

Planning Committee Meeting

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

Thursday, 15 September 2016 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. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Your Council> Councillors and Meetings>Have Your Say at www.colchester.gov.uk

Audio Recording, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A water dispenser is available on the first floor and a vending machine selling hot and cold drinks is located on the ground 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.

Library and Community Hub, Colchester Central Library, 21 Trinity Square,
Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call
e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

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 scrapyards or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) "single household" shall be construed in accordance with section 258 of the Housing Act 2004.

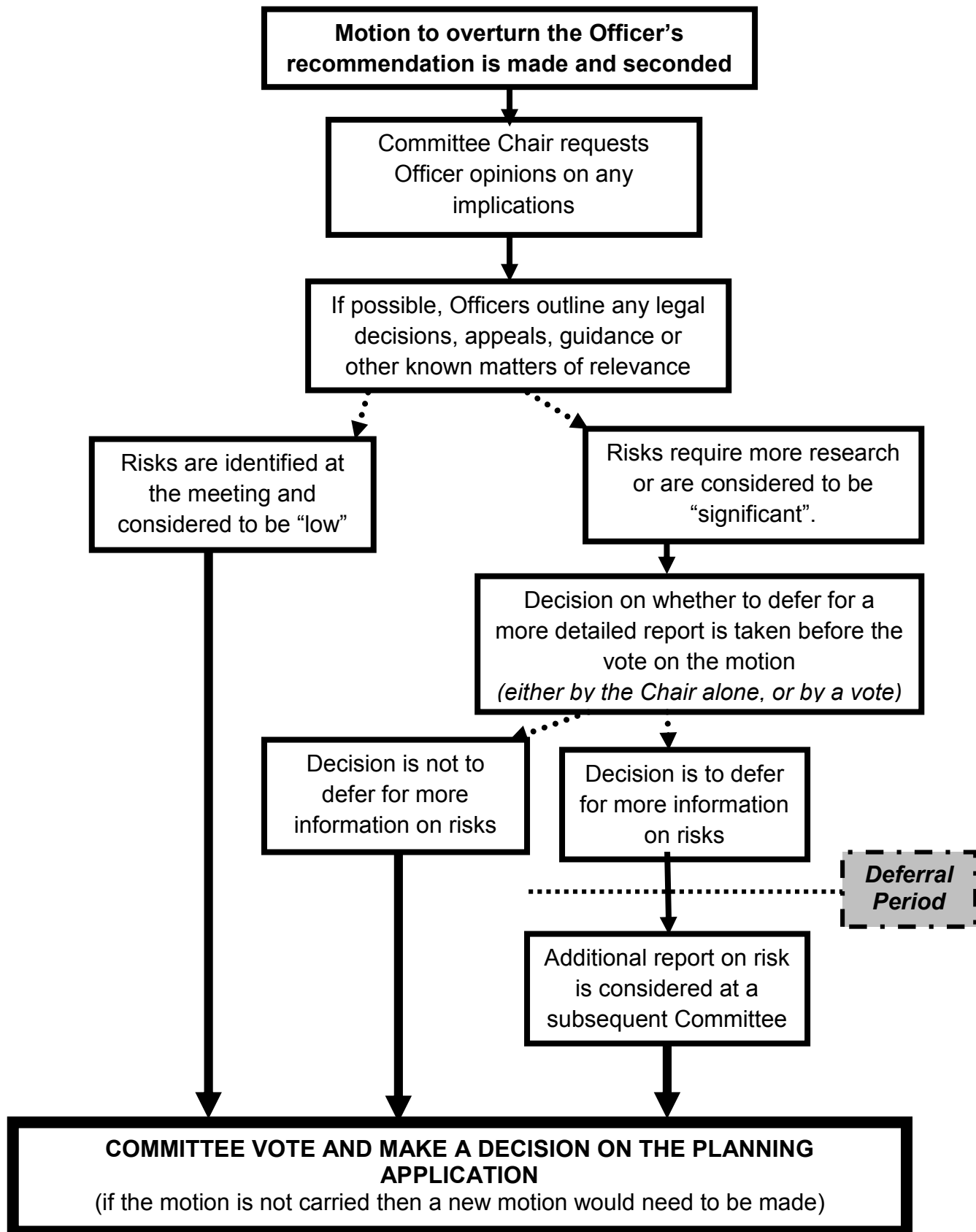
Interpretation of Class C4

For the purposes of Class C4 a "house in multiple occupation" does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

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.



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 15 September 2016 at 18:00

Member:

Councillor Theresa Higgins
Councillor Cyril Liddy
Councillor Lyn Barton
Councillor Helen Chuah
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Derek Loveland
Councillor Jackie Maclean
Councillor Philip Oxford
Councillor Rosalind Scott

Chairman
Deputy Chairman

Substitutes:

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

Councillors Christopher Arnold, Tina Bourne, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Darius Laws, Mike Lilley, Sue Lissimore, Fiona Maclean, Patricia Moore, Gerard Oxford, Chris Pearson, Lee Scordis, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A
(open to the public including the press)

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

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

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;
 - mobile phones switched to silent;

- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

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

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

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

3 **Substitutions**

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

4 **Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

5 **Declarations of Interest**

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

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest,

the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6	Minutes of 25 August 2016	17 - 22
	To confirm as a correct record the minutes of the meeting held on 25 August 2016.	
7	Planning Applications	
	In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.	
7.1	152493 6-7 Hawkins Road, Colchester	23 - 54
	Conditional approval subject to the signing of a Section 106 Agreement Outline application for 37 apartments, 2 office units and associated layout, access and parking with all other matters reserved.	
7.2	160103 Former Bus Depot, Magdalen Street, Colchester	55 - 130
	Conditional approval subject to the signing of a Section 106 Agreement Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across five blocks of one, two, three and four storeys to provide 230 bedspaces (59 cluster flats and 17 studio flats), communal facilities (to include bin stores, cycle stores, site management office, gym and communal amenity areas) as well as undercroft car park (20 car parking spaces), landscaping and a new public pathway through the site.	
7.3	162005 Land west of Stanway Western Bypass and north of London Road, Stanway	131 - 146
	Application for removal or variation of condition 8 following grant of planning permission 150945.	
7.4	161503 Rennie Cottage, Chapel Road, Fingringhoe	147 - 156
	Demolition of an ex domestic outbuilding and replacement with a garage and workshop building.	
7.5	161849 1 Line Cottages, Straight Road, Boxted	157 - 162
	Front extension.	
7.6	162049 7 Whitefriars Way, Colchester	163 - 168
	Proposed single storey extension.	

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, 25 August 2016

Attendees: Councillor Lyn Barton (Member), Councillor Helen Chuah (Member), Councillor Pauline Hazell (Group Spokesperson), Councillor Theresa Higgins (Chairman), Councillor Brian Jarvis (Member), Councillor Cyril Liddy (Deputy Chairman), Councillor Derek Loveland (Member), Councillor Jackie Maclean (Member), Councillor Rosalind Scott (Member)

Substitutes: No substitutes were recorded at the meeting

365 Site Visits

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

366 Minutes of 30 June 2016

The minutes of the meeting held on 30 June 2016 were confirmed as a correct record.

367 Minutes of 4 August 2016

The minutes of the meeting held on 4 August 2016 were confirmed as a correct record.

368 161099 23 Belle Vue Road, Wivenhoe

Councillor Liddy (in respect of his personal acquaintance with the objectors) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an outline application with all matters reserved for the construction of a new 3/4 bedroom dwelling within the boundary of 23 Belle Vue Road, Wivenhoe. The application had been referred to the Committee following its deferral at the meeting on 30 June 2016 to allow for a site visit and the submission of illustrative plans to demonstrate that a satisfactory development could be achieved. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the 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 illustrative drawings had been submitted which indicated that the gap between the boundary of No 25 Belle Vue Road and the proposed new dwelling would be 1.2 metres at its narrowest whilst the gap between the boundary to No 23 Belle Vue Road would be 0.8 metres with a further 1.0 metres to the wall of No 23 Belle Vue Road. The Parish Council has submitted a further representation which had repeated the comments made by the Council previously.

Greg Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He asked the Committee to consider whether the gap between No 23 and No 25 Belle Vue, Road was sufficient to accommodate another property. He did not consider that the illustrative drawings provided any useful information and repeated his previous concerns that the application drawings were contradictory. He referred to the relevant planning policies requiring enhancement of the local area, character and spacing of existing dwellings and street scene. He was concerned that the distance proposed to the boundary of No 25 Belle Vue Road would not be adequate and considered that a minimum gap needed to be 2.5 metres. If the Committee were minded to approve the application he requested additional conditions to protect the front aspect of his property and to remove permitted development rights in respect of the new dwelling.

Councillor Cory attended and, with the consent of the Chairman, addressed the Committee. He repeated his previous concerns regarding the cramming effect of the proposed new property and considered the additional information did not adequately address matters requested by the Committee previously. He sought clarification regarding the precise width of the plot and raised concerns in relation to the application's compliance with the Council's policy on infill development. He did not consider that there were other similar examples of this type of development in Belle Vue Road and, as such, was of the view that the proposed dwelling would be out of character and the parking spaces to the front of the property would adversely dominate the street scene.

The Planning Officer confirmed that the gap between the two neighbouring properties (Nos 23 and 25) was 8.6 metres wide at the point where the proposed property would be located. He explained that the application was for outline approval and was of the view that an appropriate design for the plot would enhance the area rather than be detrimental. He confirmed that the proposal did comply with the Council's policies in relation to infill development, it would not be out of character for the area and the proposal for two parking spaces for the new property and the existing property did meet the necessary standard. He also accepted that the removal of permitted development rights would be a reasonable additional condition.

Some members of the Committee considered the proposal would not be detrimental to the area, that there were similar examples of infill development in Belle Vue Road and a

varied mix of houses had been noted. The quality of the design of the proposed dwelling was considered to be important and was a matter which could benefit from being referred to the Committee for consideration. The suggestion to remove permitted development rights in respect of the proposed new dwelling was also supported.

One member of the Committee was of the view that a condition to provide for a minimum gap between properties of 2.5 metres should be applied as well as a condition to provide for the parking spaces at both the properties to be in place prior to the commencement of the development. Reference was also made to the benefit of a condition to provide for soft landscaping to the frontage of both properties and clarification was sought regarding the impact of the new property on the light levels from the side windows to the existing house.

The Planning Officer explained that a requirement for a 2.5 metre gap would not leave enough space for a dwelling whilst he did not consider there would be a significant impact in relation to the side windows to No 23 Belle Vue Road.

The Planning Manager confirmed that, although it wouldn't be practicable to apply a blanket condition in relation to parking space provision prior to development because of the vehicle movements during the construction phase, a car parking condition could provide for the spaces to be provided at the new dwelling prior to occupation of the property and for the spaces to be provided at the existing property prior to the demolition of the garage.

RESOLVED (FIVE voted FOR, THREE voted AGAINST and ONE ABSTAINED) that application be approved subject to the conditions set out in the report, additional conditions to provide for the removal of permitted development rights in relation to the new property and soft landscaping to the frontage of both the new and existing property and the amendment of the parking space condition to provide for parking spaces to be in place to the front of the existing property prior to the demolition of the garage.

369 161181 Laborne, Chapel Lane, West Bergholt, Colchester

The Committee considered an application the proposed development of two two-storey dwellings, associated garage/stores and associated works including upgrading of the existing vehicular access, following demolition of the existing dwelling, at Laborne, Chapel Lane, West Bergholt. The application had been referred to the Committee because it had been called in by Councillor Willetts. The Committee had before it a report in which all the 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 assisted the Committee in its deliberations.

Christopher Brindle addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He asked the Committee to consider what it was that constituted a village and what it was that stopped a village becoming a town. He felt that the Village Design Statement had tried to address this issue. He was of the view that the proposal created an excessive volume which could be viewed from the street. He was concerned that the character of Chapel Lane would be undermined by the proposal and that it would benefit from the same considerations given to the recently approved application at nearby Homecroft in Chapel Lane which had been given approval for a development of bungalows.

Dean Pearce addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He acknowledged that new developments were sometimes not welcomed in smaller communities but referred to the very high quality of the designs which had been arrived at following detailed discussions with the planning officers and to take into account the concerns expressed by local residents. These revised designs had embraced a more vernacular approach which had been wholeheartedly welcomed as more acceptable by the planning office. He also referred to the lack of objection from statutory consultees and that the proposals complied with all necessary planning policies.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. He agreed that the bungalow was in need of a sympathetic development proposal to enhance the site and that a proposal needed to be of a high standard. However he considered the current proposal would be more acceptable on a larger site and in a less prominent location. He was concerned that the two dwellings would appear to be too large for the plot. He referred to the Village Design Statement and other relevant policies which required new developments to be in proportion with existing properties and was of the view that the bungalows approved at Homecroft were more appropriate for this location and would better fit into the street scene. He was of the view that the character of the community needed to be preserved but that this proposal would create too great a change. He referred to the existence of higher density developments in West Bergholt, indicating that the village was not opposed to this type of development as a matter of principle. He went on to acknowledge the revised designs had gone a long way to meet residents' concerns but was of the view that a chalet or 1 ½ storey style proposal would be more inkeeping.

Councillor Barber attended and, with the consent of the Chairman, addressed the Committee. He supported the views expressed by Councillor Willetts and agreed with the suggestion that a chalet or 1 ½ storey style proposal would be preferable. He was of the view that the proposal did not comply with the principles contained in the Village Design Statement, especially given the recent approval for the bungalow scheme at Homecroft. He was of the view that the proposed development would have a detrimental impact on views across the site to the valley beyond and considered that this impact

would be more acceptable if the proposal did not include two storey dwellings. The Principal Planning Officer also confirmed that although 21 objections had been received these were from 11 addresses.

The Principal Planning Officer was of the view that the street scene would not be negatively impacted as the site was a corner plot and was not as prominent as the Homecroft plot. Additionally, he considered that 1 ½ storey dwellings would dilute the architectural quality of the proposals on the basis that the current drawings provided for slate roofs with slack pitches which were likely to be preferable to 1 ½ storeys which would require much steeper pitched roofs.

One member of the Committee was concerned about the overbearing nature of the proposal and the impact it would have on the scenic character of the village and the need for the Village Design Statement to be adequately taken account of. The application had generated 21 objections and these views needed to be considered fully.

Other members of the Committee did not consider the proposal would lead to a loss of view for residents, particularly given the aspect and triangular shape of the site and the location of other two storey houses to the rear and around the plot. Committee members also welcomed the very high quality design of the proposals and were of the view these would complement the locality.

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

370 161913 19 Layer Road, Colchester

The Committee considered an application for a two storey side extension and wall at 19 Layer Road, Colchester. The application had been referred to the Committee because the agent was employed by the Council on a consultancy basis. The Committee had before it a report in which all the information was set out.

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

371 161805 20 Dale Close, Stanway

The Committee considered an application for a two storey side extension and first floor side extension at 20 Dale Close, Stanway. The application had been referred to the Committee because the applicant was an employee of the Council. The Committee had before it a report in which all the information was set out.

