination were to be installed. As a result, this would be limited by a condition imposed on any approval.
- 15.12 In conclusion, it is acknowledged that the the proposed development could potentially be contrary to the Planning and Landscape Management Guidance within the Colchester Borough Landscape Charter Assessment (Character Area A4), which explains that there is a sense of remoteness and tranquility within the valley floodplain. However, the development is located as far above the river valley as is practicable, sits amongst an existing ribbon of development and would be enclosed by planting. As a result, it is considered that the development would have limited impact on public amenity by virtue of its self-contained and generally well screened setting. Additionally, the proposed and existing landscaping in conjunction with the positioning of the development ensure that the development would not have a significant impact on the wider landscape setting.

#### Residential Amenity

- 15.13 The proposed units to the east of Bakers lane sit within proximity of existing residential properties and as such could potentially impact their amenity. However, the modest size and single storey design ensure that there would be no significant impact on amenity; in terms of privacy, outlook or loss of light. The units to the west of Bakers Lane are located some distance from neighbouring residential land uses and as such cause no concerns in this regard. Concerns have been raised regarding noise pollution, however the use proposed is considered compatible with and sympathetic to neighbouring residential uses and as such it is not anticipated it would generate any more noise than existing residential properties in the area. On this basis, the proposal is considered acceptable in terms of its impact on residential amenity.

### Scale

- 15.14 The site is physically capable of accommodating the proposed development. The number of units proposed are able to be positioned in a manner that reflects existing natural features of the site and maintain its rural character. The proposed layout also allows space for the landscaping required to mitigate the impacts of the development on the wider landscape. Additionally, the resulting site does not appear cramped or over developed. On this basis, it is considered that the proposed development is of an acceptable scale.

### Highways

- 15.15 The proposal makes use of three access point on to Bakers Lane, two existing access points to the east and one new access to the west. Each of the access points provides sufficient site splays and has been considered acceptable by the Highway Authority, subject to conditions that would be applied to any approval. Additionally, it is noted that the proposed addition of one access is far less intrusive on the road that the addition of multiple access points that might be expected with other forms of development.
- 15.16 It is acknowledged that Bakers Lane is a busier road than its design befits. However, considering the existing level of use of this road it is not considered that the addition of six holidays lets would result in a significant intensification of this use. The trips generated by the proposed use would not be dissimilar to that generated by other residential uses and would have far less impact than other existing uses accessed via this road. Ultimately, this proposal would not push the level of use of this road over the tipping point of acceptability and this application is not the appropriate vessel for solving existing problems on this road.
- 15.17 In light of the above, the proposed development is considered acceptable in terms of its impact on the highway.

### Archaeology

- 15.18 The application site sits in an area of high archaeological interest and in proximity to an Ancient Scheduled Monument, as a result pre-determination trial trenching was required. The Council's Archaeological Officer has confirmed that an adequate trial trenched archaeological evaluation was undertaken in 2018 (CAT Report 1300). This work demonstrated that no material harm will be caused to the significance of below-ground archaeological remains by the proposed development. As a result, there will be no requirement for any further archaeological investigation.

## Ecology

- 15.19 A phase one ecology survey has been submitted with the application considering the proposed developments impact upon the fauna and wildlife that may be present at the site (including nesting birds, hedgehogs, badgers, water voles, otters and reptiles). The report concludes that the footprint of the proposed lodges and track lies over improved species-poor managed grassland and that with appropriate mitigation the more ecologically interesting parts of the site (river, hedges, trees) would not be impacted significantly by the proposed development.
- 15.20 The report prescribes key recommendations and precautionary methods to be adopted that will minimise and mitigate the impact of the development on the ecology of the site. Said measures outlined within the report would be ensured via a condition attached to any permission granted in order to ensure the development is achieved in an appropriate manner.
- 15.21 On this basis, it is considered that ecology and biodiversity at the site will be conserved and the proposed development is acceptable in this regard.

