

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 08 November 2018 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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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 08 November 2018 at 18:00

The Planning Committee Members are:

Councillor Pauline Hazell	Chairman
Councillor Brian Jarvis	Deputy Chairman
Councillor Lyn Barton	
Councillor Vic Flores	
Councillor Theresa Higgins	
Councillor Cyril Liddy	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

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	Dave Harris	Darius Laws
Mike Lilley	Sue Lissimore	Patricia Moore	Beverley Oxford
Gerard Oxford	Lee Scordis	Lesley Scott-Boutell	Martyn Warnes
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.

6.1 Minutes of 1 October 2018 7 - 12

6.2 Minutes of 18 October 2018 13 - 18

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 171396 Knights Farm, Swan Street, Chappel, Colchester 19 - 66

Retrospective application for retention of existing commercial buildings and structures on the site (comprising factories (Factory 1 (part), Factory 2 and Factory 3); ancillary offices; biomass/store; warehouse; porta-cabins; containers; tray area; smoking shelter; fencing and entrance gates for use by existing meat wholesalers (Use Class B2) with associated retrospective change of use of agricultural land and retention of existing vehicular parking, landscaping and infrastructure works including existing Klargestor unit; existing water purifier; two proposed attenuation ponds and proposed canopy.

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8 Exclusion of the Public (not Scrutiny or Executive)

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

Monday, 01 October 2018

Attendees: Councillor Lyn Barton, Councillor Vic Flores, 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: No substitutes were recorded at the meeting

Also Present:

625 Site Visits

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

626 Minutes of 2 August 2018

RESOLVED that the minutes of the meeting held on 2 August 2018 be confirmed as a correct record.

627 181579 4 Park Road, Colchester

The Committee considered a planning application to vary Condition 2 of planning permission 171067 at 4 Park Road, Colchester. The application had been referred to the Committee because it has been called in by Councillor Barber. 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 explained that the differences between the approved scheme and the revised scheme which was the subject of this application related to an additional first floor side window, two wider rear facing first floor windows, one wider rear facing ground floor window, the omission of one set of ground floor French windows and the enlargement of the front porch. He also explained that revised drawings had been submitted which reflected the actual size of the side window constructed and, as a consequence, one of the conditions would need to be amended to reflect the change in drawing numbers.

Jennifer Green addressed the Committee pursuant to the provisions of Planning

Committee Procedure Rule 8 in opposition to the application. She lived in a neighbouring property and had made no objection to the original application which had been approved with twelve conditions which she understood would be adhered to. She had been unaware that retrospective permission could be sought to amend conditions and that this could take place after the changes had been implemented. After careful consideration, she had submitted an objection to the application to vary condition 2 in respect of the additional side window on the south elevation. The window looked into the en-suite bathroom window attached to the bedroom of her property and she was of the view that she should constitute a material consideration in relation to the determination of the application in terms of the protection of neighbouring residents' amenity. She referred to the report on the application and its conclusion that, subject to conditions, there would be no significant impact on neighbouring residential amenity. She was of the view that the additional window did represent a significant impact on her privacy. The proposed conditions relating to the window provided for it to be non-opening and of level 4 obscurity, however she did not feel this was sufficient. She felt overlooked when using the bathroom and all of the south facing windows were not non-opening and had been open throughout the summer. She was concerned that this condition would not be complied with or would be subject to a subsequent application to amend it.

Peter Johnson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the principle of a replacement dwelling in this location had already been agreed, the Planning Officer had concluded that the changes were visually acceptable and that there was no detriment to neighbours. As such the amendments had been recommended for approval. Furthermore there would be no negative impact on neighbouring residential amenity from overlooking compared to the previous application. He considered there was no reason to object to the application and he requested acceptance of the officer recommendation.

Councillor Barber attended and, with the consent of the Chairman, addressed the Committee. His primary concern was in relation to the precedent it could set and how it contrasted with the principles included in the new National Planning Policy Framework (NPPF). The new NPPF stated that enforcement is important to maintain public confidence in the planning system. He was therefore concerned regarding how the non-compliance with the original conditions had been treated. He was worried that various conditions had not been adhered to but had nevertheless been discharged. As such he had little confidence that the conditions currently being proposed would be adhered to and maintained if subsequently breached. He was of the view that the window was currently able to be opened. He considered that the potential benefits of the window to the applicant had outweighed the potential harm caused to the neighbour. The new NPPF also stated that changes to conditions had to be justified and he did not consider clear justification had been provided. He stated that four of the original 12 conditions had been discharged despite being breached or varied. He also considered there was potential to provide for additional planting, contrary to the information contained in the

report. He considered there were relevant material considerations to reject the application and was concerned about the enforcement practice of the council following breaches of conditions.

In response, the Senior Planning Officer explained that enforcement measures taken in relation to breaches of condition on the site had been effective. He was of the view that the conditions had been adhered to and, following the submission of details about materials, had subsequently been discharged. This had provided for the inclusion of planting and obscure glazing and he was confident that the enforcement system would be able to ensure that the windows were non-opening. In addition, the level of obscurity provided to the windows and the non-opening provision was such that no overlooking would be possible. He considered that the risk of the conditions being breached were very minimal. He further commented that the vegetation in the garden previously could have been completely removed at any time without permission. He was also of the view that the new planting was very comprehensive and the Arboricultural Officer had considered it would not be appropriate to require any additional planting.

In discussion, members of the Committee, whilst regretting the retrospective nature of the application, acknowledged that the concerns expressed by the neighbour regarding overlooking would be adequately addressed by adherence to the proposed conditions. However concern was expressed that the side facing window was currently able to be opened and clarification was sought regarding the potential for the window to be one which was not possible to be opened to avoid the need for the condition to be actively monitored.

Reference was made to the need for windows generally to be able to be opened for ventilation purposes.

The Development Manager acknowledged the view of the neighbouring resident and explained that the proposed condition could be amended to provide for an approved scheme, such as with mechanical fixings, to ensure that the window is permanently shut and un-openable at all times.

The Senior Planning Officer also explained the merits of applying this amended condition to all three of the side facing windows as this would prevent overlooking of the neighbouring rear garden.

RESOLVED (NINE voted FOR and ONE AGAINST) that, subject to amendment of condition 1 to reflect the revised drawing number and the variation of condition 3 to require the submission and approval of a scheme to provide for the three first floor side windows to be permanently un-openable and for that condition to be implemented prior to occupation and maintained thereafter, the application be approved subject to the conditions set out in the report.

628 181214 Cannock Mill House, Old Heath Road, Colchester

The Committee considered a planning application for conversion to three flats at Cannock Mill House, Old Heath Road, Colchester. The application had been referred to the Committee because a legal agreement is required to link this application to a legal agreement with application 150492. The Committee had before it a report in which all information was set out. It was explained that the enactment of a recent statutory provision required the prior agreement of pre-commencement conditions with the applicant and, as such, the wording of certain proposed planning conditions would need to be amended. In addition, proposed condition 8 was a duplication and could be removed.

RESOLVED (UNANIMOUSLY) that, subject to the amendment of the wording of conditions 6 and 11 to reflect the need for the prior agreement with the applicant of pre-commencement conditions and the deletion of condition 8 –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report 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 linking of this application to the provisions of the agreement with application 150492 to secure “The dwellings to be occupied only by members of the London Countryside Co-Housing Group. Prior to any of the dwellings being occupied by non-members a scheme of additional parking to be submitted to and approved by the Local Planning Authority the approved scheme to be implemented in accordance with an agreed timetable”

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

629 181734 Thrupenny Cottage, 3 Pit Lane, Tiptree

The Committee considered an application for a proposed garage/games room at Thrupenny Cottage, 3 Pit Lane, Tiptree. The applications had been referred to the Committee because they had been called in by Councillor Loveland. The Committee had before it a report and amendment sheet in which all information was set out.

James Ryan, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Debbie Silvey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that no

inspection of her property had been undertaken by the Planning Officer prior to the publication of the report. She acknowledged the potential noise problems could be dealt with by sound attenuation but this would not negate additional noise from people entering or leaving the building. She referred to the sunlight through the back door to her property whilst the kitchen window only benefitted from daylight. She considered the proposed building would extend beyond her back door and would block the light that they currently benefitted from. She considered that the impact on the visual aspect of her home and of Pit Lane by the removal of the magnolia and elder trees would be considerable. She referred to over-development of the site and was of the view that the proposal would be harmful. The building would be visible from the front, side and rear of her property and, as such, would be overwhelmingly enclosed. The house at 3 Pit lane had already been considerably extended and the proposed building was substantial in width and height and not in proportion to the existing property. She was of the view that her home would be adversely affected. She referred to future potential change of use having an increase on traffic in Pit Lane and the current problems of parking on the site. She considered the proposed building to be too high and too substantial for the current proposed use. She asked the Committee members to fully consider the objections and to refuse the application.

Deborah Wright addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that there was already permission for a garage on the site and, as such, she had not anticipated that the current proposal would lead to objections. The garage had been designed to be in line with the neighbouring property so that no impact would be visible from inside the property. She considered the magnolia tree to be over sized and was of the view that it created a negative impact for the neighbours currently. She explained that, due to the alignment of the properties and the height of the boundary fence, it was already possible to look into the neighbours back garden from her own property. The neighbour's garden was also overlooked by two other properties and, as such, she did not consider that the proposed building would have a significant impact. The existing garage was derelict and contained asbestos and she wished to improve the look of her own property by creating a driveway and a replacement garage in which she could park her car. She considered the area would be improved as a result and the value of all the houses in Pit lane would be increased. She refuted the idea that there would be extra noise and traffic as the garage was for her and her families own use.

In response, the Principal Planning Officer explained that there was a perception of a potential intensification of use of the site in the future but there were two proposed conditions providing for noise mitigation and for the use of the building to be only incidental to the enjoyment of the dwelling. It was not considered that the proposed building would lend itself to sub-division but in any event this would require a separate application. In terms of impact for the neighbour, it was acknowledged there would be an impact but the side window was small and was already impacted by the location of a substantial tree and there was a good sized window to the rear of the property. He

considered that the material harm was a balanced judgement but officers had determined it would not be materially harmful. The proposal accorded with the necessary parking standards and, although the proposal was for a substantial sized garden, the plot was of a size which could adequately accommodate it and already accommodated an existing garage.

In discussion, members of the Committee acknowledged the concerns of the neighbour but referred to the existing untidiness of the site and the impact for the neighbour from the tree. Reference was also made to the previous permission for a substantial double garage of only slightly smaller proportions to the current application.

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

Planning Committee

Thursday, 18 October 2018

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: No substitutes were recorded at the meeting

Also Present:

630 Site Visits

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

631 Minutes of 23 August 2018

RESOLVED that the minutes of the meeting held on 23 August 2018 be confirmed as a correct record.

632 181281 Former Bus Depot, Magdalen Street, Colchester, CO1 2LD

The Committee considered a planning application for the demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across three blocks of up to four storeys to provide 250 bed spaces (50 units comprising, 46 cluster flats and four studio flats), communal facilities (to include bin stores, cycle parking, site management suite, quiet study area, common rooms, laundrette and communal external amenity areas), two car parking spaces, landscaping and a new public pathway through the site at the former Bus Depot, Magdalen Street, Colchester. The application had been referred to the Committee because it was a major application where a legal agreement was required. 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.

Sue Jackson, Planning Project Officer, presented the report and, together with Paul Sallin, Urban Design Officer, assisted the Committee in its deliberations. The Planning Project Officer explained that, following a recent judgement from the European Court of Justice, the Habitat Regulations, related to all applications for residential development and Natural England had advised Essex Authorities that an assessment was required to

determine whether such developments would have a significant recreational disturbance impact on the integrity of the European designated habitat sites. As such the application would need to be subject to an appropriate assessment and an additional condition or a Section 106 agreement may be required to cover mitigation. She also explained that the wording of Conditions 24 and 26 had now been agreed by the Contaminated Land Officer who had also requested an additional condition controlling the removal of asbestos from the site.

One member of the Committee was concerned that local residents may not have received adequate notice of the Committee's consideration of the application. Concern was expressed regarding the location of the site and its lack of enhancement of the area and disappointment that the applicants, with the benefit of an existing scheme with planning approval, had submitted the current application with a greater density of units. Clarification was also sought in relation to the size of accommodation units, particularly if it transpired that student take-up was not sufficient.

Some Committee members voiced concerns on design grounds and the use of the New London and Cambridge Vernacular style rather than the Essex Design Guide as well as the fact that the development was not providing any element of Affordable Housing. Comment was also made in relation to the provision of only two parking spaces and a request was made for the condition providing for one vehicle charging point to be increased to two.

