

Planning Committee Meeting

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

Thursday, 05 July 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>.

Audio Recording, Mobile phones and other devices

The Council audio records public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to 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.

Facilities

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 05 July 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 24 May 2018 7 - 14

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 24 May 2018.

6.2 Minutes of 14 June 2018 15 - 20

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 14 June 2018.

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 180733 Land adjacent to Armoury Road, West Bergholt, Colchester 21 - 70

Outline application for 26 dwellings including 30% affordable housing, vehicular and pedestrian access from Coopers Crescent, pedestrian access from Armoury Road, public open space and landscaping with details of access and structural landscaping (matters of internal landscaping, appearance, layout and scale reserved).

7.2 180438 Colchester Northern Gateway, Cuckoo Farm Way, Colchester 71 - 108

Full planning application for the Colchester Northern Gateway Sports Hub (Use Class D2) comprising a 2,425sqm sports centre, a 1,641sqm club house, 12 no. sports pitches (comprising two 3G

pitches, seven turf pitches and three mini pitches), a 1.6km cycle track, archery range; recreational areas; 10 no. ancillary storage buildings (totalling 298sqm), and associated earthworks, landscaping, utilities, pumping stations, car parking, access and junction alterations.

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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

Thursday, 24 May 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 Chris Pearson

Substitutes: Councillor Gerard Oxford (for Councillor Philip Oxford)

Also Present:

583 Appointment of Chairman

Ian Vipond, Strategic Director of Policy and Place, conducted the meeting in order to provide for the appointment of a Chairman and Deputy Chairman.

The Committee was invited to appoint a Chairman for the Municipal Year. Councillor Higgins was nominated and seconded followed by Councillor Hazell who was nominated and seconded but, on being put to the vote, no majority could be reached on either of the nominees.

The Committee was invited to appoint a Deputy Chairman for the Municipal Year. Councillor Liddy was nominated and seconded but, on being put to the vote, no majority could be reached on the nominee.

The Committee was then invited to appoint a Chairman for this meeting only and Councillor Higgins was nominated and seconded. On being put to the vote no majority could be reached on the nominee.

Councillor Pearson raised a point of order in relation to the Council's Constitution and the provisions contained in the meeting procedure rules which stated that the Chair of a meeting should be a Councillor.

The Strategic Director of Policy and Place responded to Councillor Pearson's point of order by explaining that the opinion of the Monitoring Officer had been sought before the meeting and his advice had been that, in order to ensure that the Council's business could proceed, in the absence of a Councillor to conduct the meeting and so long as the Committee was quorate, an officer may act in the role of Chairman but with no capacity to take part in the decision making of the Committee.

Councillor Pearson sought clarification in relation to the source of the authority of an

officer to act in the role of Chairman, in response to which, the Strategic Director of Policy and Place confirmed that his authority derived from the Monitoring Officer. Accordingly, he invited the Committee to indicate its support for him to proceed on that basis.

Councillor Pearson was of the view that formal confirmation of an officer's authority to act in the role of Chairman needed to be sought direct from the Monitoring Officer himself. He therefore requested an adjournment of the meeting, which was duly seconded, to enable that clarification to be sought. On being put to the vote, no majority could be reached to adjourn the meeting and, accordingly, the Strategic Director of Policy and Place, confirmed his intention to proceed with the meeting so long as the meeting remained quorate.

Two members of the Committee indicated their support for the Committee meeting to continue, on the grounds that the Planning Committee business was not conducted along political lines. Councillor Pearson confirmed his disappointment that the meeting should proceed on this basis and stated his view that the chairing of a meeting by an officer would set a dangerous, undemocratic precedent which did not accord with the provisions of the Constitution which clearly stated that Councillors should chair the Council's meetings.

The Strategic Director of Policy and Place acknowledged that the circumstances of the meeting were not ideal, but he was of the view that the advice he had been given were clear and he therefore intended to proceed with the meeting. He further indicated that Councillors had been made aware of the Monitoring Officer's advice on this matter should it have transpired at the Council's Annual Meeting, the previous day and he invited individual Committee members to seek further clarification from the Monitoring Officer outside of the meeting should they wish to do so.

584 Site Visits

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

585 Minutes

There were no minutes for confirmation at this meeting.

586 180245 Garages, Willows Court, The Willows, Colchester

The Committee considered a planning application to vary condition 2 of planning permission F/COL/02/1970 at Garages, Willows Court, The Willows, Colchester. The application had been referred to the Committee because it was a major application and

unresolved objections had been received. 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.

Eleanor Moss, Planning Officer, presented the report and assisted the Committee in its deliberations.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He confirmed that he was supportive of the application but sought clarification regarding the proposed recycling arrangements for the site and that adequate storage facilities for recycling would be provided to residents. He also referred to an area which had previously been used for cycle storage and whether this could be reinstated as cycle storage.

Members of the Committee welcomed the application, particularly if this was an encouraging sign that the completion of the development may be coming to pass.

The Planning Officer confirmed that the reinstatement of the area formerly used as cycle storage would be for the land owner to determine but she had no knowledge of the ownership. In terms of an anticipated timely completion of the development which had first been commenced in 2002, she could not give any assurance but was hopeful that this current application was a positive indication of a desire to complete the scheme by the developer. She also explained that, in the interests of absolute clarity, it was her intention to amend the wording of Condition 2 to provide for the details of all the approved plans to be specified. She also confirmed that the roads within the development would remain un-adopted and, as such, road maintenance would be a matter for the developer and that a scheme would be provided for the collection of waste and recycling off site.

RESOLVED (NINE voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report and, in the interests of absolute clarity, with condition 2 being amended to provide for the details of all the approved plans being specified.

587 180694 Units 6-7, Hawkins Road, Colchester

The Committee considered a planning application for approval of reserved matters following outline approval 152493 (Erection of 37 apartments, 2 office units and associated layout, access and parking) at Units 6-7, Hawkins Road, Colchester. The application had been referred to the Committee because it was a major reserved matters development proposal, an objection has been received from a Councillor on parking/highway impact grounds whilst the recommendation of the case officer was for

approval. The Committee had before it a report and an amendment sheet in which all information was set out.

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

588 173119 Ranges Service Station, 154 Mersea Road, Colchester

The Committee considered a planning application for a mixed use development comprising an extension of the forecourt shop, reorientation of the drive through hand car wash and an additional storey at first floor level to house two residential flats with associated car parking at Ranges Service Station, 154 Mersea Road, Colchester. The application had been referred to the Committee because it had been considered by the Planning Committee on 8 March 2018 and deferred to allow a Construction Method Statement to be submitted, consideration by the Health and Safety Executive and the Fire Authority and for an amendment to retain the protective Trief kerb on part of the Northern boundary of the site. 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, Planning Officer, presented the report and, together with Andrew Tyrrell, Planning Manager, assisted the Committee in its deliberations. The Planning Officer confirmed that negotiations with the developer had succeeded in ensuring that the existing Trief kerb would be retained. In addition, he explained that a change to Condition 10 was required in order to provide for newspapers to be included as well as fuel deliveries as exceptions from the opening/delivery hours restriction.

Kevin Bridge addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was addressing the Committee on behalf of his parents who lived adjacent to the site. He acknowledged that the safety concerns that he had made at the Committee's previous consideration had been further investigated and welcomed the news that agreement had been reached to the retention of the Trief wall. He emphasised that his parents remained concerned in relation to the parking of large vehicles at the boundary of the site, opposite the window to their kitchen. He also acknowledged that deliveries were permitted until 10:30pm but confirmed that his parents experienced disturbance from deliveries occurring after the hours of 10:00pm.

Paige Harris addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She referred to the application site's sustainable location, that the proposal complied with national and local planning policies, the need for the site to be modernised and receive investment and that the expansion of the site would allow for the business' continued use. During the course of the application process various elements had been amended in order to address

comments made by the officers, residents and the Committee and the developer had been happy to do this. A highly detailed Construction Method Statement had been submitted in response to a request made by the Committee members and this had confirmed that construction could proceed safely. In addition, in order to address additional concerns, it had been agreed that the Trief wall would be retained and the petrol station would be closed during the construction phase of the development.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He welcomed that additional work provided by the developer and the case officer since the application was first considered by the Committee. However, he remained of the view that the proposed height of the proposal would be overbearing for the neighbouring residents. He thanked the developers for agreeing to retain the Trief wall and sought clarification in relation to the restriction on occupation of the new residential units to employees of the petrol station business. He appealed to the developer to continue the dialogue which had taken place with the neighbouring residents on a regular basis throughout the construction phase to ensure that they would feel involved in the process and would have a point of contact if something of concern needed to be addressed. He remained concerned regarding the proximity of the high voltage cables to the new residential units, particularly noting the potential for the clearance beneath the cables to decrease during times of particularly hot weather.

The Planning Officer confirmed that the height of the new residential units and their distance from the neighbouring properties was considered to be sufficient to adequately reduce the impact on the neighbouring residents. He welcomed the support for the retention of the Trief wall and the outcome of the considerable discussions which had taken place. He confirmed that the restriction on the occupancy of the residential units would mean that when the business closes, the occupants would be required to vacate the units. He confirmed that there was already provision within the condition relating to the Management Plan for a 'good neighbour' newsletter to be issued.

One member of the Committee was concerned about the continued potential for unreasonable nuisance from parking adjacent to the boundary fence in the area intended to be allocated for residents parking and sought clarification as to whether any measures could be considered to address this issue.

Reference was also made by another Committee member to continued concerns in relation to electro-magnetic pollution, the need for deliveries other than fuel and newspapers to be made from as early as 6:00am, the ability to legally enforce a restriction on the occupancy of the residential units, the need for increased high voltage cable clearance distances at times of high temperatures and clarification regarding the reference by the Fire Authority to an Essex Act.

Other members of the Committee considered that the proposed new layout for the forecourt would adequately address perceived parking problems, particularly if

consideration could be given to the installation of folding parking posts. Early morning deliveries of food items such as bread, milk and sandwiches were considered to be essential to the success of the shop whilst the potential inclusion of an onsite bakery may lead to increased early morning nuisance issues for the neighbouring residents.

The Planning Manager explained that the Fire Authority is consulted at two stages of the planning and build process and the first occasion was in accordance with the provisions of the Essex Act. Acknowledging experiences from another petrol station site, he further suggested that an additional condition could be added to ensure any planning permission granted did not include an onsite bakery operating before opening hours.

The Planning Officer further explained that the risks associated with electro-magnetic processes had been referred to officers in the Council's Environmental Protection Team who had confirmed that they had no grounds upon which to object to the proposal. He considered that the restriction on the occupancy of the residential units could form part of a monitoring regime and he confirmed that the high voltage cable clearances had complied with the requirements identified from UK Power Networks modelling procedures. He also confirmed that the delivery hours proposed had been in operation at the site for a number of years and he was aware that any changes to restrict these further would cause difficulties with the successful operation of the business, particularly in relation to the sale of ancillary items from the petrol station shop.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report together with an amendment to condition 10 to provide for newspapers to be included as well as fuel deliveries as exceptions from the opening/delivery hours' restriction and additional conditions to exclude the provision of an onsite bakery and to provide for the installation of folding parking posts to the four proposed residential parking spaces.

589 180572 21-27 South Street, Colchester

Councillor Liddy (by reason of his directorship of Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a planning application for replacement of single-glazed timber windows with double-glazed UPVC windows at 21-27 South Street, Colchester. The application had been referred to the Committee because it was on behalf of Colchester Borough Homes. The Committee had before it a report in which all information was set out.

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

590 180718 6 and 8 Northgate Street, Colchester

Councillor Liddy (by reason of his directorship of Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a planning application for the replacement of single-glazed timber windows with double-glazed aluminium windows and to replace the front doors with hardwood alternatives at 6 and 8 Northgate Street, Colchester. The application had been referred to the Committee because it was on behalf of Colchester Borough Homes. The Committee had before it a report in which all information was set out.

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

591 End of Year Planning Performance 2017 - 2018

The Committee considered a report by the Assistant Director Policy and Corporate giving an overview of planning service performance for the Planning Committee. Performance was reported formally at the end of each year and the current report was for the fiscal year from April 2017 to March 2018, with some comparative figures for previous years given as reference points.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations. He explained that all of the Council's performance indicators had been met. A large volume of planning application decisions had been issued prior to, or on, their expected target deadlines and the speed of decision making had been consistently strong regardless of the scale of development. The Council had also met targets in terms of quality decision making, successfully defending its decisions against appeals determined by the independent Planning Inspectorate. There had also been fewer appeals against decisions, after a focus on better explanations around the issues that warranted refusal which had contributed to a significant increase in performance on appeals from the previous year. Additionally, there had been another increase in the formal enforcement actions taken during the year and a number of notices had been served, including stopping works in progress, and removing unauthorised development that was causing harm to neighbours or other residents, visitors or businesses.

Members of the Committee welcomed the information provided in the report.

RESOLVED (UNANIMOUSLY) that the performance of the Planning Service for the 2017/18 year be noted.

592 Summary of Appeal Decisions December 2017 – May 2018

The Committee considered a report by the Assistant Director Policy and Corporate giving details of 12 recent appeal decisions which had been received between 1 December 2017 and 10 May 2018 for applications in the Borough, the intention being to enable the Committee members to remain up to date with outcomes, trends and changes so they could further understand how Inspectors were presiding over decisions. 10 of the appeals had been dismissed and two had been allowed.

Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Members of the Committee welcomed the information provided in the report.

RESOLVED that the contents of the report be noted.

Planning Committee

Thursday, 14 June 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 Chris Pearson

Substitutes: No substitutes were recorded at the meeting

Also Present:

593 Appointment of Chairman

RESOLVED that Councillor Hazell be elected Chairman for the forthcoming Municipal Year.

594 Appointment of Deputy Chairman

RESOLVED that Councillor Jarvis be elected Deputy Chairman for the forthcoming Municipal Year.

595 Site Visits

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

596 Minutes of 26 April 2018

RESOLVED that the minutes of the meeting held on 26 April 2018 be confirmed as a correct record.

597 Minutes of 23 May 2018

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

598 Minutes of 24 May 2018

Councillor Pearson was of the view that minute number 583, Appointment of Chairman, did not adequately reflect the clarification he was seeking in relation to Ian Vipond's

authority, as an officer, to act as the Chairman of the meeting.

RESOLVED that arrangements be made for minute no 583 to be redrafted and the consideration of the minutes of the meeting held on 24 May 2018 be deferred to the next meeting of the Committee.

599 180719 Oaks Hospital, Oaks Place, Colchester

The Committee considered a planning application for a proposed new MRI side extension, theatre four and stores rear extension, re-siting of existing two storey porta-cabins and additional car parking at Oaks Hospital, Oaks Place, Colchester. The application had been referred to the Committee because it had been called in by Councillor Goss. The Committee had before it a report and 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.

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

Diana Thompson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she was a resident of 114 Mile End Road, the back garden fence of which backed onto the hospital site. She was concerned about the car parking proposed for the development which would deliver a net gain of only four spaces. She considered this to be grossly inadequate given the incidences of cars parking on grass verges and on Mile End Road leading to restrictions on access for residents onto Mile End Road and from their rear gardens as well as cars driving round and round the car park looking for available spaces. She was of the view that the extensions proposed would generate a lot more traffic and, whilst acknowledging the Oaks Hospital had been a considerate neighbour, she considered the addition of only four additional car parking spaces was totally inadequate.

Nick Ratcliffe addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he was the Operations Manager at the hospital and confirmed that the Oaks now had an extensive Travel Plan in place, a Travel Plan Committee had been established and a Travel Plan Co-ordinator appointed. The Hospital had recently linked up with Colchester Travel Plan Club, working with Colchester Borough Council and with strong targets in place. He detailed the multiple travel schemes and initiatives in place and, in particular highlighted the intention to trial a car number plate recognition system in conjunction with a sister hospital.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He explained that the Oaks Hospital was a fantastic neighbour, was well

used, well respected and he acknowledged that Mr Ratcliffe had a track record of responding to issues which were brought to his attention. He was of the opinion that four additional car parking spaces was insufficient and he considered the travel plan initiatives would make very little practical difference to the car parking issues, if only for the fact that the patients were highly unlikely to travel to the hospital other than by car when they were ill. He was of the view that the existing parking provision was inadequate and that the site was a very tight one. He welcomed that proposals to extend the theatre and the MRI scanning unit but he was concerned about the implications for car parking in the future. He asked the Committee members to consider deferring the application so that further discussions could take place to increase the proposed parking provision. He was worried that the current proposals would exacerbate existing parking problems and that more incidents of parking in Mile End Road would be the result.

The Principal Planning Officer was of the view that the architects had already maximised the number of car parking spaces, particularly given that the car park layout needed to be workable in practice, and he did not consider a deferral of the Committee's consideration would achieve anything further. He also confirmed that the parking standard applicable for the hospital was a maximum one, to be assessed on a case by case basis and, as such, there was no actual requirement for additional spaces to be provided.

Members of the Committee sought clarification in relation to the impact of a car number plate recognition system in reducing the number of vehicles parked at the site by non-hospital users, in relation to the measures to compensate for the loss of landscaping, in relation to the potential for the two storey elements of the proposal to impinge sight lines and in relation to the need for a condition to provide for a Construction Method Statement. Reference was also made to the cycle provision on the site and whether improvements could be made to make cycle parking both secure and more accessible.

The Principal Planning Officer confirmed that currently it was not known who was using the car park and that it would be necessary for assessments to be carried out to clarify the situation. He explained that a bespoke landscaping condition was being proposed to provide additional landscaping, of better quality and more structured, over and above that which was being removed. In terms of impinging on sight lines, he was of the view that the two storey elements were to be located as close to the existing buildings as possible and, as such would be well away from neighbouring properties such that the impact would not be significant. He explained that, although a Construction Method Statement had not been proposed as a condition due to the existing operation of the hospital on a 24 hour basis, it would be reasonable for the Committee to seek such a condition, if considered appropriate. He confirmed that the cycle parking provision was in need of improvement and also suggested the Committee could consider the addition of an informative to seek the provision of electric cycle charging points on site.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions

set out in the report as well as an additional standard condition to provide for a Construction Method Statement and an informative to provide for prominently and conveniently located cycle parking and positive consideration to the provision of electric cycle charging points.