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



Application No: 152493

Location: 6-7, Hawkins Road, Colchester, Essex, CO2 8JX

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015



Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **15th September 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: **Bradly Heffer**

MAJOR

Site: 6-7, Hawkins Road, Colchester, Essex, CO2 8JX

Application No: 152493

Date Received: 11 November 2015

Applicant: Ms Natalie Winspear, Robinson & Hall LLP

Development: Outline planning application for 37 apartments, 2 office units and associated layout, access and parking with all other matters reserved

Ward: Greenstead

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

1.0 Introduction

1.1 Members will recall that this application was originally reported to Committee at the meeting held on 4th August 2016. At the meeting Members resolved to invoke the Deferral and Recommendation Overturn Procedure (DROP). In voting to follow the DROP Members identified that a subsequent report be produced that considers the possible implications of refusing the planning application on the grounds of lack of parking/amenity space, excessive density of development and the potential conflict with existing commercial uses in the area. The following extract is taken from the agreed Minute of the 4th August meeting:

‘RESOLVED (NINE voted FOR and ONE ABSTAINED) that the Deferral and Recommendation Overturn Procedure be invoked and a further report be submitted to the Committee giving details of the possible implications of refusing the application together with potential reasons to refuse should the Committee determine to do so on grounds including lack of parking and amenity

space, excessive density of development and the potential conflict with existing commercial uses in the area.'

1.2 Members are advised that these issues will be considered at the end of this report.

1.3 The previous report presented to Committee is included below for information.

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application that has generated objections and is recommended for approval, subject to the imposition of conditions. Additionally an approval of planning permission would also require the completion of a S.106 agreement and Members' authorisation is required to enable the Council as Local Planning Authority to enter into such an agreement with a developer.

2.0 Synopsis

2.1 The key issues explored below are the principle of the development taking place on the identified site, bearing in mind the land use allocation in the Local Plan, the various impacts that would arise from the development and how these could be mitigated.

2.2 With regard to the first of these issues it is noted that the application site is located in a predominantly residential area as allocated in the adopted Local Plan and therefore the principle of the development taking place is considered to be acceptable. Secondly it is considered that the various impacts of, and on, the proposed development can be appropriately controlled by way of condition and the completion of a S.106 agreement.

3.0 Site Description and Context

3.1 The site for this proposal (which has a given area of 0.26 hectares) is a rectangular-shaped area of land that is located on the western side of Hawkins Road – between the road and the River Colne. This site is currently used as a storage/distribution and sales base for Silverton Aggregates Ltd. The majority of the site is given over to open aggregate storage areas, with ancillary vehicular manoeuvring and parking facilities. Two single storey buildings are located on site – one on the northern boundary which contains a sales area and ancillary storage and a second located in the south-eastern corner which is also used for storage.

3.2 The site has a noticeable rise from east to west – levelling where it meets the river wall. To the north and west of the site are established commercial sites while to the south is a relatively new residential development that forms part of a larger overall development located on the former Jewson site. The wider area consists of a mix of residential, commercial and industrial uses.

3.3 Within the adopted Local Plan the site is located within a predominantly residential area. It is also located within the East Colchester Special Policy Area. The Council's mapping system also shows the site within a flood zone (Flood Zone 3), and adjacent to the route of a riverside walk. It is also noted that the edge of a defined conservation area is shown as running through the centre of the river course to the west of the site.

4.0 Description of the Proposal

- 4.1 This is an outline planning application with all matters reserved for approval *with the exception of* the means of vehicular access to the site and also the proposed layout of the development. Plans submitted with the application show the proposed access to the site, off Hawkins Road, leading to an area of open and under-croft parking courts that would serve the proposed residential development and the offices. In total 52 spaces are shown.
- 4.2 The arrangement of the blocks is such that the bulk of residential development would be located in an apartment block (identified on plan as Block A) adjacent to the river to the west of the site. Two smaller blocks would be located on the Hawkins Road frontage of the site, either side of the proposed access point. The block to the north of the access would contain two offices whereas the southern block would contain residential development. In total it is proposed that 37 no. apartments are developed on the site. It should be noted that 20% of the units (which equates to 7 no. units) would be affordable tenure. The main building is shown as being up to 6 storeys high (including the parking spaces at ground level). The office building to the north of the access would be three storeys high (including ground level parking) and the smaller apartment building to the south would be four storeys high, including the ground level parking).
- 4.3 The planning application submission is accompanied by a Planning, Design and Access Statement in support of the scheme. The following extracts are included for Members' information:

'...The surrounding area is in a state of considerable change. Immediately to the south is the Weston Homes 'Hawkins Wharf' development on the former Jewson site...It is proposed to erect 37 residential apartments and 2 office units complete with associated access, parking and landscaping, on the 0.26 ha site...The site is currently occupied by Silverton Aggregates as a commercial premises. However, Silverton Aggregates are now relocating to alternative premises within Colchester Borough better suited to their business needs... The proposed mixed use development comprises three separate 'blocks' of development, two located either side of the existing access on the site's eastern boundary and one bordering the site to the west and facing on to the Colne River. This arrangement creates an internal 'courtyard' at ground floor level, to be used for parking...This layout reflects a similar design used in the neighbouring development on the former Jewson's site and allows for parking areas to be largely screened from public view behind buildings as required by policy TA5...Block A, the largest block facing west onto the River Colne, is proposed to comprise 24 two bedroom apartments over 4 storeys (above the ground floor parking level) with a further 2 three bedroom penthouse apartments on the sixth floor...The building has been designed...to accord with the neighbouring development (on the former Jewson's site) which steps down to three floors at its northern boundary (with the application site). However, this development also reaches six floors towards its centre. The proposed development therefore intends to echo this rise and fall in height and scale already demonstrated by similar development fronting the Colne...'

The full document is available to view on the Council's website.

5.0 Land Use Allocation

- 5.1 The site for this proposal is located in a predominantly residential area, within the East Colchester Special Policy area, as allocated in the adopted Local Development Framework.

6.0 Relevant Planning History

- 6.1 Prior to the submission of this application there have been no planning applications submitted on the identified site that are considered to be of relevance to the consideration of this proposal.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
CE1 - Centres and Employment Classification and Hierarchy
CE2a - Town Centre
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
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
TA4 - Roads and Traffic
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities

DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP25 Renewable Energy

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

SA CE1 Mixed Use Sites
SA H1 Housing Allocations
SA EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC6 Area 4: Hawkins Road
SA EC8 Transportation in East Colchester

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

Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Cycling Delivery Strategy
Colne Harbour Masterplan

8.0 Consultations

- 8.1 The Highway Authority's original consultation response advised that it had no objection to the proposal, subject to the imposition of conditions and inclusion of informatives on a grant of planning permission. However, this recommendation was made on the basis that the submitted plans were provided for illustrative purposes only. Although this submission is an outline proposal, the applicant has asked that the means of access and the layout are considered at this stage. In order to address this issue, the applicant's agent has amended the submitted plans, to achieve the Highway Authority's conditional requirements in relation to an appropriate visibility splay being achieved at the site access and sufficient space being shown for a required footway and cycleway extension along the site's frontage with the river. The Highway Authority has advised that the revised plans are acceptable.
- 8.2 The Contaminated Land Officer has commented as follows, on the basis of land contamination information submitted with the application:

'I note the [information that] has been submitted in support of this application. This is satisfactory for Environmental Protection purposes and has identified some potential sources of contamination which will require further characterisation and risk

assessment and, where necessary, remediation and validation. However, based on the information provided, it would appear that the site could be made suitable for the proposed use.'

It is also recommended that the 'suite' of land decontamination conditions is imposed on a grant of planning permission.

- 8.3 The Environmental Control Officer recommends that conditions be attached to a grant of planning permission to control inter alia construction methods, hours of work during the demolition and construction period and also noise mitigation measures – bearing in mind the location of the development in relation to established commercial uses.
- 8.4 The Council's Archaeological Adviser has advised that a condition could be imposed to require a desk top evaluation of the site prior to development taking place.
- 8.5 The Environment Agency originally objected to the development proposal on the basis that the Flood Risk Assessment (FRA) that was submitted with the application did not include sufficient information, specifically in relation to fluvial flood risk. Since that time additional information has been submitted in order to address the Agency's concerns. The Environment Agency has subsequently confirmed that it does not have an objection to the proposal. The following comment has also been made:
- 'We received additional information in support of the application on 29 February 2016. We are satisfied that the Flood Risk Assessment (AMA472, May 2015) – Addendum Rev A 2015 alongside the FRA AMA380 Rev 0 and dated 22 May 2015 provides you with the information necessary to make an informed decision. We are therefore able to remove our objection to the application, providing you are satisfied that the development would be safe for its lifetime and you assess the acceptability of the issues within your remit...'
- 8.6 Essex SUDS team originally objected to the proposal on the grounds of insufficient information being available to determine whether the surface water impacts of the development had been properly considered. Following on from this further ongoing consultation has taken place between the SUDS team and the applicant, brokered by your Officer. It has now been confirmed that ECC SUDS has no objection to the proposal, subject to the imposition of conditions that are included in the relevant section at the end of this report.
- 8.7 Natural England has advised that it has no comment to make on the application but advises inter alia that it is for the local planning authority to determine whether or not the application is consistent with national and local policies on the natural environment.

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

9.0 Parish Council Response

- 9.1 Not applicable as the application site is located in a Town Ward – St. Andrews.

10.0 Representations

10.1 As a result of local notification six representations have been received (two from the same address) in which the following comments are made:

1. The lack of footpaths and street lighting along this part of Hawkins Road is identified. These issues, along with flooding problems, should be addressed.
Officer comment: Hawkins Road does benefit from footpaths and street lighting for its length, albeit that the path is of varying width. Any flooding issues within the highway would be within the remit of the highway authority to address. The location of the site within a defined flood zone is a matter of fact and the development would not include vulnerable uses on the ground floor.
2. The development should not be approved unless a good-quality development has been secured, of heritage-style, which fits in with the area in accordance with the requirements of the NPPF. Unfortunately much of the development that has taken place thus far fails to accord with this requirement.
Officer comment: the design and detailed appearance of the development would be a matter for consideration at reserved matters stage, should outline planning permission be granted.
3. The development site is within a zoned employment area and the proposed development would be contrary to the relevant policies and adopted SPD for this area. It is noted that although the SPD dates from 2008 it has recently been reviewed and priorities confirmed by the board of Hythe Forward. In any event appropriate mitigation and design quality should be secured.
Officer comment: this site is within an area identified as having a predominantly residential use within the adopted Local Development Framework – Submission Proposals Maps document. The status of the SPD is noted but this document in itself does not serve to establish land uses as such. That said, the SPD is a material consideration.
4. The Ramblers Association has advised that it is pleased to see a further section of Public Footpath 234 Colchester (the riverside walkway) being renovated.
5. Any development should take into account that there are students living nearby and noisy development should not take place during exam times.
Officer comment: this point is noted and appropriate control over noise and disturbance resulting from construction work can be exercised by the Council through its statutory Environmental Protection function.

6. The established commercial uses in the vicinity of the application site could give rise to disturbance for occupiers of the proposed residential development. This in turn could impact detrimentally on the businesses themselves as the Council could seek to impose limitations on operations that aren't currently in place through its Environmental Control function.

Officer comment: this point is fully acknowledged and appreciated. The land use allocation for this part of the town means that a defined predominantly residential area abuts a commercial location along Hawkins Road and therefore the potential for amenity conflicts exist. As noted in this report predominantly residential development has taken place on other former commercial sites to the south of the current application site.

7. The proposal does not provide sufficient parking spaces and this will impact detrimentally on the road which is always used for overspill parking.

Officer comment: the issue of parking provision is dealt with elsewhere in this report.

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

11.0 Parking Provision

- 11.1 The submitted plan shows that 50 no. parking spaces would be provided to serve the development which consists of 35 no. 2-bed units and 2 no. 3-bed units. Each space would have dimensions of 2.9 metres width and 5.5 metres width.

- 11.2 The adopted parking standards for residential development are as follows:

- For a 2 or more bedroom unit a minimum provision of 2 spaces per dwelling
- For B1 offices a maximum provision of 1 space per 30 square metres

On the basis of the above a residential development of 37 no. 2 and 3-bed units would normally generate a minimum provision of 74 no. parking spaces.

- 11.3 In addition if the full, maximum parking provision standard was applied to the proposed office element of the development this would generate a need for 9 no. spaces (based on a given gross internal floor space measurement of 276 square metres).

- 11.4 Further comment on the overall parking provision for the proposed development can be found in the main report section below.

12.0 Open Space Provisions

- 12.1 With regard to open space provision to serve the new residential development proposed, the Planning, Design and Access statement advises as follows:

'...Policy DP16 requires the provision of 25 square metres of amenity space per proposed flat, which can include space provided on balconies. The proposed development, with its 37 apartments, is therefore required to provide 925 square metres of amenity space. Each apartment has been designed with its own balcony;

which in total provide a total of provide 495 square metres of private amenity space. A further 178 square metres of communal amenity space is provided at ground floor level; these areas also serve as areas of landscaping integral to the scheme. However, in addition, it is proposed to provide communal roof gardens for each of the three blocks, providing an additional 490 square metres outside amenity space. In total, the proposed development therefore incorporates 1 163 square metres of both private and communal amenity space, well in excess of the space required by policy DP16...'

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:

- £73 032 to provide primary school places to serve the development
- 20% affordable housing provision

- 14.2 As part of the Development Team considerations the Highway Authority identified that the required extension to the riverside walk would be secured by a s.278/s.38 agreement. As an adjunct to this an agreement to undertake the repair and ongoing maintenance of the section of the river wall that runs contiguous with the western boundary of the site would need to be established. Infact a 'River Wall Agreement' was secured as part of the permission for the residential development immediately to the south of the application site and, in equity, a similar agreement would need to be in place for this adjacent site.

- 14.3 Essex County Council did also request the provision of travel packs. Members are advised that the riverside walk extension and the travel packs requirement can be dealt with by way of condition.

- 14.4 Members are advised that the applicant's agent has advised their client's agreement in principle to enter into an agreement as described above.

15.0 Report

- 15.1 As stated previously in this report, this planning application is submitted in outline, with all matters reserved, except for the proposed access to the site and the layout of the buildings. With regard to the first of these issues it is noted that the Highway Authority does not object to the proposal, subject to conditions, including inter alia one to secure the required vision splay for the access.

Principle of the Development

15.2 The site for this proposal is located within a predominantly residential area as allocated in the adopted Local Plan, and on this basis it is considered that the principle of the development taking place is acceptable (including the ancillary office development). Furthermore specific site allocations p policies for the East Colchester area identify the acceptability of residential development taking place. For example, policy SA EC1 identifies land in Hawkins Road as one of 15 no. locations that would deliver residential development. Additionally, policy SA EC6 Area 4: Hawkins Road states inter alia that 'To the west of Hawkins Road housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals...New development should incorporate public realm enhancements focused on improved pedestrian and cycle routes.'