In response, the Planning Project Officer confirmed that a financial contribution of £170,000 for bus upgrades was being made as part of the planning obligations and the proposed design of the building was not dissimilar to that which had already been given permission. She explained that the accommodation would be managed privately and, as such, was available to students from various educational establishments. She agreed that the proposed conditions could be amended to include an additional charging point if the Committee considered this appropriate. She acknowledged that the proposed scheme included 20 more bed spaces than the already approved scheme, however, it also included more amenity space. She confirmed that the agreed planning obligations included CCTV provision, highway improvements and £170,000 towards pollution free bus provision but did not include a contribution for affordable housing. She also explained that should the scheme prove to be unviable for use as student accommodation then the matter would need to be considered again by the submission of a new planning application which could then be considered by the Committee.

The Urban Design Officer, whilst acknowledging that the proposed designs would not be to everyone's taste, stated he was of the view that the proposed designs were acceptable provided they included high quality materials and detailing and he had assessed it as good design. He confirmed that there were no examples of the proposed style in Colchester currently, it being more common in London and Cambridge.

Other members of the Committee commented on the scheme's reduced impact on the residents of the Almshouses to the rear of the site, compared to the scheme previously approved and welcomed the inclusion of 24 hour management arrangements. Members were also of the view that the design was in-keeping with the Magistrate's Courts and Emmaus buildings nearby.

RESOLVED (SIX voted FOR, TWO voted AGAINST and ONE ABSTAINED) that, subject to the conditions set out in the report and the amendment sheet as well as an appropriate assessment being carried out under the Habitat Regulations for impact on Essex Coast international wildlife designations and any required condition or Section 106 agreement to mitigate the impact of the development, a further additional condition to provide for the removal of asbestos from the site and an amendment to the proposed conditions to provide for two vehicle electric charging points—

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions and revisions 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:

- Restrict occupancy to students;
- Agreement to employ an on-site manager/s and for there to be a 24/7 presence on site;
- Travel Plan in accordance with Essex County Council guidance to include but not limited to monitoring fees to be prepared and agreed, a Travel Plan Co-ordinator to be employed and agreement that the Travel Plan will be regularly monitored by the council;
- Details of an Operational Management Plan to be submitted and agreed to be substantially in accordance with the submitted document to include amongst other matters the management of the on-site parking spaces, the arrival and departure of students, the setting up and details of management and operation/membership of a Community Steering group, on site security measures, Management of all external areas including communal refuse storage areas. Rental Agreement Terms to provide for amongst other matters the occupation of units only by eligible students, a clause that eligible students cannot apply for residents parking permits or bring vehicles to Colchester whilst they are living at the approve development;
- A Financial contribution of £170,00 to be used to fund upgrading of buses with a catalytic reduction system, and/or the upgrading to current ECC specification, including real time passenger information, of a bus stop, and /or CCTV the provision of 2 cameras one on each road frontage linking to the Council's CCTV network;
- Pedestrian path from Magdalen Street to Military Road to be available for public use in perpetuity between dawn to dusk and agreement that this path will not be used as a vehicular through route.

(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.

633 180116 79 Magdalen Street, Colchester, CO1 2LA

The Committee considered a planning application and Listed Building Consent for the change of use of existing dwelling house to 13-bedroom house in multiple occupation, and erection of replacement building at rear to provide 7-bedroom house in multiple occupation at 79 Magdalen Street, Colchester. The application had been referred to the Committee because it was is a major application and objections has been received to the proposed development. 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.

Alistair Day, Planning Specialists Manager, presented the report assisted the Committee in its deliberations. The Planning Specialists Manager explained that a recent judgement from the European Court of Justice, the Habitat Regulations, related to all applications for residential development and Natural England had advised Essex Authorities that an assessment was required to determine whether such developments would have a significant recreational disturbance impact on the integrity of the European designated habitat sites. As such the application would need to be subject to an appropriate assessment and an additional condition or a Section 106 Agreement may be required to cover mitigation.

Jake Stentiford addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had been pleased to work with the Council's Planning Officers to deliver a scheme which provided better amenity opportunities for future residents whilst causing no harm to residents in neighbouring properties. The scheme was being developed to provide accommodation for young professionals and students looking for accommodation on a temporary basis. The applicant was an established property management company which would ensure that the property was managed to the highest standards. He commented on the building's current poor state of repair which detracted from the local area. The proposal was in a highly sustainable area which would ensure the building was brought back into use and maintained for the future.

In discussion, members of the Committee sought clarification regarding the need for sprinkler system to be installed, the laundry / drying facilities being proposed, whether sound insulation would be necessary and whether alternative means of ventilation was being provided to the rear bedroom which included a non-opening window with opaque glass. Comment was also made in relation to the potential for the communal rooms to be changed to additional bedrooms the future.

In response, the Planning Specialists Manager explained that the installation of sprinkler

systems and sound insulation measures were dealt with under Building Regulations and he confirmed that the building would be required to comply with appropriate Building Regulations as well as the Council's Private Sector Housing standards. He confirmed that the scheme included a courtyard area although he was unaware whether clothes washing facilities would be provided on site. He explained that all bedrooms had the benefit of natural light and natural ventilation, with the rear bedroom (facing the Folly) benefitting from other opening windows. He also clarified that a proposed condition had been included which specified the total number of bedrooms in the property. In addition, he explained that Private Sector Housing standards were such that the number of bedrooms were limited by the number of corresponding kitchen facilities. It was also subsequently confirmed that the drawings indicated that the kitchens were to be provided with a washing machine.

RESOLVED (EIGHT voted FOR and ONE voted AGAINST) that, subject to an appropriate assessment being carried out under the Habitat Regulations for impact on Essex Coast international wildlife designations and any required condition or Section 106 agreement to mitigate the impact of the development, the Assistant Director Policy and Corporate be authorised to approve the planning application and Listed Building Consent subject to the conditions set out in the report.



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Item No: 7.1

Application: 171396

Applicant: Mr & Mrs Blackwell, Direct Meats Ltd

Agent: Jonathan Lieberman, Boyer

Proposal: Retrospective application for retention of existing commercial buildings and structures on the site (comprising factories (Factory 1 (part), Factory 2 and Factory 3); ancillary offices; biomass/store; warehouse; portacabins; containers; tray area; smoking shelter; fencing and entrance gates) for use by existing meat wholesalers (Use Class B2) with associated retrospective change of use of agricultural land & retention of existing vehicular parking, landscaping and infrastructure works including existing Klargest unit; existing water purifier; two proposed attenuation ponds and proposed canopy)

Location: Direct Meats, Knights Farm, Swan Street, Chappel, CO6 2EE

Ward: Rural North
Officer: Chris Harden

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 Councillor Chillingworth “on behalf of Chappel Parish Council who have been seriously concerned as are many residents on the on-going development of this property. The last application was withdrawn so that all unauthorised developments to be covered in this new application. It is not clear that all have been. The Council want strong environmental conditions attached if the application is approved and want to see this done in public by the Committee.”

2.0 Synopsis

- 2.1 The key issues for consideration are:
- (i) the principle of the proposal, having particular regard to adopted Local Plan policies, in particular Policy DP9, CE2 and the revised NPPF;
 - (ii) Landscape and visual impact;
 - (iii) Highway Safety and Traffic;
 - (iv) Impact upon Residential Amenity;
 - (v) Setting Of Listed Buildings;
 - (vi) Drainage and Flooding;
 - (vii) Archaeology;
 - (viii) Wildlife Impact;
 - (ix) Impact upon trees and vegetation.
- 2.2 The application is subsequently recommended for Approval with conditions.
- 2.3 The application seeks retrospective permission plus approval for additional proposed elements as outlined in the application description. In terms of the principle of the development, the proposal complies with the vast majority of the criteria outlined in key Local Plan Policy DP9 and Policy CE2 and with other policies in the Local Plan. It is thus concluded, on balance, there are material reasons to warrant a Departure from one element of Policy DP9. There are economic and social benefits to the local rural economy derived from the business being in this location.
- 2.4 Allowing the proposal, including retention of the works undertaken is supported by the revised NPPF, including Para 80 which provides that “Significant weight should be placed on the need to support local economic growth and productivity, taking account both local business needs and wider opportunities for development.” NPPF Para 83 also aims to support a prosperous rural economy and Para 84 recognises that “sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not served by public transport.”.

- 2.5 It is therefore considered the proposal should be judged on its detailed planning merits and has been considered as such without relying upon any potential Established Use from unauthorised development.
- 2.6 The landscape and visual impact of the proposal is considered acceptable as the site is generally well screened and further planting can add to the screening of the rear of the site. It is considered the proposal is acceptable from a highway safety and traffic impact point of view; subject to appropriate conditions controlling vehicle numbers and parking provision. No objections have been received from the highway authority.
- 2.7 The proposal is considered acceptable in terms of impact upon residential amenity; subject to conditions suggested by Environmental Protection. There is no significant impact upon the setting of Listed Buildings in the vicinity. Conditions can be applied to ensure the provision of an appropriate drainage system for the site. There is not a significant adverse impact upon trees, vegetation and wildlife subject to appropriate conditions. There are no detrimental impacts upon archaeology and Public Rights of Way.

3.0 Site Description and Context

- 3.1 The existing site of Direct Meats lies within a countryside location opposite the end of the settlement limits of the hamlet called Swan Street, as outlined on the Local Plan proposals map. Chappel village is located to the North. The site is bounded by Swan Street to the east, with agricultural fields to the North and West and the business owners house (Knights Cottage) directly to the South.
- 3.2 Opposite the Northern corner of the site is Willow Cottage which is a Grade 2 Listed Building.
- 3.3 Direct Meats is a meat processing plant that occupies a site of approximately 2 hectares in area. The site currently consists of existing buildings working yards, parking areas, trees and hedges. **(Appendix 1- Site Layout Plan).**

4.0 Description of the Proposal

- 4.1 The majority of the application is retrospective. Accordingly the application description which has been amended/clarified compared to the original submission for retrospective planning permission for the retention of existing commercial buildings and structures on the site:
- comprising factories (Factory 1 (part), Factory 2 and Factory 3);
 - ancillary offices; biomass/store; warehouse; porta cabins; containers; tray area; smoking shelter; fencing and entrance gates) for use by existing meat wholesalers (Use Class B2);
 - together with associated retrospective changes of use of agricultural land and retention of existing vehicular parking, landscaping and infrastructure works.

- Additional information received includes details of the existing Klargest unit; existing water purifier; two proposed attenuation ponds and proposed canopy.

4.2 The specific buildings forming part of the application include:

- Part of Factory One- part benefits from planning permission and the whole building is used for meat preparation and storage;
- Factory two and three: Used for meat preparation and storage. The freezer attached to Factory 2 is used to store meats;
- Offices: accommodation for staff running the business;
- Bio Mass store
- Warehouse: In North East corner of the site;
- Workshop/Store: used as a general store and workshop;
- Portacabin, containers, tray area, smoking shelter
- Fencing and Entrance gates
- Proposed Canopy.

4.3 The application submission includes a number of technical reports: Landscape Assessment, Flood Risk Assessment, Ecological Assessments, Arboricultural Impact Assessment, Transport Statement and a Noise Report. A draft Travel Plan and draft Transport and Logistics Plan has also been submitted.

4.4 The proposal is for a 24 hour operation as currently exists on the site and no changes to the current delivery times or staff shift times is proposed. There is however no authorised consent for these working hours in relation to previously approved applications. Access for HGV, delivery vans and employees is via the existing access off Swan Street. Staff car parking is provided in the unmade car park to the north west of the site. Parking for delivery vehicles is provided adjacent to the existing factory buildings.

4.5 The agent initially stated that Direct Meats receives approximately 5 HGV deliveries per day and operates a fleet of 15 refrigerated vans delivering to customers on designated rounds per day. The business requires around 60 car parking spaces to accommodate staff who arrive at different times in the day to reflect shift patterns. The agent states that the bulk of arrivals occur during the period 5:30 am to 7:30 am whilst most depart between 2:30 and 4:30 pm. It is also stated that on a typical day 77 vehicles access and depart the site, the majority occurring outside peak hours.

4.6 The Transport Statement was updated in November 2017.

(Appendix 2 – vehicle trips table)

4.7 The application also seeks consent for the entrance gates and side fencing. The 3.0 m sliding gate is set back from Swan Street and linked to a 3.0 m corrugated fence which links to the office building. New planting, including Oak and Lime trees is proposed for the north-east and western boundary.