600 180710 Former Bus Depot, Magdalen Street, Colchester

The Committee considered a planning application for a short term temporary public paid parking, with no changes to the site, the use to be until the approved development proceeds at the former bus depot, Magdalen Street, Colchester. The application had been referred to the Committee because the site was owned by Colchester Borough Council and objections had been received. The Committee had before it a report in which all information was set out.

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

601 180918 United Reform Church, 9 Lion Walk, Colchester

The Committee considered a planning application for the fitting of a small plaque at the base of the church tower, south-facing and two metres from the pavement, to commemorate the Colchester Earthquake in 1884 at the United Reform Church, 9 Lion Walk, Colchester. The application had been referred to the Committee because the applicant was an Honorary Alderman. The Committee had before it a report in which all information was set out.

Eleanor Moss, 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 a condition had been proposed to address concerns regarding the proposed location of the plaque and its potential impact on the dressed stone.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that this was the latest planning application which had been submitted for a commemorative plaque which was of the same size as that provided by the Civic Society. He was of the view that the condition attached to the proposed approval made the application impossible to carry out. He confirmed that the plaque was smaller than the notice board already located on the listed building and the building had already been the subject of damage as a result of the earthquake the plaque was commemorating. He did not see how a small plaque could cause damage to the building and as the proposal was of no cost to the public purse he regretted it was being treated in a negative way.

The Senior Planning Officer explained that advice had been sought from the Council's Heritage Officer who's view was that it was not best practice drill into dressed stone and that the plaque would also be contributing to visual clutter if positioned in the proposed location

The Development Manager explained that the proposal was supported in principle but the buttress of the church was already host to a noticeboard, a more considerate location or a plaque of smaller dimension would be preferable in order to avoid an over-crowded appearance. A condition to this effect had been proposed which wasn't considered unreasonable.

Some members of the Committee did not consider the proposal to be visibly cluttered and were concerned that reducing the size of the plaque would mean that it would be unreadable, whilst questioning whether the existing noticeboard had the benefit of planning permission and whether the proposed position of the plaque at two metres high would also make it unreadable. Another member of the Committee commented on the proposed colour of the plaque and suggested an alternative to green might be preferable.

The Development Manager acknowledged concerns in relation to the proposed height of the plaque whilst explaining that a more balanced position, potentially on an alternative buttress to the tower which did not involve a stacking appearance, would be preferable visually. He confirmed that these matters were already provided for in the proposed condition but it was explained that an amendment to the condition would be required if an alternative colour for the plaque was considered to be of merit.

RESOLVED (EIGHT voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report.

602 181087 Charter Hall, Colchester Sports Centre, Colchester

The Committee considered a planning application for consent to display two new internally illuminated signs and nine banners promoting and situated at Charter Hall, Colchester Sports Centre, Colchester. The application had been referred to the Committee because it had been made by Amphora Trading on behalf of the Council. The Committee had before it a report in which all information was set out.

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

603 181235 35 De Vere Road, Colchester

The Committee considered a planning application for the erection of an extension to an

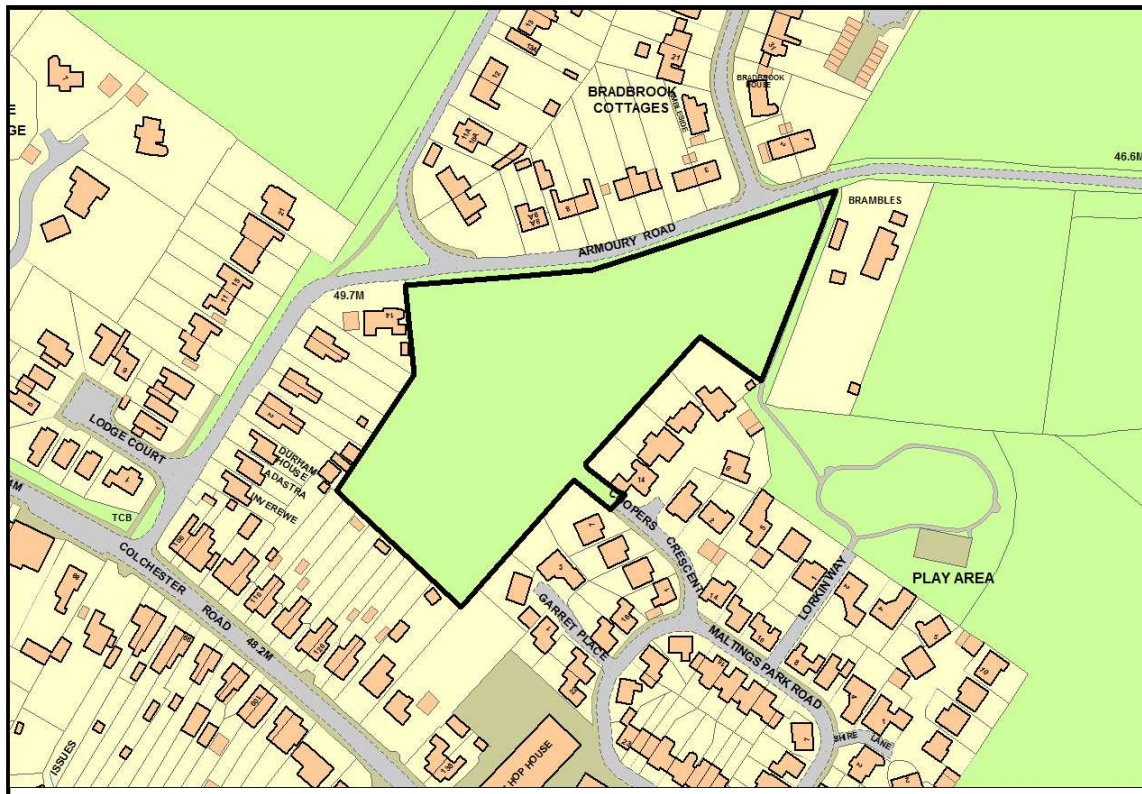
existing garage at 35 De Vere Road, Colchester. The application had been referred to the Committee because the applicant was a Council employee. The Committee had before it a report and amendment sheet in which all information was set out.

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

604 Land at Axial Way, Colchester – Amendments to Section 106 Agreement

The Committee considered a report by the Assistant Director Policy and Corporate giving details of changes to the requirements of the County Highway Authority in respect of application 162302, development to the south of Flakt Woods. It was explained that the works agreed between the Highway Authority and the applicant's technical team in accordance with section 278 of the Highways Act, subsequent to the drawing up of the section 106 Agreement, did not include an upgrade to a traffic island. The section 106 agreement therefore needed to be amended to remove this requirement.

RESOLVED (UNANIMOUSLY) that the proposal to remove the requirement for a traffic island upgrade for the Section 106 agreement be approved.



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Item No: 7.1

Application: 180733

Applicant: Mr Roger Raymond, NEEB Holdings Ltd

Agent: Mr John Mason, Carter Jonas

Proposal: 26 dwellings including 30% affordable housing, vehicular and pedestrian access from Coopers Crescent, pedestrian access from Armoury Road, public open space and structural landscaping.

Location: Land Adj, Armoury Road, West Bergholt, Colchester

Ward: Lexden & Braiswick

Officer: Sue Jackson

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

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a departure from the Development Plan, objections have been received and a legal agreement is required. If Members agree the recommendation to approve, the application will have to be referred to the Secretary of State under the “call-in” procedure set out in The Town and Country Planning (Consultation) (England) Direction 2009.
- 1.2 The application has also been “called in” for a decision by the Planning Committee by Councillor Lewis Barber for the following reason “This is outside the current and emerging Local Plan and has been rejected by the Neighbourhood Plan Group for the preferred site of development”.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, the Development Plan and other material planning considerations, whether the development constitutes sustainable development, and the impact on the area and neighbouring properties.
- 2.2 The application is subsequently recommended for approval, subject to conditions and a legal agreement.

3.0 Site Description and Context

- 3.1 The village of West Bergholt is located north-west of Colchester, separated by an area of open countryside which extends from Braiswick to the settlement boundary.
- 3.2 The B1508 Colchester Road extends through the village and connects it with Colchester to the east and Sudbury to the north-west.
- 3.3 The site is on the eastern edge of the village and approximately 400 metres to the east of the village centre. It is located on the south side of Armoury Road, 150 metres north east of its junction with Colchester Road. The site has a road frontage of approximately 160 metres to Armoury Road; which forms the north boundary. The east boundary abuts the side garden of a dwelling called Brambles, beyond this property is open countryside; the east boundary then extends along the rear gardens of dwellings in Coopers Crescent and Garret Place. The south boundary abuts the rear gardens of houses in Colchester Road and the west boundary gardens of houses in Armoury Road. Coopers Crescent and Garret Place together with Maltings Park Road and Lorkin Way serve dwellings on land formerly occupied by the Truman brewery.

- 3.4 The site is an irregularly shaped area of grassland extending to 1.2 hectares (3acres). The boundaries comprise native species hedgerows, trees and fences. The site is generally level with a gentle fall; approximately 1 metre across the site. A footpath runs from Armoury Road in the north east corner of the site, along the site's eastern boundary and joins an area of public open space on Lorkin Way. The existing vehicular access to the site is taken from Armoury Road via a gateway located towards its north east corner.
- 3.5 The supporting information explains that "The site was bought by the applicant NEEB Holdings from Hunting Gate Homes in 1994 as part of a wider parcel of land which included the old brewery site. The development started in 1997 and the undeveloped land, i.e. the application site, has remained in the ownership of NEEB Holdings since." Information submitted by NEEB Holdings indicate have retained a right of access over Coopers Crescent; which is to be used to gain vehicular access to the site. Members will note that many of the representations (set out below) raise issues relating to traffic and the use of Coopers Crescent residents comment that the road is a private road. However the applicants state they have retained legal rights of access over it.

4.0 Description of the Proposal

- 4.1 This outline application proposes 26 dwellings including: 30% affordable housing, with vehicular access pedestrian/cycle access from Coopers Crescent/Malting Park Road, public open space and structural landscaping. Pedestrian/cycle access is proposed through the site to Armoury Road. The application seeks approval for the means of access and landscaping; all other matters, (Appearance, Layout and Scale) will be the subject of the reserved matters application/s. The development equates to 27 dwellings per hectare and comprises;
- Plots 1 - 6 : 2 Bed Terrace House;
 - Plots 7 - 10 : 2 Bed Semi-Detached House;
 - Plots 11 - 12 : 3 Bed Bungalow;
 - Plot 13 : 2 Bed Coach House;
 - Plots 14 - 16 : 2 Bed Terrace House;
 - Plot 17- 18 : 3 Bed Bungalow;
 - Plots 19 - 22 : 3 Bed Semi-Detached House;
 - Plots 23 -26 : 3 Bed Bungalow;
- 4.2 The application originally proposed a through route for all traffic from Colchester Road along Coopers Crescent/Malting Park Road onto Armoury Road. Following an objection from the Highway Authority the application has been amended to exclude vehicular access from Armoury Road.

- 4.3 Although an outline application a site plan has been submitted showing a possible layout for the dwellings and street scene drawing. The layout shows the site accessed via an extension to Coopers Crescent, with dwellings either backing onto or sides facing the boundaries of existing development. The proposed dwellings front Armoury Road. An area of open space, described as meadow/allotment area and noted as 22% of the site is shown in the N/E corner. This has a link to the existing open space, which includes a play area, serving the Malting Park development.
- 4.4 The proposed development is described as comprising;
- Access from Coopers Crescent to the south
 - Principal area of open space to the north east, adjoining existing public footpath from Armoury Road to Lorkin Way
 - A maximum of 26 dwellings which would comprise terraces, semi-detached and detached dwellings, including bungalows and affordable housing
- 4.5 The application includes the following supporting documents;
- Planning Statement
 - Statement of Community Involvement
 - Design & Access Statement
 - Housing Land Supply
 - Transport Assessment
 - Flood Risk Assessment and Foul Surface Water Drainage Strategy and additional information/clarification requested by EC SUDS
 - Noise Constraints Assessment
 - Arboricultural Survey and Report
 - Landscape Appraisal and additional information/clarification requested by the landscape officer and case officer
 - Ecological Survey Report and additional information/clarification requested by the case officer
 - Phase 1 Desk Study and Preliminary Risk Assessment
 - Heritage Statement
 - Brief for Archaeological Evaluation
 - Utility Statement
 - Health Impact Assessment

5.0 Land Use Allocation

- 5.1 The site is outside the settlement boundary for West Bergholt. There is no other allocation – the site comprises white land being unallocated.

6.0 Relevant Planning History

- 6.1 There is no relevant planning history

7.0 Principal Policies

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

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

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

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
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

SA H1 Housing Allocations

- 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
Backland and Infill
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
ECC’s Development & Public Rights of Way
Planning Out Crime
West Bergholt Parish Plan & West Bergholt Village Design Statement

8.0 Consultations

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

8.2 Spatial Policy comments

Colchester Local Plan

The proposed development site is located outside the West Bergholt settlement boundary as shown on the Proposals Map for the Adopted Local Plan.

Colchester Borough Council’s current Development Plan consists of the Core Strategy (adopted in 2008 and subject to a Focused Review in 2014), Site Allocations DPD (adopted 2010), and Development Policies DPD (adopted 2008 and reviewed 2014). The Development Plan informs development within the Borough up to 2023 including the allocation of new housing sites as detailed in the Proposals Maps.

Policy SD1 of the Core Strategy sets out the Council's spatial strategy and underpins other policies in the Local Plan. Policy SD1 was found sound in 2014 following a Focussed Review carried out after the publication of the National Planning Policy Framework (NPPF). It does however contain reference to an out of date housing target so although part of the policy can be afforded full weight, part is inconsistent with the NPPF and should only be afforded limited weight (housing requirement and approach to PDL). Policies which flow from the strategic nature of SD1 it, will need to be considered using the same weighting.

The Spatial Strategy contained in the Core Strategy is clear that new residential development will be allocated through the Site Allocations DPD in accordance with the Settlement Hierarchy comprising (in order of preference) Colchester, Stanway, the district settlements (Wivenhoe, Tiptree and West Mersea) and lastly the rural settlements.

As the site is located on unallocated greenfield land in the countryside, Core Strategy Policy ENV1 is relevant to this proposal. Core Strategy policy ENV1 states that unallocated greenfield sites outside of settlement boundaries will be protected and where possible enhanced. Policy ENV1 has application beyond limiting isolated residential development in the countryside; by restricting development to within settlement boundaries. Given that the proposed site is outside of the settlement boundary it is contrary to this Policy.

The Core Strategy sets out how the Council would manage the delivery of at least 19,000 new homes between 2001 and 2023. The overall distribution of new housing is set out in Policy H1 and Table H1a, guided by the Settlement Hierarchy. Since adoption of the Core Strategy the Council has continued to update its evidence base and has taken into account policy changes at a national level. The Council has continued to deliver new homes, over a prolonged period. Since the beginning of the current Plan period (2001), the Council has exceeded its housing requirements by 939 new dwellings, with a continued good track record of delivery. Whilst there has been a small shortfall since 2013 (the base date of the emerging local Plan) this will be addressed in the next 5 years. The Council's housing supply assessment has been updated for the period from 1 April 2018 and a report on this has been published on the Council's website.

The Council is currently preparing a new Local Plan for the Borough which, once adopted, will replace the adopted Local Plan. The new Local Plan will inform development in the Borough over the period to 2033 and includes housing allocations to meet the predicted growth of the Borough over that period.

As well as preparing a new Local Plan for Colchester, the Council are also currently supporting a number of Parish Councils, to develop Neighbourhood Plans for their respective parishes and the West Bergholt Neighbourhood Plan group are actively progressing their Neighbourhood Plan. West Bergholt Parish Council and Neighbourhood Plan Group indicated a preference for allocating sites through their emerging Neighbourhood Plan. The emerging Local Plan therefore identifies a broad area of growth for West Bergholt, located to the north-east of Colchester Road, and the Neighbourhood Plan has identified sites within this broad area.

The allocation of housing sites through the Local Plan and Neighbourhood Plan process ensures that new development has been thoroughly assessed for all of its potential impacts so that effective mitigation measures can be prepared. The Local Plan and Neighbourhood Plan process also ensures that potential development locations are the subject of meaningful engagement with residents, service providers and other key stakeholders and that a comprehensive strategic approach to site allocations is undertaken. The proposed site is not located within the identified broad area of growth and is therefore contrary to the emerging Colchester Local Plan. Both the Local Plan and the West Bergholt Neighbourhood Plan are subject to Examination before Adoption so therefore do not carry full weight in determining this application. However, it should be acknowledged that the Local Plan is at an advanced stage; it has been submitted and examination has taken place on Section 1. Neither emerging Plans lend policy support for the proposed development.

This process will confirm the extent and location of sustainable growth for the settlement, and as such this application could prejudice the Local Plan process. The applicant has made representations to the Local Plan in relation to this site, which will be subject to Examination in 2018.

Strategic Land Availability Assessment

The site was promoted by the landowner as part of the Call for Sites process and considered by the LPA as part of the Strategic Land Availability Assessment (SLAA).

The SLAA concluded that the site shows some suitability for development as it adjoins the existing settlement boundary and amendment of the boundary to include this site could be considered logical. There is a low risk of surface water flooding, but there are no impacts on biological or historic assets. The site is located on the edge of the village with good access to local services.

The SLAA identified issues with access to the site, and this contributed to the site's Amber rating. The SLAA included the following comments from the Highways Authority, which did not support vehicular access from Armoury Road:

"It would appear there is sufficient road frontage to enable an access to be delivered to the required highway design standards. However, there are no footways in Armoury Road and I suspect the promoter of the site does not control the land needed to provide footways. I would be unable to support a residential development which had no safe means of access for pedestrians. Also, there are a number of Public Rights of Way within and/or immediately adjacent the site, which may need to be permanently diverted and/or upgraded. One of which runs down Armoury Road and therefore I would wish to resist an intensification in traffic using Armoury Road and therefore travelling along the Public Right of Way. Also the current highway network at and surrounding the site would be unlikely to be able to cater for the additional traffic which would be generated from what is a large site. I suspect the promoter of the site does not control the land needed to upgrade the roads, including providing as a minimum footways, and would question whether this would be appropriate in any event and I also suspect would lead to planning concerns."