15.3 Leading on from this the extant SPD for the Hythe area titled the 'Colne Harbour East Colchester Master Plan' January 2008 includes a section that specifically relates to Hawkins Road. This section advises inter alia as follows:

'Hawkins Road is a key route in Colne Harbour...Opportunities for redevelopment in this area, including the introduction of new housing along the River Colne...may extend times during which the area is populated...'

Design, Layout and Amenity Provision

15.4 The outline nature of the development proposal means that the detailed design of the development is not proposed at this stage and therefore the overall impact of the development cannot be judged. That said, the supporting information does identify the appearance of the adjacent and nearby residential development to the south of the site. The proposed development would follow the principles of development established by this earlier development, in terms of storey heights, arrangement of built form to relate to the river and Hawkins Road, and the intention to utilise an architectural approach similar to that found in the area. As such it is felt that the layout as shown on the submitted plans would be compatible with other residential developments in the area. In any event, the detailed design of the development would be adequately addressed during the reserved matters submission stage.

15.5 As layout is a matter to be considered at this outline planning application stage, the provision of amenity space to serve the occupiers of the proposed residential element of the development can be considered at this point. To this end it is noted that the information submitted in support of the application advises that each of the flats would be served by a balcony, in addition to areas of shared amenity space at ground floor level and also at roof level. The Council's adopted spatial standards for communal space provision for flatted development is a minimum of 25 square metres per flat. Balconies can count towards that provision, for units above ground level, as long as the dimensions of the balcony afford a minimum of 5 square metres of useable space. It is noted that the proposal would not include any residential accommodation at ground floor level. Furthermore the submission advises that the combined area of balcony provision to serve the development would equate to 495 square metres – which gives an average balcony area, per flat, of approximately 13 square metres. This size is comfortably in excess of the Council's minimum size standard. Given that

the detailed design of the development would be a reserved matter, the minimum size of balcony could be secured by way of a condition attached at this outline application stage. The submission also advises of the availability of a landscaped area at ground level that could also be utilised for communal amenity space, together with the provision of communal roof gardens for each of the three proposed blocks. In the case of space shown at ground floor level its location and design would mean that its practical purpose would be for landscaping, as opposed to useable private amenity space for the occupiers of the flats. However, the use of roof areas to provide amenity space would make a further contribution. Again the design of the roof garden areas would be addressed at reserved matters stage.

Scale, Height and Massing

- 15.6 The scale of recent residential development to the south of and adjacent to the application site is substantial, consisting in the main of flatted blocks of several storeys in height. For example, the flatted block that runs parallel to the river on the former Jewson site to the south of the application site reaches 6 storeys at its highest point. The indicative plans that accompany this outline application show the main proposed block, facing the river, as having an equivalent height, albeit that the sixth storey penthouse level of the development would not extend across the entire floor. The proposed blocks that would front Hawkins Road would be a maximum of four storeys high (including the ground floor parking level). In each case it is considered that the scale, height and mass of the development would be similar to that found in residential developments elsewhere in the vicinity. This density and form of development i.e. blocks of flats is identified in the Colne Harbour SPD as being appropriate for the regenerated East Colchester area.

Impact on the Surrounding Area

- 15.7 On the basis that the overall proposed scale of the development is considered to be appropriate in this location it is felt that its impact on the surrounding area is not fundamentally unacceptable. That said, much of the impact will be derived from the detailed design of the proposed buildings – an issue to be addressed at the reserved matters stage.

Impacts on Neighbouring Properties

- 15.8 The location of the application site is immediately adjacent to a relatively recent residential development located to the south. It is important therefore that the proposed redevelopment does not have an adverse impact on the amenity of the occupiers of the adjacent dwellings. The proposed layout of the development would mean that the main accommodation block would be positioned adjacent to the proposed riverside walk area. As such it would be located in a similar position to the corresponding block on the adjacent site. A similar situation exists with the proposed blocks that would face on to Hawkins Road. As the development would be due north of the existing residential development it is the case that the proposal is not anticipated to give rise to unacceptable levels of overshadowing etc. Additionally as the scale of development is similar to that existing on the adjacent site it is considered that it would not appear overbearing in relation to that development. Clearly at the reserved matters stage issues such as positions of openings etc. can be fully considered in order that private amenity areas of adjacent properties is not unacceptably overlooked.

15.9 As noted previously, the application site is bounded to the north and east (on the opposite side of Hawkins Road) by commercial uses. On this basis, it is considered that the proposed development would not unacceptably impinge on the amenity of these sites. That said, it is noted that a concern has been raised by the operator of one of these sites that his use could, potentially, give rise to complaints from the future occupiers of the proposed development – primarily from noise nuisance generated by lorry movements at unsociable hours of the day.

15.10 It is fair to say that occupiers of the proposed dwellings will be aware of the proximity of commercial and industrial uses and therefore the potential for disturbance that could arise. That said, Members will note that, in order to address this issue, the recommended conditions include a requirement to establish background noise levels and designing the proposed residential units to incorporate appropriate mitigation measures. Furthermore a specific condition would require that, as far as is practicable, only non-habitable rooms (i.e. bathrooms, toilets, corridors, landing areas, cupboards etc.) of the proposed dwellings should face on to Hawkins Road. Further comment has been received from the applicant's agent on this particular issue as follows:

'The concerns raised by Hamblion are understood and acknowledged, however we would point out that at this stage it is pure speculation that the proposed development would give rise to complaints resulting in the limitation of operating hour for Hamblion Transport. In particular it is noted that this business has continued to operate under its current licencing arrangement despite the redevelopment of the former Jewson's site for residential. In fact, part of the Hamblion site is located directly opposite a row of residential townhouses fronting Hawkins Road.

Furthermore the proposed development has been arranged to locate proposed business units fronting onto Hawkins Road with only a few of the proposed residential units facing this direction. The vast majority of the proposed residential units are located to the rear of the site facing the river. This layout has been deliberately designed to limit the impact of any potential conflict between existing commercial uses along Hawkins Road and the regeneration of sites fronting the river.

We would also point out once again that this site is within the Council's identified regeneration area and redevelopment of the site for both office and residential use will meet these regeneration objectives. It is acknowledged that during the process of regeneration it is inevitable that some proximity between commercial and residential uses will occur. This has been the case across the Hythe area as land has come available for redevelopment.

I trust these comments will be given due consideration.'

15.11 Additional comment has also been sought from the Environmental Control officer following a meeting on site with the operator of the commercial use opposite the application site (also attended by the planning officer), and subsequent receipt of their letter of objection. The following comments have been received:

'In response to this, I would like to assure Hamblion Transport that with the conditions Environmental Protection have outlined on the planning application 152493 I am satisfied that the proposed residential will not be adversely affected by any noise emanating from their operational site- trusting that the developer complies with the conditions in place. If however Colchester Borough Council was to receive a noise complaint from the proposed site, Environmental Protection has a statutory duty to

investigate the complaint further. The team would work closely with Hamblion in resolving this issue informally, with enforcement action being a last resort.'

- 15.12 Environmental Control has also advised that in a two year period from January 2013 to the time that this report was written 6 noise complaints have been received from Hawkins Road, all of which relate to noise generated from a residential use and which have impacted on another residential use.

As a planning judgement it is considered that the imposition of controls to mitigate the impacts of noise generated by commercial uses would address the concerns that were raised regarding this point.

Highway and Parking Issues

- 15.13 Members will note that the Highway Authority does not object to the proposal subject to the imposition of conditions. One of its recommended conditions relates to the provision of a sight splay at the proposed entrance to the application site. In order that the sight splay is protected it would be necessary for double yellow lines to be provided in the carriageway (secured through a Traffic Regulation Order) to stop parked vehicles from blocking visibility. This has occurred elsewhere along Hawkins Road where residential developments have taken place. As a result the amount of on-street parking in Hawkins Road has reduced.
- 15.14 With regard to the proposed parking provision for the site it is considered that the number of spaces that would be provided is acceptable, given the location of the development which benefits from established public transportation links, as well as expanding cycling and walking networks, including proximity to a pedestrian bridge across the River Colne. Additionally, the site is within comfortable walking distance to Hythe railway station and also the bus routes that run along Hythe Station Road. Indeed the development of this site would add to the local cycling and walking network through the provision of an additional area of riverside walk. This improvement in the 'usability' of the riverside frontage for residents and visitors is an ongoing regeneration aim in East Colchester.
- 15.15 Members will also be aware that the Council's adopted parking standards do recognise that a lesser number of spaces may be acceptable in appropriate locations as follows:
- '...For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment...' (para. 2.5.1 – Parking Standards Design and Good Practice September 2009 *Essex Planning Officers Association*).
- 15.16 In the view of your officers this planning application site is within such a location. As well as access to alternative transportation modes the area is, for example, served by food shopping facilities such as the Tesco superstore to the northeast in Greenstead Road. Additionally, the established residential developments to the south of this planning application site have been approved with similar levels of parking provision to that proposed under this planning application. For example, the development immediately adjacent to the site (on the former Jewson site) has a total of 237 no.

spaces to serve 221 no. apartments. This equates to a 107% parking provision. In comparison, this current proposal has a parking provision that would equate to 135% (recognising that the proposed development does also include a commercial element).

16.0 Conclusion

- 16.1 In conclusion it is considered that the proposed redevelopment of the identified site for a mixed residential and commercial development accords with the relevant local plan policies in terms of land use and is therefore acceptable in principle. The application is an outline proposal so issues such as detailed appearance and design of the development can be determined at the reserved matters stage. However the application seeks full planning permission at this stage for the means of access to the site and the layout of the development. In the case of the access this element of the scheme has not given rise to an objection from the Highway Authority. As regards the proposed layout of development, it is considered that this is an appropriate response to the characteristics of the area and follows the general form of development found elsewhere in the vicinity with built form addressing both the river and the road, to provide appropriate enclosure.

17.0 Additional Report

- 17.1 **Following consideration of the proposal at Committee, Members raised a number of concerns. These related to the amount of parking and amenity space that would be provided by the development, the perceived excessive density of the development and the also the potential conflict that could arise between the proposed predominantly residential use and the established commercial development that is located opposite the site. The following paragraphs deal with these issues in turn.**

Parking Provision

- 17.2 **It is the case that the application submission does not provide the minimum number of car parking spaces that would be required for residential development per se. If this standard is applied to the development there would be a shortfall of some 24 spaces, as identified in the body of the original report. Additionally the B1 office use would generate a parking demand. However as Members are aware the applicable standard for B1 commercial use is expressed as a maximum, as opposed to a minimum, provision.**
- 17.3 **The residential development that has taken place adjacent to the application site (on the former Spottiswoode Ballantyne and Jewson sites) was built when the previous parking standards (adopted in 2001) were applicable. The 2001 parking standards proposed a *maximum* standard for residential uses. A fundamental change incorporated into the standards adopted in 2009 was that the residential parking standard was re-assessed as a *minimum standard* in recognition of the unmet demand for residential car parking spaces that was apparent in various housing areas. Nevertheless, in both documents it is the case that provision of a lesser number of spaces is acceptable in appropriate locations.**

17.4 Members could resolve to refuse the planning application on the grounds that an inadequate amount of car parking spaces has been provided to serve the number of units proposed. However, as highlighted in the original report the adopted standards document does recognise that a lesser standard may be used in urban areas where there is also access to alternative modes of transport, in order to promote sustainable travel modes. Generally, connectivity has improved in the Hythe area as regeneration has continued, including the provision of riverside walkway improvements, an additional bridge crossing of the river and the redevelopment of the train station at the Hythe that has resulted in an increased capacity. The site is also well-served by regular buses that link the Hythe to the wider area including the town centre.

17.5 It should also be noted that the Colne Harbour Master Plan comments on parking provision for the Hythe area. This recognises that a 100% provision would be appropriate for apartments as follows:

‘Car parking shall be provided for residential development on a flexible basis. For apartments a single space may be appropriate, with two spaces for town houses...An imaginative approach to the design of car parking will be required in order that it is accommodated in a visually unobtrusive way. This will include the use of underground, undercroft or sub-basement parking, either beneath buildings or under areas of private or communal open space...’

17.6 Members will note that the parking provision for the development would be screened by built form, in accordance with the requirements of the Plan, and as is achieved in developments elsewhere in the vicinity. The fact that the site is located within a flood zone means that, in any event, ‘vulnerable’ uses such as residential could not be located at ground level.

17.7 Members are also advised that a refusal of planning permission for development on a site at the Hythe, based on inadequate parking provision, has previously been tested at appeal. Under application 091651 planning permission was sought for the following development:

‘Full application for the erection of new building (known as Building 5) containing 58no. dwellings. Revised application for Building 5a to incorporate raised levels and raised walkway to accord with flood risk assessment/strategy.’

17.8 The planning application was subsequently refused, contrary to the officer recommendation, for the following reason:

‘Within the Adopted Review Colchester Borough Local Plan – 2004 saved policy DC1 – General Development Control Criteria requires inter alia that:-

‘...Developments will be located and designed to provide for ... where relevant, servicing, car and cycle parking to currently adopted standards...’ (criterion c (iii)). Leading on from this, within the Local Development Framework Adopted Core Strategy – adopted December

2008 policy TA5 – Parking sets out the Council’s requirements for parking provision. The policy states inter alia that ‘...Development should manage parking to accord with the accessibility of the location and to ensure people-friendly street environments...’ Furthermore Policy UR2 – Built Design and Character requires inter alia that ‘...High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable...’

Additionally, the Council has formally adopted the vehicle parking standards contained within the Essex County Council publication entitled ‘Parking Standards – Design and Good Practice’ - published September 2009. The proposed development would fail to provide car parking facilities in accordance with the adopted standards. Therefore, if permitted the development is likely to lead to a significant amount of cars being parked in the adjoining and nearby roads causing obstruction to vehicular traffic as well as a hazard that would be potentially harmful to highway safety. Additionally the creation of unmet parking demand and the subsequent likelihood of parking taking place in the adjoining and nearby roads will lead to a detrimental impact on overall visual amenity in this location caused by excessive ad-hoc on-street parking and a failure to ensure a people-friendly street environment, thereby being contrary to the aims of the identified policies.’

- 17.9 Members will note that the decision notice makes reference to the current parking standards (adopted in 2009) that require a *minimum* parking space provision for residential development. In allowing the appeal the Inspector made the following comments that are considered to be pertinent to this current application proposal:**

‘...Parking Standards-Design and Good Practice was published by the County Council in September 2009 and adopted by Colchester Borough Council as a supplementary planning document (SPD) in November 2009 following public consultation during March/April 2009. In essence the refusal of permission is predicated on the new standards which, as reflected in the minutes of the Planning Committee of 15 April 2010, apparently highlighted concerns which members of the Committee had about the Colne View development. The revised standards would require parking provision of 103 spaces (or 137 if the noodle bar is taken into account) compared with the 50 proposed...On both of my visits to the site; firstly during the day and secondly in the late evening, I do not find the situation highlighted in the representation made borne out by my observations. It appears that many of the parking facilities are allocated specifically to numbered apartments.