- 4.8 With regard to drainage issues, the proposal is to retain the existing drainage arrangements with the main factory buildings and concrete hard standings draining towards the existing pond to the west of the site. Full drainage arrangements are outlined in the submitted details.
- 4.9 Foul effluent will continue to be treated in a Klargestor Biodisc unit to the north of the site. After treatment, the water is discharged to a nearby ditch.
- 4.10 The agent states that whilst there is the option to submit separate Certificate of Lawfulness applications for the existing buildings/uses, the applicant has instead agreed to regularise the planning position through a comprehensive planning application.
- 4.11 In support of the application the agent makes the following points:
- Direct Meats is a significant local employer (presently 116 employees, 6 of them part time).
 - The existing buildings are vital to safeguard these existing jobs and to allow the continued operation of the business to meet both existing and future demand and FSA and BRC requirements.
 - Successfully started exporting to 7 countries.
 - The food preparation factories and storage areas enable the company to meet the higher expectations of food security from the export business and to facilitate training within the industry.
 - The storage buildings also allow for more stock to be stored on site than could previously be taken in one delivery, thus preventing multiple daily deliveries and resulting in weekly or monthly deliveries.
 - Economic benefits to the local economy.
- 4.12 Further background information and statements have been submitted by the agent (Sept 2018) as follows:
- Draft transport and Logistics principles and Draft Travel Plan Principles.
 - The FSA titled the 'Meat Industry Guide' (September 2017) sets out some of the locational, design and layout requirements that must be considered when selecting premises for food preparation. This states "*The siting, design, layout and construction of premises and of equipment used in the production and storage of food products needs to meet certain standards to achieve food safety. Similar food safety standards apply to the exterior of the premises, animal handling areas, refuse stores, staff changing facilities, wrapping and packing stores etc*".
 - The agent has been advised by the applicant, that there are no other existing suitable or available meat cutting plants (either to purchase or rent) within Colchester Borough's administrative area (which would include the strategic and local employment zones).
 - If the business was to relocate, it would either need to refurbish an existing commercial property or construct a new property, in accordance with FSA standards. Given the bespoke nature of the business, it is not the case that

Direct Meats could easily relocate into an existing Class B2 premises, given that there would be a need for extensive refurbishment of the property to meet both FSA standards and its own operational needs.

- The food business is based on high volume and low margins and the applicant has advised that relocation (either renting, purchase of an existing premises or new build) would be economically unviable, given the significant investment required to fit out a bespoke cutting plant.
- Even if there was an existing meat cutting plant available, the property would nevertheless still require significant investment (new bespoke equipment, upgrade of fixtures to meet Direct Meat's operational requirements) such that the applicant has advised that this option would also be economically unviable.
- The existing Direct Meats site and buildings have been assessed to meet with the FSA standards and has been extended gradually over a period of time, enabling the business to grow in an economically sustainable manner.
- The applicant has also advised that if Direct Meats did relocate, it would lose its UK licence 5443 which goes with the property. The UK licence allows Direct Meats to trade outside the EU and the business is currently exporting to a number of places including Hong Kong, Seychelles, Singapore, Dubai, Taiwan and Macau. To export to these locations, it has been necessary to undergo separate inspection by each country's own FSA organisation (this has occurred over a 11 year period). If this licence was lost (due to relocation) there would be a risk of losing business in these countries (as effectively Direct Meats would be starting again as it would have to undergo the inspection process again to export to these non-EU countries).
- The recruitment of skilled butchers continues to be an issue for Direct Meats (and the meat cutting industry in general). Relocation would invariably result in the loss of skilled staff (who, may not be able to travel to the new business location) and is a further consideration as to why expansion of the existing business which has been operating from the existing site for 23 years, rather than relocation, is proposed.
- Operating Hours: Direct Meats has been operating 24hrs a day Monday to Saturday, and on Sundays from 6pm onwards, for over 20 years. Supporting Statutory Declarations (attached) from eight members of staff, provide evidence that the business has been operating these hours/days, since at least 1998.
- Requirement for a 24hr operation relates to the provision of products to the food service industry; including hotels and restaurants, who operate on a 'just in time' basis, with orders being placed typically between 15.00 hours and 23.00 hours, for next day delivery before 10.00 hours. To take and process orders, Direct Meats has a skeleton staff on rotation shifts between 18.00 hours to 05.00 hours (Monday to Friday). During these times, two members of staff work in the office to take the orders and circa ten to twelve members of staff work in the factories to process them.

- Traffic Survey (refer to Transport Statement page 8) identified that from 03.00hrs (which is typically when the first delivery van leaves the site) and 06.00hrs, a total of 12 van departures were observed. This equates to only 4 movements an hour on average. These deliveries take place Monday to Saturday. Such delivery times are standard in the food service industry, and if Direct Meats did not offer the service, the company would lose a considerable amount of business.
- Weekends: On Saturday, the business operation is effectively shut down, with one member of staff in the office from 08.00hrs to 12.00hrs and three of four staff in the factories from 06.00hrs to 11.30hrs to carry out maintenance and cleaning. No product is delivered to the site over the weekend. On Sunday, the business is closed until 6pm.
- Whilst the business operates for 24hrs, it is relevant that the main business activities occur on Monday to Friday (06.00hrs to 17.00hrs), with a limited operation taking place outside of these hours and at weekends.
- The **addendum to the Transport Statement** of 17/10/17 (addendum submitted in October 2018) states the following:

"The results of the survey (17/10/17), considered to be a typical day at the site in terms of traffic movements, showed 4 HGVs arriving and departing over the course of 24 hours. All of the recorded HGV movements were classified as OGV1 (an ordinary goods vehicle above 7.5 tonnes gross vehicle weight having up to three axles). Direct Meats advised that larger HGVs and articulated HGVs, classified as OGV2, do visit the site although none were recorded as doing so on the day of the survey. The survey was undertaken by cameras recording the access from Swan Street and therefore the accuracy of the survey is very good and was verified / quality checked by the survey contractor prior to delivery of the results.

- Following the survey, Direct Meats advised that large articulated HGVs do access the site although on the day of the survey only smaller HGVs classified as OGV1 accessed the site. The survey recorded 4 OGV1 vehicles entering and exiting Knights Farm. The survey also recorded vehicles passing the Knights Farm access and there were 28 HGVs counted travelling north and 28 travelling south (not including those accessing the site). In both cases the HGVs were split 14 OGV1 and 14 OGV2. Please note that this is factual evidence from the traffic survey, undertaken by camera recordings.
- In addition to the traffic survey undertaken at the site access, Direct Meats have provided copies of vehicle logs for the site. These show all delivery vehicles coming to the site and identify the type and size of vehicle in each case. Direct Meat's records show totals of 24 articulated HGVs, 57 rigid HGVs and 25 vans delivering to the site during August 2018. There were 23 weekdays in August (deliveries are accepted on Mondays to Fridays) and therefore there was an average of 81 HGV deliveries spread across 23 days giving an average of 3.5 deliveries per weekday by HGV. Hence the

DC0901MW eV4

results from the traffic survey appear to be 'average' as far as HGV movements are concerned. Articulated HGVs are classified as OGV2 whereas the rigid HGVs accessing the site are classified as OGV1. Therefore the proportion of OGV2 vehicles entering the site was around 29.6%, meaning that approximately 1 delivery per weekday could be expected to be made by a large OGV2 vehicle on average.

- During September, Direct Meats delivery logs show 28 OGV2 and 37 OGV1 visits to the site. This equates to an average of 3.25 HGV visits per day based on 20 weekdays in September. However, it is noted that a higher percentage of these visits (43%) were by OGV2 vehicles. The average number of OGV2 vehicles accessing the site per day was 1.4, representing 10% of the OGV2 vehicles passing the site along Swan Street, as recorded in the 24hr traffic count undertaken in September 2017.
- Given the facts of the traffic survey and corroborative evidence from Direct Meat's delivery logs, it is reasonable to conclude that the number of HGV deliveries to the site is generally around 4 per day and that between around 1/3 of those are likely to be made by OGV2 (large articulated) vehicles. HGV vehicle movements to and from Direct Meats represents less than 25% of all HGV movements using Swan Street and this level of movement has not been raised as a concern by the LHA."

5.0 Land Use Allocation

- 5.1 Countryside
Existing employment use in the countryside.

6.0 Relevant Planning History

- 6.1 Direct Meats Limited started operating in 1995 as an ancillary use within the former shop and restaurant on the site. Temporary planning permission for the change of use of the original building from shop to wholesale meat business (Direct Meats Ltd) was approved in 2000 (COL99/1755). The temporary 2 year condition was removed on appeal.
- 6.2 Two variation of condition applications were subsequently approved: COL/01/0062 Condition 9 to allow 3 light commercial vehicles to leave the site after 04:30 hours (temporary 2 years) and COL/01/0674 Condition 13 to allow amendments to the internal layout.
- 6.3 Planning Application 161466 for the erection of a link building, pallet store and freezer building (retrospective) with associated aprons, and entrance gate and boundary fence (retrospective) has been withdrawn. During the assessment of that application it became apparent that a number of buildings on the site did not benefit from planning consent. It was therefore concluded that a comprehensive planning application would be submitted to regularise the whole site, hence the submission of this application 171396.

- 6.4 In the submission of this application 171396, the agent has made reference to the fact that some buildings were substantially complete over 4 years ago. The following lists buildings that the agent states were built over 4 years ago:

Factory One - 667.63 sq.m.
Factory 2 (excluding freezer extension) - 815.74 sq.m.
Factory 3 - 254 sq.m.
Office - 175 sq.m.
Total: 1913 sq.m

- 6.5 Additional buildings that the agent states that were not built more than 4 years ago are as follows:

Warehouse - 168.82 sq.m.
Workshop /Store - 142.68 sq.m
Freezer store (extension to Factory Two) - 135.75 sq. m.
Total: 447.25 sq. m.

- 6.6 In addition the agent states that approximately 2979 sq.m. of hardstanding "is considered to now be lawful as it was constructed over 4 years ago whilst approximately 1058 sq.m. was built less than 4 years ago." Aerial photographs have been submitted "showing the buildings and hardstanding in situ (dated March 2011, Dec 2012 and April 2013."

- 6.7 The agent also states that "it is understood" that the B2 use in Factory One, part of Factory 3 and part of the office (approx 950qm) has been carried out continuously within these buildings for over 10 years.

- 6.8 Further selected planning history of background relevance is as follows:

F/COL/02/0943 Full
Knights Farm Tea Rooms,
Proposed one and two storey extension
Approve Conditional - 05/07/2002

F/COL/02/1790 Full
Knights Farm Tea Rooms,
Single storey extension and basement accommodation
Approve Conditional - 06/12/2002

F/COL/01/0674 Full
Knights Farm Tea Rooms,
Variation of condition 9 of C/COL/99/1755 to allow 3 light commercial vehicles to leave premises after 04:30 hours
Approve Conditional - 21/06/2001 Temp 2 years!

F/COL/01/0064 Full
Knights Farm Tea Rooms,
Variation of condition 13 of permission under C/COL/99/1755 to refer
to alternative drawing No C642-02
Approve Conditional - 18/05/2001

C/COL/99/1755
Change of Use
Knights Farm Tea Rooms, Knights Farm
Change of use of main building from shop & restaurant to wholesale
meat business
Approved After Appeal - 10/04/2001

95/0024
Change of Use
Knights Farm Tea Rooms
Change of use of part of existing building from workshop/store to
storage and wholesale of meat
Approve Conditional - 30/03/1995

91/0429
Change of Use
Knights Farm Tea Rooms
Use of building for retail sales of dried flowers, ancillary goods
and tea room
Approve Conditional - 24/06/1991

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) (Revised 2018) 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
CE1 - Centres and Employment Classification and Hierarchy
CE3 - Employment Zones
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
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
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP9 Employment Uses in the Countryside
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

- 7.4 Some “allocated sites” also have specific policies applicable to them. There are no adopted Site Allocations (adopted 2010) policies relevant to this case.

- 7.5 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
Sustainable Construction
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
Developing a Landscape for the Future

The Submission (Publication) Draft Colchester Borough Local Plan 2017-2033:

- 7.6 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.

- 7.7 The application site is an existing employment use in the countryside and as such policy DM6 is of particular relevance. The policy states that sites currently used for employment purposes in rural areas will be safeguarded for appropriate economic uses to ensure that local residents have access to local job opportunities without the need to travel. Part B of DM6 provides criteria against which the extension of an existing rural employment business will be assessed. Part E sets out criteria against which proposals for the expansion of an existing employment use into the countryside. These include that the proposals are essential to the operation of an established business on the site and that there is no space for the required use on the existing site.

Relevant policies include:

SP1 - Presumption in Favour of Sustainable Development

SP2 - Spatial Strategy for North Essex

SP4 Providing for Employment and Retail

SP5: Infrastructure and Connectivity

SP6 - Place Shaping Principles

SG1: Colchester's Spatial Strategy

SG3: Economic Growth Provision

SG4: Local Economic Areas

SG7: Infrastructure Delivery and Impact Mitigation

ENV1: Environment

ENV5: Pollution and Contaminated Land

CC1: Climate Change

PP1: Generic Infrastructure and Mitigation Requirements

OV2: Countryside

DM1: Health and Wellbeing

DM6: Economic Development in Rural Areas and the Countryside

DM15: Design and Amenity

DM16: Historic Environment

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

- 7.8 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.
- 7.9 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 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 Archaeologist states: "No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. I have no objection to this application."

- 8.3 Environmental Protection state: “The acoustic report included with this application shows that at present the site does not meet the recommended noise condition. It does suggest ways that this condition could be met.”