## Flooding

- 15.22 Following revisions to the scheme the application site measures less than 1 hectare and falls fully within Flood Zone 1, as such the NPPF does not require the submission of a site specific Flood Risk Assessment (FRA). The siting of the proposed development beyond Flood Zones two and three ensures that the development is at a lower risk of flooding from the adjacent river.
- 15.23 However, the previously submitted FRA does allow us to assess other sources of flooding. This confirmed that the site is at a low risk of suffering from ground water flooding, a very low risk from surface water flooding and is unlikely to be affected by flooding caused by artificial water sources.
- 15.24 Additionally, when considering the impacts of the development in other areas the impermeable area created by the proposed development falls below 500 square meters and as such the Lead Local Flood Authority has confirmed that the development would not require a Sustainable Urban Drainage strategy (SUDs).
- 15.25 On this basis, the proposal is considered acceptable with regard to flood risk.

## **16.0 Conclusion**

16.1 To summarise, policy supports the provision of holiday accommodation in rural locations such as this on the proviso that an appropriate scale can be achieved and impacts on the surrounding area can be minimised. In this instance, it is considered that the proposal preserves the openness of the site and provides a suitable scale of development. The design and layout of the proposal, in conjunction with its scale, ensure that the proposed development is compatible with the rural character of the site. Additionally, the proposed landscaping scheme ensures mitigation for the impact of the proposal on the sites wider setting. It is therefore considered that the proposed development is policy compliant and acceptable in the absence of identifiable material harm to material planning considerations..

## **17.0 Recommendation to the Committee**

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

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

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

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

### **2. ZAM - Development to Accord with Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers POS/18/121/1104, NC\_17.325/P200 Rev.A and 1001-B.

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

### **3. Non Standard Condition - Schedule of Types and Colours to be Submitted**

Prior to their use a schedule of all types and colours 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 schedule.

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.

### **4. Non Standard Condition - Tree and Hedgerow Protection: General**

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

#### **5. Tree and Hedgerow Protection: General**

All works shall be carried out in accordance with the submitted Arboricultural Impact Assessment (dated 7<sup>th</sup> December 2018) unless otherwise agreed, in writing, by the Local Planning Authority (LPA).

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

#### **6. Non Standard Condition - Ecological Recommendations**

All works shall be carried out in accordance with the Key Recommendations and Precautionary Methods set out within section five of the submitted Ecological Survey (ref: REP16024.3) unless otherwise agreed, in writing, by the Local Planning Authority (LPA).

Reason: To ensure appropriate mitigation of the developments impact upon the sites ecology and nature conservation interests.

#### **7. Non Standard Condition - Vehicular Access**

Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 4.8m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner, in the interests of highway safety.

#### **8. Non Standard Condition - Unbound Materials**

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

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



### **9. Non Standard Condition - Watercourse Bridging**

Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Lead Local Flood Authority (Essex County Council).

Reason: To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety.

### **10. Non Standard Condition - Visibility Splays**

Prior to the proposed access being brought into use, vehicular visibility splays of 33m by 2.4m by 33m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

### **11. Non Standard Condition - Gates**

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

### **12. Non Standard Condition - Parking**

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 1104-dated 06 February 2019. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

### **13. Non Standard Condition - Boundary Hedging**

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

### **14. Non Standard Condition - Wheel Washing Facility**

For the duration of works relating to the development hereby approved a wheel and underbody cleaning facility shall be provided within the site, adjacent to the egress onto the highway.

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

### **15. Landscaping**

The landscape details as shown on the approved drawing(s) NC-17.325.P200 A lodged on 06/02/19 shall be carried out in full prior to the end of the first planting season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: To ensure appropriate mitigation of the impacts of the proposed development on the amenity of the area.

### **16. 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.

### **17. Private Sewage Treatment Plant**

Foul drainage from the development hereby approved shall be to its own private sewage treatment plant which shall be installed and available for use prior to the first use of any of the units.

Reason: To ensure that an adequate and satisfactory means of foul drainage in accordance with Circular 3/99 is provided to avoid pollution, in the absence of a foul sewer.