During the day I saw that a considerable number of these spaces throughout the development as a whole were vacant and that other than in the vicinity of the hair and beauty salon at the base of the rotunda building there was no evidence of any parking stress. In this latter area there were a few cars parked which did appear to be in designated spaces, although the roadways were kept clear. I also noted an odd vehicle parked on the wide paved verge along the Lightship Way frontage. During my visit refuse collection was in progress and general deliveries were being made within the development. Neither activity was impeded by parked vehicles to any noticeable degree.

I found the situation much the same in the evening when although fewer parking spaces were vacant a large number remained unused. I observed a few vehicles not using designated spaces near the front of building 7 and on an unpaved strip of land alongside the road opposite building 2 but my observations did not point to there being an excess of demand over supply of parking provision or that the limited degree of parking in undesignated places is causing any highway dangers. Lightship Way is the subject of long-term parking restrictions and I observed no abuse of those regulations nor did I see other than a few vehicles in the nearby B&Q car park which is not locked.

I have not been provided with and indeed saw little, if any, evidence of parking stress within the Colne View development or in the surrounding roads nor did I form the impression that existing parking provision was undermining the objective of a people friendly street environment within the scheme. The proposed development would comprise small dwellings with a large proportion (28 units) having one-bedroom. I find nothing compelling which leads me to conclude that this would present circumstances, particularly in terms of car ownership and usage, materially different from that presently experienced. If there are difficulties here it seems to me that they may well arise from some parking by people outside the Colne View development and possible by some inflexibility in the management and allocation of parking spaces.'

- 17.10 The Inspector's decision may be viewed in full on the Council's website. Notwithstanding the shortfall of car parking identified by the Council in refusing the planning application, the Inspector did not agree with this view. While it is fully acknowledged that each application must be determined on its merits the DROP requires that relevant appeal decisions are highlighted for Members' information. It is also noted that in the case of this appeal the appellant's claim for costs was also supported.

Amenity Space

- 17.11 The main report previously presented to Members did identify that the provision of amenity space to serve the development does accord with the adopted spatial standards of the Council. Members will be aware that the Essex Design Guide is adopted supplementary planning guidance for the purposes of spatial standards for new residential and mixed use areas. The EDG identifies that communal residents' gardens serving flatted development of two or more bedrooms should achieve a minimum garden area of 25 square metres per flat. The EDG also states:

'...In addition balconies may provide outdoor amenity space in closer proximity to an upper storey dwelling. A balcony or terrace over 5 sq m in extent will count towards the total garden provision for the flats. In an urban situation such a balcony or terrace would be acceptable as the only outdoor amenity space for a flat...'

- 17.12 In the case of the development that is proposed under this planning application it is acknowledged that the proposal is in outline. Nevertheless the floorplans that have been submitted with the application do demonstrate that the provision of 37no. flats on the site can be undertaken in a form whereby amenity provision can take place in accordance with the Council's requirements. Each of the units would benefit from a balcony area that was comfortably in excess of the minimum spatial requirement of 5 square metres. Additionally the information submitted in support of the proposal advises of other shared amenity spaces that would be provided within the development (in the form of roof gardens and landscaped areas at site ground level).
- 17.13 Members will be aware that the provision of higher density development that has taken place on various sites within the Hythe area does include balconies as a design feature and which have been utilised for private amenity space. The current proposal continues that design approach. Given that the scheme proposes the use of an established design feature in the Hythe area and the overall provision of open space to serve the development would accord with the adopted requirements of the Council in this regard it is your officer's view that a refusal of planning permission on the grounds of an insufficient *amount* of amenity space being provided on the site would be difficult to sustain at an appeal and would carry significant risk to the Council. Member did also express concerns regarding the *quality* of the open space provision on this scheme and the whether this would be appropriate for families with small children. Clearly the ideal situation in relation to 'family' accommodation is for on-plot garden space to be provided. However, in the context of higher density, flatted development that characterises much of the riverside development at the Hythe the provision of amenity space takes a different form.
- 17.14 By way of clarification, 35 of the 37no. units that are proposed to be developed would contain two bedrooms, with the remaining 2 units containing three bedrooms.

Development Density

- 17.15 The now defunct Colne Harbour Design Framework (adopted by the Council in 2001) included the design and layout principles that would be followed in the urban regeneration of the Hythe area of the town. A series of 'codes' were established in this document – one of which dealt with the appropriate density of development for this location. The following extracts are taken from the document for Members' information:

'Urban areas are more viable and sustainable if they are built to higher densities...A concentration of people will also generate demand for goods and services (including public transport) and deliver street vitality during the day. But high density is not universally appropriate within the neighbourhood. There must be sufficient variety of density to enable different types of accommodation to be provided...higher buildings and densities are needed close to the river to produce an appropriate urban character and enclosure of space as well as generating a good mix of use and activity..'

17.16 The code that deals with density (Code URB5) states inter alia that:

'The highest built densities shall be concentrated towards the river frontage and the main streets...Densities can be reduced as one travels away from the river and the main transport corridor, towards the edge of the neighbourhoods. Residential densities should be sufficient to realise good mixed-use along the river frontage and along main streets. A minimum net density of 100 persons per hectare is required in these locations.'

17.17 Leading on from this the extant Colne Harbour Masterplan (2008) also includes requirements in relation to the densities of development appropriate in the Hythe area as follows:

'Developing at higher densities can maximise the reuse of brownfield land in accordance with national planning policy. Code URB5 of the Colne Harbour Design Framework identifies river frontage sites as being appropriate locations for medium to higher density development in order to realise a good mixed use river frontage. The Urban Place Supplement suggests that minimum densities of between 50 and 75 dwellings per hectare may be appropriate in accessible locations. This range should be applied to much of Colne Harbour...'

17.18 The Masterplan goes on to advise that sites '...At King Edward Quay and Coldock consideration will be given to higher residential densities, potentially up to a maximum of 150 to 200 dwellings per hectare...'

17.19 The specific Local Development Framework Core Strategy policy that concerns housing density (policy H2) states inter alia that:

'The Borough Council will seek housing densities that make efficient use of land and relate to the context...Locations with good access to centres, particularly the Town Centre and the Urban Gateways, are more suited to higher density development, although a flexible approach will be important to ensure that densities are compatible with the surrounding townscape...'

17.20 Members are advised that the density of development proposed under the current application would equate to 142 dwellings per hectare. In comparison the density of developments that have taken place in the vicinity of the application site are as follows:

- Land at former Jewson site (immediately to the south of the application site) – 185 units per hectare
- Land at the former Spottiswood Ballantyne commercial site – 166 units per hectare
- Hardies Point (located at the junction of Hawkins Road with Colne Causeway)– 112 units per hectare
- Former Aim Hire site (extant permission but work yet to be commenced) – 126 units per hectare.

- 17.21 It will be noted that the density of development is within the general range of density that has been approved by the Council in this location previously. Given that the creation of higher density developments is identified as being an appropriate development response in the Hythe area (particularly in relation to development adjacent to the river) it is considered that the density of development that is proposed under this application reflects the general character of development that has been secured elsewhere. Members are therefore advised that a refusal of planning permission on the basis of an excessive density being proposed has a high level of risk attached that would be difficult to sustain successfully at an appeal.

Residential/Commercial relationship

- 17.22 Given the various land use allocations in the Hythe area, including the specific allocation of land for residential development, it is the case that the creation of residential uses adjacent to established commercial development is inevitable. Indeed there are several instances where this has occurred in the recent past – not least adjacent to the application site and further along Hawkins Road to the south. Following on from the deferral of the planning application at the last Committee meeting the comments of the Spatial Policy team have been sought with regard to the allocation of land at the Hythe for residential purposes. The following comment has been received:

'I can confirm that allocation of a site for a particular use in the Local Plan would pre-empt planning policy from raising the principle of that use as a ground for refusal.

The site is allocated for residential development, in Site Allocations Policy SA EC1 (Residential development in East Colchester - Land in Hawkins Road). The explanatory text for the policy notes that 'within the Regeneration Area small and medium sized commercial units will be encouraged to provide employment and local services and facilities for residents'. Policy SAEC2 (Development in East Colchester) provides that 'All developments shall provide for a balanced and integrated mix of uses that are compatible with the comprehensive regeneration of East Colchester'. East Colchester is accordingly expected to contain a mix of commercial and residential uses, reflecting both its historic industrial/port past and its current regeneration to accommodate sustainable growth in Colchester.

Other policies within the plan provide for amenity considerations to be taken into consideration, but in mixed use areas, especially the regeneration areas, new residents would be expected to have an understanding of other uses in the locality. The design and layout of a scheme, along with conditions such as soundproofing, can minimise any potential negative impacts on residential amenity or commercial operation. There are already a number of residential developments within east Colchester that operate alongside commercial developments i.e. Albany Gardens, Caelum Drive and Port Lane.'

- 17.23 Although little weight can be attached to the emerging revised local plan at this stage Members are advised that the Preferred Options document that is currently out to consultation includes a section that specifically deals with the Hythe area of the town. In the preamble to the site specific policy the following comment is made that provides context with regard to the future regeneration aims for this part of the town

‘...The Hythe is an established regeneration area that seeks to deliver sustainable, mixed use neighbourhoods, oriented towards the River Colne, which respects the historic character of the area as the location of the early port. Over the plan period the East Colchester – Hythe Special Policy Area provides capacity to accommodate 600 new dwellings including those already committed...’

It is clear that the future intentions towards the continued regeneration of the Hythe includes the provision of a significant amount of residential development.

- 17.24 Members are advised that further liaison has taken place with the Environmental Control team with regard to noise complaints that have been received from occupiers of residential developments that have previously taken place within the Hythe, and which are adjacent to commercial uses. These were identified as developments at Albany Gardens, Caelum Drive and Port Lane. The Environmental Control team advised that in the last two years the Council received a single complaint regarding a commercial use, and this was in relation to an A4 (drinking establishment) premises. As identified in the Spatial Policy comment, the existence of commercial development in the area means that anyone moving into residential development in this location will be aware of the potential impacts this may have on amenity. Additionally, the recommended conditions that would be attached to a grant of planning permission include mitigation of the noise impacts that may arise from uses in the area – including the unfettered storage and distribution use directly opposite the application site.

Conclusion

- 17.25 Members are advised that the following comment has been received from the applicant’s agent with regard to the deferral of a decision on this planning application:

‘My client has confirmed that he wishes the application to be determined as submitted. As the scheme clearly meets all of the Council’s policy considerations, there is no justification to amend the scheme. Furthermore, the application has now been pending decision for 9 months as of today’s date. This application must now be determined without further delay, and I would be grateful for confirmation when the matter will be considered again by members.’

I understand a further report is to be presented to the Committee concerning the implications of a decision to refuse the application. I must of course advise you that any refusal will proceed to an appeal, with a robust case and likely application for a full award of costs having regard to the material considerations involved and the policy support as set out within the adopted development plan.’

17.26 This additional report has sought to provide additional comments with regard to the issues identified by Members in order to enable Committee to make an informed decision on the submitted planning application. Given the material considerations that are pertinent to this case it is considered that there would be significant risks attached to a refusal of this outline planning application. Specifically, the proposed uses accord with the land use allocation for the site. Furthermore it is felt that the submitted plans demonstrate that amenity space could be provided in accordance with the adopted standards of the Council. The location of the site adjacent to established commercial development is a matter of fact but this relationship exists elsewhere in the Hythe and has not given rise to significant or sustained complaint regarding amenity impacts. Conditions have been recommended on a grant of planning permission that would assist in mitigating potential adverse impacts further. The advice of central government with regard to the use of planning conditions is pertinent in this regard as follows:

‘When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls...’

17.27 As identified in the initial report to Committee and reiterated in this supplementary report the parking provision that is shown for the proposed use is below the minimum standard that would be applied to residential development per se under the adopted standards of the Council. However, the standards do also recognise instances where a lesser number may be used. This approach has been taken elsewhere in the Hythe with new residential developments and, in equity, it is considered reasonable in planning terms that a similar approach may be taken in relation to this current proposal. It is your officer’s view that a refusal of planning permission on the basis of inadequate parking provision would also be very difficult to justify and would again carry significant risk for the Council as Local Planning Authority.

17.28 In conclusion it is your officer’s view that a sustainable reason or reasons for refusal could not be provided to Members in this case for the reasons set out in this report. The original recommendation is included below together with the conditions attached.

18.0 Recommendation

18.1 APPROVE 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 Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- A contribution of £73,032 to be used towards provision of additional primary school places to serve the needs of the development
- 20% affordable housing provision
- Repair and ongoing maintenance of that part of the river wall contiguous with the site's frontage on to the Colne.

18.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

19.0 Conditions

1 - *Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of the reserved matters referred to in the below conditions relating to the APPEARANCE, LANDSCAPING 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 - Time Limit for Outline Permissions Part 2 of 3

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 - Time Limit for Outline Permissions Part 3 of 3

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/Reason

With regard to the aspects of the planning application for which full planning permission is sought at this stage, namely the ACCESS and LAYOUT, the development shall be carried out in full accordance with the details shown on submitted drawings no.s 1113-01 Rev A, 1113-03 Rev A, 1113-04, 1113-05, 1113-06, 1113-07, 1113-08 and 1113-10.

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

5 - Non-Standard Condition/Reason

The reserved matters submission(s) to be made in relation to the outline planning permission hereby granted shall include the following design details:

- Provision of a balcony to serve each residential unit having a minimum area of 13 square metres.
- Provision of communally-accessible roof gardens to serve the occupiers of the development.

Reason: In order to ensure that the future occupiers of the development hereby approved are served by an appropriate level of amenity space, in accordance with the requirements of Core Strategy Policy PR1 and Development Policy DP15, in order to ensure a satisfactory form of development.

6 – Removal of PD – Part 3 of Article 3, Schedule 2 Changes of Use

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 office development hereby approved shall be used as B1 (a) purposes and for no other purpose.

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

7 – 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, ground waters 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.

8 - 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.

9 - 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.

10 - 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 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, 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 8.

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

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

12 - Non-Standard Condition/Reason

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).

13 - Non-Standard Condition/Reason

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works. Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

14 - Non-Standard Condition/Reason

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00 Sundays and Bank Holidays: No working

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

15 - Non-Standard Condition/Reason

The residential units shall be designed so that, as far as practicable, only non-habitable rooms are located on the facades of buildings facing Hawkins Road.

Reason: To ensure the development hereby permitted is not affected by the noise arising from the commercial units on Hawkins Road.

16 – External Noise

Prior to the commencement of development, a noise survey for proposed residential properties that are in the vicinity of the commercial development adjacent to and opposite (east) the application site shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 “good” conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq, 16 hours
- Outdoor living area in day time: 55 dB LAeq, 16 hours
- Inside bedrooms at night-time: 30 dB LAeq, 8 hours (45 dB LAmax).

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of the relevant residential units on the site and shall be maintained as agreed thereafter. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise.