Environmental Protection in response to their initial consultation recommended that measures be taken to reduce noise from the site to comply with noise conditions.

Following the re-consultation with the clarified description, further observations have been made recommending conditions (suggested conditions- the full condition wording is contained in the conditions section of this report):

ZGG - Site Boundary Noise Levels

(level of noise emitted from the site’s plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of or boundaries near to noise-sensitive premises.)

ZGN - Industrial Processes (Control of Fumes, Odours, Dust etc)

ZGO - Food Premises (Control of Fumes and Odours)

ZGR - *Light Pollution for Minor Development*

- 8.4 Natural England states: “Statutory nature conservation sites – no objection
Natural England has assessed this application using the Impact Risk Zones data (IRZs) and is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Chalkney Wood has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.”

With regard to protected species, standing advice is referred to.

Following re-consultation Natural England have confirmed; “The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.”

- 8.5 The Highway Authority does not object to the proposals as submitted.
Informative1: 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.
- 8.6 Essex County Council Flood and Water Management team originally objected to the scheme on the grounds of the submission of an inadequate surface water drainage strategy and requested further information.

Following a reconsultation with additional details submitted the following comments were received:

“As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the drainage strategy and the associated documents which accompanied the planning application, **we do not object** to granting of planning permission based on the following: (I have placed on this application what are normally our pre-commencement conditions. However, as you'll be aware pre commencement conditions won't apply to this application so do feel free to re word them so that they fit this application but the main bulk of the conditions apply.) These have now been suitably reworded in the conditions schedule and Informatives to reflect the retrospective nature of the application:

Condition 1: Submission of a Surface Water drainage Scheme

Condition 2: SuDS Maintenance Plan

Condition 3: Annual Maintenance Log

The flood risk responsibilities of the Council are referred to.

INFORMATIVES:

- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other

relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time.

(Additional informatives for the applicant are set out in the informatives section of the conditions schedule.)

8.7 Environment Agency: have raised no objections to the scheme.

The Agency has confirmed that it “carried out water quality tests on the small water course running behind the Direct Meats, Knights Farm, Swan Street, Chappel and from the package treatment plant for toilet facilities at the same premises which discharges into the water course. The initial sample from the treatment plant did show slightly elevated levels for ammonia, but these were addressed by the operator. A follow up sample showed all determinants tested to be within levels that would be deemed acceptable for a plant of this nature. The plant is relatively new, appeared to be mechanically sound and is serviced/maintained on a regular basis. “

9.0 Parish Council Response

9.1 Chappel Parish Council have stated:

“The site has increased considerably without planning permission since the original planning application was granted. Development undertaken since 2001 has greatly exceeded the conditional consent both in structure and vehicle movements. The Parish Council are concerned that no action has been taken regarding these breaches.

The Parish Council first reported its concerns of on-going breaches to CBC in April 2016. It has taken over a year for a retrospective application to be submitted.

Due to the electric front gates which were put up without planning consent large lorries have been noted obstructing the highway while waiting for the gates to open. The speed limit at the entrance to Direct Meats is 60mph, where these extremely large lorries ingress and egress Direct Meats at all times of the day and night.

The Local Highway Panel has confirmed to Chappel Parish Council (June 2017) that changing the limit down from 60mph to 30mph would not be supported due to the rural look and feel of the route. We would wish the Planning Department to note that there is a school bus stop close to the entrance of the site.

The Parish Council is concerned regarding the numbers of employees needing to use cars to commute to this rural site, therefore increasing the traffic load on this rural network.

Damage to the roads and verges due to increased volume of traffic and HGVs. Chappel Parish Council does not feel that this rural route is able to accommodate safely the extra traffic generated.

Light pollution.

Due to the trading hours noise has been reported to the Parish Council which is affecting neighbouring amenity and we would ask that the trading hours of the site are investigated.

Generator noise was notified to CBC by residents in 2001, we understand that this is still an issue.

Burning of material on site resulting in acrid smells.

We have received reports of foul water draining into ditches. Residents have advised Chappel Parish Council of their ponds being polluted. We would ask that drainage of the site is investigated as part of this application.

Impact of development with regard to neighbouring properties which are listed.

The Parish Council would ask that CBC ensure that all development undertaken is covered within this current application.

The Parish Council do not consider that the size of the current business is appropriate for such a rural setting. Intensity in activity in and around the site has increased in recent years.

The Parish Council on behalf of residents wish to see this site regularised:- 1) trading hours 2) traffic movements 3) light pollution 4) noise 5) environmental issues.

The Parish Council would certainly like it stressed that the site should not be allowed to have any further development."

This application has now been in the hands of Colchester Borough Council since April 2016 when Chappel Parish Council first reported the site to Enforcement. The applicant has been given extension after extension of time and the Parish Council would now ask that Colchester Borough Council come to a final conclusion on this application without further delay. The application either needs to be refused due to being contrary to planning policy or indeed refused on inadequate information. If Colchester Borough Council would like to approve the application this needs to be considered by the Planning Committee in order for residents to have confidence in the Planning system and to show full transparency.

The Parish Council on behalf of residents wish to see this site regularised:-

- 1) trading hours
- 2) traffic movements
- 3) light pollution
- 4) noise
- 5) environmental issues.

The Parish Council would certainly like it stressed that the site should not be allowed to have any further development. Please also note our previous comments made on the 23rd June 2017.”

Following the re-consultation with clarified description, Chappel Parish Council have made further comments: “Councillors would like to reiterate their concerns and objections to this application.

- This application is causing real distress to some of our parishioners. They have made this clear by their petition and comments that we can see online, as well as their comments at our own monthly meetings. The only comments in support of the development are from people who live far enough away from Knights Farm to be unaffected by the environmental issues of traffic, noise and light pollution.
- The location of the operation is not suitable for reasons of planning policy, traffic and noise.
- The 5 x single HGV movements per day are in fact 10 movements, as the vehicles have to return.
- Cllrs have observed that these are not 7 tonne lorries but large articulated vehicles that are completely unsuited to the only road access to the site. The worst problems with this road are not outside Knights Farm but down the hill at the Oak Road junction and outside Chappel Primary School. The southern route to Knights Farm moves these massive vehicles to Great Tey, where they are the only such vehicles to transit through the village, all traffic to Great Tey Business Centre stopping outside the built up area boundary.
- We would like Great Tey Parish Council to be consulted on this application. The argument that HGVs should only use the route via Great Tey does not hold true, as many of the vehicles arrive with foreign drivers using SatNav and come through Chappel.
- From the planning history of Knights Farm that is online, it is clear that the original conditional approval was granted subject to tight restrictions, none of which have ever been enforced. It is evident that the current operation would not have been granted approval had the application been made for this at the outset. Since there have been no changes to the location of the site or improvements in the local infrastructure, the basis of the application seems to be that they've got away with running an operation in breach of planning and have in fact massively increased the size of the operation. This is planning by stealth and has severe implications for our Parish and future applications.

- The Parish Council does feel that Colchester Borough Council's Enforcement Team and the Planning Team have very much been misled by the applicant with regards to this application.

To summarise, the operation of Knights Farm is contrary to the original planning permission and is now much larger than anticipated at that time. A medium sized factory has been created on a farm with insufficient infrastructure, contrary to local policy and residents' wellbeing. The road access is appalling and causes real environmental problem for residents, safety issues for pedestrians and other road users along with damage to the road. The planning process has been manipulated to get this far. If approval is granted it will demonstrate that the planning system is not fit for purpose.

We would confirm that Chappel Parish Council objects to this application and would ask that Colchester Borough Council supports us and our residents in rejecting this application."

- 9.2 Great Tey Parish Council state: "We support Chappel Parish Council with their view that planning by stealth should not be permitted. This application is not in our parish and so the main concern for Great Tey is the traffic movement through our village. We would not wish to see any increase in traffic movement through Great Tey."

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 Councillor Chillingworth states: "As one of the Ward Councillors for Rural North, I wish to object to this application. As you know the application is the latest in a series of planning applications for change of use, new buildings and other proposals associated with Knights Farm over a period of years, with no recent decisions and thus no conditions regulating highway and other environmental effects that this business has generated, and which affect local residents.

Although I understand why this situation has arisen, I am concerned that it has gone on so long and I seriously hope a decision can be reached when the latest consultation period ends.

I have seen correspondence from residents extending over two years, together with the current objection from Chappel Parish Council, which I support.

The reason for my objection is primarily that the application does not comply with Policies DP5 and 9 of the adopted Local Plan. The site is not a Designated Rural Employment Zone, it may have started in redundant rural buildings, but most of the development has taken in the form of new build. In my view, the scale and type of development that has taken place on the site far exceeds that which would comply with current rural planning policies. The traffic implications for traffic, the actual and frequent use by heavy lorries and other road traffic on the very narrow, unclassified road indicates that the site would not and should not be considered as a Rural Employment Zone, nor that it be considered as an exception.

As Ward Councillor, I ask that the application is refused and a suitable period of time allowed for the business to be relocated in a more suitable and policy compliant location.”

10.3 40 letters of objection (including from some people writing in more than once) and a petition with 28 signatures have been received which make the following points (precised, full comments are available on the Council’s website:

- Application is fundamentally misconceived regarding the application of law.
- Retrospective but Council obliged to determine like any other application. Intentional unauthorized development weighs negatively. Positive deception has occurred.
- Should have no regard to financial loss for applicant. Submitted reports based on incorrect assumptions. Operational development confused with change of use. Fallback position not correctly assessed. Full planning history outlined in detail- no formal authorisation to operate outside defined parameters laid down in 2001. Relevant fall back position should be 10 years with regard to change of a CLEUD. Factually incorrect reference that Chappel is 3 km to the North.
- No evidence that consent ever granted for 24 hr use 7 days a week. Condition 10 of planning application C/COL/99/1755 stated that no machinery shall be operated and no process shall be carried between 9:00 p.m. and 2:00 a.m. Mondays to Fridays, nor after 2:00pm on Saturdays or on Sundays and Bank / Public Holidays Whilst decision notice in respect of F/COL/01/0674 to some extent permitted “the despatch of goods from the site by no more than three light commercial vehicles, each vehicle not exceeding a net weight of 1.5 10 tonnes/3.5 tonnes laden weight, between 04.30 a.m. and 08.00 a.m. Mondays to Fridays. In all other respects the restrictions contained in Condition 9 [of C/COL/99/1755] remain in force..” Condition 9 of C/COL/99/1755 stated “No deliveries shall be made to and no goods dispatched from the site outside the hours 8:00am to 5.00pm nor at any time on Sundays, Bank or Public Holidays. The resultant extant approvals do not permit any deliveries whatsoever before 08:00 a.m. on any day of the week.
- Clear that with the recent construction of further buildings there has been intensification at Knights Farm i.e. with a series of material changes, meaning it is irrelevant whether deliveries have taken place before 08:00am over the last 4 years as that is not the correct legal test. The conditions related to the original planning unit.
- No consent for open storage.
- Net expansion in floor area is c. 1,985 sqm. This expansion exceeds that which the Planning Inspector ever envisaged at 18 of his decision (Ref: APP/A1530/A/00/1052566). Area built without consent 5 times area built with consent.
- Breach of condition has to be continuous to be Unenforceable.
- Majority of new development has taken place in the open countryside. Change of Use requires 10 years to be immune.
- Of 2360 sq m developed clearly 50% not immune from Enforcement action, strong case 80-100% not immune.
- B2 use not suitable for the application site.
- Believe there has been some increase in roof heights of buildings.

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- Gate often closed causing lorries to queue.
- Inspector at appeal concluded number of large lorries visiting site would “remain constant at about 4 per week.”
- Concern about adequacy of surface water drainage arrangements. No evidence for Scheme for SUDS. Waste overflow water has been dumped on land.
- Proposals contrary to the following policies: SD1, ENV1, ENV2, CE1, DP9
- Should have contemplated relocation.
- 2000 planning consent does not grant permission for 2 hectare site.
- Many staff travel from outside area. Same economic benefits could be achieved in employment area.
- Landscape Assessment: before and after assessment has not been properly undertaken. Public channelled down paths with banks adjacent.
- Light pollution from the site is unacceptable level.
- Site can be seen from first floor level from Willow Cottage (Listed Building). Significant harm to setting already.
- Harms the open countryside. Majority of site was open countryside and should be reinstated.
- Some trees have been removed to facilitate unauthorised buildings.
- Flood Risk Assessment (FRA) does not accord with site area and has flawed assumptions.
- Klargest unit does not have consent.
- No way of assessing which protected species were on site before work undertaken without consent.
- Non-native trees planted. Banks unauthorised. Concrete over root protection areas.
- No evidence that due diligence undertaken regarding transport assessment. Inappropriate to assume 24 hr operation. Unauthorised vehicle movements before 8 am. Noise keeps us awake.
- Appears Intermodal Transport have been misguided.
- Vans and service vehicles underrepresented. Staff vehicle trips of 56 per day is underrepresentation.
- TIA has incorrect assumptions.
- Not correct to suggest everything apart from c. 447m² represents the legal “base” position in assessing impact.
- Noise problems, including from vehicles.
- Pace of change has accelerated.
- Installed incinerator burns treated timber- caused death of wife’s horse.
- Highway verge creep. Damage to ditches causing drainage problems. Damage to roads caused.
- Impact upon Conservation Area.
- Excessive size for small village location. Concern business will grow unabated.
- 100 employees has traffic implications.
- Council should have taken a firm hand and refused application.
- Applicant has drip fed further information in revised plans.
- Some new development is now proposed.
- Confusion over parking provision.
- Applicant has deliberately misled planning department on previous works.
- Revised description has added to confusion.
- Double standards from highway authority.