However, the scheme involves vehicular access from Coopers Crescent and it is understood that the proposed access resolves the previous concerns of the Highways Authority.

Conclusion

In summary, the proposal is considered to be in contravention of current adopted local policies (SD1 and ENV1). The Councils housing supply assessment has been updated for the period from 1.4.18 and a report on this has been published on the Councils website. This demonstrates a 5 year supply of deliverable sites. Furthermore, the proposal conflicts with the emerging Local Plan together with the emerging Neighbourhood Plan, which will plan for the most appropriate additional growth in West Bergholt looking ahead to 2033. It is understood that there are no other grounds for refusal and in a situation such as this the planning balance will need to be applied and permission should only be granted if other material considerations outweigh the presumption against development outside settlement boundaries contained in the development plan.

8.3

Anglian Water

- Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.
- The foul drainage from this development is in the catchment of West Bergholt Water Recycling Centre, which currently does not have capacity to treat the flows from your development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent would therefore take the necessary steps to

ensure that there is sufficient treatment capacity should the planning authority grant planning permission.

- The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.
- The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. No evidence has been provided to show that the surface water hierarchy has been followed as stipulated in Building Regulations Part H. This encompasses the trial pit logs from the infiltration tests and the investigations in to discharging to a watercourse. If these methods are deemed to be unfeasible for the site, we require confirmation of the intended manhole connection point and discharge rate proposed before a connection to the public surface water sewer is permitted. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency. We request that the agreed strategy is reflected in the planning approval
- Anglian Water would therefore recommend the imposition of conditions if the Local Planning Authority is mindful to grant planning approval.

8.4 Lead Local Flood Authority (Essex County Council SUDs)

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the imposition of conditions.

8.5 Highway Authority

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

8.6 Landscape Officer

The landscape officer has commented that site lies outside the settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that 'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'.

The site lies within Colchester Borough Landscape Character Assessment, Character Area B6, this identifies a key planning issue as 'potential pressure from expansion of West Bergholt', it sets a landscape strategy objective to 'conserve and enhance' the landscape character of the Area, with a Key Planning Issue as Potential pressure from expansion of West Bergholt settlement' and a landscape planning guideline to 'conserve the landscape setting of West Bergholt, ensuring where appropriate that infill development does not cause linkage with the main Colchester settlement'.

A Zone of Theoretical Visibility has been submitted using GIS mapping and digital terrain modelling. This shows the visibility of 9m high built structures on the proposal site from the surrounding landscape purely based on landform.

CBC Guidance Notes require the preparation of a Landscape Appraisal to accompany the planning application. It identifies five requirements which should be met as a minimum the submitted Landscape Visual Impact Assessment considers each of these elements and include

- An assessment of the proposed development's visibility
- Information to illustrate principal public viewpoints within the public envelope
- An assessment of sensitivity of receptors and identify relevant impacts
- Propose mitigation
- Information to assess and tabulate landscape and visual effects

Whilst the application site lies on the southern edge of Character Area B6 – Great Horkesley Farmland Plateau in the Colchester Borough Landscape Character Assessment, it is not typical of the wider character area; it is not an area of farmland (and has not been farmed for many years) and its character is strongly influenced by the surrounding built development of West Bergholt which largely encloses the application site and all but cuts it off from the surrounding landscape.

The landscape planning guidance for area B6 identifies criteria for new development:

- Firstly, development should 'Ensure that any appropriate new development responds to historic settlement pattern and uses materials, which are appropriate to local landscape character'. The proposed development fills in an existing gap in the settlement between Colchester Road and Armoury Road, connecting into the existing settlement both to the south (via Coopers Crescent) and to the north (via Armoury Road). Development in this location would respect the existing settlement pattern of West Bergholt which is nucleated and would be of a similar scale and density as the surrounding areas of the settlement. The selection of appropriate materials would be agreed at reserved matters stage. However, the DAS sets out the intention that the choice of materials would reflect the surrounding context.
- Secondly, landscape planning guidance for B6 states that proposals should 'Conserve the landscape setting of existing settlements, such as Boxted, Great Horkesley and West Bergholt, ensuring where appropriate that infill development does not cause linkage with the main Colchester settlement'. The landscape setting for the north and north-east side of West Bergholt is formed by the open arable landscape and orchards on the sloping valley sides. The Site does not contribute to this wider setting and the introduction of development on it would not alter the character of the setting. Furthermore, the introduction of development on the Site would not cause the village to link with the main Colchester settlement or contribute to a reduction in the gap between the settlement edges of the two settlements. Section 6 of the LVIA has been amended to include this additional commentary.

Having considered all the submitted information the landscape officer concludes

Comments in conclusion:

The landscape content/aspect of the strategic proposals lodged on 12/06/18 would appear satisfactory.

In conclusion, there are no objections to this application on landscape grounds.

References:

NPPF: Part 11, clauses 109-125 & (where impacting on a heritage asset, e.g. listed park & garden) Part 12, clauses 126-141.

- 8.7 Arboricultural Officer has considered the Arboricultural Survey and Report. The comments made are matters of detail; one relates to the visibility splay onto Armoury Road, (NB As this access is no longer proposed no visibility splay is required and this comment is therefore not relevant) and the others relate to matters be considered as part of any reserved matters application). The Arboricultural Officer has no objection to the objection subject to conditions to protect existing landscape features during construction.

8.8 Natural England has no comments to make on this application

Natural England has not assessed this application for impacts on protected species.

Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice. Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland. The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development. We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/localplanningauthoritiesgetenvironmentaladvice>

8.9 Urban Design Officer

Notwithstanding the principal objection as the site is outside the settlement boundary, the indicative layout, although generally along the right lines, does not fully convince that the desired number of units could be accommodated in that rear elevations for plots 14-16 are only 10m from existing backs rather than the 15m required by the Essex Design Guide (assuming upper floor rear facing bedroom window/s). However, if the case officer was minded to approve this might be mitigated by only approving up to 26 dwellings. I would also query the suitability of creating a vehicular through route between Armoury Road and Coopers Crescent noting access does form part of the application, though a pedestrian through-route should be achieved, e.g. by simply stopping up vehicular through-access through bollards.

Officer Comment: A through route is no longer proposed.

8.10 Heritage Officer

The main heritage issue raised by this application is the effect that the proposed development would have on the setting of:

- The main Truman's, Brewery building;
- Brewery House;

- the west range (the Hophouse); and
- the former Malting House.

The above buildings are each separately Listed grade II site for their special architectural or historic interest.

Section 16 and 66 of the Planning (Listed Building and Conservation Areas) Act

1990 requires that special regard is given to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

Core Strategy Policy ENV 1 and DPD Policy 14 require development proposal to protect heritage assets and the setting of listed buildings.

Section 12 of the Framework sets out Government guidance on the protection of the historic environment. Paragraph 128 requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

Further guidance on assessing the setting of Heritage Assets is set out in Historic England's Guidance Note 3.

Analysis of Impact Upon Heritage

The application site comprises an area of open space / grassland on the south side of Armoury Road. The site is bounded on the north by housing along Armoury Road, on the west and south-west by further housing along Armoury and Colchester Roads and on the south-east by the modern houses forming part of Maltings Park Road on the site of a former brewery. The principal surviving brewery buildings (the Main Building at Truman's Brewery; Brewery House; Hophouse and Malthouse (the latter on south side of Colchester Road) were converted to residential use and offices as a part of the redevelopment of the former brewery site.

The immediate setting of the listed Truman Brewery buildings was fundamentally altered during the latter half of the 20th century as a consequence of former brewery site being redeveloped for housing and offices. The Main Building, Brewery House and Hophouse are all located to the south of the application site. The special interest of these buildings is derived principally from their built form - i.e. examples of 18th and 19th century buildings that were part of the brewing process. The buildings as a group have significance which also contributes to their historic interest and aesthetic value. The setting of a building can also contribute to its special interest. In this instance, the buildings original 'isolated' rural setting has been eroded as West Bergholt village as expanded and more significantly by the fact that the former brewery buildings are now immediately juxtaposed against a modern housing estate. The main listed buildings can be glimpsed from the application site; however these views are not considered to play a significant part in terms of the setting of these buildings.

The Malthouse is located on south side of Colchester Road. This building was re-sited (from a position some 215m to the south east) to its current position at about the same time as the main brewery site was redeveloped (c 1990) and is now in residential use. The original context / setting of this building has been lost as a consequence of its re-siting. The proposal to develop the application site for residential development is not considered to cause harm to the setting of this listed building.

Conclusions

For the reasons given above, it is considered that the proposed development will not cause further harm to the setting of the identified heritage assets. In view of this, there is not an objection to this application from a heritage standpoint.

8.11 Archaeologist

The proposed development site is located to the south of an archaeological complex recorded by aerial photography (Colchester Historic Environment Record no. MCC7769). Consequently there is high potential for further below-ground heritage assets (i.e. archaeological remains) to be present within the proposed development area. However, the proposed development site has not been the subject of any previous systematic archaeological investigation. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

In this case an archaeological condition is recommended:

8.12 Environmental Protection

We understand that this is one of 2 sites from the applicant that are adjacent to each other. There is an acoustic Assessment that covers both sites and I understand that this site is referred to as Site 1 in the report. The noise assessment identifies that there is a low risk from noise at the Armoury Road site and no additional mitigation is necessary for noise. With regards to air quality there is concern regarding future operational traffic contributing to additional road traffic pollutants to AQMA's and areas of elevated NO2 and Pm10's. As such some mitigation would be expected as guided by the EPUK & IAQM Guidance 'Planning For Air Quality' This can be dealt with by condition. This service therefore has no objection in principle subject to conditions being applied should permission be granted.

8.13 Contaminated Land Officer

The Geosphere Environmental Ltd, Phase 1 – Desk Study and Preliminary Risk Assessment report is acceptable for Environmental Protection's purposes. It is noted that it has been concluded that no potential contaminant sources and pathways to potential receptors have been identified, but that a geotechnical investigation of the site has been recommended, with further action required if any unexpected potentially contaminative materials are encountered at that time.

Based on the information provided, the conclusions and recommendations are considered reasonable. The applicant should be advised that the identified fly-tipped waste must be appropriately removed from site.

Consequently, should this application be approved, we would recommend inclusion of a condition

9.0 **Parish Council Response**

9.1 The Parish Council have stated that,

"This application is in the wrong location and at the wrong time. It is outside of the settlement boundary, both as is and as proposed. It is premature and contrary to Colchester Borough Council's emerging Local Plan and West Bergholt's draft Neighbourhood Plan.

Aside from the principle objections, strong arguments can also be made that, as it is not part of integrated planning over the course of the next 15 years, there is not the infrastructure, school places or facilities to support this application.

The entrance onto the development off Armoury Road is not considered suitable as it is a single carriageway narrow road which is not adopted.

The proposed development, situated outside the Settlement Boundary, is viewed as unwanted by a significant number of the residents of West Bergholt and by the Parish Council. The existing Local Plan is against this location for such development and Colchester Borough Council's emerging draft Local Plan has already indicated elsewhere a more appropriate and sustainable area for the main housing development in the West Bergholt Parish over the next 15 years. These proposals dovetail into those of the similarly emerging West Bergholt Neighbourhood Plan resulting from four years of consultation with residents and local businesses. In both cases, the site continues to be outside the Settlement Boundary".

9.2 Parish Council comments on the amended plan "The Parish Council's previous objections to this planning application still stand, although the proposed amendments may deal with our concerns with regards the Armoury Road access, it will only lead to bigger problems. Maltings Park

Road and Coopers Crescent are private roads and are substandard by ECC highways standards and based on our experience the likely implications for traffic and parking in what would be an expanded brewery estate are all too predictable, including:

- huge problems with on-street parking,
- lack of space for vehicles to use the roads, especially large delivery vehicles,
- unsafe walking and cycling environment,
- neighbour disputes over parking,
- blocked driveways,

Overall, this is a community safety and obvious social problem for existing and potentially new residents which we can see only too clearly as it is a tight road layout already”.

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.

- The RTM Company for The Truman Building collectively wish to raise an objection to the above application. Maltings Park is a private estate which has not been formally adopted by the local authority and is maintained by the residents of the estate. The local authority has not adopted the road as they have been deemed too narrow. If this development is allowed to go ahead, we expect there will be a substantial increase in the amount of traffic that will use roads which are already deemed too narrow for adoption by the local authority. Furthermore this will also cause additional damage, wear and tear on roads that are maintained by the owners of the properties within the estate. The additional traffic will also cause an increase in noise and air pollution within the estate as well traffic congestion along narrow estate road. Damage is already being caused to the pavements within the estate by the refuge vehicles driving over kerbs. Finally, the application also falls outside the approved village development envelope.
- This land is outside the village envelope
- The parish council last year put forward a village plan setting out where it would be desirable to build in the village in cooperation with residents and this plan meets the needs of the borough council for housing within West Bergholt for the foreseeable future
- This is a purely speculative application ignoring the village plan and would put additional pressure on the local services of this already busy village. The Primary School already has an intake of 60 pupils per year, the school site is maxed out for space, parking for staff and at drop off / pick up time is a problem which is well documented. The Doctors surgery is also too busy. It is hard to get appointments. Pre-school (Bluebells) is extremely busy. The Baby and Toddler Group is very busy. Likewise, the Rainbows, Beavers, Cubs, Brownies etc have waiting lists for joining and problems recruiting volunteers to run the groups.

- there are traffic problems at North Station, development on a large scale like this in Bergholt will add to this congestion
- Degradation of the natural environment
- The planned site is surrounded by houses who enjoy the peace of the site and natural vistas of the meadow/grassland. Those whose houses are on Colchester Road, which is very busy, treasure the tranquility of gardens being backed onto by the field.
- The flora and fauna of the field would of course be lost by the infill of the field. Common Lizards, Orange Tip butterflies, Buzzards, Kestrels and Hedgehogs inhabit the site. The hedgerows around the boundary house many types of birds, such as Starlings, Nut Hatch, Sparrows, Dunnocks etc
- The proposed vehicular access roads are both totally unsuitable with Coopers Crescent being a private road paid for by the residents and Armoury Road being very narrow and unadopted at the proposed point of entrance. Not designed for additional volumes of traffic
- With many children in the village there would be much greater risks of accidents with increased traffic on narrow unsuitable roads. Also at their consultation meeting Carter Jonas advised that they were changing the access from Coopers Crescent to pedestrian and cycle route only, but have shown they are not to be trusted by still submitting the plans with vehicular access.
- Maltings Park access is a private road.
- Coopers Crescent is a small cul-de-sac of houses and cannot be used as a cut through.
- This piece of land is regularly used by dog walkers and has much lovely wildlife and is a pleasant open space in an already built up area. Birds of prey are often seen as well as bats, rabbits, mice, lizards, insects and on occasions Muntjac Deer.
- The present plan shows little space between the existing boundaries of the gardens in Coopers Crescent which is very intrusive and unacceptable and will affect existing residents view, light, noise pollution and privacy long term and would be extremely intrusive during construction in terms of noise and pollution
- the density of proposed housing and the tiny gardens are not in character with the area
- Armoury Road is private and has no street lighting and virtually no pavements for foot traffic. The entrance off Armoury Road is on an unlit bend so would present all sorts of dangers to car and foot traffic.
- Residents pay a premium to live on this private estate and have charges to maintain the road, should this secondary access be approved who will pay for the additional maintenance of this road? Will our road also be taken on by the council.
- Maltings Park Road will be used as a rat run. The road is not wide enough and currently has a 10 mph limit.
- The construction phase will create a severe disturbance which will ruin our quality of life for many months.

- The noise and disturbance would continue once the construction was complete due to the extra children, teenagers and adults, motor vehicles, electric appliances, sound systems, workmen etc.
- Existing residents would be overlooked
- Building plot are very small and close to existing residents
- Existing residents will be overlooked
- There will be damage to boundary fences etc
- Windows will overlook residents.
- Daylight is very important to us
- We do not want any increase in night-time artificial light. Light pollution
- Value of properties will inevitably be substantially reduced
- Your survey also does not appear to have considered the impact and damage caused by increased delivery vehicle and other HGV movements.
- Why are two access points required in any case? Why cannot there be just one off of Armoury Road to service the 25 houses?
- There is presently a problem with Maltings Park residents and their visitors/workmen parking on the roads and pavements
- Roads are not adopted by the local authority because they are simply too narrow to meet requirements. We, the residents of the existing Maltings Park development, pay for the up-keep and maintenance of these roads. We pay for them to be cleaned, for the drainage, for the street lighting (which unlike Essex County Council streetlights) stays on all night.
- The entrance to the Maltings is via an archway under the Truman building which itself is only a single carriageway.

10.2 Residents were also notified on the amended proposal – vehicular access from Coopers Crescent. Approximately 85 objections have been received (in some instances several of the representations are from the same address);

- The amendment to this planning application is simply ludicrous!
- To shift all of the traffic to a single vehicular access via Coopers Crescent is unsafe and totally unreasonable.
- While we totally understand the unsuitability of a vehicular access from Armoury Road, Coopers Crescent is even less suitable. It is extremely narrow and 10mph and is even problematic for existing use - refuse collection, delivery lorries etc find access difficult at times. The roads were simply not designed for more traffic.
- As the existing properties are family homes, some already have several vehicles per household and parking is becoming an issue as a result. No parking is supposed to happen on the estate roads because they are so narrow and emergency access, not to mention the nature and character of this community, would be further compromised by this development.
- Residents feel very let down by the developers who told us at the public consultation event that Coopers Crescent could become a pedestrian-only access after hearing so many concerns on the evening. Maltings

Park Road and Coopers Crescent are PRIVATE roads and are not adopted by the local authority.