17 - Non-Standard Condition/Reason

Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Local Planning Authority (in consultation with Environmental Protection). 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.

Reason: In order to protect the amenity of nearby residential properties from potential nuisances that may arise from necessary piling works

18 – Refuse and Recycling Facilities

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

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

19 - Non-Standard Condition/Reason

Prior to commencement of the development a construction management plan, to include but shall not be limited to details of wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan. Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

20 - Non-Standard Condition/Reason

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

- a) A bell mouth access off Hawkins Road to provide access to the proposal site to include but not limited to a 70 x 2.4 x 70 metre clear to ground visibility splay
- b) A continuation (minimum 4 metres wide) of the riverside footpath/cyclepath provided by the adjacent former Jewson and Ballantyne Centre sites
- c) Residential Travel Information Packs

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

21 - Non-Standard Condition/Reason

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 shall subsequently be implemented prior to occupation and should include but not be limited to:

- Limiting discharge to 50% of current brownfield rates for the 1 in 1, 1 in 30 and 1 in 100 year events plus climate change.
- Providing sufficient storage to manage water falling on site. This should be based on whichever of the following options provides the greatest storage capacity discharge at the rates required above or 270m³ as stated in the applicant's latest response.
- Provide sufficient treatment for the site based on guidance in the CIRIA SuDS manual C753 and demonstrate that it will be sufficiently maintained.
- Provide means of capturing overland flows from the site in order to minimise run off onto Hawkins Road during the design events.

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.

22 - Non-Standard Condition/Reason

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.

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.

23 - Non-Standard Condition/Reason

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 outline in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

20.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition**

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

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

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

(3) Non standard informative

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

(4) Non standard informative

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

(5) Non Standard Informative

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. Furthermore the applicant is advised that a s.278 (Highways Act 1980) agreement will be required to be secured with the Highway Authority.

(6) Non Standard Informative

All or some of the above conditional requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

(7) Non Standard Informative

The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

(8) Non Standard Informative

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If the applicant believes they need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively they can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk Planning permission does not negate the requirement for consent and full details of the proposed works will be required at least two months before the intended start date.

(9) Non Standard Informative

The Council's Archaeological Adviser will, on request of the applicant, provide a brief for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation, incorporating palaeo-assessment, will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation. Pre-determination archaeological evaluation is not required for this proposal. However, it is recommended that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

(10) Non Standard Informative

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.

(11) Non Standard Informative

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

(12) Non Standard Informative

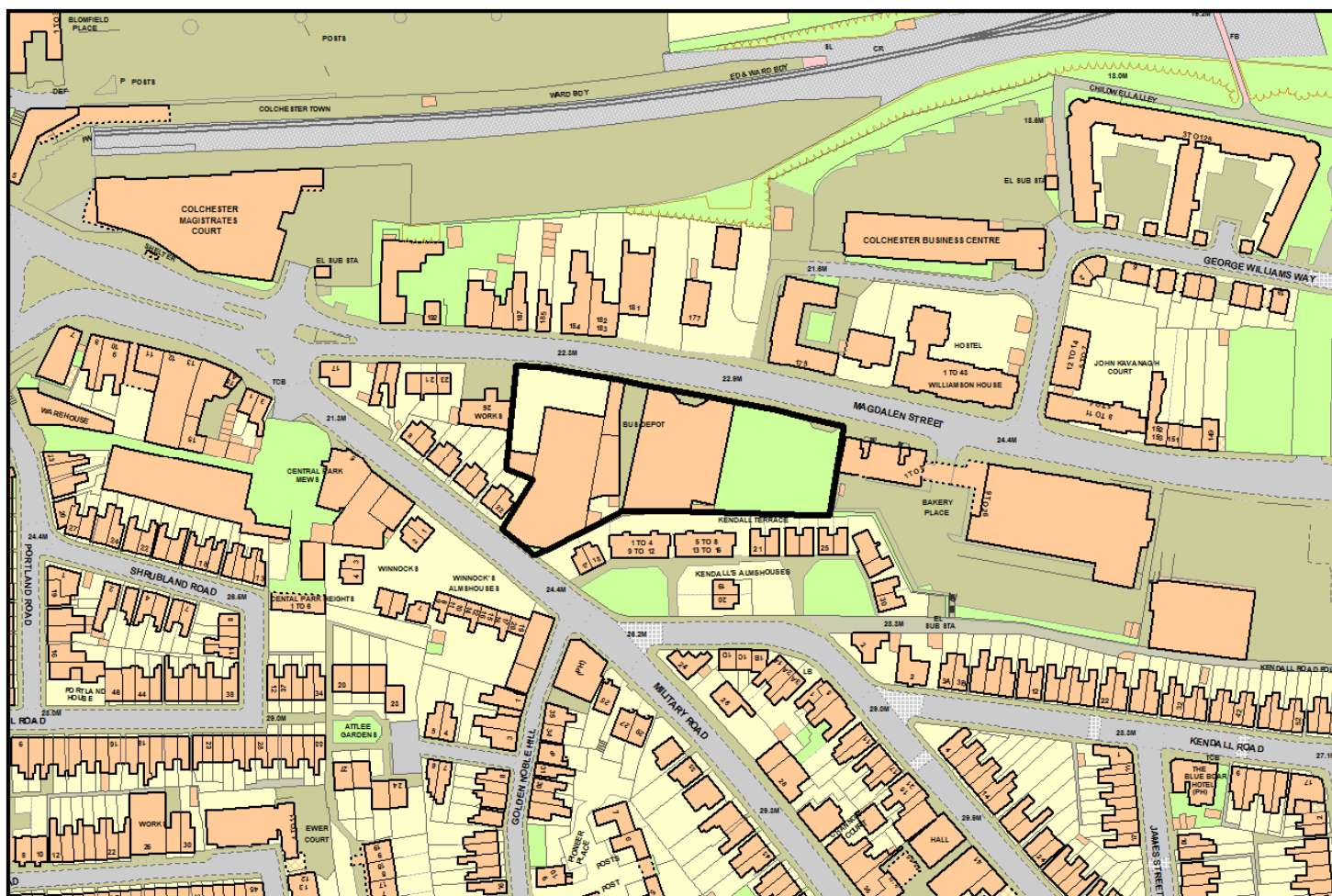
An application to discharge trade effluent to a public sewer must be made to Anglian Water and must be obtained before any discharge of trade effluent can be made to the public sewer.

(13) Non Standard Informative

The applicant is advised that petrol/oil interceptors should be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

21.0 Positivity Statement

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



Application No: 160103

Location: Former Bus Depot, Magdalen Street, Colchester, CO1 2LD

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.2 Case Officer: Sue Jackson

MAJOR

Site: Former Bus Depot, Magdalen Street, Colchester, CO1 2LD

Application No: 160103

Date Received: 20 January 2016

Agent: Miss Laura Dimond, Maddox and Associates Ltd

Applicant: Mr Robert Oates, Victorial Hall Management Ltd

Development: Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across five blocks of one, two, three and four storeys to provide 230 bedspaces (59 cluster flats and 17 studio flats), communal facilities (to include bin stores, cycle stores, site management office, gym and communal amenity areas) as well as undercroft car park (20 car parking spaces), landscaping and a new public pathway through the site.

Ward: New Town & Christ Church

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

1.0 Reason for Referral to the Planning Committee

- 1.1 This application was considered by the Planning Committee at the meeting on 17th March 2016. The following extract from the minutes of the meeting sets out the issues and concerns raised by members, the response by the Major Development and Projects Manager and the Committee resolution.

“Some members of the Committee voiced their concern regarding the close proximity of elderly residents to the site, the difficulty of managing the different lifestyles of the proposed neighbouring communities, the impact on nearby listed buildings and the impact of a transient group of residents in this location. Reference was also made to the proposals not being in keeping with the contents of the development brief, whether the location was appropriate for this type of development and the cramped nature of the proposals at the rear of the site. Suggestions were made regarding the potential to reduce the density of the development and to introduce an outdoor open space area. Other members of the Committee did not consider the location to be unsustainable as student accommodation and were of the view that it was beneficial to promote mixed communities along with the need to provide for safeguards to address disputes relating to lifestyle differences. It was considered possible for the opportunity to be taken to propose additional conditions to ensure a robust Management Plan was in place to address neighbour impact issues. Examples were cited, to address such issues including visits by student representatives, eviction action after three reported problems, the imposition of timescales to restrict outdoor noise during the night time and waste management and litter collection measures.

- 1.2 The Major Development and Projects Manager reminded the Committee that the application was considered to address the aims for the site in a considerable way and that a letter of support had been received from Historic England. He acknowledged concerns from the Committee members regarding the impact on residential amenity but he considered that a refusal of the application would be difficult to sustain.
- 1.3 A proposal which had been seconded, to refuse the application suggested that the Committee may be minded to determine the application contrary to the officer's recommendation in the report on grounds of lack of conformity with the development brief, adverse effect on both the setting of adjacent listed buildings and adjacent communities and over development. In accordance with the Committee's Deferral and Recommendation Overturn Procedure (DROP) the Chairman invited the Major Development and Projects Manager to indicate the likely implications should the Committee overturn the Officer's recommendation in this instance. The Major Development and Projects Manager advised against refusal on the grounds of adverse impact on amenity and in relation to its adherence to the development brief. He referred to the application having satisfied a number of aspirations for the area and the need for sound evidence to justify and substantiate a refusal. He explained that the proposal was for a quasi-residential use which could be made acceptable by the imposition of conditions. He also referred to an absence of sound reasons for refusal having the potential for costs to be awarded against the Council. In the light of this advice the Chairman determined that the DROP be invoked.
- 1.4 RESOLVED that the Deferral and Recommendation Overturn Procedure be invoked and a further report be submitted to the Committee giving details of the risks to the Council, the financial implications, possible reasons for refusal as well as advice on whether representations constituted evidence to support reasons for refusal and proposed provisions to be included in an accommodation Management Plan to address instances of noise, disturbance and littering".
- 1.5 The report below discusses possible reasons for refusal, sets out the legal advice received regarding "representations" and comments on the Management Plan.
- The report concludes that reasons for refusal discussed by the committee could not be defended at appeal and would be likely to result in a costs award against the council.
- 1.6 The previous report to members is produced in Appendix 1. The amendments are those on the amendment sheet for the 17th March meeting plus the response from Essex County Council SUDS team withdrawing their objection.
- 2.0 Government advice in respect of the award of costs is set out in National Planning Policy Guidance (NPPG)**
- 2.1 The following quote is from the NPPG "What type of behaviour may give rise to a substantive award against a local planning authority?"

2.2 Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- failure to produce evidence to substantiate each reason for refusal on appeal
- vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis".

3.0 **Possible reasons for refusal**

1. The close proximity of elderly residents to the site, the difficulty of managing the different lifestyles of the proposed neighbouring communities

3.1 Environmental Protection has been asked to comment on these concerns and the response is set out below:

"Potential Environmental Protection issues

Disturbance from the demolition/construction phase, Light, Car park – noise and fumes, Plant noise, Noise from functions, Noise from individual rooms, Noise from outdoor areas.

Issues considered in detail and potential mitigation measures/conditions

Demolition/construction phase -Noise and general disturbance from this phase of the development is inevitable with residential properties located nearby. Environmental Protection has previously recommended conditions limiting the working hours and the provision of method statement to ensure dust and other impacts of the demolition and construction phase are minimised to practical levels.

Light- General pollution and illumination nuisance should be adequately controlled in accordance with the recommendations of the Institute of Lighting Professionals by the condition previously recommended by EP. *Officer comment: see draft condition 18*

Car park- This is located to the western side of the site as far as possible from residential properties. It is accessed via the busy Magdalen Street and has few spaces close to the residential boundary. A close-boarded 2m high fence has been recommended and this will both screen from fumes and attenuate noise. Being formerly a bus depot the proposed activity will be negligible compared with the previous use. *Officer comment: condition added*

Plant noise- There will be some building plant such as air-conditioning and this will be designed to comply with our conditioned requirements in accordance with the current British Standard to ensure that it does not cause a nuisance to residential units on- or off-site.

Noise from functions- There is only one communal area noted on the plans. This is located on the ground floor close to the main Magdalen Street entrance and is located well away from the residential properties to the rear. It is unlikely that noise from this area would adversely impact the properties in Winnock Road, with proposed buildings D and E acting to an extent as an acoustic barrier. However, no use of amplified

sound audible at the site boundary; closure of all external doors and windows when events involving amplified sound take place, or similar, could be conditioned if deemed necessary. *Officer comment this condition would be difficult to enforce and is not recommended*

Noise from individual rooms (music) - This is potentially the largest issue with regard to impact on residential amenity. However, the following factors should ensure that the potential is minimised:

- The rooms are generally too small for parties of any size.
- The current trend is to listen to music through personal devices; either via headphones or small speakers. Sound from these systems does not travel in the same way as the older stereos with large bass speakers etc.
- The buildings nearest the boundary with the properties in Winnock Road have been designed with the access landings on the Winnock Road side and therefore do not have any windows facing sensitive receptors. Therefore internal noise from individual rooms should be contained within the building envelope.
- Buildings further away from the residential boundary do have some windows facing Winnock Road, but many of these will be acoustically screened by buildings D and E. Any noise will also attenuate over the increased distance to the Winnock Road properties.
- Building C does have some windows to the side elevations to the south and some unscreened windows facing Winnock Road, although further from the residential boundary. If deemed necessary these windows could be conditioned to be non-opening with trickle ventilation. *Officer comment: this condition is not considered necessary*
- In order to mitigate against external noise the proposed windows will be designed with high levels of sound insulation and alternative means of ventilation. This will reduce noise egress, even with windows partially open.
- We work in partnership with the University of Essex and have developed protocols for dealing with particularly noisy students (attached in Appendix 2 which have proved effective.
- We understand that a site manager will be present 24-hours in order to ensure students behave reasonably. The presence of a 24-hour site manager can be conditioned, as can a site management noise plan. *Officer comment: this matter is included in the proposed legal agreement*
- In the unlikely event of the above measures failing, in the case of individual students we have extensive powers with regard to controlling noise nuisance.

Noise from outdoor areas- There is only one small courtyard area. This is contained within the centre of the site and is well screened by the boundary buildings. It could be conditioned that no amplified sound shall be permitted outside. *Officer comment: condition added in response*

There is potential for noise from rowdy students returning home on foot late at night. The main site entrance is located on the busy Magdalen Street and is shielded from the Winnock Road properties by buildings D and E. It is not envisaged that many residents will use the Winnock Road entrance at night as they are likely to be coming from the town centre.

The recommended 2 metre-high close-boarded fence along the residential boundary will help mitigate noise produced at ground level. Signage requesting residents to respect neighbours could also be conditioned, as could an overall site noise management plan previously mentioned”.