- High volume of lorries. Some often have to reverse. Cars have to brake sharply to avoid collisions. Several foreign lorries have reversed on blind mind after missing entrance.
- Need later comment about drainage strategy.
- There is much signage in evidence.
- Loss of Article 8 Human Rights.
- Pollution of local watercourses and our pond. Environment Agency investigating.
- If B2 use permitted, would give free range to any B2 use.
- Applicant has ignored many previously imposed conditions.
- No information that majority of staff are locals or where they come from.
- Appalled Knights Farm allowed to apply for retrospective permission.
- Object to any further development on site.
- Our Listed Building is shaken to bits. Will sue Council for damage to house.
- Based on the general rule of public law that no one should be allowed to profit from his own wrong appears the Revised NPPF published 24 July 2018 does nothing to bolster the applicant's case.
- Not sustainable growth (para 83 NPPF).
- Unacceptable impact upon rural roads (para 84).
- Strong smell of cooking sausages recently.
- No mention of articulated lorries visiting site in TIA. Highway Authority not looking at from correct standpoint?
- Alarmed Council allow applicant chance to amend application. Unfair on 3rd party objectors.
- Applicant could pay new fee with new application. Burden on tax payer.
- Attenuation ponds ramifications on parking.
- Additional material does not address previous concerns or improve design.
- Hours of operation contravene condition 10 of 99/1755-claiming immune from Enforcement Action?
- No defined reference point to measure breach of conditions: not breached continuously for 10 years. Can't rely on Statutory Declaration.
- Updated Screening Opinion not appear to acknowledge extra information received. Should determine as if development had not occurred.
- Suggest if site was largely Greenfield, EIA required.
- Site identified in Landscape Character Assessment A5 Colne River Valley Slopes and B4 Great Tey Farmland Plateau- Conserve and Enhance.
- Site visible from Public Footpaths and worse at night.
- Draft Transport and Logistics Principles. Ambiguous and acknowledge there is a problem. It is a sop.
- Draft Travel Plan Principles: another sop. Unenforceable. Acknowledges unsustainable location.
- Planning Inspector considered site opposite unsustainable.
- DP9 criteria- this is retrospective. 5 fold increase in staff numbers.
- DP9 elements reiterated-conflicts with criteria. Essential need not demonstrated for expansion etc.. Intentional unauthorised development.
- Other sites not adequately considered. Option to relocate at time.
- FSA current regulations.
- Emotional blackmail.
- Not gradual expansion.
- Encourages excessive car dependence.

- Factory not land-based rural business. Does not benefit local residents.
- Unacceptable impact on Local Roads.
- Highway Authority have merely revisited previous views. Relates to previous consultation?
- Council would be rendered powerless to prevent future expansion.
- Salutory lesson taught to another Council over not taking Enforcement action: Barker R v Brighton and Hove CC.
- Fear applications for future expansion.

10.4 4 letters of support objection have been received which make the following points:

- Direct Meats has operated from Knights Farm for many years and although in that time it has grown and developed into a renowned supplier (and more recently exporter) of high quality meat, I believe it has been done in a most sympathetic way.
- As a business-owner also in Swan Street, I, like Direct Meats, understand the need to generate jobs for local people as this strengthens the infrastructure and stability of the area. Direct Meats are a very important customer to Tatams of Chappel. They are our largest customer and we service and maintain not only their own vehicles but also those of several of their staff and have done so for many years. Loss of this business would have a serious and detrimental effect on my business and therefore the local residents, many of whom also have their vehicles maintained by us.
- See no reason why this retrospective application should not be fully supported.
- It is vital to have jobs available in the local area, especially when people are unable to drive or do not have use of a vehicle.
- Business brings both finance and stability to the local economy. Have had several family members employed by this business over the years and so have insight into the ethical running of the company. No business can be invisible, if it were not for the insignia on vans I would be unaware of the company location.
- Have always noticed how the entrance to the company is well maintained and pleasing to the eye. Main factory is not noticeable when driving past due to the well positioned hedgerows. I use Swan Street to travel to and from the A120 and find the problem along that road is with domestic speeding cars - all the heavy lorries, that I believe can only access from one direction, are travelling in a professional manner at an appropriate speed.
- Business is a credit to the local community and such well-planned ventures should be supported and not hindered.
- Bigger issue here is to support a local business that employs local people. I understand that Direct Meats also operates an apprentice scheme which is great for local youngsters, especially if they have transport issues.

11.0 Parking Provision

11.1 67 car spaces (See Appendix 3 Parking Plan).

12.0 Open Space Provisions

12.1 Not applicable

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 considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 The main issues in this case are:

The Principle of Development

- 15.2 Core Strategy Policy CE1 provides that the Borough Council will encourage Economic Development and support employment growth in sustainable locations. It also refers to rural businesses and that regard needs to be had to location, scale and the support to rural economies. Policy DP9 expands on this detail. As the application relates to an employment use within the countryside Policy DP9 of the Adopted Local Plan Development Policies document is therefore of particular relevance. This provides that employment development proposals must contribute to the local rural economy and help sustain rural communities. The policy also provides that the proposed use should be of small scale that does not harm the rural character of the area either by the nature and level of activity (including traffic generation) or any other detrimental effects such as noise and pollution.
- 15.3 In this case the proposal could be deemed as being beyond small scale and accordingly the application has been advertised as being a Departure from the Local Plan. Whilst the proposal can be considered to comply with a number of elements of Policy DP9 (as will be outlined below) the extent of the use (scale) and works undertaken goes beyond what would normally be considered as ‘small scale’. Therefore, in accordance with the National Planning Policy Framework (Revised 7/18) there needs to be material planning considerations in terms of potential wider public benefits, as to why the Departure from this part of Policy DP9 (and hence from the Development Plan) can and should be justified as part of the planning balance.
- 15.4 Other particularly relevant elements of Policy DP9 include part B which relates to extension of existing employment buildings and states that “proposals will only be supported where these are limited to expansion plans which are essential to the operation of the established business”.
- 15.5 Part (D) of DP9 states that proposals for new employment buildings “will only be supported in exceptional cases where there are no appropriate existing buildings and the need has been adequately demonstrated”.

- 15.6 Part (E) of DP9 states that “Proposals to expand an existing employment use into the countryside will only be supported in exceptional cases where there is no space for the required use on the existing site, the need has been adequately demonstrated, and the proposals are essential to the operation of an established business on the site. Consideration must be given to the relocation of the business to available land within strategic or local employment zones.”
- 15.7 Importantly Paragraph 4.24 within the explanation of Policy DP9 states: “There are a number of well-established employment sites in the rural parts of the Borough, where some important local companies are located. Companies are often seeking to expand their operations within the site and this can be more appropriate than the company seeking alternative premises outside of the Borough, in order to retain the economic and social benefits which can arise from companies located in rural areas.”
- 15.8 Policy DP5 is of background relevance and states “Sites and premises currently used or allocated for employment purposes will be safeguarded for appropriate uses.”
- 15.9 The National Planning policy Framework (NPPF) revised July 2018 is also relevance in the consideration of this case. At its heart is a presumption in favour of sustainable development (Paras 7-10) with 3 overarching objectives (a) an economic objective (b) a social objective and (c) an environmental objective.
- 15.10 There are other elements of the NPPF that are also of relevance to this case. Paragraph 80 states that “Planning Policies and decisions should help create the conditions in which businesses can invest, expand and adjust. Significant weight should be placed on the need to support local economic growth and productivity, taking account both local business needs and wider opportunities for development.”
- 15.11 Importantly the Framework at Paragraph 83 (Supporting a prosperous rural economy) states:
“Planning policies and decisions should enable:
a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
b) the development and diversification of agricultural and other land-based rural businesses;
- 15.12 Similarly, Para 84 of the NPPF States:
“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”

- 15.13 In this case having regard to the abovementioned Local Plan and National Policies and the precise nature of the case, it is considered that, on balance the proposal can be supported. Whilst the proposal is a Departure from one element of Policy DP9 of the Local Plan, namely that the proposal could be deemed as beyond small scale, it complies with other elements of this key policy and the NPPF.
- 15.14 Having regard to the other criteria in Policy DP9 the Direct Meats business clearly contributes to the local rural economy and this is likely to sustain the rural community with employment and other economic benefits. The impact upon the nature and character of the area (including from traffic generation) will be discussed further on in this report.
- 15.15 With regard to point B (Extension of buildings) and Point D (New rural buildings) of Policy DP9, it is considered the applicant has adequately explained why the extension of existing buildings or the erection new employment buildings are required. To support the extension of buildings the applicant needs to demonstrate that they are essential to the operation of the business. The applicant states that the existing buildings on site “are vital to safeguard the existing jobs” and to allow the continued operation of the business “to meet both existing and future demand and FSA and BRC requirements” The applicant has stated that the buildings have been extended gradually over a period of time, to allow the business to grow in an economically sustainable manner.
- 15.16 In addition, it is stated that food preparation factories and storage areas enable the company to meet the higher expectations of food security from the export business and to facilitate training within the industry. It is also stated that the storage buildings also allow for more stock to be stored on site than could previously be taken in one delivery, preventing multiple daily deliveries. These benefits and requirements are considered reasonable
- 15.17 The applicant’s statements as outlined above and earlier in respect of points B and D of DP 9 are considered reasonable and realistic. It is considered that the need for the extended and new buildings has been adequately demonstrated and that the benefits and requirements serve to justify these extensions and new buildings in principle. From the information submitted and the analysis of the site and its history it is considered that it has been demonstrated that the extensions are essential to the operation of what is an established business and that an essential need has been adequately demonstrated in respect of the new buildings.
- 15.18 Part E of Policy DP9 relates to the expansion of an existing business in the countryside. Whilst substantial elements of the business are quite well contained within the original commercial area, (including areas used for the dried flower business) there are elements of the business that have technically expanded into an area that would be classified as previously undeveloped countryside. The business is generally within a compact site area, well screen from all angles and low lying compared to the land to the rear in particular. Accordingly it is not considered the business site has

expanded into prominent, open countryside or has consequently resulted in material harm. Nevertheless, in accordance with Part E it does need to be demonstrated that it is (was) essential to expand into the countryside regardless of the site's prominence and that a need has been adequately demonstrated. Consideration also has to have been given to the relocation of the business to available land within strategic or local employment zones.

- 15.19 In this respect, it is considered the need for extensions and new buildings for operational requirements has been adequately shown, as discussed above and that the applicant's justification is reasonable and realistic. The applicant has stated that the implications of the relocation of the business have been considered, as outlined in Paragraph 4.12 above. It is stated that either an existing property would need to be refurbished or a new property constructed in accordance with FSA standards. The applicant has stated that such relocation would be unviable "owing to the significant investment required to fit out a bespoke cutting plant".
- 15.20 The applicant has also advised that the Direct Meats would lose its UK licence if it relocated, with a subsequent risk of losing business in a number of countries with a new inspection process. Concern has also been expressed about potential recruitment problems that could arise from relocation. Given the above points and statements made by the applicant's agent, it is considered that the applicant has considered the option of relocating the business, in accordance with Part E of DP9 and outlined clearly the implications of the relocation. Accordingly, on the basis of the information submitted by the applicant's agent and the nature of the business it is considered that it is reasonable to conclude that there would be serious viability and staffing issues in relocating the business that would render such a move unfeasible.
- 15.21 The explanatory local plan Paragraph 4.24 to DP9 does acknowledge that there are a number of well-established employment sites in the rural area of the Borough and that it can more appropriate for the company to expand the business on site rather than to seek alternative premises. Direct Meats is considered to be one such well-established important local company in a rural area in which it is more appropriate (and indeed more viable) to allow an expansion on site rather than a relocation. The proposal therefore accords with the provisions of this supporting paragraph 4.24.
- 15.22 Overall, in terms of the principle it is acknowledged that the proposal does depart from one element of Policy DP9 in that the business expansion can be deemed as more than small scale. Nevertheless, the proposal is considered to comply with the vast majority of the criteria outlined in Policy DP9 as explained above in terms of the need for the expansion of the business and the resultant potential viability problems if the business did seek to relocate. It is appreciated that the application is predominantly retrospective in nature but nevertheless, the applicant has explained the business case as to why the business expanded on site over time. It is accordingly considered that, on balance, there are material reasons to warrant a departure from one element of Policy DP9. There are clearly

economic and social benefits to the local rural economy from the business being in this location.