- As someone who pays for the upkeep of these roads, no one has explained to me the implications of a new development using these roads.
- There is already damage to the pavement at the junction of Maltings Park Road and Coopers Crescent caused by larger vehicles clipping the kerb as they access Coopers Crescent.
- The archway entrance to the estate is narrow and at times difficult to pass oncoming vehicles - this would increase the problem.
- We accept that a vehicular access from Armoury Road is also unsuitable, but this surely deems this whole proposal - which is unnecessary and outside of the local plan - totally unviable.
- To consider that all of the construction traffic for this proposed development would now have to pass through Maltings Park Road and Coopers Crescent is an absolutely intolerable thought when there are regularly many young children accessing the park through the same roads that this traffic will be passing.
- Many of the houses on Maltings Park Road being literally 2 to 3 feet from the road.
- There are bollards placed on either side of this exit to protect the arch structure. These bollards have been damaged by vehicles on two recent occasions. Behind the bollards there are pillars either side of the road supporting the second floor which creates a 'bridge' between the two buildings. The position of these pillars makes them vulnerable to damage by oversized construction vehicles.

10.3 A single representation was received in support of the proposal:

I support this proposal. I feel that it will bring the right level of new houses into the village and should be adopted as part of the local plan. It provides new houses for a nice cross section of people and will bring more people into the village to support local services and businesses.

11.0 Parking Provision

11.1 This is an outline application, however the supporting information states that the “proposed development will comply with Essex County Council’s Parking Standards Design and Good Practice (Essex County Council). While indicative only the proposed layout demonstrates compliance with the Standards. Cycle parking will be provided within secure garages”. A condition is required to require the reserved matters submission to satisfy the Council’s adopted parking standards for cars and cycles.

12.0 Open Space Provisions

12.1 An area of 0.27 hectare, representing 22% of the site area is indicated as public open space, a footpath is shown in the east corner linking this area to an existing public open space which includes children’s play equipment.

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 Planning Obligations should be sought. The Obligations that would be agreed as part of any planning permission would be:

- Education: A contribution for Primary Education: £12,734.00 per place based on 7.8 places
- Open Space Sport & Recreation: A contribution of 14 x 2bed @£3989.26 = £55849.64; 12 x 3bed @£6981.21 = £83774.52 = £139624.16; minus £46128 for onsite open space provision gives a Off-site Sport and recreation contribution of £93496.16. Amount requested is based on approved SPD. A POS maintenance sum, if adopted by CBC, of £12361.95
- Affordable housing 30% required, mix to be proportionate to the market dwellings the tenure mix to be no less than 80% affordable rent and no more than 20% intermediate (Shared Ownership). All properties also required to meet minimum accessibility standards of Building Regs Part M4 (2).
- Community Services: With regards to the two developments in West Bergholt, although I understand that they are two individual developments, the fact that it is one developer, the proximity and the requirements for community facility lends itself to consider them jointly. At the Colchester Road development, it was mentioned that they would provide a community café. There is a significant shortfall of community space in West Bergholt with the current facilities on the other side of the village being used frequently. If this were delivered in one of these new developments, *that* would be open to cater for both and the wider village, this would be sufficient and a monetary contribution would not be requested. If no community facility were provided, a maximum of £95,632.38 would be requested from Colchester Road and £89,055.66 would be requested from Armoury Road. This would be used to improve existing community facilities and would not be enough to develop a new facility thus increasing available space, so, this would not be the preferred option. *Officer comment: As the Colchester Road application has been refused planning permission, an on-site community facility will not be provided and a contribution of £89,055.66 is therefore required towards community facilities.*

15.0 Report

15.1 The main issues in this case are:

The Principle of Development

- 15.2 Planning law and the National Planning Policy Framework (The Framework) state that the starting point for determining planning applications is the development plan. The Framework also requires Local Planning Authorities to demonstrate a five-year supply of deliverable housing sites.
- 15.3 A five- year housing land supply and the location of a site outside the settlement boundary are not necessarily sufficient reasons on their own to refuse planning permission. A Local Planning Authority (LPA) also has to demonstrate the harm that would result from the development. Recent decisions by Planning Inspectors indicate that appeals are allowed where a LPA cannot demonstrate harm even where they have a 5 year housing land supply and conversely appeals are dismissed where harm is demonstrated even if a LPA does not have a 5 year housing land supply.
- 15.4 Two recent appeals one in Chelmsford and one in Tendring District were allowed despite both authorities being able to demonstrate a 5 year housing land supply.
1. Chelmsford (September 2016) Main Road Great and Little Leighs. Outline application for 100 dwellings. The Inspector was satisfied the Council was able to demonstrate a five year housing land supply. However in allowing the appeal the Inspector concluded that whilst the application would result in development outside the settlement boundary and through the loss of open countryside there would be some harm, albeit very limited, to the character and appearance of the area, the balance of benefits would outweigh the limited harm.
 2. Tendring (January 2018) New Road Mistley. Outline application for 67 dwellings The Inspector was satisfied the Council was able to demonstrate a five year housing land supply. The main considerations were the effect of the development on the appearance of the area in general in addition to its impact on the character and appearance of the Conservation Area. The Inspector considered the Landscape and Visual Appraisal and the impact of the development on PRoW and the landscape in general and concluded that whilst the visual impact would be minor moderate adverse this impact would be highly localised. It was also concluded the development would preserve the character of the Conservation Area.
- 15.5 The recent Bakers Lane appeal, in March 2018, was dismissed despite the Planning Inspector concluding that Colchester could not demonstrate a five-year supply of deliverable housing sites.

- 15.6 The applicant is obviously aware of the Inspectors comments regarding Colchester's five-year housing land supply in the Bakers Lane appeal decision letter and information submitted in support of the application states *"The applicant is making this planning application on the basis that Colchester Borough Council cannot demonstrate a 5 year supply of housing land. The applicant has commissioned an independent assessment of the Council's housing land supply position which has demonstrated that the Council has less than a 5 year supply."*
- 15.7 Members will note the response from Spatial Policy states "The Councils housing supply assessment has been updated for the period from 1.4.18 and a report on this has been published on the Councils website. This demonstrates a 5 year supply of deliverable sites". Policies in the Development Plan are therefore considered to be up to date. The Council therefore disagree with the applicant's assessment.
- 15.8 This application is recommended for approval because of the unique circumstances of the site, because it is considered to be sustainable development and because it will not cause harm to matters of acknowledged importance; these issues are discussed in the report below.
- 15.9 Whilst Spatial Policy considers there is insufficient policy justification to depart from the adopted Local Plan their response also refers to the consideration of the site as part of the call for sites and states *"the application site was promoted by the landowner as part of the Call for Sites process and considered by the LPA as part of the Strategic Land Availability Assessment (SLAA). The SLAA concluded that the site shows some suitability for development as it adjoins the existing settlement boundary and amendment of the boundary to include this site could be considered logical. There is a low risk of surface water flooding, but there are no impacts on biological or historic assets. The site is located on the edge of the village with good access to local services."*

The SLAA identified issues with access to the site, and this contributed to the site's Amber rating. The SLAA included the following comments from the Highways Authority, which did not support vehicular access from Armoury Road: "It would appear there is sufficient road frontage to enable an access to be delivered to the required highway design standards. However, there are no footways in Armoury Road and I suspect the promoter of the site does not control the land needed to provide footways. I would be unable to support a residential development which had no safe means of access for pedestrians. Also, there are a number of Public Rights of Way within and/or immediately adjacent the site, which may need to be permanently diverted and/or upgraded. One of which runs down Armoury Road and therefore I would wish to resist an intensification in traffic using Armoury Road and therefore travelling along the Public Right of Way. Also the current highway network at and surrounding the site would be unlikely to be able to cater for the additional traffic which would be generated from what is a large site. I suspect the promoter of the site does not control the

15.10 Members should note that “The SLAA concluded that the application site shows some suitability for development as it adjoins the existing settlement boundary and amendment of the boundary to include this site could be considered logical. The site is located on the edge of the village with good access to local services.”

15.11 It appears the site was not included as a possible location for future housing development in the emerging Local Plan which guides the Neighbourhood Plan primarily due to an objection from the Highway Authority to the use of Armoury Road. However, the current application has overcome the highway objection as it involves vehicular access from Coopers Crescent/Malting Park Road. The Highways Authority supports the use of this road to access the development. It is therefore possible that the site would have been included in the Emerging Plan(s) had access been indicated via Coopers Crescent/Malting Park Road. The Highway Authority has not raised an objection to the development.

15.12 The plans below show the application site in relation to the settlement boundary and adjacent residential development.





Does the proposal constitute sustainable development?

- 15.13 Sustainable development is at the core of The Framework. There are three dimensions to sustainable development an economic role, social role and environmental role. The proposed development will be assessed against each of these roles.

1. Economic Role

The development would contribute to the economic role of the area by generating employment and tax receipts during construction. In the longer term the local economy would benefit from the provision of housing, investment in local infrastructure and services, additional expenditure on goods and services and from the New Homes Bonus. Furthermore, in economic terms, the addition of new residents to the village would support the vitality and viability of services and facilities, and support local businesses. It is considered the development satisfies the economic role.

2. Social Role

The development of 26 dwellings would contribute to providing new housing and help to address the national shortfall in supply. 30% of the new homes would be affordable; the provision of affordable homes is a key Council objective. The provision of up to 26 dwellings toward meeting projected

housing need is a social benefit which carries a high degree of weight in the overall planning balance.

The application, via a section 106 Agreement, would also secure contributions towards education; open space, sport and recreation; and community facilities. Whilst these contributions are to mitigate the impact of the development the latter would also benefit the wider community as would the on-site public open space. The applicant has also indicated they would be willing to make a broadband contribution. It is considered the development satisfies the social role.

3. Environmental Role

The application site is an area of grassland and whilst there are no trees within the site; trees and hedgerows form the site boundaries. The site was formally part of a larger agricultural field that has been broken up into smaller parcels and developed. The site has not been used for agricultural purposes for many years and is isolated from the agricultural landscape. There is existing residential development on, or opposite all the boundaries of the site; this comprises the redeveloped former brewery land, frontage development to both Colchester Road and Armoury Road, and the side garden of Brambles a dwelling on the south side of Armoury Road. A PRoW separates the site from the Brambles, and Armoury Road is also a PRoW .

The site lies within Colchester Borough Landscape Character Assessment, Character Area B6. A key planning issue is identified as potential pressure for the expansion of West Bergholt and infill development linking the two settlements. The document sets a landscape strategy objective to 'conserve and enhance' the landscape character of the Area. However this site is not visible in the wider landscape and in fact the development on the former brewery site extends closer to Colchester. The development will not cause linkage with the main Colchester settlement or reduce the gap between Colchester and West Bergholt.

There are other PRoW, including the Essex Way, in the vicinity of the site where the roofs of any development may be glimpsed particularly in winter months, but this will be against a backdrop of existing development .

The application proposes new green infrastructure including native hedgerow and tree planting along the site boundaries; in addition the majority of the existing trees and hedgerows will be retained. The northern boundary hedgerow to Armoury Road is to be retained with some appropriate thinning and new native planting. A scheme of biodiversity enhancements are also proposed.

Due to the location of the site, and the fact it is surrounded by residential properties, the development will not have an adverse impact on the landscape, it is therefore considered the environmental role is satisfied.

In conclusion it is considered the proposed development satisfies all three roles and constitutes sustainable development.

Emerging Local Plan/Neighbourhood Plan

- 15.14 The emerging Local Plan identifies West Bergholt as a sustainable settlement as it “has a sufficient population base and a range of community facilities and infrastructure to support appropriate growth which can be physically accommodated in West Bergholt without compromising the existing settlement shape, form and character”. The plan indicates that to maintain the current settlement boundary development will continue to be located around the three main roads and that there is a need to prevent coalescence of settlements. The emerging plan indicates that West Bergholt Parish Council are preparing a Neighbourhood Plan and that given the current number of dwellings in West Bergholt, the available facilities and the proximity of the village to Colchester it could accommodate approx. 120 dwellings in the next 15 years. The West Bergholt Neighbourhood Plan group are actively progressing their Neighbourhood Plan and Regulation 14 consultation on the draft plan commenced on June 4 2018. West Bergholt Parish Council and Neighbourhood Plan Group indicated a preference for allocating sites through their emerging Neighbourhood Plan. The emerging Local Plan therefore identifies a broad area of growth for West Bergholt, located to the north-east of Colchester Road, and the Neighbourhood Plan has identified sites within this broad area.

Policy SS15:West Bergholt states

“Policy SS15: West Bergholt

Within the broad area of growth as shown on the West Bergholt policies map, the West Bergholt Neighbourhood Plan will:

- (i) Identify the settlement boundary for West Bergholt;
- (ii) Identify specific sites for housing allocations needed to deliver 120 dwellings;
- (iii) Set out any associated policies needed to support this housing delivery i.e. housing mix, type of new housing and density for each site allocated for housing;
- (iv) Identify any additional local economic areas and set out any associated policies; and
- (v) The Neighbourhood Plan will also set out the policy framework to guide the delivery of any infrastructure and community facilities required to support the development, including the provision of SuDS for managing surface water runoff in individual developments.

Proposals for development outside of the identified broad areas for growth and the settlement boundary will not be supported. This policy should be read in conjunction with the generic Neighbourhood Planning Policy SG8 and the West Bergholt Neighbourhood Plan, once it has been adopted.

Conclusion: The Principle of Development

- 15.15 Your officer acknowledges the site is outside the settlement boundary and is therefore contrary to the development plan. Whilst the Framework strongly supports a plan-led system it also advocates the presumption in favour of sustainable development. When the site is viewed against the settlement boundary and existing development it is considered to be a logical 'rounding-off' of the settlement. The site has been unused for many years and is not in agricultural use and due to its location and size would not be suitable for agriculture. The proposed development would not impact on the wider landscape nor would it erode the open countryside between the settlements of Colchester and West Bergholt. The development satisfies the three roles of sustainability and is considered to constitute sustainable development. The benefits of the scheme are considered to outweigh any harm identified.

It is rare for your officers to support applications for residential development on sites outside the settlement boundary; but in this instance due to the unique circumstances of the site it is considered granting planning permission would not undermine either the Local Plan or the Neighbourhood Plan.

Members should be aware this application is one of three proposals for residential development in West Bergholt, all outside the settlement boundary, all being dealt with by your officer. Application 180732, submitted by the same applicant, on land the other side of the former brewery fronting Colchester Road was refused planning permission on 15th June 2018. The third application reference 173127, submitted by Gladman, relates to land on the opposite side of Colchester Road is still under consideration, although a decision should be issued in the next few weeks.

Design and Layout

- 15.16 These matters will form part of the consideration of the reserved matters application. The submitted Proposed Site Plan whilst not forming part of the application shows a possible layout for 26 dwellings. It is clear that to accommodate 26 dwellings without adversely affecting the amenity of existing residents the layout will have to include a number of bungalows and some dwellings may have to include only bathroom/ensuite or high level windows at first floor. The layout is not acceptable in all respects and will be excluded from the planning permission. Proposed conditions will restrict the development to a maximum of 26 dwellings with the final number dependent upon the submission of detail with the appropriate reserved matters that demonstrate all relevant adopted space, amenity and parking standards are satisfactorily met. Nevertheless, the predominantly smaller-type units including bungalows shown on the site plan would be welcomed as meeting a high demand in the local market.

Scale, Height and Massing

- 15.17 These matters will also form part of the consideration of the reserved matters application. However the application form, Design and Access Statement and the Street Scene drawing all indicate buildings of either 1 or 2 storeys which is in keeping with the height of dwellings in the area. Semi-detached, small terraces and detached bungalows respect the scale and massing of existing buildings. Conditions are recommended which restrict the approved development to a maximum of 26 dwellings, require bungalows on some plots and restrict storey heights to a maximum of 2 storeys.

Impact on the Surrounding Area

- 15.18 These matters are discussed in the “Principle of Development” section above and it is concluded the development would not have an adverse impact on the surrounding area

Impacts on Neighbouring Properties

- 15.19 Members will be aware from the representation set out above that this application has given rise to considerable neighbour comment. The comments received are primarily from residents in the Malting Park development on the site of the former Truman Brewery.
- 15.20 Representations made by both the Parish Council and residents refer to site being outside the settlement boundary and contrary to the Local Plan and Neighbourhood Plan these objections are addressed above.
- 15.21 Policy DC1 requires all development...to avoid unacceptable impacts on amenity ...including vehicle movement.
- 15.22 Representations refer to the use of Coopers Crescent to provide vehicular access to the site. Residents state this is a private road and they pay for its upkeep. The applicant company NEEB has confirmed they have a right of access over these roads and have ownership of a small area of land at the end of Coopers Crescent into the application site. The proposal will extend the existing carriageway and footway at the end of Coopers Crescent. The entrance to the Malting Park development from Colchester Road is via an archway under the Truman building, this archway and the existing road network are already used by refuse and delivery vehicles to service the existing houses.
- 15.23 The proposed development will be required to provide parking, including visitor parking, to comply with the Councils adopted parking standards, a size 3 turning head will be required to accommodate refuse and delivery vehicles.

- 15.24 All vehicular access including construction traffic will be via Coopers Crescent a condition requiring the submission and approval of a Construction Management Plan is proposed to secure matters including, times of deliveries and construction, parking of contractors vehicles on site, size of delivery vehicles to be agreed.
- 15.25 Adherence to the Councils privacy standards, the inclusion of bungalows and restricting storey heights to 2-storey will ensure residents privacy and amenity is not adversely affected by the development.
- 15.26 Residents may suffer some loss of amenity during the construction period, this is a consequence of any development, and conditions will seek to ensure this is kept to a minimum. The development will add extra traffic to the existing roads but is for a modest number of dwellings; a maximum of 26 units. It is noted the Highway Authority has raised no objection to the use of these roads, and in fact has objected to any vehicular use of Armoury Road.
- 15.27 It is considered any loss of amenity to residents due to vehicles generated by 26 dwellings will be minimal and not sufficiently harmful to warrant a refusal of planning permission.