- 3.2 The applicant has submitted details of two applications for student accommodation refused planning permission and allowed at appeal. Obviously all applications are determined on their individual merits and all sites are different, but one decision is of relevance as one of the main issues was the change from retirement apartments to student accommodation. The application was refusal on grounds of the impact of the development on the living conditions of neighbouring residential occupiers with specific reference to overlooking/loss of privacy, noise and disturbance; in particular during unsocial hours and the development would lead to anti-social behaviour and littering. The Inspector considered these concerns could all be satisfactorily addressed by the implementation of the Student Accommodation Management Plan, which included 24 hour staffing.
- 3.3 The applicant has submitted a Management Plan (MP) described in below, the plan includes 24 hour security and proposes the setting up of a Community Steering group.
- 3.4 The proposal involves purpose built student accommodation with a 24 hour security presence and is different to individual dwellings occupied as Houses in Multiple Occupation. Environmental Protection has a protocol for student accommodation which applies whether the accommodation managed by the university directly or privately. Environmental Protection has indicated they would not be able to defend a reason for refusal based on the adverse impact of the student accommodation on neighbours. Any refusal based on this concern is therefore unsubstantiated by evidence and vulnerable to appeal and potentially an award of costs.

2. The impact on nearby listed buildings and the impact of a transient group of residents in this location.

- 3.5 Historic England provides expert advice to central Government and Local Authorities on development proposals and their impact on the historic environment including heritage assets. Their response to the development and its impact on the adjacent listed buildings and conservation area is set out in full in the report; the Recommendation is set out below”

“Historic England consider the proposed redevelopment of this major site would not cause harm to the significance of the setting of the abutting grade II listed Kendall Almshouses or the adjacent Colchester New Town Conservation Area. The scale, massing and detailed design of the residential scheme would be an enhancement on the current streetscene in this prominent location on Magdalen Street. We would have no objections should your authority be minded to approve the application for planning permission”

- 3.6 Members will note that Historic England considers the development would be “an enhancement to the current street scene” and in view of this unequivocal support from the specialist consultee a reason for refusal based on adverse impact on the adjacent listed buildings could not be substantiated and is likely to lead to an award of costs against the council at appeal.

3. Proposals are not in keeping with the contents of the development brief, whether the location was appropriate for this type of development

- 3.7 The development brief is one important material consideration in determining the application but it also has to be determined in accordance with national and local policies together with other relevant material planning considerations. The site is ‘brownfield’ within a regeneration area and close to the town centre, the bus station and a railway station. Magdalen Street has a mixed character; containing a variety of uses which include residential, retail and commercial. The brief is not prescriptive and cannot predict all uses that may come forward. Whilst student accommodation is not referred to in the brief it is in keeping with other uses in the area and the edge of town location. The development proposal satisfies many of the criteria in the brief including minimising impact on air quality, limited traffic generation, providing buildings set back from the carriageway forecourts to road frontage with tree planting, a pedestrian link between Magdalen Street and Military Road is also provided and the scheme retains heritage assets. In fact student accommodation would generate significantly less traffic than other uses referred to in the brief and would have less of an adverse local environmental impact on the surrounding area than some other types of development/uses where car trip generation is much higher.
- 3.8 The NPPF has a presumption in favour of sustainable development and promotes the development of brownfield sites. The development satisfies the Councils regeneration aspirations. A reason for refusal based simply on the fact that student accommodation is not mentioned in the brief could not be defended at appeal.

4. Overdevelopment

- 3.9 A proposal would constitute overdevelopment if it appeared cramped and out of keeping with adjacent development resulting in an adverse impact on the street scene and/or adjoining properties and usually the development would not satisfy the Councils standards such as parking and amenity space standards.
- 3.10 The proposed development ranges in height between one and four storeys but is no higher than adjacent buildings and having regard to the larger building forms that are already a characteristic of the immediate surroundings and consequently would not look out of place in the street scene. There is a significant change in levels between the site and the almshouses to the rear and as a result the new buildings would not appear overbearing. The buildings have also been carefully modelled and fenestrated so there are no overlooking or privacy/amenity issues.

- 3.11 The “Adopted Parking Standards” do not include a standard for student accommodation. On other student development a standard of 1 space per 5 bedspaces has been accepted elsewhere. Whilst the application proposes only twenty parking spaces; those students not eligible for a parking space would be required to sign a lease that includes a clause that prevents them from bringing a vehicle to Colchester during term time. The development also includes a travel plan and an “Operational Management Plan.” There is also no amenity space standard for student accommodation similar to hotel uses. The application provides external courtyard areas between the buildings as well as a pedestrian link between Magdalen Street and Military Road and a landscaped area to the street frontage.

Conclusion

- 3.12 It would be difficult to substantiate a refusal reason on the grounds of overdevelopment at appeal as the development would not result in material or demonstrable harm to the surrounding area or neighbouring properties and parking and the amenity spaces around the buildings are considered acceptable.

4.0 Whether representations constituted evidence

- 4.1 The Councils planning solicitor has provided the following advice;

“My view is that where a consultee has provided substantiated, independent and verifiable evidence, then it would be feasible to treat such representation as evidence. For example, if a consultee has produced written findings from an expert which demonstrates the impact on the adjacent communities, then I think it would be safe to use such representations as evidence justifying a refusal. However, where there is no material evidence to support or substantiate their arguments, then representations should be treated purely as representations but not as evidence. My concern of course is that if the application is challenged and the Council seeks to defend its position by arguing that the application was refused on the basis of supporting evidence, we would then be required to produce such evidence and the mere reliance upon a statement made by a consultee would not I believe constitute evidence”.

5.0 Operational Management Plan

- 5.1 A site specific management plan has been submitted the document is produced at Appendix 3. The main points are summarised below;

- Our objective is to commit to the local areas in which we operate and to form lasting relationships with the local community
- Our principle objective is to integrate any new development into its community and we pride ourselves on establishing successful relationships with our neighbours through transparency and trust.
- Victoria Hall recognises that each new community is individual and that each new environment gives rise to unique challenges and opportunities...
- Magdalen Street itself is largely commercial in nature, but the surrounding hinterland is residential and we are acutely aware of the close proximity of existing residential properties to the site and the need to protect the amenities and general wellbeing that existing residents currently enjoy. We would therefore propose to establish a Community Steering Group that will create a regular forum for open discussion of concerns, but also a forum for generating ideas to help strengthen

ties with the community. The forum would include members of the local community, senior Victoria Hall Operations Management, the accommodation Hall Manager and most importantly student representatives. Accountability lies at the heart of transparency and actively engaging the students themselves within the forum will help to engender a sense of accountability and an understanding of the environment and the mixed community within which they live and study.

- **Security Arrangements-** Victoria Hall employ 24-hour Caretaking/Security staff specifically in order to provide assistance and support to students, staff, visitors and members of the local community. Their function is to ensure, as far as is possible, the personal safety of students, staff and visitors; the wellbeing of the local community, particularly neighbouring properties; the security of residential buildings and the protection of personal property. Security Patrols Caretaking / Security staff are responsible, throughout the 24-hour period, for patrolling the exterior and interior of the complex and for responding to incidents. Whilst on patrol, these staff will deal proactively with any noise issues to ensure that disturbance to other residents as well as surrounding neighbours is minimised. These patrols are increased in the event of incidents occurring which warrant ongoing attention
- **Staffing** The staff team within a Victoria Hall site comprises of a Hall Manager, an Assistant Manager and 2 no. Caretakers who are based on-site and supplemented by additional Security guards. A Business Relations Manager, Operations Manager, FM Manager, Health and Safety Assistant and Child Protection Officer are also employed by Victoria Hall to provide support and guidance. These positions are based off site. Victoria Hall also employs casual staff to assist as and when required.
- **Unsociable Behaviour of Some Students** To try and prevent and/or reduce the level of unsociable behaviour of our residents, Victoria Hall undertake: To visit all local complainants in the community who are concerned at the anti social behaviour committed by students of Victoria Hall. To investigate matters, of a purely internal nature, resulting from student misbehaviour. To give advice, guidance and support to all members of Victoria Hall staff in dealing with students who have misbehaved or contravened their Tenancy Regulations. To introduce a central database of offenders which would be accessible to those members of the Police and University who have a vested interest in such matters.
- **Disciplinary Issues** Most of our residents act in a responsible manner having a respect for themselves, neighbours and property. There are some, however, who act inappropriately which often results in the requirement for disciplinary action to be taken. Noise in general, antisocial behaviour, loud music both inside and outside the hall, deliberately setting off fire alarms and engaging in criminal activity, are all areas of concern and it is essential that all such incidents are dealt with quickly and effectively. To assist in managing potential situations / incidents Victoria Hall has drawn together a useful guide for Hall Managers which sets out how to try and ensure the effective management of low level incidents of anti-social behaviour, and how the support of the University concerned can assist in dealing with serious incidents of anti-social behaviour. There is evidence to support that dealing with these types of incidents quickly prevents escalation into more serious or more frequent incidents
- **Cleaning /Waste Management** Victoria Hall staff will ensure all elements of the accommodation (both internally and externally) maintain a good, clean, stain and graffiti-free appearance, ensure repairs to damage of the building fabric and services is delivered through a responsive maintenance service, with emergency

assistance available 24 hours per day, 365 days per year. Grounds Maintenance will use reasonable endeavours to ensure all hard landscaped areas are safe and accessible, and kept free from graffiti, litter, weeds, waste and other debris, ensure all soft landscaped areas are kept free from litter and other debris and are tended to produce a well-kept and cared for appearance, ..., use reasonable endeavours to provide an environment that is clean, tidy, free of odour. The Magdalen Street scheme includes a dedicated refuse store, to be managed through regular weekly collections. The site caretaker will supervise on collection days, ensuring that the bins are returned to the store once refuse vehicles have left the site. The refuse store will be subject to regular cleaning. With respect to our general waste management procedures, Victoria Hall will always use reasonable endeavours to: ensure the frequent collection and removal of all waste in a hygienic manner from the designated bin store; ensure that sufficient capacity is available to cope with the quantity of rubbish within the accommodation and increase storage provision if necessary, ensure that collection is at such times and in such a manner as to cause the minimum level of disturbance to residents, neighbours and visitors; ensure that collection is at such times and in such a manner so as to comply with all relevant statutory requirements and cause the minimum of risk to the health and safety of residents, neighbours and visitors, ensure that collection is undertaken at such times and in such a manner so as to comply with all relevant statutory requirements and cause the minimum of risk of rodent, insect or other infestation; ensure adequate recycling facilities are available”.

6.0 Conclusion

- 6.1 Officers have given careful and detailed consideration to the concerns raised by Members but in this instance are not been able to identify and recommend any reasons for refusal which they consider could be successfully defended at appeal. In the absence of any evidence and lack of support from “expert” consultees the likelihood of costs being awarded against the council at appeal would be high. The previous recommendation of a conditional planning permission subject to the prior signing of a legal agreement is recommended. A planning permission granted by the council and subject to conditions and a legal agreement gives greater certainty than a potential appeal scenario founded on unsubstantiated reasons with a high degree of vulnerability.

The previous report to members is produced in Appendix 1

7.0 Amendments to the previous report are set out below

- 7.1 The description was revised during the consideration of the application and should refer to 17 studios and 59 cluster flats, paragraph 4.2 should also be amended (the number of bed spaces is not affected)
- 7.2 Condition 2 drawings numbers amended The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing AFM1512 PL-10-SITE, AFM1512 PL-10-00 rev C, AFM1512 PL-10-01, AFM1512 PL-10-02, AFM1512 PL-10-03, AFM1512 PL-10-BASE, AFM1512 PL-10- ROOF, AFM1512 PL-20-A-100, AFM1512 PL-20-B-101, AFM1512 PL-20-C-102, AFM1512 PL-20-C-103, AFM1512 PL-20 -D-104 AFM1512 PL-20-E-105, AFM1512 PL-30-01, AFM1512 PL-40-SS-01, AFM1512 PL-40-SS-02 AFM1512 PL-40-SS-03, AFM1512 PL-50-A-01, AFM1512 PL-50-B-02, AFM1512 PL-50-C-03 AFM1512 PL-50-D-04, AFM1512 PL-50-

E-05, AFM1512 PL-50-ST-100, AFM1512 PL-50-ST-01 AFM1512 EX-10-01, AFM1512 EX-50-02, AFM1512 EX-50-03, AFM1512 EX-40-04, AFM1512PL-30-01 and LANDP001 rev)3.

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

- 7.3 A minor rewording of conditions 3, 5, 6, 7, 17, 29 and 32 is proposed to allow demolition to take place prior to the condition being discharged
- 7.4 A minor rewording of condition 19 is suggested so that details of the insulation to the gym is required prior to the commencement of the relevant part of the development
- 7.5 Since the publication of the previous report a response has been received from Essex County Council Flood & Water Management Planning & Environment withdrawing their objection. They comment as follows “As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015. In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:
- Non-statutory technical standards for sustainable drainage systems
 - Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
 - The CIRIA SuDS Manual (C753)
 - BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission. The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the FRA and the above mentioned documents submitted with this application are implemented and secured by way of planning condition on any planning permission.

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. This shall include but not be limited to:

- Investigation into the feasibility of infiltration on site. Should this prove acceptable this should form the basis of the surface water drainage strategy. If this is found not to be possible discharge from the site must not be more than 50% of the existing 1 in 1 year brownfield rate for all events up to and including the 1 in 100 event plus a 30% allowance for climate change. This should be based on a detailed assessment of the existing on site drainage system.
- Written evidence that permission has been granted from Anglian Water to discharge into the existing drainage network. Further information should be sought about the viability of connecting to the existing surface water sewer.

- Provide sufficient surface water treatment for all elements of the development, in line with the CIRIA SuDS manual (C753)

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

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. 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.

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.

- 7.5 Prior to the occupation of any part of the development hereby permitted a 2metre high fence shall be erected along the boundaries of the site in accordance with details previously submitted to and approved in writing by the local planning authority. The approved details shall thereafter be retained.

Reason: To protect the amenities of adjacent neighbours.

- 7.6 No amplified sound is permitted outside the buildings.

Reason: To protect the amenities of adjacent neighbours.

8.0 INFORMATIVES:

- 8.1 Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- 8.2 Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- 8.3 Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

7.5 Case Officer: Sue Jackson

Due Date: 20/04/2016

MAJOR**Site:** Former Bus Depot, Magdalen Street, Colchester, CO1 2LD**Application No:** 160103**Date Received:** 20 January 2016**Agent:** Miss Laura Dimond, Maddox and Associates Ltd**Applicant:** Mr Robert Oates, Victorial Hall Management Ltd

Development: Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across five blocks of one, two, three and four storeys to provide 230 bedspaces (61 cluster flats and 16 studio flats), communal facilities (to include bin stores, cycle stores, site management office, gym and communal amenity areas) as well as undercroft car park (20 car parking spaces), landscaping and a new public pathway through the site.