- 15.23 Having regard to Policy CE1, the proposal is beneficial to economic development and, whilst not being in the most sustainable of locations (although it is close to major road networks), the development helps support the rural economy. The Policy also seeks to protect employment.
- 15.24 Allowing the retention of the works undertaken is supported by the NPPF Para 80 which provides that “Significant weight should be placed on the need to support local economic growth and productivity, taking account both local business needs and wider opportunities for development.” In principle the proposal would also comply with NPPF Paragraph 83 which aims to support a prosperous rural economy and with Paragraph 84 which recognises that “sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not served by public transport.” It is appreciated that the site is not in the most sustainable of locations but nevertheless, it is positioned on a road that is linked to A roads at either end, it is not particularly remote and is opposite a small settlement boundary. Compared to a lot of rural areas it is therefore in a reasonably sustainable location for a rural business.
- 15.25 Overall, for the reasons outlined above, it is considered that the principle of the proposal, namely the proposed retention of the expanded business (with additional proposed works) can be supported having regard to Local Plan policies and the recently revised NPPF and that accordingly the application should be judged on its detailed planning merits, which will be discussed below.

Established Use

- 15.26 Reference has been made in the submitted supporting documents that a number of the buildings and other development has been in situ for some time, including for several years in some cases. There could therefore be the potential for an argument to be put forward that some buildings, works and use could be immune from Enforcement Action and are Established. However, as there has been no determination in respect of a Lawful Development Certificate (and there is no such submission outstanding), then this aspect is not given any significant weight when considering the application proposal. It is considered therefore that the application should be considered on its planning merits in respect of the submitted details rather than relaying to any material degree on an argument for potential Established Use or immunity from Enforcement Action.

Landscape and Visual Impact

- 15.27 Policy DP1 of the Adopted Local Plan provides that development proposals must demonstrate that they and any ancillary activities associated with them respect and enhance the character of the site and its context in terms of scale, form, townscape and landscape setting. Development should also respect and enhance the landscape and other assets that contribute positively to the site and surrounding area.
- 15.28 In terms of landscape and visual impact, the site is relatively well screened within this countryside location. The site falls into landscape character area B4 – Great Tey Farmland Plateau. There is a high coniferous hedge on the front boundary of the site with some deciduous vegetation. Whilst this frontage hedge is predominantly non-native it successfully screens the majority of the site from the lane frontage. This means that the buildings are well hidden and only really partly visible from the road when viewed through the entrance way when the gate is opened. Accordingly, on balance, it is considered that it is beneficial to retain this planting on this boundary to ensure that the buildings within the site remain unobtrusive when the site is viewed from the road frontage side. The applicant's submitted Arboricultural Impact assessment agrees that the removal of the coniferous hedge and replacement with native species would be inappropriate in this particular case "due to the significant loss of screening that would occur and the time it would take to establish replacement native species."
- 15.29 Some hard surfacing is visible from the road including the entrance drive and elements within the site when the black frontage gate is open. Whilst the sizeable gate is visible from the front of the site, it has the benefit of screening the hard surface and nearest buildings within the site when it is closed. It is therefore considered that this is the most appropriate location for the gate rather than setting it back from the frontage, further within the site.
- 15.30 The site including bunding is hardly visible at all from the footpath alongside the Eastern boundary. The vegetation is thick and mixed giving quite a natural informal screen.
- 15.31 The site is reasonably well screened to the North-West including when viewed from the footpath that traverses the field beyond. Nevertheless there are some gaps in the vegetation and some buildings can be glimpsed, especially in winter. There is scope to improve the screening and landscaping at this part of the site by comprehensively infilling the site between its boundary and the development edge. A woodland belt if introduced here, including the retention of any existing locally characteristic native tree stock within this area and potentially grubbing out some of the non-native planting here could improve the landscape whilst further screening the site.

- 15.32 The applicant's Landscape Statement states that:
"The development of this Site would have resulted in a NEGLIGIBLE impact on the landscape character of the wider area. The erosion that the proposed development might have had is reduced in significance due to the fact that the site is surrounded by trees and the new additional buildings effectively fill gaps that already exist within the site. Remedial management and work to strengthen the boundary between the site and the field to the west, as well as landscaping within the site, would continue to help limit the impact on the landscape surrounding. The additional proposed attenuation ponds in combination with the existing development would not be prominent or discordant with the existing site land use."

These conclusions are considered to be accurate and reasonable.

- 15.33 A condition relating to a Landscape Management Plan could therefore be applied to secure these improvements. This could cover items such as planting plans, implementation timetables and monitoring programs, means of enclosure, hard surfacing materials, any earthworks and other structures. It is not considered further bunding should be introduced as this is an alien feature. An appropriately implemented Landscape Management Plan should ensure that the impact of the development site is minimised within the wider countryside and, in particular enhanced following improvements on the rear boundary. This would completely hide the parking area to the rear of the site which is already partly screened.
- 15.34 The buildings within the site are fairly typical but relatively low ranging industrial looking buildings that benefit from generally dark finishes, including dark roofs which enables them to blend well against the backdrop of dark vegetation. They are also not over scaled and are generally modest in height and this helps to further minimise their visual impact within the wider countryside. They are therefore considered to respect the context of the site and its wider contextual countryside setting.
- 15.35 Overall, subject to the landscape management plan condition as outlined above, it is considered that the impact upon the landscape character of the countryside would be minimised and mitigated (and indeed enhanced from its current position). Accordingly it is considered that the proposal accords with the provisions of Policy DP1 subject to the appropriate implementation of this suggested planning condition.

Highway Safety and Traffic Issues, including Parking Provision

- 15.36 In accordance with Local Plan Policy DP9 the impact of traffic generation upon rural roads including in terms of highway safety, needs to be assessed. Paragraph 109 of the revised NPPF states:
- "109: Development should only be prevented or refused on highways grounds if there would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe."

- 15.37 The adequacy of parking provision also needs to be considered.
- 15.38 Swan Street, which links the A1124 to the A120, is used by the vehicles associated with Knights Farm and varies in width and alignment. The majority of this road is wide enough road to allow vehicles of varying sizes to pass each other comfortably. There are however some pinch points, including at Chappel and on certain bends. Vehicles also have to pass through Great Tey which has pinch points, exacerbated by on street parking in the main street.
- 15.39 Having regard to Policy DP9, NPPF Para 109, the nature of the roads used, the volume and nature of traffic associated with Knights Farm and the times of movement, it is not considered a sustainable objection can be raised in terms of impact upon Highway Safety. The Highway Authority have raised no objections in this respect.
- 15.40 The submitted Transport Statement confirmed that the busiest hourly vehicular rates of traffic flows were recorded between 05:00 hrs and 06:00 hrs and 16:00 hrs and 17:00 hrs. This is outside the traditional road network peak hours (08:00 hrs- 09:00 hrs and 17:00 - 18:00 hrs). This helps to minimise potential vehicular conflicts with high volumes of traffic not occurring during the road network peak hours. The Transport Statement concludes that granting the consent would have no significant effect on the operation of Swan Street or any nearby traffic junctions. This conclusion is considered accurate.
- 15.41 It is appreciated that there are 4 HGV deliveries, per day (including articulated lorries 1 to 1.4 per day as measured in August and September 2018). The additional Transport Statement addendum states that the HGV vehicle movements to and from Direct Meats represents less than 25% of all HGV movements using Swan Street. It is fair to say that parts of Swan Street are not ideal for accommodating articulated lorries; including in particular at Chappel and Great Tey. However, Swan Street is not weight limit restricted and the articulated lorries, and indeed other HGVs have the unrestricted right to use this road at all times. The number of HGVs is considered to be at an acceptable level in terms of not having any significant impact upon highway safety. The proportion of vehicles relating to Knights Farm is relatively modest compared to the overall numbers of vehicles using the road.
- 15.42 The concerns raised by objectors have been considered carefully in this respect, in particular with regard to articulated lorries. Concerns have been raised about articulated lorries parking on the road opposite Knights Farm, reversing having missed the site, struggling to navigate Chappel and turning in and out of the site. Whilst the number of articulated lorries is considered relatively modest (1-1.4 per day measured in August and September) compared to the overall use of this unrestricted road, this is a rural area and Swan Street does have some pinch points. It is considered that a condition should be applied that limits articulated lorry movements to the site to ensure that an appropriate volume of movement is not exceeded, in the interests of not only of highway safety but residential amenity in the vicinity (as will be discussed in the residential amenity section).

- 15.43 It is considered that such a condition is enforceable by the use of logging the vehicles entering the site and also by CCTV records; both of which can be available for inspection by the LPA upon request. The condition will limit the number of articulated lorries visiting the site to no more than one per day taken as an average over a calendar month period. This allows adequate flexibility to the business in case at certain times more than one articulated vehicle on a day needs to deliver but means there would be a slight reduction overall in the number of articulated vehicles visiting the site as currently exists on certain months. The knock-on effect would be that the articulated lorry reduction would require a slight increase of HGV numbers but the condition would also control this over a calendar month period. The precise detail of this condition is outlined in the recommendation section of this report.
- 15.44 It is considered a condition should be applied to restrict the use of double articulated lorries (additional trailer) servicing the site given their size and the nature of the rural road network.
- 15.45 In respect of other highway safety issues, access visibility into and out of the site is good, in accordance with Paragraph 108 of the NPPF. In order to help avoid vehicles passing the site it is considered some additional directional frontage signage at appropriate points should be added and a condition will be applied requiring the submission of this detail. The signage can be modest in size in order not to impact upon the visual amenity of the area significantly but needs to be adequate to flag up adequately the proximity of the access.
- 15.46 There is adequate manoeuvring space within the site for lorries, vans and cars, as shown by the diagrams submitted within the Transport Statement. There is also considered to be adequate parking provision within the site for staff cars, vans and lorries, as confirmed in the Transport Statement. No objections have been raised by the Highway Authority in this respect. Whilst there are 117 employees, shift patterns mean that they are not all present on the site at once and so car parking 67 spaces meets their demand. There has been no overspill of such parking onto the highway. Retention of the parking and manoeuvring areas can be conditioned.
- 15.47 Overall, for the above reasons and subject to appropriate conditions as outlined, it is not considered an objection should be raised on the grounds of highway safety or traffic impacts. The proposal is considered to accord with Policy DP9 in this respect. Having regard to the provisions NPPF Para 109, it is not considered there “would be an unacceptable impact upon highway safety, or the residual cumulative impacts on the road network would be severe.”

Impact upon Residential Amenity

- 15.48 Policy DP1 states that development proposals must demonstrate that they protect existing public and residential amenity and in this case this relates particularly to issues such as noise, disturbance, pollution (including light and odour pollution). Policy DP9 also provides that noise and pollution issues need to be considered, including in respect of traffic generation.

- 15.49 In this case, subject to the application of appropriate conditions, the proposal overall is considered acceptable in terms of impact upon residential amenity in the vicinity.
- 15.50 Inevitably there will be some noise and disturbance from vehicular movements relating to the use of the site, including from the lorries and vans. The Transport Statement indicates that the busiest hourly vehicular rates of traffic flows were recorded between 05:00 hrs and 06:00 hrs and 16:00 hrs and 17:00 hrs. There are some late night and early morning vehicular movements as is the nature of a business that serves restaurants. The first van departures were surveyed at 02:30 hrs but the bulk of van departures were between 03:00 and 06:00 totalling 12. Vehicular movements include cars, vans and HGVs, with on average 4 HGV deliveries, per day (including articulated lorries 1 to 1.4 per day as measured in August and September 2018).
- 15.51 It also needs to be noted that the majority of activity takes place on Monday to Friday between 06:00 hrs - 17:00 hrs and that there is only limited operation outside these hours and at weekends, as explained earlier. The additional Transport Statement addendum states that the HGV vehicle movements to and from Direct Meats represents less than 25% of all HGV movements using Swan Street.
- 15.52 Overall, this level of vehicular activity and its timing is considered to be at an acceptable level in terms of any noise and disturbance caused to residents in the vicinity. Environmental Protection have not raised an objection on noise and disturbance grounds from vehicular movements and the applicants have a right to use the highway at all times. Other lorries and vehicles not associated with the business already use this road and there is not a restriction on size of vehicles. The proportion of vehicles relating to Knights Farm is relatively modest compared to the overall numbers of vehicles using the road. Having regard to all of these factors, it is not considered a refusal on the grounds of disturbance to residents from vehicular movement associated with Direct Meats can be justified.
- 15.53 In terms of noise and disturbance from the business activity itself, Environmental Protection have analysed the acoustic report and note that the site does not meet the recommended noise condition. In particular there is concern regarding external plant in one location (which could be mitigated by acoustic protection). However, it is considered that conditions can be applied to any consent granted and subject to compliance with these conditions, the noise emitted from the site's plant and equipment will not result in detriment to neighbouring residential amenity from noise and disturbance. It is considered that compliance with these conditions is achievable and Enforceable.
- 15.54 The conditions suggested by Environmental Protection are outlined in the conditions section of this report and relate to:
- (i) Site Boundary Noise Levels
 - (ii) Industrial Processes (Control of Fumes, Odours, Dust etc.)
 - (iii) Food Premises (Control of Fumes and Odours)
 - (iv) Light Pollution For Minor Development.