Highway Safety and Parking Provisions (including Cycling)

- 15.28 A Transport Assessment forms part of the application. This outlines existing travel provision for pedestrians, cyclists and public transport users; summarises local facilities and local travel patterns; it identified the proposed access; and forecasts the quantum of vehicle trips that may be generated by or attracted to the proposed development site and the likely impact on highway capacity.
- 15.29 The Assessment identifies;
- Local facilities including convenience stores, the post office, primary school, pharmacy, and surgery are located within 1km from the application site – all within a 14 minute walk
 - The nearest bus stop is 270m to the south, with services to Colchester, Bury St Edmunds and Colchester
 - Colchester North Railway Station is 3.5km to the east, with services to London, Ipswich and Norwich
 - Access to the site is proposed via the extension of Coopers Crescent into the site. The existing carriageway and footway at the end of Coopers Crescent will be extended to serve the development.
 - The highway capacity analysis indicates that the additional movements associated with the proposed developments will be minimal and represents small increases in the total movements through key local junctions. Capacity modelling of junctions on the local highway network indicate that they will continue to operate within capacity and the development will have a minimal impact.

- 15.30 The Highway Authority has raised no objection to the application, subject to conditions, one of these requires all access to be from Coopers Crescent, the application has been amended to take account of this requirement.
- 15.31 Parking and cycling provision are not matters for consideration at this time but a condition is proposed requiring the reserved matters to comply with the Council's parking and cycle standards.
- 15.32 Access is one of the matters to be considered as part of this outline application and no objection is raised to the proposed access.

Landscape and trees

- 15.33 The impact of the development on the landscape is discussed above and it is concluded there is no adverse impact on the wider landscape as the site is virtually surrounded by residential development.
- 15.34 The application includes an Arboricultural Survey and Report which indicates
- There are two category A trees on site, located on the north east boundary adjacent to Armoury Road.
 - The remainder of trees and hedges fronting Armoury Road, along with hedges along the west, southwest and east borders are rated category B.
 - These trees and hedges are to be protected and preserved wherever possible, and supplemented in places with new planting
 - The existing access to Armoury Road will be stopped up with a new hedge length and existing gaps in the hedgerow will also be augmented with new planting
- 15.35 The Survey indicates all trees and hedgerows are along the site boundaries and not within the site itself. These features will mainly be retained, a planning condition will secure a new landscape scheme both within the site and along its boundaries as part of the reserved matters application.
- 15.36 The Arboricultural Officer has considered the report and has no objection to the principle of the development.

Ecology

- 15.37 The site has been unused for many years, is not in agricultural use and comprises species-poor unmanaged grassland. Dense blackthorn and bramble scrub has developed mostly along the northern and western boundaries. Native species hedgerows with trees exist along most of the site's boundaries; the site also contains areas of compost heaps.
- 15.38 An Ecological Survey was included with the application and further updates on additional survey work regarding Great Crested Newts was submitted during the consideration of the application.

- 15.39 The scoping exercise for the ecological work concluded that the following legally protected species/groups might be using the site and/or land immediately adjacent to it:
- Amphibians including great crested newts and reptiles;
 - Mammals including badger
 - Bats
 - Hazel dormouse
 - Breeding birds and other species such as
 - Hedgehog
- 15.40 Further survey work was carried out and concluded;
- Great Crested Newts Whilst there are no ponds or other water features on the site ponds near the site were surveyed and no evidence of Great Crested Newts was found.
- Badger No badger setts or positive field signs were located on the site. The 2018 site walkover found no badger setts on site.
- Bats None of the trees within the site support any obvious potential roosting niches
- Hazel Dormouse The site includes some hedgerows which include areas of hazel locally within hedgerow H1 and other hedgerow species which dormouse will forage within. The areas of bramble scrub provide suitable nesting habitat as well as for foraging. Given the presence of a local record within 1km of the site there is the potential for hazel dormouse to use the site. Whilst some survey work has been carried out further work is required. A condition will require the reserved matters submission to include this survey work. However should there be evidence of hazel dormice the mitigation should only require the retention, strengthening and protection of these hedgerows which would not preclude the development taking place.
- Breeding Birds The mature hedgerows and areas of scrub provide suitable nesting habitat and song perches for a range of birds. The areas of unmanaged grassland provide suitable hunting habitat for barn owl, whilst hawthorn and blackthorn hedgerows/scrub provide winter food sources for resident and migrant species. The mature hedgerows and areas of scrub provide suitable nesting habitat and song perches for a range of bird species. The application proposes the retention of the majority of trees and hedgerows.
- Other Species The site supports foraging and refuge habitat for hedgehog. The hedgerows and areas of dense bramble also provide suitable habitat for overwintering. It also offers limited habitat for stag beetle in the form of scrub and wooded areas.
- 15.41 Given that the site supports habitat that will be used by a range of species, a condition requiring a scheme of biodiversity enhancements and habitat retention, protection and enhancement is recommended, this could include such matters as sensitive lighting, planting of replacement habitats on site, e.g. within the POS areas, retention of ruderal/scrub habitat, during the construction phase to follow good practice site clearance and construction measures.

- 15.42 The Ecological Report suggest conditions specific to breeding birds and bats, a Biodiversity Method Statement and Construction Environmental Management Plan, the report also suggest a 5 to 10-year management plan for the site would ensure the long-term and continuing favourable condition of the retained and compensated habitats to provide long-term biodiversity benefits.
- 15.43 These conditions are considered appropriate and included in the recommended conditions.

Heritage including Archaeology

- 15.44 A Heritage Statement forms part of the application. It provides an appraisal of the heritage assets which may be affected and assesses their significance in accordance with the policies contained in the NPPF. The Statement describes the heritage assets in the following terms *“Adjoining the site to the south east are modern houses forming part of Maltings Park Road, built on the site of the former brewery. The principle buildings of the former brewery form a group of three grade II listed buildings. These surviving buildings have evidential, historical and architectural value, as well as communal and social value. Consequently they are of high significance. East of the proposal site is a grade II listed farmhouse, The Armoury, with a listed garden wall. The farm is located at the end of Armoury Road at some distance from the application site, from which it is not visible and would be unaffected by the proposed development. The proposal scheme does not affect historic fabric, and is not considered to impact on the setting of The Armoury or the former brewery buildings. The setting of the brewery has evolved over time, with only principal buildings now remaining. The buildings are now surrounded by estate housing. However, the buildings still have local landmark qualities and the setting is not impaired. The application site cannot be seen from the historic brewery buildings. Any harm is less than substantial, and the public benefits which accrue outweigh the level of harm caused.”*
- 15.45 The Heritage Officer has considered the Heritage Statement and concludes that it is considered that the proposed development will not cause further harm to the setting of the identified heritage assets. In view of this, there is not an objection to this application from a heritage standpoint.
- 15.46 The Council’s Archaeologist has provided a brief for the archaeological investigation work which is required prior to the commencement of any development, consequently no objection is raised on archaeology issues subject to a condition.

Drainage and Flood risk

- 15.47 A Flood Risk Assessment and Foul Surface Water Drainage Strategy has been submitted. This considers the risk of flooding at the application sites and assesses any impact to the surrounding catchment resulting from the proposed developments.

- 15.48 The Assessment indicates that,
- There are no surface water features within the site boundaries and the closest main river is 800m to the east
 - The site is in Flood Zone 1
 - The site is not at risk of fluvial, groundwater, sewer or reservoir flooding.
- 15.49 The drainage Strategy concludes that, foul water will be directed via gravity to the existing foul water sewer at Coopers Crescent. In respect of surface water as the underlying bedrock does not appear to have the capacity for infiltration surface water will be attenuated on site and then discharged by gravity to the existing public sewer located at Coopers Crescent.
- 15.50 Essex County Council SUDS and Anglian Water raise no objection subject to conditions.

Other Matters

Land Contamination

- 15.51 Members will note the Contaminated Land officer has considered the Sitecheck Report and Phase 1 Desk Study and Preliminary Risk Assessment and has no objection subject to conditions

Noise

- 15.52 A Noise Constraints Assessment has been submitted and a sound survey was completed in order to determine existing noise levels across the site. The Noise
- 15.53 Constraints Assessment concludes;
- Noise impacts are primarily caused by traffic on Colchester Road.
 - The application site is designated as low to negligible risk during both day time and night time periods, with suitable levels of noise achieved in proposed internal and external areas
 - Mitigation measures are not therefore necessary.

Environmental Protection has raised no objection subject to conditions.

16.0 Conclusion

- 16.1 To summarise, this outline application conflicts with policies in the adopted and emerging local plan that allocate sites for residential development and furthermore, the site is not identified in the emerging Neighbourhood Plan for future residential development. In your officer's opinion, the scheme represents sustainable development; insofar as the limited harm identified is outweighed by the significant social and economic benefits associated with a small scale housing development surrounded by existing housing and on a site of no particular environmental value. In these circumstances, it is considered that a departure from the adopted local plan is justified in the

wider public interest and approval is recommended contingent upon completion of a prior legal agreement to secure the 30% affordable homes and other contributions.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is that the application is referred to the Secretary of State under the “call-in” procedure set out in The Town and Country Planning (Consultation) (England) Direction 2009. If the Secretary of State confirms he does not wish to “call-in “ the application for a decision the application is approved subject to a section 106 agreement and the conditions set out below.

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

17.3 The legal agreement is required to secure the following;

Members should note these contributions are based on the number and mix of units indicated in the outline application; contributions would be calculated on the approved number and mix.

- A contribution for Primary Education: £12,734.00 per place based on 7.8 places
- Open Space Sport & Recreation: A contribution based on the final mix of dwellings; the mix shown on the outline application would require 14 x 2bed @£3989.26 = £55849.64; 12 x 3bed @£6981.21 = £83774.52 = £139624.16; minus £46128 for onsite open space provision gives an Off-site Sport and recreation contribution of £93496.16. A Public Open Space maintenance sum, if the POS is adopted by CBC, of £12361.95
- Affordable housing 30% required, mix to be proportionate to the market dwellings the tenure mix to be no less than 80% affordable rent and no more than 20% intermediate (Shared Ownership). All properties also required to meet minimum accessibility standards of Building Regs Part M4 (2)
- Community Services: a contribution of £89,055.66
- Contribution towards broadband.

18.0 Conditions

1. Non Standard Condition - Submission of Reserved Matters

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

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

2. Non Standard Condition - Submission of Reserved Matters

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

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

3. Non Standard Condition - Outline Time Limit

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

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

4. Non Standard Condition - Restriction on the Number of Units

This permission is for a maximum of 26 dwellings, the precise number to be informed by the reserved matters submission/s which will be required to demonstrate all relevant Adopted space, amenity and parking standards are complied with in an acceptable manner and satisfy highway requirements for carriageway and footway widths. The precise number of units will also be dependent on the footprint and number of bedrooms proposed for the dwellings, the illustrative layout submitted with the outline application indicates modest 2 and 3 bed properties. It is these material considerations that will ultimately dictate the total number of units.

Reason: Insufficient information is submitted with the application to enable the Council to determine whether the site is capable of satisfactorily accommodating 26 dwelling units in a form that is acceptable and that will conform to its Adopted space, amenity and highway and parking standards.

5. Non Standard Condition - Clarification of Approved Plans

The site location plan Drawing No;LP_02 is approved, whereas drawings PA02 rev A and SK04A are excluded from this permission.

Reason: To avoid doubt as to the scope of the consent hereby granted

6. Non Standard Condition - Restriction on Height and Requirement for Single Storey Units

The reserved matters shall include a mix of single storey and two storey dwellings. No Dwelling shall exceed two storeys in height.

Reason: The constraints of the site indicate some single storey dwellings are required to prevent an unacceptable loss of amenity to adjacent residents. For the avoidance of doubt and to ensure that the dwellings do not harm the character of the area and do not adversely impact on neighbour amenities.

7. Non Standard Condition - Construction Method Statement

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- Hours of construction delivery
- Limits to deliveries during peak hours restrict and restrict size of delivery vehicles
- Worker vehicle movements
- Hours of construction work
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and under body washing facilities
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable and to ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

8. Non Standard Condition - Cross Sections

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

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

9. Non Standard Condition - Materials

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

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

10. Non Standard Condition - Removal of Permitted Development Rights

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To ensure the development avoids an overdeveloped or cluttered appearance.

11. Non Standard Condition - Removal of Rights to Erect Fences etc

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

12. Non Standard Condition - Removal of Rights to Install New Windows etc

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights, dormer windows or any other openings shall be installed above ground floor level within any side or rear facing elevation or any side or rear facing roof face of the dwellings HEREBY PERMITTED unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

13. Non Standard Condition - Landscape Management Plan

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

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

14. Non Standard Condition =- Tree and Natural Feature Protection: Protected Areas

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

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

15. Non Standard Condition - Tree and Natural Feature Protection: Entire Site

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

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

16. Non Standard Condition - Tree and Hedgerow Protection: General

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

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

17. Non Standard Condition - Tree and Hedgerow Protection: General

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

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

18. Non Standard Condition - Tree Canopy Hand Excavation

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

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

19. Non Standard Condition - Provision of Play Area

The reserved matters application shall include at least 10% of the site area to be laid out for use as amenity open space, and shall include a landscape scheme, implementation timetables, monitoring programme and management plan.

Reason: In order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment after the development is completed.

20. Non Standard Condition - Light Pollution for Major Development

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

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

21. Non Standard Condition - Wildlife Survey

The reserved matter shall include a survey to confirm or disprove the presence of hazel dormice on the application site. If hazel dormice are present the survey shall be accompanied by a scheme of appropriate mitigation measures including precise details of the timing and method of protection. No development shall be undertaken thereafter, except in accordance with the approved scheme of mitigation.

Reason: In order to safeguard protected wildlife species and their habitats where it is possible that they could be present.

22. Non Standard Condition - Ecological Scheme

The reserved matters shall include a Biodiversity Method Statement, a Construction Environmental Management Plan, and a 5 to 10-year Management Plan plus a Scheme of biodiversity and habitat retention, mitigation, protection and enhancement, including an implementation timetable, to include but not be limited to the details set out in the Ecological Survey Report submitted with the outline application. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area and to ensure appropriate retention, protection, mitigation and enhancement to provide long-term biodiversity benefits.

23. Non Standard Condition - Landscape Scheme

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

- Proposed finished levels or contours;
- Means of enclosure;
- Car parking layouts;
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials;

- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.);
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; 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.

Recommended informative:

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape webpage under Landscape Consultancy by clicking the 'read our guidance' link).

24. Non Standard condition - Archaeology

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

- a. The programme and methodology of site investigation and recording.
 - b. The programme for post investigation assessment.
 - c. Provision to be made for analysis of the site investigation and recording.
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation.
 - f. Nomination of a competent person or persons/organisation to undertake the works.
- The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008) and Adopted Guidance 'Managing Archaeology in Development' (adopted 2015).

On request of the applicant, CBC Archaeologist will provide an updated brief for the archaeological investigation. In this case, a geophysical survey and trial-trenched evaluation will be required to establish the archaeological potential of the development site. A decision on the need for any further investigation (excavation before any groundworks commence) will be made on the basis of the results of the evaluation.

25. Non Standard Condition - Air Quality

The reserved matters application/s shall include a scheme that considers Chapter 5 of the EPUK & IAQM Guidance 'Planning For Air Quality' and details the measures aimed at mitigating or offsetting the impacts on local air quality resulting from increased road traffic generated by the development. The scheme shall include an implementation timetable. The approved scheme shall therefore be implemented and retained.

Reason: To ensure the adverse effects on the development on air quality are appropriately mitigated

26. Non Standard Condition - Surface Water Management Strategy

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

27. Non Standard Condition - No Vehicular Connection to Armoury Road

There shall be no vehicular connection between the proposed development site and to Armoury Road whatsoever.

Reason: To prevent the generation of unnecessary traffic on the Definitive Route in the interests of highway safety and in accordance with Policy DM 1 and 11 of the Highway Authority's Development Management Policies February 2011.(The sole means of vehicular access being from Coopers Crescent).

28. Non Standard Condition - No Use of Public Footpath

There shall be no use of Public Footpath No 23 or 32 (West Bergholt) for any proposed development activities such as access to the site, for construction traffic, for the parking of contractor's vehicles or access by plant or machinery whatsoever.

Reason: To prevent the generation of unnecessary traffic and maintain the unobstructed rights of pass and repass on the Definitive Route in the interests of highway safety and in accordance with Policy DM 1 and 11 of the Highway Authority's Development Management Policies February 2011.

29. Non Standard Condition - Highway Details

The connection from Coopers Crescent shall be a continuation of the carriageway and footway for at least the first 15m within the site.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

30. Non Standard Condition - Highway Details

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

31. Non Standard Condition - Vehicular Access to be Provided Prior to Occupation

Prior to the first occupation of each dwelling on the proposed development, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the highway boundary or proposed highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

32. Non Standard Condition - Off Street Car Parking

All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

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

33. Non Standard condition - Garages

Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

34. Non Standard Condition - Bicycle Storage

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

35. Non Standard Condition - Residential Travel Plan

Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Plan including the initial commitments; and amended and supplemented under the provisions of a yearly report. The Residential Travel Plan to include a commitment to provide a Travel Plan coordinator within the residential sales office to give advice to the new residents of the development.

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

36. Non Standard Condition - Highway Access Surface Treatment

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary / throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

37 Non Standard Condition - Communal Bin/Recycling/Refuse

Prior to first occupation of the proposed development, communal recycling/bin/refuse collection points shall be provided within 15m of the proposed carriageways and additionally clear of all visibility splays at accesses and retained thereafter.

Reason: To minimize the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

38. Non Standard Condition - Visibility Splays

Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

39. Dwelling Visibility Splays

Prior to the occupation of any dwelling on the proposed development an 11m x 2.0m x 11m visibility splay, shall be provided on both sides of that access onto the Public Right of Ways and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the surface of the access.

Reason: To ensure adequate intervisibility between motorists and pedestrians in the adjoining Public Right of Way, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

40. Non Standard Condition - Carriageway Dimensions

All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

41. Non Standard condition - Footway Dimensions

All footways should be provided at no less than 2.0m in width.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

42. Non Standard condition - Provision of New Bus Stop

Prior to the first occupation of any of the proposed dwellings the applicant shall provide a new bus stop west of Maltings Park Road, and including the provision of a new shelter, level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development in accord with Policy DM 9 of the Highway Authority's Development Management Policies February 2011.

43. Non Standard Condition - Surface Water Drainage

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to the Greenfield 1 in 1 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- 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 prior to occupation.