Ward: New Town

Summary of Recommendation: Conditional Approval subject to signing of 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 major application on which material objections have been received; a legal agreement is also required.
- 1.2 The application has also been “called in” for determination by the Planning Committee by Councillor Theresa Higgins for the following reasons:-

“It does not follow the aspirations for the site as set out in the Magdalen Street Development Site Jan 2014. It is over development of the site, blocks E and D seem to be squashed into the site and are not sympathetic the listed buildings at the rear of the site. It does not provide any additional units of accommodation to the help with the Borough's housing target. New Town needs more accommodation to cope with an ageing population not another block of accommodation for a transient population. The buildings appear to have been set further forward than the indicative plans in the planning brief and as set out in paragraph 4.2: having large scale forecourts. This will not help the air quality management of the site. The planning brief for the area also suggests that the expectation will be three storey buildings. In this application the buildings fronting Magdalen Street are all 4 storey.

The parking provision as set out in the planning brief is for 100% parking, this application does not provide the requisite amount of parking. "The site layout plan shows a total of 20 car parking spaces, which equates to a site wide average of 0.09 spaces per bed. Whilst this level of parking is lower than the 0.20 spaces per bed requested by CBC during the course of pre-application discussions, it should be noted

that anticipated demands are anticipated to be in the order of just 0.04 vehicles per bed." this is the quote from the transport report.

This application will be detrimental to the amenity of the existing neighbouring residents. There is no amenity space provided for in this application".

2.0 Synopsis

- 2.1 The application seeks full planning permission for the redevelopment of a brown field site for student accommodation; a sui generis use. The report describes the proposed development, the site and surrounding land uses.
- 2.2 The key issues explored below are the Magdalen Street Development Brief and other relevant policies; an assessment of and response to the representations; issues relating to air quality, highways/ parking, impact on adjacent properties and the surrounding area, heritage assets, flood risk and drainage are explained. Details of the proposed legal agreement are also set out.
- 2.3 The planning merits of the application are assessed and it is concluded that the development is acceptable, planning permission is recommended subject to conditions and a legal agreement being signed.

3.0 Site Description and Context

- 3.1 The site is irregular in shape and is best described as rectangular with a small projection on the south boundary. It has an area of 0.4322 hectares and has twin frontages of 104 metres to Magdalen Street and 13 metres to Military Road and backs onto Winnock Road. It was last used as a bus depot and is owned by Colchester Borough Council. The supporting information states the site operated as a bus and tram depot for over one hundred years with different parts of the site being developed since 1904 when the municipal tram service opened. The Heritage Statement sets out the history of the area and the development of Magdalen Street and the application site.
- 3.2 The Magdalen Street frontage includes a range of buildings and hard surfaced areas which were used for parking buses and other vehicles. There are limited tree and shrubs on the site predominantly along the side and rear boundaries. At the east end of the site is a large parking area behind a high wall and gates with a dropped kerb access to the road
- 3.3 The former bus depot building extends from the front to rear of the site and has a road frontage of approx. 27 metres, is approx. 37 metres deep and the brick façade to the road is approx. 7.5 metres high with the corrugated metal roofs projecting a further 2-3.5 metres. This brick and rendered frontage is divided by a series of substantial brick piers, it has large areas of glazing plus massive doors 6.5 metres in height. Behind the brick façade is the corrugated metal shed with a series of shallow metal clad roofs. The site also contains corrugated metal sheds generally open to the road with shallow pitched metal clad roofs a maximum height of 9 metres. A former tram shed is set back from the Magdalen Street frontage but abuts Military Road where the red brick façade is locally listed. The rear elevation of one of the metal clad sheds also fronts Military Road. Between this shed and the boundary of adjacent Almshouses is a narrow sliver of land previously used as a means of access from the buildings. The ownership of this land is unknown and it does not form part of application site.

- 3.4 The site also contains other smaller buildings including an electrical sub-station and fuel storage plus repair/servicing areas. There are three vehicular access points to Magdalen Street.
- 3.5 There is a significant change in ground level between Magdalen Street and Military Road with the latter being at a higher level (approximately one storey). Section drawings of existing and proposed buildings clearly demonstrate the difference in ground levels and will form part of the presentation at the committee meeting. Kendalls Almshouses to the rear of the site are approx. 2.5 - 3.5 metres higher than the site.
- 3.6 Magdalen Street is a classified road and described as a Radial Feeder, Military Road also classified is described as a Secondary Distributor. There are double and single yellow parking restriction lines in operation outside the site on Magdalen Street and a single yellow line in operation outside the site on Military Road. Residential streets in the vicinity have residents parking schemes.
- 3.7 The site is 250 metres from the town railway station, and 430 metres from the bus station. There are bus stops on both sides of Magdalen Street and Military Road. Colchester town centre is close to the site with Culver Square and High Street being a 10 minute walk away.
- 3.8 There are a range of uses and building of various styles and heights along Magdalen Street. On the opposite side of the road are buildings of a traditional design some of which are locally listed, generally 2 and 3 storey in height and include retail, office and residential use. There is also a restaurant and an MOT garage. The recently constructed Emmaus building is of a contemporary style and whilst mainly 3 storey includes a 4 storey element; whilst the YMCA building which is also relatively new is constructed of brick with pitched tiled roof and is 3 storeys in height. To the east of the site is a recently constructed residential building of a traditional style, 3 storey faced in yellow brick with a pitched tiled roof, adjacent is the Aldi store with residential development above constructed of red brick under a pitched tiled roof. On the west side of the site is Robertson's self-drive vehicle hire in a 2 storey building the offices are in a converted dwelling with residential properties adjacent. Magdalen Street is generally an area of a mixed use including residential, retail including food retail, office and commercial uses which include restaurants, a car dealership, petrol filling station and MOT garage; there are also sections of undeveloped or underdeveloped frontage.
- 3.9 The rear boundary of the site abuts Kendall Almshouses, no's 1-16, Kendall Terrace are Grade II Listed buildings other Almshouses in this group are locally listed. These Almshouses are located very close to the site boundary with the main amenity area at the front of the buildings; they are within the New Town Conservation Area the boundary of which is the almshouses boundary. There are also Almshouses to the west of the site 8-22 Military Road also locally listed these properties have small rear gardens ranging in length from 4-9 metres where they back onto the site. On opposite side of Military Road is Winnocks Almshouses listed grade I. A former PH, no 25 Military Road on the corner with Golden Noble Hill is also listed and there is a further listed building on corner of Military Road and Magdalen Street.

4.0 Description of the Proposal

- 4.1 The application is described “as proposing a dedicated student residence on the site”. The applicants Victoria Hall Management Limited established in 1996, is a private company that specialises in the development and management of purpose-built student accommodation. They provide high quality accommodation designed specifically for students. They own and manage over 7,000 beds throughout the UK. Their sites are designed to be safe and secure for occupants and surrounding communities”.
- 4.2 The application seeks planning permission for the demolition of the existing buildings and redevelopment of the site to provide student accommodation in five separate buildings; described as Block A, B, C, D and E, comprising one, two, three and four storeys. A total of 230 bedspaces will be provided in 77 units comprising 16 studios and 61 cluster flats. In addition to the bed spaces shared facilities including bin stores, 110 cycle spaces, a site management office, gym and communal amenity areas will be provided as well as 20 basement car parking spaces, landscaping and a new pathway through the site.
- 4.3 Blocks A, B and C are set back from the Magdalen Street carriageway by between 6.2 - 8.2 metres, this includes a widened footway of 2 metres. A loading bay is proposed outside Block B which will be used by service vehicles, deliveries and for dropping-off students during the initial move in. Cycle parking is also indicated to the front of Block B.
- 4.4 Block A is adjacent to the Robertson’s vehicle hire premises and is 3 storey with a central 4 storey element. A ramped vehicular access is proposed to 20 car parking spaces which are accessed from Magdalen Street via an undercroft and located at basement level and to the rear of the building. The provision of the basement car park will require a reduction in the ground level.
- 4.5 The ground floor of Block B includes facilities for the site and provides some active frontage with uses such as reception areas, communal rooms for the students, a laundrette and gym. The communal waste and recycling store is located adjacent to block B. This block is described as the “main security point from the site with all entrances to all buildings on the site visible from this corner”. Block B includes a 4 storey element recessed behind the frontage and a curved corner where it faces Block A.
- 4.6 Block C also fronts Magdalen Street and is part 3 part 4 storeys in height. The rear elevation of this Block steps up sequentially from one storey to two storeys, three and then four storeys as the distance from the rear boundary increases.
- 4.7 Block D is a smaller block and is located to the rear of the site adjacent to Kendalls Almshouses. The building has a curved roof and has no windows facing the Almshouses boundary. The building is 3 storeys high but is located at a lower ground level.

- 4.8 Block E includes the retained tram shed facade to Military Road the first part of new building is the same height as the façade then as the ground level is lower the block is 3 storey. Part of this building is above the parking area and this basement area also provides secure cycle parking.
- 4.9 The remainder of the Military Road frontage is opened up to provide a pedestrian link through the site to Magdalen Street. This link 4.9 metres wide at its narrowest point in effect creates a new street with the new buildings facing onto it. It is provided with a dropped kerb vehicular access and will be used by emergency vehicles to access the site. There is access from this path to the various Blocks and to courtyard amenity spaces between buildings and to areas of cycle parking. Sections of tram tracks are incorporated into these courtyards.
- 4.10 The supporting information indicates the footpath is proposed to be closed from dusk until dawn to ensure the site is safe and secure for students. Whilst it will be possible to wheel bikes along the path, as there will be a lot of pedestrian activity and cross movement between Blocks, cycling would not be appropriate.
- 4.11 The application proposes landscaping, including tree planting, along the Magdalen Street frontage and landscaped courtyards between the buildings.
- 4.12 Materials are indicated as brick elevations, plus small areas of timber cladding, a glazed facade to the communal areas fronting Magdalen Street and zinc cladding to the recessed four storey elements and flat roofs.
- 4.13 In addition to the application drawings and section the following documents are submitted:-
Air quality statement
Archaeological assessment
Biodiversity survey and report
Daylight and sunlight assessment
Design and access statement
Flood risk assessment and drainage strategy
Health impact assessment
Heritage statement
Land contamination assessment
Landscape details
Noise impact assessment
Planning statement
Statement of community involvement
Transport assessment
Arboricultural report

5.0 Land Use Allocation

- 5.1 East Colchester Special Policy Area
East Colchester Regeneration and Growth Area
Air Quality Management Area

6.0 Relevant Planning History

- 6.1 The planning history relates to the former use of the site as a bus depot.
- 6.2 A preliminary pre-application enquiry for the use of the site to provide student accommodation was submitted last year.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
CE2 - Mixed Use Centres
CE2a - Town Centre
CE2b - District Centres
CE2c - Local Centres
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
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
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

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

SA H1 Housing Allocations
SA EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC5 Area 3: Magdalen Street

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

Backland and Infill
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
External Materials in New Developments
Affordable Housing
Cycling Delivery Strategy
Air quality management Guidance Note, Areas and Order
Managing Archaeology in Development
Magdalen Street Development Brief

8.0 Consultations

8.1 Essex County Council Flood & Water Management Planning & Environment

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

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

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

Lead Local Flood Authority position Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we object to the granting of planning permission based on the following:

Inadequate Surface Water Drainage Strategy

The Drainage Strategy submitted with this application does not comply with the requirements set out Essex County Council's Detailed Drainage Checklist. Therefore

the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

- Provide Information about discharge rates – Where possible rates should be limited to the greenfield 1 in 1 year rate
- Provide sufficient information about the discharge location. – The discharge hierarchy should be considered when looking for surface water disposal solutions. Current proposals suggest discharge to a combined sewer which is the least preferable option. Evidence should be provided to demonstrate that alternative discharge routes are not viable at this site. Furthermore evidence should be provided to demonstrate that the proposed discharge solution would be acceptable to the owner of the receiving network.
- Provide information about the required attenuation volumes. – these figures should provide an allowance for climate change.
- Demonstrate that the proposed drainage system will sufficiently treat surface water runoff. This should be in line with the latest guidance in the CIRIA SuDS Manual (C752).
- Take account of the Colchester Surface Water Management Plan. The site is located within CDA03 and therefore additional care should be taken when assessing the impact of surface water runoff from the site. • Provide a drainage plan showing indicative locations for drainage features.

Officer comment: *The applicant has submitted revised documents which are being considered by Essex County Council, it is anticipated their objection will be removed prior to the Committee meeting.*

8.2 Environment Agency

We have inspected the application, as submitted, and have no objection subject to the conditions set out below. We have also provided some advice on drainage and sustainability.

Contaminated Land National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121). The site overlies the superficial sands and gravels of the Kesgrave Formation/Lowestoft Formation (undifferentiated) designated as Secondary A aquifer. The London Clay Formation is the underlying bedrock, an unproductive deposit. The site is not within a Source Protection Zone. The Red Rock Geoscience Ltd, Phase 1 Desk Study, dated January 2016, has confirmed the previous use of the site does have the potential to have caused land contamination and, as such, site investigation and detailed risk assessment work will be required to determine the extent of contamination and the level of remediation required to ensure the protection of the water environment. We therefore consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

8.3 Planning Policy

National policy context

The NPPF (National Planning Policy Framework) contains various principles relevant to this proposal including commitments to promote vitality in urban areas and to encourage the effective use of previously developed land. The NPPF sets out a presumption in favour of sustainable development but maintains the primacy of Local Plans by requiring planning applications to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. Colchester has an adopted Local Plan comprising a Core Strategy, Development Policies DPD and Site Allocations DPD (and supporting Proposals Maps). The Local Plan is considered to be up to date and is not absent or silent on any relevant issues.

Local policy context

Relevant Council policy is set out in the Core Strategy (adopted 2008, amended 2014), Site Allocations DPD (adopted 2010) and Magdalen Street Development Brief (adopted 2014).

The Core Strategy includes a clear commitment to regenerate key locations of Colchester town to efficiently accommodate future growth requirements. Included in this strategy is the regeneration of east Colchester which is identified as a Growth Area in Policy SD1. The proposal site falls within this Growth Area as well as being situated in between the key regeneration areas of the Hythe and St Botolph's. Core Strategy Policy H1 sets out the Council's housing target from a spatial perspective and states 2,600 new homes are expected to be delivered in the East Colchester Growth Area up to 2021. Magdalen Street therefore plays an important role in the overall regeneration and housing delivery strategy set out in the Core Strategy.

The Site Allocations DPD (adopted 2010) contains a specific policy in relation to the regeneration of Magdalen Street. Policy SA EC5 Area 3 states that Magdalen Street will continue to attract the existing mix of commercial, residential, service and retail uses to complement its edge of centre location. The underlying purpose of this suggested mix of uses is to encourage vitality whilst ensuring future development does not affect the amenity of neighbouring housing areas.

In recognition of the site's potential, the Magdalen Street Development Brief was prepared and adopted in 2014. The development brief sets out the Council's expectations of future development proposals in the area including what it considers appropriate uses, accessibility improvements and suitable design principles which should be applied. The development brief also highlights the existing range of inefficient and inappropriate land uses in the area which provide significant opportunities for comprehensive redevelopment.