### **18. Refuse and Recycling Facilities**

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

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

### **19. No External Light Fixtures**

No external lighting fixtures shall be constructed, installed or illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

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

## **20. Holiday Accommodation Occupancy Restriction**

The Holiday Accommodation hereby permitted shall not be used continuously by any person(s), family, families or other group(s) for any period exceeding 28 days in any 90 day period. The owner of the site shall maintain a log of the names, addresses and duration of stays of all users of the units hereby approved. Said log shall be made available to the LPA upon request in order to demonstrate compliance with this condition.

Reason: The site lies in an area where new development is strictly controlled and the proposal has only been justified on the grounds of its benefit to local tourism.

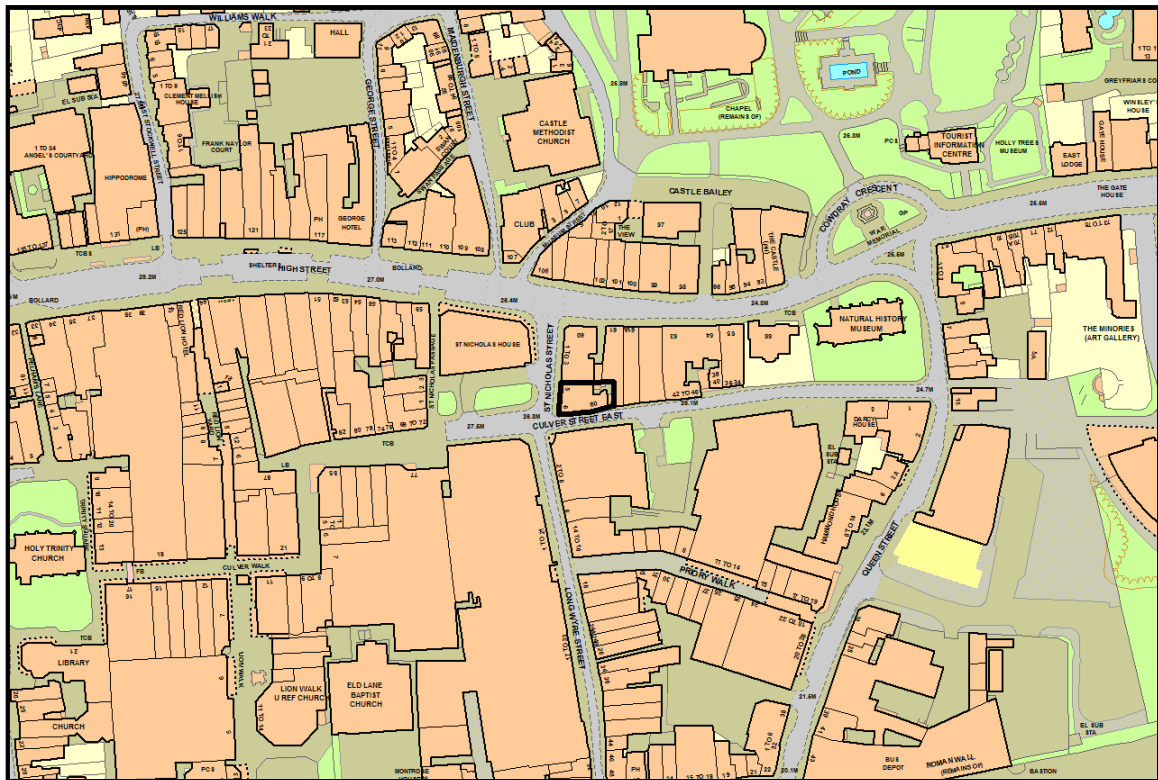
## **18.0 Informatives**

18.1 The following informative is also recommended:

### **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.





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**Item No:** 7.7

**Application:** 190649

**Applicant:** Colchester Borough Council

**Agent:** Mr S. Eke

**Proposal:** Increase in roof height to enable installation of roof insulation, while permitting internal exposure of some existing roof structure. New double doors to shopfront.

**Location:** Jacks, 5 St. Nicholas Street, Colchester, CO1 1LB

**Ward:** Castle

**Officer:** Benjy Firth

**Recommendation:** Approval

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

1.1 This application is referred to the Planning Committee because the application has been made on behalf of Colchester Borough Council.