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

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

44. Non Standard Condition - Minimise Off-Site Flooding

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason The National Planning Policy Framework paragraph 103 and paragraph 109 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates.

Reason: To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

45. Non Standard Condition - Drainage Maintenance Plan

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

46 – Non Stand Condition - Maintenance Plan Logs

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.

47. Non Standard Condition - Unexpected Land Contamination

In the event that unacceptable land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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

(2) 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.

(3) ZTB - Informative on Any Application With a Site Notice

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

(4) ZTG - Informative on Section 106 Agreements

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

(5) ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at development.management@essexhighways.org or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

(6) ZTV - Informative on New Roads Serving Over 5 Dwellings

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

(7) ZTX - Informative on Public Rights of Way

PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.

(ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

(iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

(8) ZUJ - Informative on Archaeology

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

<http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

(9) Non Standard Informative - UK - Informative on Protected Wildlife

PLEASE NOTE: It is likely that a protected species may be present at the site, which are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Eastbrook, Shaftesbury Road, Cambridge CB2 8DR, Tel. 0300 060 3787.

(10) Non Standard Informative - Highway Design Informatives:

Informative 1

1. There should be no vehicular access over any radius kerbs.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
3. Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
4. The applicant should be requested to consider the provision and location of street lighting columns, particularly at road junctions, these should be within the adoptable areas.
5. Refuse freighters are unlikely to manoeuvre over Private Drives.
6. Service, delivery and refuse freighters will require a minimum of size 3 turning facilities. The future layout should include swept path analysis drawings demonstrating appropriate manoeuvrability throughout the site.

Informative2:

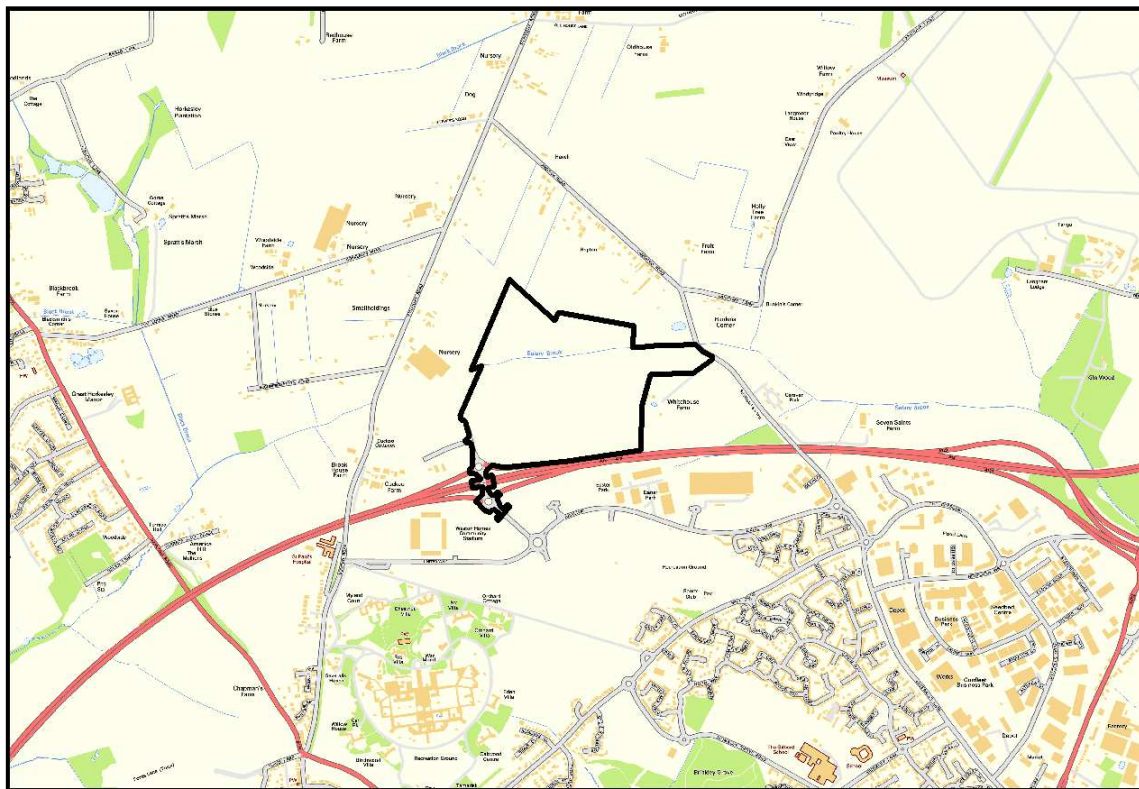
The public's rights and ease of passage over Public Footpaths Nos 23 & 32 (West Bergholt) shall be maintained free and unobstructed at all times.

Informative 3:

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 – Essex Highways Colchester Highways Depot, 653 The Crescent, Colchester CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3

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Item No: 7.2
Application: 180438
Applicant: Colchester Amphora Trading Ltd – on behalf of Colchester Borough Council
Agent: Mr Thomas Smith, AECOM
Proposal: Full planning application for the Colchester Northern Gateway Sports Hub (Use Class D2) comprising a 2,425sqm sports centre, a 1,641sqm club house, 12 no. sports pitches (comprising two 3G pitches, seven turf pitches and three mini pitches), a 1.6km cycle track, archery range; recreational areas; 10 no. ancillary storage buildings (totalling 298sqm), and associated earthworks, landscaping, utilities, pumping stations, car parking, access and junction alterations.
Location: Colchester Northern Gateway, Cuckoo Farm Way, Colchester, Essex, CO4 5JA
Ward: Mile End
Officer: Bradly Heffer
Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major development proposal submitted on behalf of the Borough Council, that is also a departure from the adopted Local Plan and which has generated objections from local residents.

2.0 Synopsis

- 2.1 The key issues for consideration are the acceptability of the principle of the development in this location, the impacts on amenity that are likely to arise and the ability of the existing infrastructure to accept the additional movements generated by the development together with proposed highway works.
- 2.2 The application is subsequently recommended for approval, subject to the imposition of the conditions attached to the end of this report. **Members should note that in the event that the recommendation is agreed by Committee, it would be necessary to refer the application to the Secretary of State (as the proposal represents a departure from the adopted Local Plan) in order to determine whether the application is to be called-in for consideration.**

3.0 Site Description and Context

- 3.1 The site for this proposed development is an irregularly-shaped, extensive area of land currently utilised for agricultural purposes, located to the north of junction 28 of the A.12 trunk road. It has an overall area of 34.5 hectares. The site, which is relatively level, contains a number of trees and established hedgerows, that define some boundaries with adjoining land. Part of Salary Brook runs through the approximate centre of the site.
- 3.2 It is bounded to the south by the A.12 trunk road, including junction 28 which enables access to north Colchester, including the emerging Colchester Northern Gateway, of which this proposed development would form part. To the west of the site is the Park and Ride development, also accessed from junction 28, a petrol filling station and a fast food restaurant with drive-through facility. To the northern end of the western boundary the site abuts land associated with established residential development fronting Boxted Road. To the north the site abuts open land, between it and the curtilages of dwellings that front the southern side of Langham Road. To the east the majority of the site boundary abuts the curtilage of Whitehouse Farm. A smaller length of the eastern boundary, at its northern end, faces Severalls Lane.

4.0 Description of the Proposal

4.1 This proposed development relates to a significant sports and leisure development on the identified land which provides for the relocation of the Colchester Rugby Club from its current site in Mill Road. The individual elements of the development may be summarised as follows:

- A Sports Centre of 2,425 square metres Gross Internal Area (that would include a 5-court sports hall, changing facilities etc. and a café with viewing area).
- A Club House (to be used by Colchester Rugby Club) having a Gross Internal Area of 1,930 square metres (that would include a meeting room, function room, bar, changing rooms and club shop)
- Two all weather (3G) pitches – one located adjacent to the Sports Centre and one adjacent to the Rugby Club building.
- Seven grass rugby pitches (three located north of Salary Brook).
- A 1.6 km regional closed circuit cycle track having a width of 6 metres (including a judge's hut).
- A 25m x 35 m cyclists warm-up and 'learn-to-ride' area with an associated pump track
- An archery range having dimensions of 140 metres x 90 metres wide (with ancillary club house shed and storage facilities).
- Recreational areas to enable informal leisure activities.
- Provision of a car park to serve the development together with pedestrian/cyclist/equestrian routes.
- Landscaping and enhanced planting, including substantial tree planting proposals (that would be designed to promote habitat creation and enhancement).
- Provision of 'park furniture' including seating, litter bins, cycle racks, bollards, lighting, fencing, gates and traffic control devices.

4.2 Vehicular access to the site would be via a new access from the service road serving the Park and Ride/PFS/Restaurant uses currently in-situ. The topography of the site is such that the service road is at a significantly higher level than the application site itself. This has resulted in a proposed looped access road to overcome the difference in land levels. The scheme also proposes the provision of a cycle/pedestrian links to Boxted Road, together with the provision of a new cycleway and footway on Severalls Lane, providing connectivity from the eastern side of the site to the existing provision found near the bridge across the trunk road to the south of the site.

4.3 Members are advised that the application submission includes an Environmental Statement, Design and Access Statement, Planning Statement etc. which may be viewed on the Council's website. The following extract is taken from the Planning Statement for Members' information:

'The proposed sports hub would provide a wide range of sports and recreational facilities to serve the growing population of Colchester and the wider area. The iterative design process for the masterplan and buildings has been informed by a wide range of stakeholders, resulting in a carefully

considered scheme which responds appropriately both to its context and the needs of the wide range of user groups.

It is acknowledged that the proposals would not be consistent with the spatial policies of the adopted development plan. However, there are material considerations which weigh heavily in favour of the proposed development, namely:

- a). meeting other adopted strategic development plan policies through the provision of community infrastructure;
- b). the advanced stage of preparation of the local plan and the proposed allocation of the site for sport and recreational use in emerging policy NC1;
- c). accordance with the adopted Colchester Northern Gateway Masterplan;
- d). the demonstrable need for the proposed sports and recreational facilities; and
- e). the contribution that the scheme would make towards meeting the wider national and local objectives and strategies to increase sports participation to promote active and healthy lifestyles...

4.4 Members are advised that the planning application is accompanied by the following documents:

- Environmental Statement
- Planning Statement (including Leisure Impact Statement)
- Design and Access Statement
- Health Impact Assessment
- Statement of Community Involvement
- Sustainability Energy Design Statement
- Transport Assessment
- Travel Plan

These documents may be viewed on the Council's website.

5.0 Land Use Allocation

- 5.1** Within the adopted Local Plan the majority of the site has no specific allocation i.e. white land. However, an area of the western part of the site is included in a larger area that is allocated for Park and Ride purposes.

6.0 Relevant Planning History

- 6.1** Prior to the submission of this proposal there have been no previous planning applications on the site that are relevant to the consideration of this current application.

- 6.2 The following list sets out the planning context with nearby significant developments:

O/COL/01/1625 – Outline application for replacement roadside services to include petrol filling station comprising associated Class A1 retail shop, refuelling facilities, car wash and Class A3 roadside restaurant and lorry park – approved 21st March 2006

091644 – Roadside service area to include petrol forecourt and canopy, shop, HGV refuelling and canopy, HGV parking, car wash, jet wash, customer parking, underground fuel tanks, plant room and associated services – approved 3rd June 2010

110616 – Construction of park and ride facility with associated terminus building, landscaping, access road, lighting and associated infrastructure – approval granted by the County Council on 26th August 2011

120440 – Freestanding two storey restaurant with associated drive-thru, landscaping and car parking. Resubmission of 112404 – approved 13th July 2012.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP10 Tourism, Leisure and Culture
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP25 Renewable Energy

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

SA NGA1 Appropriate Uses within the North Growth Area
SA NGA4 Transport measures in North Growth Area

- 7.5 The Neighbourhood Plan for Boxted / Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

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

SP1 Presumption in Favour of Sustainable Development
SP6 Place Shaping Principles
SG1 Colchester’s Spatial Strategy
SG7 Infrastructure Delivery and Impact Mitigation
SG8 Neighbourhood Plans
ENV1 Environment
ENV3 Green Infrastructure
CC1 Climate Change
PP1 Generic Infrastructure and Mitigation Requirements
NC1 North Colchester and Severalls Strategic Economic Area
NC4 Transport in North Colchester
DM1 Health and Wellbeing
DM2 Community Facilities
DM4 Sports Provision
DM15 Design and Amenity
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

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

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

7.8 The Emerging Local Plan is at examination stage and may therefore be taken into consideration in the determination of this application. In the context of this application proposal there are no fundamental unresolved site specific objections to the aforementioned policies in the emerging plan and it is considered, at this stage, that the relevant policies in the emerging Local Plan do not appear to contain obvious inconsistencies with the Framework. The Emerging Local Plan is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo complete examination, it is not considered to outweigh the material considerations assessed in accordance with up-to-date adopted planning policies and the NPPF.

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

External Materials in New Developments
EPOA Vehicle Parking Standards
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
Planning Out Crime
North Colchester Growth Area
Air Quality Management Guidance Note, Areas & Order
Boxted Parish Plan incorporating Village Design Statement
Langham Village Design Statement
Myland Parish Plan AND Myland Design Statement

7.10 Members should also note that the Colchester Northern Gateway Master Plan Vision Review was adopted by the Council as guidance for development and future planning applications at the Local Plan Committee meeting held on 18th December 2017. Some key principles contained in this document in relation to the application site (identified as Zone 3) are as follows:

- Development to be of a more informal rural feel

- High quality, striking architecture appropriate to the rural setting
- Provision of improved non-car modes of access as part of an overall modal shift aim for the whole Colchester Northern gateway as a major leisure destination
- Provision of electric charging points for vehicles

The Vision Review requires that planning applications for development plots within Colchester Northern Gateway have regard to the aims of the document.

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The following extensive comment has been received from the Planning Policy team:

'The scheme forms parts of the wider Colchester Northern Gateway (CNG), an area of land controlled by Colchester Borough Council providing a range of residential, employment, commercial and leisure uses. The application proposes sport and leisure uses on a 34.5 ha site on agricultural land immediately north east of junction 28 of the A12.

A key component of the development is the relocation of sports pitches and Colchester Rugby Football Club (CRFC) from Mill Road to this application site north of the A12. This is intended to be followed by redevelopment of the CNG area south of the A12 for residential and commercial uses which will be subject to future separate planning applications.

Adopted Local Plan

The statutory adopted Development Plan for Colchester includes the Core Strategy (2008), Site Allocations (2010) and Development Policies (2010) as well as the Neighbourhood Plans covered separately below. Core Strategy Policy SD1 (Sustainable Development Locations) of the development plan requires growth to be located at the most accessible and sustainable locations in accordance with the settlement hierarchy. To sustain the character of the countryside a high standard of design, sustainability and compatibility with local character is required. Core Strategy Policy ENV1 (Environment) requires the countryside to be conserved and enhanced. The policy includes criteria which strictly controls development in the countryside including in particular that the development be appropriate in terms of its scale, siting and design; and that it should protect, conserve or enhance the landscape and townscape character, including maintaining settlement separation.

It is noted that the Planning Statement submitted with the application flagged as relevant SA policies NGA1, NGA2 and NGA4 requiring community facilities, sports pitches, open space and walking/cycling networks, but it should be noted that the application site lies adjacent but outside of the Northern Growth Area Urban Extension/Northern Growth Area covered by the policies, so provision proposed by the application would not directly address the requirements of those policies.

Amongst the Development Policies relevant to the application, Development Policies DP4 (Community Facilities) and DP10 (Tourism Leisure and Culture) provide generic support in principle for new community facilities and tourism, leisure and culture facilities.

Adopted Neighbourhood Plans

The adopted Neighbourhood Plans for Boxted and Myland and Braiswick form part of the Development Plan for Colchester. The following policies within them are relevant to consideration of the application:

Boxted Neighbourhood Plan - LC1 –Coalescence with Colchester Urban Area seeks to prevent the coalescence of Boxted with Colchester by protecting the green gap between the settlements.

Myland and Braiswick Neighbourhood Plan - EN1 –development will maximise opportunities for the creation, restoration, enhancement, expansion and connectivity of Green Infrastructure.

SPL1 –support the provision of sport and leisure facilities, as far as possible on the Northern Gateway development.

SPL3 –requires stakeholder engagement to determine sport provision in north Colchester in accordance with the latest evidence.

Emerging Local Plan

The Colchester Local Plan to 2033 was submitted for examination in October 2017 and accordingly can be given some weight in the consideration of planning applications. In particular, Policy NC1 (North Colchester and Severalls Strategic Economic Area) requires a masterplan to be prepared for the area and states that proposals which are in accordance with that masterplan will be approved. It requires that Zone 3 (including the area covered by the planning application) be safeguarded primarily for a range of sport and recreation uses within Use Class D, subject to up to date evidence supporting a need for such use. While some objections at Publication stage were received to proposals for housing on the land currently used by the rugby

Club at Mill Road, the only objection relevant to the application site was one from the Bridleways Association requesting equestrian access.

The Local Plan policy has been informed by masterplan work considered by the Local Plan Committee covering both the application site and Northern Gateway land to the south of the A12. The first version of a Masterplan was first produced in 2012.

It has been updated and reviewed by the Local Plan Committee twice, first in August 2016 and most recently in December 2017. The Committee approved the masterplan as material consideration guiding the determination of planning applications, on the basis that it complied with Policy NC1.

National Planning Policy Framework

In addition to the presumption in favour of sustainable development, the core planning principles set out in the NPPF state that planning should take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs and work with public health leads and organisations to understand the needs of the local population. Section 8 of the NPPF relates to the promotion of healthy communities paragraph 69 highlights the role that planning can play in the facilitation of healthy communities. Paragraph 70 of the

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NPPF outlines the Government's commitment to delivering the social, recreational and cultural facilities and services the community needs through a positive planning approach and paragraph 73 acknowledges the contribution that access to high quality open spaces and opportunities for sport and recreation makes to the health and well-being of communities.

Planning Policy Issues

The proposal is contrary to the adopted development plan as it lies outside the settlement boundary and accordingly conflicts with Policy ENV1. The adopted plan is now however in the process of being replaced by a new Local Plan which can be given some weight as it has been submitted for examination. The emerging Local Plan includes the proposal on the basis of documented need for a range of sport and recreation uses.