- 15.55 With regard to Light Pollution, an additional condition will be applied requiring the submission of a full lighting scheme (including floodlighting) in order to ensure there is no significant light pollution that would cause detriment to neighbouring residential amenity. Low level bollards can be used instead of taller lighting columns where appropriate and there can also be appropriate hooding to prevent any light spillage. The consent will not grant approval for any current floodlighting on site as it will need to be specifically agreed.
- 15.56 Other forms of pollution that might cause detriment to neighbouring residential amenity such as water run off can be controlled under drainage conditions and by the Environment Agency.
- 15.57 There has not generally been an odour pollution issue relating to the site. However, there has been a recent complaint about odour and this is being investigated by the Enforcement Team and Environmental Protection. If deemed a Statutory Nuisance then appropriate action can be taken under Environmental Health Legislation.
- 15.58 Overall, subject to compliance with conditions relating to vehicular movements (i.e. numbers of HGVs) and those suggested by Environmental Protection plus an additional lighting condition, it is considered that the proposal is acceptable in terms of impact upon residential amenity in the vicinity. The proposal would therefore accord with the provisions of the above mentioned Policies DP1 and DP9.

Setting of Listed Buildings

- 15.59 Opposite the Northern corner of the site is Willow Cottage which is a Grade 2 Listed Building. It is not considered that the works that have been undertaken adversely affect the setting of this Listed Building. There is significant vegetation screening on the front boundary of the application site and also on the boundary of Willow Cottage. Given this screening and the distance of the buildings from Willow Cottage, the setting of the Listed Building is not affected in any significant adverse manner. Further Southwards, on the opposite side of the road but beyond the application site are two more Listed Buildings. Again, the setting of these buildings is not affected by the development works owing to the distance from the site an intervening landscape features.
- 15.60 Accordingly, in this respect the proposal accords with Local Plan Policy DP14 which aims to preserve the setting of Listed Buildings. Similarly the application accords with Paragraphs 189, 190 and 194 of the NPPF which states that the impact upon the setting of a heritage asset should be considered and that substantial harm to the setting of a Listed Building should be exceptional. All harm to the setting of designated heritage assets is in principle undesirable and subject to statutory protection (s.66 (1) PI (Listed Buildings & Conservation Areas) Act 1990) and in this case the development is considered to avoid harm with any residual impact upon the wider setting being increasingly mitigated as planting matures further and screens/filters views.

Lighting

- 15.61 There is some floodlighting that has been erected within the site to illuminate various areas of the site, including buildings and parking and manoeuvring areas. Whilst some of this lighting is well within the central areas of the site and quite well screened, nevertheless some lighting is still visible from outside of the site. It is considered that light pollution in the countryside should be avoided wherever possible.
- 15.62 Accordingly it is considered that a condition should be applied to any consent granted to require the submission of a full lighting scheme, include floodlights, in order to ensure that any light spillage into the countryside is minimised. The aim will be to either remove or hood any of the existing floodlights within the site and/or replace them with low level bollard lighting where appropriate. Compliance with this condition will minimise light pollution in the environment, including views of lighting from outside the site. The applicant has indicated a willingness to revise any lighting currently on site. Therefore any consent given does not grant approval for any of the existing lighting on site and this will need to be agreed under the provisions of the condition.
- 15.63 Subject to compliance with the condition, the proposal would accord with Local Plan policy DP1 which aims to avoid light pollution especially in countryside locations.

Drainage and Flood Issues

- 15.64 Whilst the site does not lie within a Floodzone 2 or 3, drainage and flood risk issues still need to be assessed for an application of this nature. Local Plan Policy DP20 states that all development proposals shall incorporate measures for the conservation and sustainable use of water and that “These measures shall include appropriate SuDS for managing surface water runoff within within the overall design and layout of the site...”
- 15.65 Accordingly the Essex County Council Flood and Water Management Team (The Lead Local Flood Authority -LLFA) were consulted. This team originally objected to the scheme on the grounds of an inadequate surface water drainage strategy and requested more information. Further information has now been submitted and the LLFA do not now object to the scheme subject to conditions relating to the following: (the full wording of the conditions is in the conditions section of this report).
- (i) Detailed surface water drainage scheme for the site to be submitted, based on sustainable drainage principles and assessment of the hydrological and hydro geological context of the development.
 - (ii) Details of 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.

- (iii) The keeping of yearly logs of maintenance by the applicant or any successor which should be carried out in accordance with any approved Maintenance Plan.
- 15.66 These conditions are required to ensure satisfactory storage of/disposal of surface water from the site, to ensure effective operation of the SuDS feature of the development and to provide mitigation of any environmental harm which may be caused to the local water environment. Given that this is a retrospective application it is considered that such detail should be submitted within one month of the date of any consent granted and the approved details implemented within 3 months of the date of their formal clearance by the Local Planning Authority. This will meet the requirements of Policy DP20.
- 15.67 Subject to compliance with these conditions it is not considered that objections can be raised on the grounds of flood risk. The site is not in a Flood Zone 2 or 3 and there are no concerns from fluvial flooding. There will be no risk of increasing flooding elsewhere. The Environment Agency have raised no objections. The submitted Flood Risk Assessment concluded that “there would be no flood risk affecting property or the welfare of workers and the public arising from the development of the site and that surface water discharge from the development can be adequately managed to ensure no additional risk of flooding both on site and off site, even under extreme conditions.”
- 15.68 Concerns have been raised by a neighbour about the contamination of a watercourse to the rear of the site and the impact that this has had on their pond. It can be confirmed that the Environment Agency carried out water quality tests on the small water course running behind the rear of the site from the package treatment plant. Whilst the initial sample from the treatment plant did show slightly elevated levels for ammonia, this was addressed by the operator. A follow up sample taken on 20th September 2018 “showed all determinants tested to be within levels that would be deemed acceptable for a plant of this nature. The plant is relatively new, appeared to be mechanically sound and is serviced/maintained on a regular basis.”
- 15.69 Overall, with regard to drainage and flood risk issues the proposal is therefore considered acceptable and complies with Policy DP20. The proposal also complies with NPPF Paragraph 180 Pollution which provides that impact of pollution on the environment needs to be taken into account and Para 163 which relates to flood risk.

Impact upon vegetation and trees

- 15.70 Overall it is not considered that the application can be objected to on the grounds of impact upon trees and vegetation. The submitted Arboricultural Impact Assessment (AIA) acknowledges that the trees on the site are a 'mix of native and exotic species.' A tree survey has been carried out in accordance with BS5837:2012 in order to assess the impacts of the proposals on trees and make recommendations for tree protection, where appropriate. The survey recorded 6 trees (5 Category B, 1 Category C and 27 groups of trees (8 Category B and 19 Category C). There are no Tree Preservation Orders on the site.

- 15.71 The AIA states that it has not been possible to assess the impacts of past development on the trees. A considerable amount of development is some years old so this is not an unexpected conclusion. However, no trees the subject of a Tree Preservation Order have been affected.
- 15.72 The AIA also states that "In respect of the site's current status, visually it is well screened on all sides. This is by a mixture of native broadleaves and coniferous trees. Whilst the coniferous trees are not characteristic of the site's rural location, their removal and replacement with native species is considered inappropriate due to the significant loss of screening that would occur and the time it would take to establish replacement native species." This conclusion ties in with the conclusion reached in the landscape impact section of this report.
- 15.73 With regard to the additional works proposed such as the attenuation ponds and canopy, an additional tree survey was undertaken in November 2017 and it was determined that one alder (*Alnus glutinosa*), one horse chestnut (*Aesculus hippocastanum*) and a small quantity of immature plants shrubs and trees will require removal for the ponds. It is not considered there would be any significant impact upon trees and vegetation of importance, including those identified in the later survey. A condition can be applied to get temporary protective fencing installed prior to the works so that vegetation is protected as much as possible during works to install the attenuation ponds. A Method Statement condition for the construction of the pond to the North West can be applied also be applied to ensure retention of the boundary vegetation. The proposed canopy is set well away from vegetation and on existing hard surfacing.
- 15.74 The AIA confirms that within the site, significant new planting has occurred, including native species. It states that "Weed control is recommended in respect of G14, G15, G20 and G21. The establishment of other newly planted trees, e.g. G4, G6 and G16 should be monitored, with suitable actions taken to ensure their successful establishment, including any replacements as may be required." This can be embraced within a Landscape Management Condition. A condition can also be applied to secure the retention of existing vegetation within the site, including on the boundaries. The retention of trees and vegetation will maintain the screening of the site and protect trees and vegetation for its own sake.
- 15.75 Finally the AIA states that "To the rear of the packaging building in the north-east corner of the site, wooden struts supporting the formwork around the edge of the hard standing should be removed from the stems of trees in G24." This can be conditioned in the interests of the health of these trees.
- 15.76 Subject to appropriate conditions as outlined above it is therefore considered that the impact of the proposal on trees and vegetation is acceptable. The proposal therefore complies with Local Plan Policy ENV 1 which aims to conserve natural assets and with Policy DP1 which aims to respect or enhance the landscape and other assets that contribute positively to the site and surrounding area.

- 15.77 The proposal would also accord with NPPF Para 170b which recognises the importance of the intrinsic character and beauty of the countryside, including the positive contribution of trees.

Impact upon wildlife

- 15.78 Ecological surveys have been submitted with the application, included an updated survey to reflect amendments to the description of the application scheme in order to determine any potential impact upon wildlife. The surveys conclude that there would not be a significant impact upon wildlife, including upon protected species, from the application works.
- 15.79 Natural England previously commented on the original submission with no objections and have responded following additional consultation by stating that “advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.”
- 15.80 Accordingly it is not considered an objection can be made to the application in terms of impact upon wildlife. This includes consideration of not only the impact of building works but the activities of the use and pollution considerations. A condition can be applied reflecting the mitigation principles outlined in the submitted Ecological Survey. The proposal would therefore accord with Policy DP21 of the Local Plan which requires the submission of ecological surveys where appropriate and the conservation of biodiversity and the avoidance of adverse harm to protected species.
- 15.81 The proposal would also comply with the provisions of Paragraphs 170 (Conserving and enhancing the Natural Environment) and 174-175 (Habitats and Biodiversity) of the NPPF. These provisions aim to protect biodiversity and minimise impact upon protected species.

Archaeology

- 15.82 The Borough Council’s archaeologist has assessed the scheme and has concluded that there would be no material harm will be caused to the significance of below-ground archaeological remains by the development. There are therefore no objections to the scheme on the grounds of impact upon archaeology. In this respect the proposal would accord with Policy DP14 of the Local Plan as it does not adversely affect important archaeological remains.

Rights of Way

- 15.83 It is not considered the proposal affects the public Right of Way that runs alongside the site to the North. There is a sufficient distance between all works undertaken, including bunding and hard surfaces, to avoid any impingement upon the footpath. There is also vegetation between the footpath and the built elements of the site so there is no impact of any significance upon the amenity of the users of the footpath.

Other Issues

- 15.84 Notwithstanding previous outstanding Enforcement issues on the site, the submission of this part retrospective application is considered to be an appropriate and procedurally correct way to deal with proposed and existing development on the site.
- 15.85 A claim of intentional Enforcement deception dating back to the mid 2000s has been put forward by an objector but this remains disputed and is not considered to weigh against current consideration of the proposal. In particular, no reliance has been placed on the possible lawfulness of any part of the scheme currently under consideration.

16.0 Conclusion

- 16.1 To summarise, in terms of the principle of the development, the proposal is considered to comply with the vast majority of the criteria outlined in key Local Plan Policy DP9 and in Policy CE2 and with other policies in the Local Plan. It is accordingly considered that, on balance, there are material reasons to warrant a Departure from one element of Policy DP9. There are material economic and social benefits to the local rural economy derived from the continued operation of the business in this location.
- 16.2 Allowing the retention of the works as undertaken is supported by the NPPF Para 80 which provides that “Significant weight should be placed on the need to support local economic growth and productivity, taking account both local business needs and wider opportunities for development.” In principle the proposal would also comply with NPPF Paragraph 83 which aims to support a prosperous rural economy and with Paragraph 84 which recognises that “sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not served by public transport.”
- 16.3 It is therefore considered the proposal should be judged on its detailed planning merits. The proposal has been judged on its planning merits without reliance upon any potential Established Use from unauthorised development.
- 16.4 The landscape and visual impact of the proposal is considered acceptable as the site is generally well screened and further planting can help to filter and screen it further at the rear. It is considered the proposal is acceptable from a highway safety and traffic impact point of view, subject to appropriate conditions controlling vehicle numbers and parking provision. No objections have been received from the highway authority.
- 16.5 The proposal is considered acceptable in terms of impact upon residential amenity subject to conditions suggested by Environmental Protection. There is no significant impact upon the setting of Listed Buildings in the vicinity. Lighting can be controlled and conditions can be applied to ensure the provision of an appropriate drainage system for the site. This condition and the Environment Agency’s monitoring can address any pollution issues.