## **2.0 Synopsis**

2.1 The key issue for consideration is the design of the proposal and impact the scheme will have on the non-designated heritage asset and on the Conservation Area.

2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

3.1 No. 5 St Nicholas Street is a two-storey property, with third storey attic space and two storey and single-storey additions, historically used as a shop at ground floor with storage areas above. The property is located within the Outer Core of Colchester Town Centre on the corner of Culver Street East and St Nicholas Street and is within a Conservation Area, which is characterised by 19<sup>th</sup> and early 20<sup>th</sup> century properties of varying style and construction, with some modern built shops. The property is locally listed.

3.2 The property has a distinctive character when viewed from St Nicholas Square, with a jettied first and second floor and large first-floor window; its presence within Culver Street East is less pronounced, with little fenestration or architectural features. The front of the building adjoins No. 1-3 St Nicholas Street 'The Three Wise Monkeys', a large restaurant, bar, and music venue set out over three floors.

## **4.0 Description of the Proposal**

4.1 This application seeks permission to raise the roof of the building by 100mm to allow for the installation of insulation and alterations to the existing access arrangements on the front elevation.

## **5.0 Land Use Allocation**

5.1 Currently A1 retail.

## **6.0 Relevant Planning History**

6.1 Planning permission 182893 recently granted permission for the change of use of the building to form part of the adjacent pub and provide a micro-brewery.

## 7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character  
ENV1 - Environment

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity  
DP14 Historic Environment Assets

7.4 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan;
- The extent to which there are unresolved objections to relevant policies in the emerging plan; and
- The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

Shopfront Design Guide

## **8.0 Consultations**

8.1 None.

## **9.0 Parish Council Response**

9.1 None applicable.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. However, the only response came from the Council's Historic Buildings and Areas Officer, who stated:

*There are no objections to the proposals which have already been discussed with the Applicant and are considered acceptable for their impact on the special interest of the locally listed building. The only issue that requires clarification involves the roof tiles: drawing 402A indicates that the roofing material will be "Peg tiles as existing". Does that signify the use of new peg tiles that resemble the existing or that the existing peg tiles will be salvaged and re-used? The latter options would be preferable for the protection of the building's character, subject to a condition assessment of the present tiles and their potential for re-use. If new replacement tiles are required, to recompense for the expected loss of material during removal, they should be installed in rear facing areas of the roof.*

## **11.0 Parking Provision**

11.1 None applicable

## **12.0 Accessibility**

12.1 The alterations to the shop front and access arrangements see a widening to the doorway, thus improving accessibility.

## **13.0 Open Space Provisions**

13.1 None Applicable.

## **14.0 Air Quality**

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



## **15.0 Planning Obligations**

15.1 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 (s.106) of the Town and Country Planning Act 1990.

## **16.0 Report**

16.1 The raising of the roof is minimal and as such will have no significant impact on the proportions of the building. The re-use of existing tiles and the use of matching materials will be ensured by condition. As a result, this element of the proposal will have no significant impact on the appearance of the building.

16.2 The alterations to the shop front and access arrangements are well proportioned in relation to the host building and utilise matching materials. As a result, this alteration to the building has a neutral impact and conserves its appearance.

## **17.0 Conclusion**

17.1 To summarise, neither alteration to the building has a significant impact on its appearance. Both alterations are therefore considered acceptable in terms of their design, their impact on the appearance of the building and their impact on public amenity. The alterations are held to preserve the wider Conservation Area and will have a neutral impact on the setting of neighbouring heritage assets.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

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

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

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

### **ZAM - 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 400, 401 and 402 Rev. A.

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

### **3. ZBB - Materials As Stated in Application**

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

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

### **4. Non Standard Condition - Roof Tiles**

The existing roof tiles are to be retained and re-used on the altered roof as hereby approved. Where replacement or additional tiles are required these shall match the existing tiles in colour, texture and form as closely as possible. Said replacement or additional tiles shall only be used on the rear facing roof slopes.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

## **19.0 Informatives**

19.1 The following informatives are also recommended:

### **1. 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. Informative on Any Application With a Site Notice**

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



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**Application:** 170997  
**Location:** Hill House, Carters Hill, Boxted, Colchester, CO4 5RD  
**Ward:** Rural North