The proposal has developed on the basis of extensive masterplanning and consultation work. It meets an acknowledged need for sports and leisure provision, both in terms of local requirements and by meeting the wider national objectives to increase sports participation to promote healthy and active lifestyles.

While the proposal is outside the Colchester settlement boundary, it adjoins the urban area and would benefit from non-vehicular access improvements providing links to north Colchester and adjacent villages.'

- 8.3 As the development of the site would impact on the trunk road network it is necessary to consult **Highways England** on the proposals. That Authority has not raised an objection to the proposals, and recommend conditions be attached to a grant of planning permission.
- 8.4 **Essex County Council as Highway Authority** has advised that it has no objection to the proposal subject to the imposition of conditions on a grant of planning permission. The proposed conditions were not available at the time this report was produced and, therefore, will be included on the amendment sheet.
- 8.5 **Essex County Council as Lead Local Flood Authority** raises no objection to the proposal, subject to the imposition of conditions on a grant of planning permission.
- 8.6 **Anglian Water** advises that there are no AW assets within the development site boundary and there is available capacity for wastewater/sewerage treatment.
- 8.7 The **Environment Agency** has no comment.
- 8.8 **Natural England** has advised that the development is unlikely to affect any statutorily protected sites or landscapes. Reference is also made to its standing advice in relation to protected species. The proposed development is in an area that NE considers could benefit from green infrastructure provision.
- 8.9 Members are advised that the applicant has liaised closely with **Sport England** regarding the proposals. However, its final comments were unavailable at the time this report was written and will be reported at the Committee meeting.

- 8.10 **Essex Bridleway Association** express support but would want to see more detail of the link to the Park and Ride site and exits on to Boxted Road and Severalls Lane.
- 8.11 The **Gardens Trust** and **Health and Safety Executive** have no comments to make.
- 8.12 The Interim **Recycling, Waste and Fleet Operations Manager** states:
'Please could I ask that consideration is given to the waste that will be stored in the designated bin stores. From our point of view, it will cause difficulty for our crews if they are expected to sort through sacks filled with different materials, i.e. refuse and recycling, in these small areas. Please could consideration be given to where and how different materials will be stored, including all recycled materials.'
- 8.13 The **Contaminated Land Officer** would require the imposition of conditions on a grant of planning permission.
- 8.14 The **Environmental Health Officer** advises that '...The provided noise and lighting reports submitted are acceptable to Environmental Protection...' It is also recommended that conditions and an informative in relation to Demolition and Construction is imposed on a grant of planning permission.
- 8.15 The **Landscape Planning Officer** comments that the loss of trees (required to provide the access to the site) should be replaced with complementary hedgerow and tree cover. Furthermore, that tree planting should seek to reintroduce the historic hedgerow framework. He advises that the impact of the proposed lighting columns in the landscape should be included as part of the Landscape and Visual Amenity assessment, although it is noted that Environmental Control have not objected to the proposal. It is also recommended that the field hedge along Severalls Lane should be augmented as part of works to provide the footway and cycleway. Conditions are also recommended to be attached to a grant of planning permission.
- 8.16 The Council's **Arboricultural Officer** has no comment on the development subject to the imposition of conditions.
- 8.17 The **Urban Design Officer** commented as follows:

'I am happy to support proposals subject to conditions. The applicant has worked hard to refine proposals informed by dialogue with the LPA, with both parties working within site, site context and policy constraints. Proposals strive to minimise impact on the rural setting whilst providing a complex which has strong design qualities and acts as a strategic destination. Building forms and earthy materials/colours (including timber and gault clay bricks) are well used to provide architectural interest and attractively blend with the landscape setting. The size of the car park is dictated by adopted parking standards, though its visual impact and that of other hard surfaces has been minimised by the use of natural materials where possible, e.g. hoggins. The site is in part designed to appeal as sports facilities within accessible parkland, which no doubt will evolve (further refine) to meet user and wider community needs in the

coming years. An outstanding issue is the bin store for the sports centre, though I understand this can be conditioned to ensure it is discretely/attractively integrated, i.e. ideally within the rectangular footprint of the sports centre or very slightly enlarged footprint. Other standard conditions should cover lighting, key materials, details and spaces (e.g. central plaza).'

8.18 **The Archaeological Adviser** has recommended the imposition of a condition on a grant of planning permission.

8.19 The **Planning Transportation Officer** has commented that the proposed pedestrian/cycle route across the A.12 will provide a sustainable access to the site. Links to the site from Boxted Road and Severalls Lane are also important. Cycle parking in accordance with adopted standards should be provided and electric vehicle charging points also provided. It is also noted that a Framework Travel Plan has been submitted.

9.0 Parish Council Response

9.1 The following comment has been received from Myland Community Council:

'The area around the proposed entrance to the venue is currently very busy, with restricted movement due to parked cars and lorries. MCC would suggest that provision of parking restrictions and enforcement of these 24 hours a day on the access road must be a consideration.

MCC would fully expect and support the provision of safer access across the junction roundabouts for both pedestrians and cyclists. It is also MCC's view that this application cannot be considered in isolation and must be viewed in tandem with the other Northern Gateway projects i.e. the western and southern applications, both of which will substantially affect the travel movement over this junction.

MCC would support the proposed pedestrian access on the east side of the complex from Severalls/Langham Road as being necessary in the interests of road safety and for environmental reasons.

MCC notes that care has been taken to provide access for all within buildings and across the site as a whole. We also note the provision of open spaces, and sensitive merging of buildings within the landscape. We also note the protection of sensitive areas such as Salary Brook through the comprehensive ecology studies. We support the access for all approach, and welcome the attention given to sensitive landscaping.'

10.0 Representations from Notified Parties

10.1 The application resulted in 3 letters of representation being received. 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:

- The provision of cycle paths will make properties in Straight Road vulnerable to theft, vandalism and trespass. Security is an important issue.
- The boundary red line of the application site is shown incorrectly in relation to neighbouring property.
Officer comment: a revised red line plan has been received from the applicant's agent.
- The equestrian route and access to Severalls Lane could cause access difficulties for the occupier of White House farm.
- Despite information in the application there have been vehicular accidents in Severalls Lane.
- Fencing of the site would not guarantee security of adjoining properties.
- The location of the proposed cycle track would detrimentally impact on the amenity of the occupiers of White House Farm and grazing horses. It is requested that it be moved further away from the shared boundary.
- Lights should only be illuminated when the site is being used and the closing time is too late.
- A limit should be in place with regard to PA systems etc. to avoid unacceptable noise nuisance.
- The use of the clubhouse should be restricted to sociable hours.
- Cycling across the A.12 junction would not be safe.
- There appears to be insufficient parking for cars and coaches.
- The access road appears very tight.
- The design of the Rugby Club building is inappropriate, stylised and unnecessarily complex.

11.0 Parking Provision

11.1 The drawings submitted to Members for determination propose that 358 car parking spaces are provided on the site. This number includes the provision of 26 space for disabled persons (located adjacent to the proposed Sports Centre and Club House). It is also proposed that 48 cycle stands are provided; again, these being adjacent to the Sports Centre and the Club House.

11.2 Members are also advised that the applicant has reached agreement with ECC, as the Park and Ride operator, that 200 car parking spaces will be available as overspill parking on rugby match days.

12.0 Open Space Provisions

12.1 The submitted scheme, by its nature, consists predominantly of open space, both in the provision of public and private playing surfaces, tracks etc. together with large areas of open grassed amenity and play spaces.

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. The application was due to be presented to the Team meeting scheduled for 28th June i.e. after the completion date for this report. Members are advised that the requirements of the Development Team with regard to mitigation will be reported to Committee at the meeting.

15.0 Report

- 15.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Landscape and Trees
- Highway Safety and Parking Provisions (including Cycling)
- Other Matters

Principle of Development

- 15.2 As identified elsewhere in this report, within the adopted Local Plan the application site comprises a combination of land uses; the majority having no notation i.e. unallocated ‘white land’ and the remainder being allocated for Park and Ride purposes. Therefore the application proposes land uses that represent a departure from the adopted Local Plan. In this regard the comments received from the Spatial Policy team are noted, particularly in relation to the sustainability and accessibility criteria identified in policy SD1 and the need to protect the borough’s rural areas from inappropriate forms of development stated in policy ENV1.
- 15.3 In relation to the issues of sustainability and accessibility the scheme does propose to enhance the cycling, pedestrian and equestrian access to the site – acknowledging that a significant amount of visits would take place by car. Nevertheless, the fact that these elements would be in place would encourage modal shift and conform with the general theme of promoting health benefits arising from development facilitating sporting activities. The scheme would also incorporate sustainable energy generation and drainage elements. As regards the requirements of ENV1 while it is acknowledged that the character of the site would be altered in character by the development taking place, it would not be harmful to visual amenity given the generally ‘open’ and undeveloped nature of sports pitches. The main built form in the development is clustered nearer to existing buildings which, it is felt, would further assist in limiting the overall visual impact of the development. It is also noted by the Spatial Policy team that

generic support for this form of development is provided via policies DP4 (Community Facilities) and DP10 (Tourism Leisure and Culture).

- 15.4 That said, it is also pertinent to the consideration of the application that the Council's *proposed* aim for this site, as defined in the emerging Local Plan is its utilisation as a sports and recreation destination – as part of the overall Colchester Northern Gateway. Specifically, within policy NC1 (North Colchester and Severalls Strategic Economic Area) the application site is identified as Zone 3, which is to accommodate sport and recreation uses. This proposed use is underpinned by the Council's agreed vision for the Northern Gateway as set out in the adopted Vision Review document that is referred to in paragraph 7.10 of this report.
- 15.5 Linked to this 'direction of travel' in relation to the future use of this land is the Myland and Braiswick Neighbourhood Plan which forms part of the adopted Local Plan and is therefore a material consideration. This Plan does specifically support the provision of sport and leisure facilities at the Northern Gateway.
- 15.6 Both the emerging Plan and the adopted Myland and Braiswick Neighbourhood Plan identify the strategic need for additional sports facilities being established. The Core Strategy of the adopted Local Plan identifies the need for additional provision to satisfy demand created by a growing population, and also promote healthy lifestyles generally. The Council subsequently produced the 'Indoor Sports Facilities Strategy and Action Plan' 2015 – 2037 which provides a framework for provision. This is accompanied by the 'Playing Pitch and Action Plan 2015 – 2025, also produced by the Council. Both identify demand that needs to be met. In both documents the sports provision at the Colchester Northern Gateway is seen as a key element in meeting this demand.

Design and Layout

- 15.7 The submitted scheme seeks to create a development that is focussed on two new key buildings with associated sports pitches. The fact that the application site is undeveloped at the present time means that development that takes place will create its own context and character.
- 15.8 To this end, Members will note that the greater majority of built form and hardened surfacing is located in the southwestern corner of the site, close to the trunk road junction and also nearer to built-form already located in the vicinity – namely the petrol filling station, roadside restaurant and the Park and Ride site. The location of the proposed buildings and car park would, it is felt, be spatially appropriate as it would add to the existing loose 'cluster' on this side of the A.12. In addition, the location of development here would mean that it was located away from the curtilage of the dwelling at White House Farm.
- 15.9 The buildings themselves follow a contemporary, bespoke design that incorporates the use of timber as well as brick and metal roofing. As identified in the Council's Master Plan Vision Review document the provision of striking contemporary architecture is a requirement of development taking place on this site and it is felt that the proposals achieve this aim.

15.10 The remainder of the application site would be given over to sports pitches, a cycle track that extends along the southern and majority of the eastern boundaries of the site, and informal grassed recreation areas – all accessed via footway and cycleways. Minor ancillary buildings such as storage facilities are also proposed, but these would read as minor incidental elements in a landscape-dominated setting. Ball stop fencing would also be required to serve identified pitches but the nature of this type of feature in the landscape means that it would not appear overly visually-dominant.

15.11 Policy DP1 of the adopted Local Plan requires inter alia that ‘...All development must...Respect and enhance the character of the site, its context and surroundings...Respect or enhance the landscape...’ In this regard it is considered that the proposed development accords with the requirements of the identified policy. It is also considered that the requirements of UR2 (Built Design and Character) and ENV1 (Environment) are met satisfactorily.

Scale Height and Massing

15.12 Given the overall extent of the application site it is considered that the scale, or amount of development proposed under this application could be accommodated without it appearing cramped or out of keeping with the surroundings, which have a predominantly rural character. In terms of the proposed height of built form on the site, neither the proposed sports centre nor the Clubhouse building are considered to be excessively high and hence would not, it is felt, appear visually over-dominant nor intrusive.

15.13 It is noted that the several of the sports pitches would be served by floodlighting and the introduction of these features on an undeveloped site needs to be carefully considered in terms of their overall impact on visual amenity. The highest columns would be up to 28 metres high (serving the all-weather pitch nearest the Clubhouse), 20 metres (serving the second all-weather pitch to the east of the Sports Centre) and 10 metre high columns would serve the car park and cycle track. The height of the columns has been discussed with the applicant's agent as it is considered that the provision of 28 metre high columns would potentially be overly prominent and, hence, detrimental to visual amenity. To this end, the provision of lower columns is being considered. In any event, the final details of the lighting columns would be controlled through a condition attached to a planning permission.

Impact on the Surrounding Area

15.14 The fact that the application site is currently undeveloped means that the provision of development of the scale proposed would alter to some degree its character and appearance and how it relates to its surroundings. In this regard, the fact that the development would consist of predominantly pitched-based activities would, it is felt, not be harmful to the overall amenity value of the area. Although built form is proposed, this is relatively modest in terms of site coverage and its location means that it would relate, visually, to existing buildings in the vicinity. The majority of the site, projecting north and west, would remain open and occupied by pitches, a cycle track and informal recreation areas which would limit visual incursion into the surrounding undeveloped land

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which retains a strong rural character. This form of development would also mean that a visual coalescence of development north of the A.12 trunk road was avoided. This element of the proposals is considered to be particularly important in relation to the adopted Boxted Neighbourhood Plan which seeks to prevent coalescence between town and village. The overall impact of the development would be further mitigated by the extensive planting proposals inherent in the submission.

Impacts on neighbouring properties

- 15.15 The nearest dwelling to the application site is White House Farm, which is accessed off Severalls Lane. The western boundary of the curtilage of this dwelling is contiguous with much of the eastern boundary of the site. The occupiers of the dwelling will potentially experience impacts from lighting and noise generated as a result of the proposed development taking place.
- 15.16 The element of the proposals that is nearest to White House Farm is the proposed cycle track. This feature would incorporate 10 m high directional lighting columns. Therefore the impact of lighting on the amenity of White House Farm is an important consideration. To this end the application is accompanied by an Environmental Statement that considers the issue of light pollution. The Statement advises that ‘...External lighting has been designed to minimise light spill into residential areas...in addition to minimising glare and light presence. Final mast locations, luminaire selection and their orientations will be carefully selected to minimise sky glow, light intrusion...All external lighting (except for safety and security lighting) will be automatically switched off between 2300 and 0700...’
- 15.17 Members will note that the Environmental Health Officer has not raised an objection to this proposal – having considered the lighting information submitted with the application. On this basis it is considered that the lighting proposals in relation to the cycle track feature would be acceptable in planning terms.
- 15.18 Clearly the provision of floodlighting for pitches and other lit areas (for example the car park) could create a significant degree of illumination on what is essentially currently a dark site. However, it must be acknowledged that the A12 junction and slip road to roadside facilities is well lit already. This change, primarily through glare and sky glow, will be experienced by the occupiers of White House Farm and, to a lesser extent, those of properties located along Boxted Road and Langham Road as well as users of the A.12 trunk road. The submitted Environmental Statement comments on this issue as follows:
- ‘...the external lighting design takes into account the sensitivities of the surrounding receptors and has been developed in accordance with relevant standards and guidance...The lighting design has included an appropriate selection of column heights and luminaires to ensure that the intensity and direction of the lighting is controlled by retaining angles close to the horizontal, to ensure the effects are minimised...’

15.19 Again, the Environmental Health Officer has not objected to the proposal on grounds of excessive glare, light spill or sky glow being created by the development. In any event, the final details of lighting would be controlled by a condition of a planning permission – as advised elsewhere the overall height of lighting columns would be included in details to be finally agreed by condition.

15.20 The other element of impact on neighbouring properties, particularly in relation to White House Farm, is that of noise that would be generated by the proposed development. The Environmental Statement recognises that the proposal would generate noise through the construction process, operation (including the use of a PA system on match days only) and also road traffic movements associated with the proposed development. The Statement advises that the methodology for assessing noise impacts was agreed with the Environmental Health Officer prior to production of the document.

15.21 With regard to the impacts arising from the construction phase, it is proposed that these would be controlled via a Construction Environmental Management Plan, the principles of which are set out in the Statement. This plan can be secured by condition. Furthermore plant etc. associated with the proposed buildings would have to comply with the relevant British Standards. The assessment of noise generation from the operation of the development has not identified unacceptable harm to the occupiers of the neighbouring dwellings. The use of the PA system would be linked to match days only and these would be up to 30 days per year. The Statement does acknowledge that the final details of the PA system were not available at the time it was prepared. However, Members are advised that a condition attached to a grant of planning permission would require final details of the system to be agreed prior to its installation and use.

15.22 The Statement has assessed other potential noise sources such as the car park, recreational activities and plant to have a negligible impact.

Landscaping and Trees

15.23 As would be expected, a development of the scale and nature proposed would require that significant landscaping works are undertaken – not least to provide a level surface to enable pitch construction. In this regard the site benefits from a relatively level aspect at the current time. The most obvious change in level occurs at the southern boundary where the access road off the A.12 junction and the slip road on to the northbound lane are at an appreciably higher level.