16.6 There is not a significant impact upon trees, vegetation and wildlife subject to conditions. The appropriate surveys have been submitted. There are also no detrimental impacts upon archaeology and the adjacent Public Right of Way.

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. ZAM – Development To Accord With Approved Plans

The development hereby permitted shall be carried out strictly in accordance with the details shown on the submitted Drawings, as amended (To be updated).* Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

2. Z00– Landscape management plan – Non standard

Notwithstanding the submitted details, within two months of the date of this permission and prior to any additional works taking place a detailed scheme of hard and soft landscaping shall have been submitted to and agreed, in writing, by the Local Planning Authority. The approved works shall be implemented in strict accordance with the agreed implementation timetable 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)
- Landscape Buffer Screen on the North West boundary
- 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.

3. Z00 – Construction Method Statement – Attenuation Basins –Non Standard

Prior to the implementation of the approved attenuation basins, precise details of a Construction Method Statement, including tree/hedge protection, shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented during the entirety of the period of construction works of the Attenuation Basins.

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

4. ZFS- Tree and Hedgerow Protection- Non Standard

All existing trees and hedgerows on the site shall be retained out 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.

5. ZGG - Site Boundary Noise Levels -Non Standard

Within two months of the date of this permission, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of or boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

6. ZGN - Industrial Processes (Control of Fumes, Odours, Dust etc) Non Standard

Within two months of the date of this permission, control measures shall be installed in accordance with a scheme devised by a competent person for the control of fumes, smells and odours, and dust that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. The control measures shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes, odours, dust, and smell in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

7. ZGO - Food Premises (Control of Fumes and Odours) – Non Standard

Within two months of the date of this permission, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

8. ZGR - *Light Pollution for Minor Development* - Non Standard

Any lighting on the site (including resultant sky glow, light trespass, source intensity and building luminance), shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ1 AONB; EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS; EZ3 SMALL TOWN CENTRES OR URBAN LOCATIONS; EZ4 TOWN/CITY CENTRES WITH HIGH LEVELS OF NIGHT-TIME ACTIVITY.

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

9. Z00 – Lighting – Non Standard

Notwithstanding any external lighting that has been already erected on site, within two months of the date of this permission precise details of a scheme for all external lighting on the site (including any floodlighting, bollard lighting or lighting on buildings) shall be submitted to and approved in writing by the Local Planning Authority. Only external lighting approved in writing shall be implemented on site and it shall thereafter be retained in the approved form. Existing external lighting on site that is not approved shall be removed from the site within two months of the date of the approval of the submitted lighting details.

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

10. Z00- Surface Water Drainage Scheme – Non Standard

Within two months of the date of this permission 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, shall be submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- ☐ Discharging surface water run off via infiltration where site conditions allow and limiting all addition runoff to the greenfield 1 in 1 for storm events up to and including the greenfield 1 in 100 year event plus 40% climate change allowance unless otherwise agreed by the local authority.
 - ☐ 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.

The scheme shall subsequently be implemented within six months of the date of its approval in writing.

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 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.

11. Z00- Drainage Maintenance Plan – Non Standard

Within two months of the date of this consent, 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, shall be submitted to and agreed, in writing, by the Local Planning Authority. The maintenance plan shall be complied with whilst the business (or any successor business) exists at the site. 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 may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

12 Z00 - Drainage Maintenance Plan - Non Standard

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

13. Z00 – Deliveries and Servicing Strategy - Non Standard

Within one month of the date of this consent, precise details of a Delivery and Servicing Strategy for the site which shall include numbers, frequency and size of vehicles delivering to and from the site and a mechanism to monitor and log these movements shall be submitted to and agreed in writing by the Local Planning Authority. The agreed strategy with monitoring mechanism shall be implemented within two months of the date of its approval in writing and thereafter complied with in full whilst the business is in operation at the site.

Reason: In the interests of amenity and highway safety.

14. Z00 – Articulated Vehicles - Non Standard

Within 3 months of the date of this consent, the number of articulated lorries (OGV2) delivering to the site shall not exceed an average of one per day in any calendar month. This level of delivery shall thereafter not be exceeded whilst the business is in operation at the site. There shall be no articulated lorries with double trailers delivering to the site.

Reason: In the interests of amenity and highway safety having regard to the rural nature of the surrounding area and the roads serving the site.

15. Z00 – No weekend deliveries – Non Standard

There shall be no deliveries to the site on Saturdays and Sundays.

Reason: In the interests of amenity and Highway Safety.

16. Z00 – Signage - Non Standard

Within one month of the date of this consent, precise details of a scheme of directional signage at the frontage of the site shall be submitted to and agreed in writing by the Local Planning Authority. The signage shall be installed within one month of its approval and shall thereafter be retained as such whilst the business is in operation at the site.

Reason: In the interest of highway safety.

17. Z00 – Refuse Storage – Non Standard

Within one month of the date of this consent, precise details of refuse and waste storage facilities shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented within one month of the date of its approval and 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 waste.

18. ZEJ – No Open Storage – Non Standard

There shall be no outdoor storage of any materials or goods on any part of the site.

Reason: To ensure a satisfactory appearance of the site and to preserve and enhance the character of the area.

19. ZDA Removal of PD Rights – Non Standard

Notwithstanding the provisions of Article 3, Schedule 2, Part 7 Class H of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration any buildings or structures on the site shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: Owing to the constraints of the site and any further development on the site would need to be considered at such a time as it were to be proposed.

20. Z00- Transport and Logistics Plan and Travel Plan Non standard

Within two months of the date of this consent, precise details of a Transport and Logistics Plan and a Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be complied with within two months of the date of their approval and thereafter complied with whilst the business is in operation at the site.

Reason: In the interests of amenity and highway safety.

21. Z00 Wildlife Mitigation – Non Standard

Prior to implementation of any additional works, precise details of a wildlife mitigation strategy (including implementation timetable), to accord with the mitigation principles outlined in the submitted Ecological Survey shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved strategy and timetable.

Reason: To ensure appropriate wildlife mitigation.

22 . ZBC Materials To Be Agreed

No external facing or roofing materials shall be used in the construction of the canopy 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: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

23. ZEB Premises Only For A Specific Use

The premises shall be used solely as a Meat Wholesalers business and ancillary activities only and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2018 (as amended), or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered having regard to the specific circumstances of the case and any other use would need to be given further consideration at such time as it were to be proposed.

18.0 INFORMATIVES:

18.1 The following additional informatives are also recommended:

1. SUDS

- ☐ Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- ☐ Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- ☐ Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- ☐ It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

2. 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.

3. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

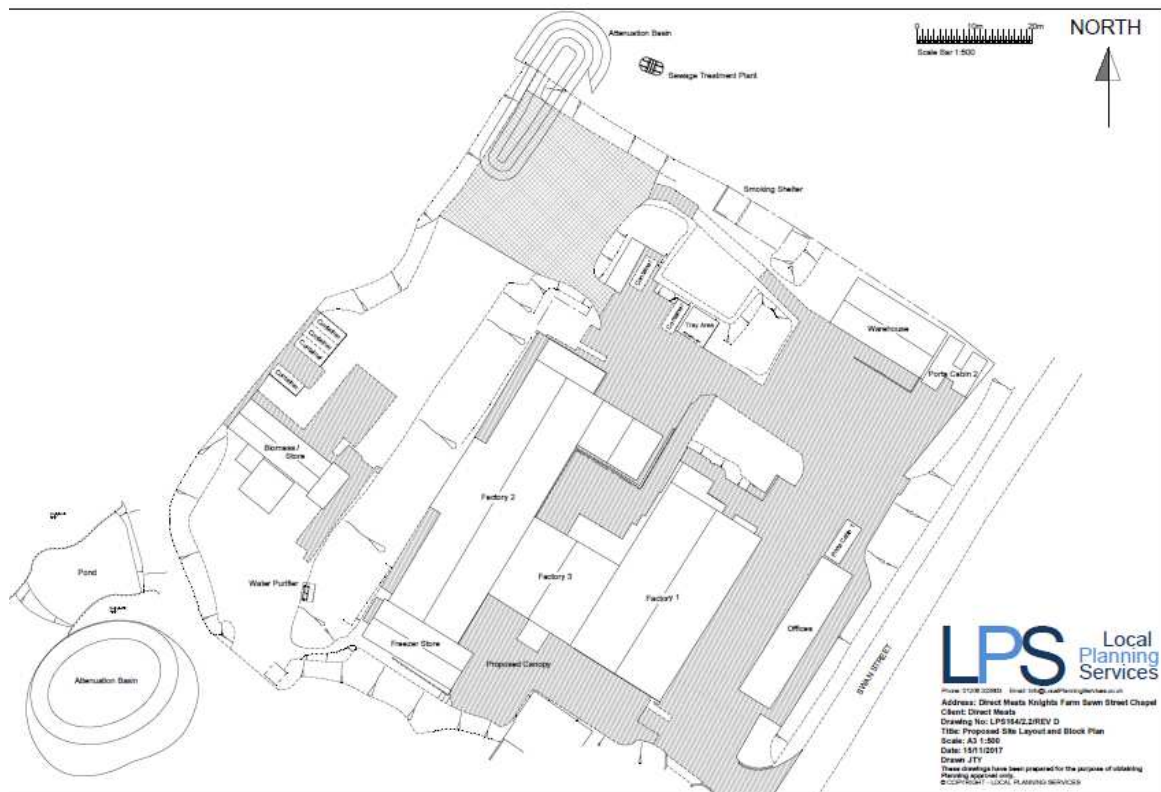
4. ZTB - Informative on Any Application With a Site Notice

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.

APPENDICES

APPENDIX 1

Site Layout Plan



APPENDIX 2

Extract From Transport Statement Dated Novemebr 2017

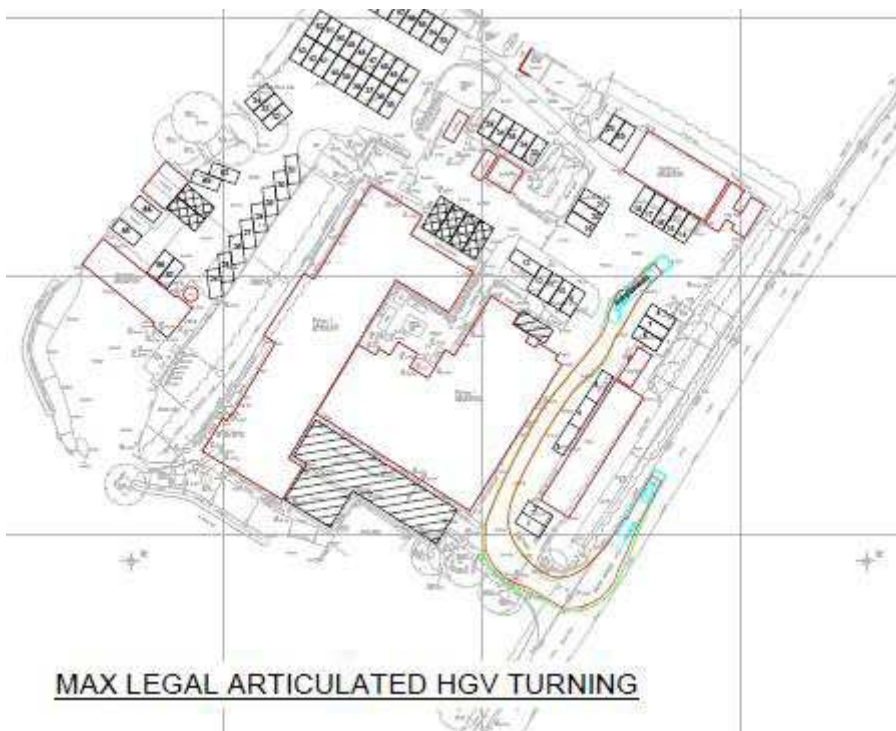
Table 5.1: Observed Daily (24 hr) Total Vehicle Trips (One-way)

	Cars	Vans	HGVs	Total
Meat Deliveries			4	4
Van Deliveries		27		27
Staff	86			86
Total	86	27	4	117

Source: Traffic Survey

APPENDIX 3

Transport Statement Extract : Parking and Lorry Turning



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.