## Planning Committee

Item

8

Date 30 May 2019

Report of	Assistant Director – Policy and Corporate	Author	Lucy Mondon 01206 506964
Title	Amendment to the mortgagee exclusion in respect of affordable Housing clause in relation to s.106 agreement associated with development at Hill Farm, Carters Hill, Boxted		
Wards affected	Rural North		

**This report concerns a request for a Deed of Variation to the Hill Farm, Boxted agreement in respect of mortgagee exclusion.**

### 1.0 Decision Required

- 1.1 Members are requested to endorse the requested Deed of Variation to the s106 agreement dated 7<sup>th</sup> August 2017 in respect of the requested changes to the mortgagee exclusion clauses.

### 2.0 Reasons for Decision(s)

- 2.1 The reason for the requested Deed of Variations is that the mortgagee exclusion clause 5.1.2, and in Schedule 3 Part 3, of the original s106 agreement is considered defective by lenders to the Registered Provider and as such they will only provide loan finance at a reduced value.

### 3.0 Alternative Options

- 3.1 Members could decide not to endorse the requested Deed of Variation. If Members select this option, the finance that the Registered Provider is able to access will be reduced and this will affect their ability to provide affordable housing.

### 4.0 Supporting Information

- 4.1 Outline permission was granted (ref 170997) in August 2017 and is subject to a s106 legal agreement, which covers amongst other obligations the provision of affordable housing. The current mortgagee exclusion in the s106 legal agreement has the effect that lenders to the Register Providers sector will only lend finance at a reduced value.
- 4.2 By way of explanation, a property is charged by a Registered Provider to a lender at market value subject to tenancy (MVST) which is approximately 2/3 of the open market value of the property. If there is a binding legal document which does not have an effective mortgagee exclusion clause then a lender will only lend finance at existing use value social housing (EUV-SH) level which is approximately 1/3 of the open market value of the property. By way of example assuming a property is worth £200,000 if there is an effective mortgagee exclusion clause then the property can be charged at £132,000, but if there is a defective mortgagee exclusion clause then the lender will only loan £66,000.

When this difference is multiplied by the number of units across a site then the difference in value becomes considerable.

The proposed amendment to the s106 agreement will enable Registered Provider properties to be charged at MVST rather than EUV-SH which it is currently limited to. This change will allow the Registered Provider to raise additional finance for the provision of affordable housing. The proposed amendment to the mortgagee exclusion clause does not affect the number of affordable housing units that have been agreed and secured as part of the Outline permission.

- 4.3 For information, Reserved Matters were approved for the development in June 2018 (ref: 180540).

## **5.0 Strategic Plan References**

- 5.1 A key aim of the Strategic Plan (2018-21) is to generate opportunities for growth and infrastructure; this includes supporting opportunities to increase the number of affordable homes for local people.

## **6.0 Consultations**

- 6.1 The Council's Housing Development Officer supports the proposed Deed of Variation to this development.

## **7.0 Publicity Considerations, Financial Implications, Equality, Diversity and Human Rights Implications, Community Safety Implications, Health and Safety Implications and Risk Management Implications**

- 7.1 None directly arising from this report.

**Background Papers:** Strategic Plan







## Planning Committee

Item  
**9**

30 May 2019

<b>Report of</b>	<b>Assistant Director Policy and Corporate</b>	<b>Author</b>	<b>Sue Jackson</b> <b>01206 282450</b>
<b>Title</b>	<b>Application to discharge or revoke an existing Section 106 Agreement</b>		
<b>Wards affected</b>	<b>Mersea &amp; Pyefleet</b>		

**This report concerns an application reference 190821 to discharge or revoke an existing Section 106 Agreement**

### 1.0 Decision(s) Required

1.1 Members need to agree to revoke an existing section 106 agreement.

### 2.0 Reasons for Decision

2.1 This report is in respect of a section 106 agreement for the Peldon Rose PH and Rose Barn.

2.2 The section 106 agreement applies to two planning applications;

1. Application COL/90/0331 to erect management accommodation at the Peldon Rose PH (the accommodation is known as Rose Barn) and
2. Application COL/91/0174 change of use of agricultural land to use ancillary to the Peldon Rose PH

2.3 The section 106 has four provisions:

1. Relinquish permitted development rights;
2. Not to permit separate occupation of Rose Barn from the Peldon Rose PH;
3. Not to create any further building at the site;
4. Not to permit a separate access to the public highway other than at the public house.