15.24 A notable feature of the application site are the established hedgerows (containing trees) that are located on boundaries, and contiguous with the route of Salary Brook through the centre of the site. The submission would not result in the loss of these features, save for the removal of 5 no. trees in the south western corner, in order to enable the site access to be provided. That said, the curved nature of the access road would mean that the remainder of the historic tree line in this location was retained intact. Members are also advised that the scheme proposes the introduction of over 100 new trees on the site, as part of the overall landscaping proposals. The plans submitted with the application

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indicate that an extensive line of new planting is proposed along the shared boundary of the site with White House Farm. Generally new tree planting across the site boundaries is combined with 'Hedgerow Buffer Zone' planting that would include mature native grasses, meadow planting and hedgerow species. Following discussions with the Council's Landscape Officer, the positions of some new trees have been adjusted in order that the lines of historic field boundaries that previously existed in the area (and reflected on land to the south of the A.12) would be reintroduced.

- 15.25 Members are advised that the impacts of the development on Landscape and Visual Amenity have been assessed as part of the Environmental Statement submitted with the application. This has been considered by the Landscape Officer and no objection to the proposals is raised, subject to the conditions that are recommended at the end of this report. Similarly, the Council's Arboriculturalist does not object to the proposals, following clarifications being provided with regard to the impacts of the development on existing trees. This includes agreement to the loss of the identified trees in order to enable the access road to be constructed.

Highway Safety and Parking Provision

- 15.26 This development proposal would clearly impact on both the trunk road network controlled by Highways England, and highways within the control of Essex County Council. The application includes a Transport Assessment and a Travel Plan. The Planning Statement submitted with the application comments on the findings of the Transport Assessment as follows:

'...The Transport Assessment has shown that generally, the impacts on the operation of local junctions arising as a result of traffic associated with the Proposed Development are minor. Growth of the background traffic accounts for a far more significant impact on the operation of local junctions. No offsite highway works are considered necessary in order to accommodate traffic flows associated with the Proposed Development, over and above the proposed site access arrangements. Therefore no significant effects are anticipated in terms of driver delay...'

- 15.27 Members will note that the scheme submitted for determination does include improvements to pedestrian crossing facilities at Junction 28 reflecting likely access movements from the south. In addition, the scheme does include links to the site from Boxted Road and also along Severalls Lane, clearly promoting opportunities for modal shift. The scheme thereby looks to meet relevant policy aspirations (as also endorsed by the Council's Planning Transportation Officer). Members are advised that following initial submission of the application, ongoing liaison has taken place between the applicant's transportation consultants and both highway authorities. This has led to conditional recommendations of approval being made in both cases.

15.28 In relation to parking provision Members are advised that the relevant adopted standards (expressed as a maximum) are as follows:

- For outdoor sports pitches 20 spaces per pitch plus 1 space per 10 spectator seats
- For Sports Halls 1 space per 10 sq. m of public area

Based on the number of pitches and the relevant floorspace of the proposed Sports Hall the scheme would require a *maximum* provision of 357 spaces. This figure excludes the spaces generated by spectator seats. The submitted proposal includes 358 spaces.

15.29 In consideration of the amount of parking provided it is pertinent to note that the scheme does include elements to encourage modal shift, as explained above. Furthermore the standard is expressed as a maximum and therefore in terms of sustainable development it is desirable that alternative forms of transport to access the site are encouraged. To this end it is of clear benefit that the site is located adjacent to the Park and Ride facility and buses could therefore be utilised as part of a linked trip to the town centre or the railway station.

15.30 By way of information the submitted Planning Statement comments on the issue of parking as follows:

‘...During the operational phase it is predicted that on Saturdays, during match fixtures, a typical attendance is 500 people, resulting in approximately 250 cars. The proposed development will have 358 spaces, a sufficient number in relation to predicted car numbers which would not exceed the Council’s maximum car parking standards...The Colchester Rugby Football Club hosts occasional festival events so during this period there will be elevated parking demands, much of which would be accommodated on-site. A Car Park Management Plan will be developed to ensure efficient management of the operation of the car park...’

15.31 Subsequent to the submission of the application it is understood that the applicant has now reached agreement with Essex County Council that 200 spaces at the park and ride facility would now be available as an overspill facility on match days. It is considered that the practical application of this agreement could be included as part of the Car Park Management Plan.

15.32 In terms of cycle parking provision the scheme proposes 48 spaces, provided in the form of ‘Sheffield’ – type stands. In addition, the scheme proposes a cycle storage area within the Sports Centre building that has a dimension of 142 square metres. This space would be utilised for cycle hire in relation to the use of the track facility. The applicable cycling standards would require a provision of at least 92 spaces. As a planning judgement it is considered that the site contains sufficient space to accommodate the additional 44 spaces required, and a suitably worded condition would be imposed in order to secure this.

Other Matters

Lighting

- 15.33 The issue of lighting the development is a key consideration as mentioned elsewhere in this report. The impacts of the various light sources have been quantified as part of the Environmental Statement and the Environmental Health Officer does not dispute the findings. Members are advised that lighting would be turned off by 2200 hours on weekdays and Saturdays, and by 2100hrs on Sundays and Bank Holidays. A suitably worded condition is recommended in order that the final details of lighting are controllable.

Archaeology

- 15.34 The Council's Archaeological Adviser has identified the possibility of finds being made on this site and has therefore recommended that the standard archaeological condition be imposed on a grant of planning permission.

Ecology

- 15.35 Members will note that the scheme has not given rise to objection from Natural England. That said, the opportunity for green infrastructure provision clearly exists – not least as a result of the introduction of a significant amount of new planting and landscaping on the site. The majority of existing habitats are to be retained and enhanced as a result of the proposals. It is also understood that the lighting proposals have been designed in order to minimise impacts on ecology e.g. routes of foraging bats etc. It is recommended that the need to secure the improvement and management of ecology is secured via condition.

SuDS

- 15.36 Linked to the sustainable merits of the submitted scheme is the proposed provision of sustainable drainage systems across the site – utilising the natural feature of Salary Brook as a central focus. It is noted that the site is within Flood Zone 1 and is therefore at low risk from flooding. The application is accompanied by a surface water drainage strategy which includes the use of permeable paving (including within the car park area), bioretention areas, geo-cellular storage, swales and low level bunding. Members will note that the final details of the drainage system would have to be agreed by condition, but it is considered that the scale and nature of the development means that the principles of sustainable drainage can be fully realised on the site.

Sustainable Energy

- 15.37 The designs for the Sports Centre and Clubhouse buildings have been proposed with the aim of achieving a BREEAM rating of Very Good. In order to reduce energy consumption the buildings would be mainly ventilated by natural means. In addition the roofs of each building would incorporate photo-voltaic cells in order to generate power by solar energy. It is considered that the proposals satisfy the requirements of adopted policies ER1 and DP25 of the adopted Local Plan in this regard.

Third Party Concerns

15.38 The comments received from third parties (as summarised in section 10 of this report) are fully acknowledged and appreciated. The following responses are made to the comments:

- The concern regarding security is noted. The proposal includes lighting that would assist in improving security and the proposal also includes CCTV serving the areas around the buildings. A specific condition would require final details of fencing and boundary treatments to be agreed.
- The provision of new footpaths etc. has not raised concerns from the Highway Authority regarding access issues.
- The issue raised regarding accidents in Severalls Lane is noted. The proposed scheme does include the provision of a separate footway and cycleway to enhance pedestrian and cyclist safety.
- The impact of the cycle track on the amenity of White House Farm has been considered as part of the application process and it is considered that this feature would not have an unacceptable impact. Specific issues of light wash and noise impacts have been considered as part of the Environmental Statement.
- It is considered that the proposed hours of use of the facilities would be reasonable, as would the proposed illumination times of lighting. A specific condition would address the issue of the PA system.
- The proposed hours of use of the Clubhouse have been considered as part of the overall proposal by the Environmental Health Officer and no objection is raised to these.
- It is considered that the parking provision would be sufficient to serve the proposal, bearing in mind that the standards are set as a maximum and specific elements would be in place to encourage modal shift. This is notwithstanding the agreement between the applicant and ECC to allow access to spaces at the adjacent park and ride site to be used on rugby match days.
- The Highway Authority has not objected to the form of access.
- The design of the proposed rugby club building is considered to respond positively to the site context and also the requirements of the Master Plan Vision Review adopted by the Council.

16.0 Conclusion

16.1 To summarise, the application site is not currently allocated for the purposes proposed under the application within the adopted Local Plan and the application represents a departure. That said, the need to provide additional sports and recreational facilities is recognised in the adopted Core Strategy, as is development in sustainable, accessible locations. In addition, the adopted Neighbourhood Plan for Myland and Braiswick does include the site as being suitable for the proposed development. Furthermore, the Council's adopted Colchester Northern Gateway Master Plan Vision Review Document does

reinforce the future role of the site as a sport and recreation destination, as part of the overall Northern Gateway development.

16.2 The emerging Local Plan includes policies that, again, establish the provision of a sports and recreation hub on the site, to meet a proven need. The status of the Plan means that it merits some consideration in the decision-making process, although full weight must be afforded to the adopted Local Plan policies. As a balanced judgement, given the circumstances that are outlined above, it is considered that the proposal represents an acceptable departure from the current plan, and may be supported in principle.

16.3 Leading on from this, it is considered that the design and layout of the scheme is a sensitive response to the current context and as such the development would not appear incongruous in its wider setting. The various impacts arising from the development have been properly addressed in the application and the imposition of suitable conditions would enable appropriate controls to be in place to mitigate any impacts arising.

17.0 Recommendation to the Committee

17.1 Members are advised that under the Town and Country Planning (Consultation) (England) Direction 2009 if the recommendation of approval is accepted it will be necessary to refer the application to the Secretary of State in order that a decision can be made with regard to whether the application is to be called in for determination. The following recommendation is made:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers – **the drawing numbers will be supplied on the amended sheet.**

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

3. ZAV - *Access for Disabled Persons*

No works shall take place until a scheme indicating the provisions to be made for disabled people has been submitted to and approved, in writing, by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason: To ensure that convenient provisions to facilitate access for all.

4. ZBD - Schedule of Types and Colours to be Submitted

No external materials shall be used until a schedule of all types and colours has been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved schedule.

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

5. ZBF - Surfacing Materials to be Agreed

Prior to the laying down of any surface materials for private, non-adoptable access-ways, driveways, footpaths, courtyards, parking areas and forecourts, full details of these materials shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

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

6. ZCC - Non-Residential BREEAM (Part 1 of 2)

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

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

7. ZCD - Non-Residential BREEAM (Part 2 of 2)

Within 6 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

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

8. ZCF - Refuse and Recycling As Shown

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

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

9. ZCG - Communal Storage Areas

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

10.ZCH - Litter

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order.

Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.

11.ZCI - Connection to Foul Sewer (non-standard)

All sewage and waste water shall be discharged to the foul sewer.

Reason: To meet the requirements of Circular 3/99 and to ensure that the environmental, amenity and public health problems that can arise from non-mains sewerage systems do not occur.

12.Non-standard condition – surface water drainage scheme

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- Limiting discharge rates to 1 in 1 greenfield for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- 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, including roof areas, 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 prior to occupation.

Reason:

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

13. Non-standard condition – scheme to minimise off-site flooding

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 and paragraph 109 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

14. Non-standard condition – Drainage Maintenance Plan

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

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

15. Non-standard condition – Yearly Maintenance Logs

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.

16. Non-Standard Condition/Reason - Removal of Permitted Development Rights

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) the development hereby approved shall be used solely as described in the planning application submission documents and supporting materials and for no other purpose(s) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further full consideration to the appropriateness of a different use or uses on this site at such a time as any future change of use were to be proposed.

17. ZFE - Landscape Management Plan

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

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

18. Non-standard condition – Landscaping Details

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

- Proposed finished levels or contours;
- Means of enclosure including all boundary fencing;
- 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)
- Retained historic landscape features;
- Proposals for restoration;
- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- Implementation timetables and monitoring programs.

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

19.ZFG - Earthworks

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

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

20.ZFQ - Tree and Natural Feature Protection: Protected Areas

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

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

21.ZFR - Tree and Natural Feature Protection: Entire Site

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

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

22.ZFU - Tree Canopy Hand Excavation

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

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

23.Non-standard condition – Construction Environmental Management Plan

No works shall take place until a Construction Environmental Management Plan as referred to in the documentation supporting the planning application has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period.

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

24.Non-standard condition – Limits to hours of work and construction vehicles

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

Weekdays: 8am - 6pm

Saturdays: 8am - 1pm

Sundays and Public/Bank Holidays: Not at all

Furthermore, no vehicle connected with the works shall arrive on site before 7:30am or leave after 7:00pm (except on case of emergency).

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

25. Non-standard condition – Hours of Operation

The uses hereby permitted shall be restricted to the following times:

	Weekdays	Saturdays	Sundays/Bank Holidays
Sports Centre	07.00-23.00	07.00-23.00	08.00-23.00
Rugby Clubhouse	Mon, Tue, Thur 08.00-23.00 Weds 08.00- Midnight Fri 08:00-01:00 (Sat morning)	08.00-01.00 (Sunday morning)	08.00-22.00
Tannoy for matches and events	Until 21.00	Until 21.00	Until 21.00 (on up to 30 days per year)
Floodlighting to two artificial pitches	Until 22.00	Until 22.00	Until 21.00
Cycle track lighting - low lux level and low height	Until 22.00	Until 22.00	Until 21.00

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

Note: Premises requiring a License will need to apply to the Licensing Authority and each application will be assessed on its own merits; there is no guarantee that the above hours would be approved.

26. Non-standard condition - Food Premises (Control of Fumes and Odours)

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

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

27. Non-standard condition – Grease Traps required

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

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

28. Non-standard condition – Restriction of Amplified Music

Prior to the first use or occupation of the development hereby permitted, the level of internal amplified sound shall be restricted by the installation and use of a noise-limiting device that complies with details that shall have been submitted to and agreed, in writing, by the Local Planning Authority. Thereafter, such devices shall be retained and operated in accordance with the approved specification and working order at all times.

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

29. Non-standard condition - Self-Closing Doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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

30. Non-standard condition - Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

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

31. Non-standard condition – Details of the Public Address System

Prior to the first use or occupation of the development as hereby permitted, full details of the public address system to be installed on the site shall be submitted to and approved in writing with the Local Planning Authority. The system shall thereafter be used solely in accordance with the approved details.

Reason: Insufficient details are included as part of this application submission and the Council would wish to ensure that the public address system is fit for purpose and does not unacceptable affect the amenity of nearby residents by reason of noise nuisance.

32. Non-standard condition – Details of floodlighting

No works shall take place until full details of any floodlighting have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

33. Non-standard condition – External Lighting Fixtures

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

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

34. Non-standard condition – External Lighting

All external lighting serving the buildings hereby approved shall only be illuminated during the authorised hours of opening of those buildings.

Reason: To control periods of illumination in order to reduce the risks of any undesirable effects of light pollution.

35. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

(ii) an assessment of the potential risks to:

human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

adjoining land,
groundwaters and surface waters,
ecological systems,
archaeological sites and ancient monuments;

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

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

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

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

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

37.ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

38.ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 35, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 36, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 37.

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

39.ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 36.

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

40.Non-standard condition - Oil Interceptor Required

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

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

41.Non-standard condition - Ecology

Prior to the commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority that describes the range of green infrastructure improvements that will be carried out on the site in order to improve its ecological value. The approved scheme shall be carried out to the satisfaction of the Council in accordance with a previously-agreed timescale.

Reason: To protect and enhance nature conservation interests to the overall amenity value of the area.

42. Non-Standard Condition – Electric Charging Points

Prior to the commencement of the development hereby permitted a scheme for the provision of electric charging points for vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type of charging point to be provided, their location, a timeframe for their implementation and details of their on-going management and maintenance. The development shall be implemented in accordance with the approved details.

Reason: In the interest of promoting sustainable transport modes and reducing pollution.

43. Non-standard Condition – Archaeology

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

and:

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Borough Council's Core Strategy (2008) and Adopted Guidance 'Managing Archaeology in Development' (adopted 2015).

44. ZIS - Parking Space/Hardstanding Sizes (Open)

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

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

45.ZJA - Cycle Parking TBA

Prior to the development hereby permitted coming in to use, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

46. Non-standard condition – Highways design details

Before any development commences the developer shall have submitted to and had approved in writing by the local planning authority in consultation with Highways England the following design details relating to the required improvements to the A12 J28 Stadium Junction. The scheme shall generally conform to the arrangements shown in outline on Systra Drawing 105714-100 Revision B dated 15 June 2018 Scheme details shall include drawings and documents showing:

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations,
- ii. Full construction details relating to the highway improvement. This should include any modification to existing structures or proposed structures, with supporting analysis,
- iii. Full signing, lighting and drainage details and details of any modifications to vehicle restraint systems, where applicable,
- iv. confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departures from standards),
- v. Evidence that the scheme is fully deliverable within land in the control of either the Highway Authority or the Applicant;
- vi. An independent Stage 1 Road Safety Audit, carried out in accordance with Departmental Standards (DMRB) and Advice Notes;
- vii. An independent Stage 2 Road Safety Audit (taking account of the Stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB) and Advice Notes.

Reason: To ensure that the A12 Junction 28 Colchester Stadium, will continue to fulfil its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980, Circular 02/13 'Planning and the Strategic Road Network' and guidance in National Planning Policy.

47. Non-standard condition – Implementation of approved scheme

The scheme shown in outline on Systra 105714-100 Revision B dated 15 June 2018, as referred to in condition no.46 and as approved by the Local Planning Authority, shall be implemented and completed to the satisfaction of the Local Planning Authority, in consultation with Highways England. No occupation of the site shall take place unless and until the junction improvements have been delivered and are fully operational.

Reason: To ensure that the A12 Junction 28 Colchester Stadium, will continue to fulfil its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980, Circular 02/13 'Planning and the Strategic Road Network' and guidance in National Planning Policy.

18.0 Informatives

18.1 The following informatives are also recommended:

(1) ZT0 – Advisory Note on Construction & Demolition

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

(3) ZTB - Informative on Any Application With a Site Notice

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

(4) Non-standard informative

Detailed landscape proposals should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this is available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link).'

(5) Non-standard informative

The Highways Agency 'Informative' re S278 agreements dated July 2016 in respect of planning application relating to the development known Land North of Cuckoo Farm Way Colchester Northern Gateway Sports Hub is attached for the applicant's information.

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.