2.4 A certificate of lawfulness application to allow Rose Barn to be occupied separately was allowed at appeal in June 2005. The second clause of the agreement is therefore no longer relevant.

2.5 Earlier this year planning permission and listed building consent (application reference numbers 182030 and 182031) was granted for a new vehicular access to Rose Barn. The fourth clause of the agreement is therefore no longer relevant.



2.6 The remaining two clauses remove permitted development rights. As the Peldon Rose PH is a listed building extensions and alterations require listed building consent and these clauses are not necessary, therefore, to control works to the Peldon Rose PH. The dwelling, Rose Barn, is detached, set in a sizeable curtilage and separated from the nearest dwelling by substantial landscaping. Government advice is that permitted development rights should only be removed in exceptional circumstances. The removal of these rights for Rose Barn is not considered reasonable or necessary.

### **3.0 Alternative Options**

3.1 The Committee could resolve not to revoke the section 106 Agreement .

### **4.0 Supporting Information**

4.1 The planning agent confirms he act for Mrs Everett the owner of Rose Barn and the Peldon Rose Public House which adjoin each other. His client is seeking to sell Rose Barn to enable funds to be reinvested in the Peldon Rose Public House. To do this she needs to discharge or revoke the existing section106 agreement which covers both properties. Land Registry Titles for each property has been submitted.

### **5.0 Proposals**

5.1 N/A

### **6.0 Strategic Plan 2018-21**

6.1 There are no Strategic Plan references of direct relevance. The Strategic Plan sets out four themes under the acronym of 'Grow'. These include:

#### **Responsibility:**

Encouraging everyone to do their bit to making our borough even better

- Increase the supply of good quality homes by using legal powers to reduce the number of empty homes and improve standards in the private rented sector

#### **Opportunity:**

Promoting and improving Colchester and its environment

- Promote and enhance Colchester borough's heritage and visitor attractions to increase visitor numbers and to support job creation
- Ensure a good supply of land available for new homes through our Local Plan

### **7.0 Consultation**

7.1 The application has been advertised and a notice displayed on site. Neighbouring properties and the parish council have been notified. The only representation received is from the Parish Council confirming they have no objection to the application.

### **8.0 Publicity Considerations**

8.1 N/A

**9.0 Financial Implications**

9.1 N/A

**10.0 Equality, Diversity and Human Rights Implications**

10.1 There are no Equality, Diversity and Human Rights Implications

**11.0 Community Safety Implications**

11. There are no Community Safety Implications

**12.0 Health and Safety Implications**

12.1 There are no Health and Safety Implications

**13.0 Risk Management Implications**

13.1 There are no Risk Management Implications

**14.0 Background Papers**

14.1 Application references COL/90/0331 and COL/91/0174. Legal agreement dated 16 August 1991.

## Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- 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.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

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 our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

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; 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

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

### **Planning Obligations**

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

### **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 or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, 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. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members 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.

Whenever appropriate, the Council 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. Failure to do so 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.

Any planning condition imposed on a development must pass 6 legal tests to be:

1. Necessary
2. Relevant to planning
3. Relevant to the development permitted
4. Reasonable
5. Precise
6. Enforceable

Unless conditions fulfil these criteria 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, the Council must 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 the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



## Colchester Borough Council Development Management

### Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

### Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- 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.

For residential schemes:

- 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.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



## Colchester Borough Council Environmental Control

### Advisory Notes for the Control of Pollution during Construction and 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 scrapyard 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*

## **Supreme Court Decision 16 October 2017**

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

*If Councillors require more information, or minor amendments to be explored, then the item should be deferred.*

*If no more information or amendment is desired Councillors will proceed to propose a motion.*