Conclusions

Whilst the proposal is for a purely residential scheme, not the mixed uses encouraged in the Site Allocations DPD, it falls within a wider area of mixed use developments on Magdalen Street including recent retail additions. The scheme satisfies the principal rationale for local policy in this area which is to facilitate the regeneration and redevelopment of previously developed land, situated in a very sustainable location. The proposal is considered to achieve these objectives and is therefore in accordance with local and national policy.

8.4 Urban Design Officer

The application has significantly improved informed by pre-application dialogue and due to the applicants responsive approach to issues raised. I feel the scheme now generally represents good design as defined in the NPPF and reasonably complies with guidance outlined in the adopted Magdalen Street Development Brief. I am therefore happy to support it, though with a few minor revisions which might be agreed through condition.

The scheme is relatively dense, though now realistically moderated and articulated in response to the local context, for example having regard to local character and neighbours, and positively contributing to the Magdalen Street scene. The height and massing of buildings should ultimately be design led in response to the context. Proposed buildings to Magdalen Street would be a varied mix of 3-4storeys, with the relative slight increase in general height mitigated by the building being set-back from the street, which effectively reduces the street enclosure, and top floor set-backs meaning from the street the frontage will be perceived as predominantly 3 storey. The use of flat roofs further minimises the sense of massing.

The massing would also be pleasingly broken down into more human scale parts and building plains (occasionally emphasised by gaps between buildings), in response to the area's historic plot-derived character, yet providing a coherent structure which is honest to the use. Street trees would further soften the street scene.

The scheme appears cleverly arranged, modelled and fenestrated to reasonably mitigate (privacy, outlook and shadowing) impact on neighbouring housing to the south and southwest, utilising beneficial levels and sunpath, e.g. (i) Block D is three storeys, though replaces a large building, is just over a storey below adjoining housing to its north (considering sunpath) and the 2nd storey is in an attractively recessive barrel roof form with no facing windows, (ii) Block C, which is also to the north, is stepped and windows positioned to avoid unreasonably overlooking neighbouring Almshouses, helped by boundary walls and land dropping approximately a storey in height into the site, (iii) windows to Block A (to the north) and E are angled to avoid unreasonable overlooking of neighbours, and (iv) Block E's immediate massing appears no worse than that existing seen from neighbouring homes to the northwest, would have no facing windows and the 3 storey element is further away and to the north.

The historic building frontage to Military Road is retained, whilst other features are incorporated including tram lines and motif.

The scheme's architectural expression is crisply contemporary, though has historic references and responds to specific contexts. It would complement the mixed local character setting and combined with the modelling of buildings provides reasonable design interest and distinction which should uplift the overall perception of the street, subject to reassurances over the use of high quality details and materials which will be important in carrying off the intended design style.

Car parking provision appears adequate for the particular residential use, assuming this is supported by the travel plan. It should also be noted that on-street parking is protected by local parking restrictions and I understand the legal agreement will not allow residents of the scheme to obtain on-street permits.

A much needed new pedestrian through-route is provided between Military Road and Magdalen Street. The juxtaposition and design of framing buildings and landscaping would provide an attractive, legible and interesting new street. Sadly, public access would be restricted to core hours, though I accept the applicant's reasoning for this being to secure the site out-of-hours relating to the particular residential use.

The Urban Design Officer has suggested minor amendments to the scheme and these revisions have been included in revised drawings.

8.5 Highway Authority

Due to the nature of the proposal, the Highway Authority is content it would not be detrimental to highway capacity and safety. The site is also accessible to local services and public transport facilities. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

8.6 Historic England

Summary

The proposed redevelopment of this major site adjacent to the Colchester New Town Conservation Area would transform the appearance of this section of Magdalen Street in a positive manner. Historic England is satisfied that the scale, massing and detailed design of the overall scheme are contextually sensitive and we would have no objections to the approval of the planning application.

Historic England Advice

Historic England consider that whilst the existing bus depot buildings do provide an intrinsically positive architectural contribution to the streetscene, the application site does not lie within the conservation area and we would not object to their demolition. The proposed change of use of the site to residential would have greater conformity with surrounding land uses and we are satisfied that the scale and massing of the five accommodation blocks, with a maximum height of four storeys - penthouse storey set back - would not be overbearing in this prominent location. They would not cause harm to the setting of the listed Kendall Almshouses. Whilst the new development could not be set at back of pavement as before for environmental health reasons, the resultant siting of the blocks provides the opportunity to soften their immediate setting. The proposals would be in accordance with guidance in the National Planning Policy Framework and our view is that on balance, the character and appearance of the proposed student accommodation would enhance the streetscene of this part of Magdalen Street.

Recommendation

Historic England consider the proposed redevelopment of this major site would not cause harm to the significance of the setting of the abutting grade II listed Kendall Almshouses or the adjacent Colchester New Town Conservation Area. The scale, massing and detailed design of the residential scheme would be an enhancement on the current streetscene in this prominent location on Magdalen Street. We would have no objections should your authority be minded to approve the application for planning permission.

8.7 CBC Recycling Manager

In their Design and Access document they state: On collection day the site manager will take the bins to the front of Block B and they will be collected from the servicing/loading bay. Is the site manager permanently based on site, as the bins will need to be presented at 07:00am on the day of collection, and what will happen if the loading bays are occupied when the vehicles turn up, as there appears to be no other parking or stopping point? I would like to point out the vehicles, depending on operational issues could arrive on site anytime between 07:00am and 4:00pm on the day of collection.

Officer comment: *In response to these comments, Victoria Hall Management has confirmed that there will be management present on site 24/7, so they will be able to ensure the bins are taken out at 7:00am.*

In response to the query relating to the functioning of the loading bay, our transport consultant has confirmed that the loading bay will be subject to a Traffic Regulation Order that restricts its use for loading activities.

8.8 Environmental Protection

No objection subject to conditions.

8.9 Environmental Protection Contaminated Land Officer

A Phase 1 Desk Study Report has been submitted in support of this application. This report is acceptable for Environmental Protection purposes. It has identified some potential sources of contamination which require further (intrusive) investigation and risk assessment, including ground gas risks. The applicant's attention is drawn to their consultant's recommendations with respect to asbestos and unexploded ordnance.

However, based on the information provided, it would appear that the site could be made suitable for the proposed use, with the necessary additional investigations and (where necessary) remediation and validation dealt with by way of condition. Consequently, should permission be granted for this application, Environmental Protection would recommend inclusion of conditions.

8.10 Archaeologist

The proposed development is located within an area of high archaeological interest. The desk-based assessment has shown the application site to have a high potential for encountering medieval and post-medieval activity, particularly along the street frontage, and potential for earlier archaeological remains. In addition to below-ground remains, the application concerns the redevelopment of the Former Bus Depot, part of which is a locally listed heritage asset and aspects of the building are of historic significance.

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.

8.11 Landscape Officer

It is recommended that if the current proposals are agreed in principal at this stage then compliance with the recommendations regarding tree species, location and planting specification should be secured under a bespoke condition in support of the above recommendations, i.e. a bespoke condition ensuring that any detailed landscape proposals that are submitted to discharge these conditions are drawn up strictly in accordance with the recommendations outlined in this consultation, notwithstanding the current proposals.

8.12 Natural England has no comments to make on this application.

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 A single representation in support and 11 objections have been received (not all the objections are from residents adjacent to the site)

1.0.2 The Clerk to the Winnocks and Kendalls Almshouse Charity has submitted the following objections: The Charity is the land owner to the south of the site of the bus depot and is concerned that as land owners clearly affected by the proposed development we have not received any notification relating to the application.

Officer comment: *The Almshouses were each notified individually.*

10.3 We have been in touch with the Chief Executive Officer of your Council, to ask him for details relating to the ownership of the boundary and retaining wall between the bus depot and our property. The integrity of this boundary and retaining wall is of vital interest to the Charity. It will be a necessity of entering into a party wall agreement with the developers. We would wish to know what conditions you will place upon the developers regarding sustaining the integrity of the retaining wall. Would you place a bond on the developers whereby the possible costs of damage to the retaining wall are insured by them? Kendall Terrace is a Listed Grade II*. It is situated within 10 meters of the retaining wall. Will you be reporting the application to the English Heritage for their comments regarding the planning application? When asked at the exhibition by the proposed developers with regard to their plans for student accommodation as to what parking requirements the students would have and be provided with we were told that students would not be allowed to have cars. This is somewhat surprising and we are particularly concerned as to the effect on New Town of having cars parked willy nilly and causing disruption to residents living in the immediate area. We were told that no survey had been commissioned by the proposed developers as to the demand for student accommodation at the proposed site. This calls into question the viability of the whole scheme. We would not wish to see a development which would be subject to risk of not meeting economic viability. We trust this matter will be called in by your Council for consideration by the full planning committee and will not be delegated to officers for decision.

Officer comment: *Whilst land ownership and boundaries are not a planning matter in this instance the Council is the land owner. CBC Estates Manager has responded "I have met Mr Siggs on site to discuss the issue of the boundary walls – the meeting was amicable and we agreed that the neighbour would be consulted by the developers"*

in the normal way once planning is secured and before construction commences. It is noted that along approximately half the boundary of the site is an existing footpath which provides a buffer between the almshouse site and the former bus depot. There will not be any party wall issues along this portion. Effectively the wall to the perimeter of the almshouses will not be affected. Of the remainder of the boundary part is the wall of the existing bus depot building and part is a boundary wall. The walls of the existing bus depot building on the boundary are owned by CBC and are not party walls. The remaining boundary walls are thought to be owned by CBC. Where the walls on the boundary are existing bus depot building these will be either fully or partly demolished down to approximately 2m in height as part of the redevelopment and as appropriate a suitable boundary treatment will be reinstated. There are no plans to demolish any of the remaining boundary walls. We do not think it is appropriate to impose any overriding obligation on the developer for any boundary wall or party wall agreement or the need for insurance at this stage. The onus will be on the developer as part of its works to ensure that no nuisance or detriment is caused affecting the almshouses site”.

10.4 Sir Bob Russell

The application is contrary to the 2014 Magdalen Street Development Brief. The proposed use density and height are contrary to the brief. What from the brief of substance or recognisable status is there in the application?

The application makes this the worst proposed development ever to be inflicted on New Town Ward. The proposed development is not in accordance with other new buildings such as the YMCA Foyer, Emmaus, Aldi with flats above and the 3 residential infill schemes on the other side of the street. The appearance is bad enough but to cram so many students into one development within feet of listed Almshouses is totally unacceptable to the elderly residents and to the students. Late noise parties and other student behaviour is inevitable and who will police it

I strongly urge the council to reject the application as being inappropriate to the area due its height density high concentration of student accommodation in close proximity to established elderly persons accommodation and in appearance not in accordance with other recent development in the area which is in accordance with the historic character of the area.

I have also previously requested that the end wall in Military Road is retained in any development.

10.5 Other objections

One supports the comments made by Sir Bob Russell. Other objections are summarised below:

- There are already too many houses and flats in the area, the development should be built nearer the university.
- Magdalen Street is already suffering from air pollution with the high traffic throughput, so a smaller development would not have such a detrimental effect.
- Colchester is already overwhelmed with 3, 4 and 5 storey flats and this should be controlled, particularly when they overlook ordinary houses.

- The developers have clearly attempted to squeeze maximum profit out of this site by creating a monster complex which is too high, deep and ugly.
- The authority should be extra mindful of the problems already attached to this locality being only 200 metres from Kebab Alley (aka St Botolphs Street).
- The authority via street wardens, or the police, will never be able to keep the lid on problems. They don't have the resources.
- It will take the council's 'vibrancy' policy to a new level and be marvellous for the "up to 3am" night time economy. But will be no joke for neighbours in Magdalen Street or anyone else with an eye on how the area is changing.
- Surely, The CBC's goal is to make Colchester T/C a more pleasant place to visit by careful planning and improving community relations. Approving these plans for this purpose will send it backwards.
- The style and size of the building is completely out of character with the area. At least the Aldi building has brickwork facades and some attempt at character. The proposed style may be OK in the 'flat city' of Hythe, but not here on the edge of the conservation area. Magdalen Street deserves better than this, now recovering after years of neglect and blight.
- It seems a great shame that one of the few buildings of any architectural merit is to be demolished to make way for yet another ugly utilitarian student ghetto. This building should be preserved as the starting point of a genuine regeneration plan for the area. No proposal should be permitted which destroys the original tram depot and facade of the bus garage in their entirety. The historical merit of these buildings should not be underestimated. With sympathetic redevelopment, their architectural merit can also shine. If this is approved, those responsible will have irreparably destroyed a part of Colchester's heritage.

Officer comment: *Historic England was consulted and do not object to the demolition nor development please see response set out above.*

- Surely the planning process is about scrutiny of proposals to ensure the long-term benefit of the town, not the short term financial benefit of property developers? If we must take more and more houses and homes, should we not at least make these developers pay to create the highest quality developments?

10.6 Colchester Cycling Campaign This is not a good site for student accommodation unless cycling and pedestrian links to the town centre and university are vastly improved to the standards of the East-West bike route currently being built in London. Thought should be given to putting such tall buildings on a busy road. The height could lead to a canyon effect whereby cancer-causing vehicle fumes are trapped at street level, increasing the dangers of air pollution; I believe this would have implications under the Human Rights Act. If the plan is approved CCC would like to see a substantial s106 or CIL supplement towards local cycle routes.

10.7 Residents of two of the almshouses have objected for the following reasons

- The bus garage was far too close in proximity to the flats making the noise almost unbearable at times, especially at night. Noise from students will be just as intrusive and may possibly be present much of the day as well as at night.
- Whilst from the plans it does not appear that there will be any four storey flats immediately behind the boundary wall, there does appear to be some accommodation planned close to the wall, possibly creating a noise problem.
- There is no car parking within the gates of the almshouses and I have a parking permit which enables me park in recognised areas of street parking. There are already insufficient spaces for all those who wish to park

- Before the public house opposite Winnock Road closed down there were often problems with young people becoming very rowdy and frightening some of the residents. There are elderly and very vulnerable people living here who are worried about this development and who do not seem to have been considered when it was conceived.
- In the wider context, the planned flats do not appear to be in keeping with the area

10.8 One letter of support “I strongly agree with this proposal as there is a requirement for good quality student housing in Colchester but have the following 2 concerns with the development.

1. There are bus stops on both Magdalen Street and Military Road adjacent to this development please can bus stop lay byes with bus shelters be installed on both of the respective roads to ease traffic flows. As both Magdalen Street and Military Road can get very congested with traffic especially at rush hour I feel this would be a positive development.
2. As there are an increasing number of disabled students at the university. I question why a room with disable facility’s and a disabled car parking space has not designated in the plans.

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

11.0 Parking Provision

11.1 Members should note that there is no specific category within the adopted Car Parking standards that deals with off-campus student accommodation. The Maltings development for student accommodation at Haven Road achieved 1 space for 5 students applying the nearest applicable standard for residential education establishments - Further/Higher Education where a maximum vehicle parking standard is 1 space per full time equivalent staff + 1 space per five students.

11.2 This application proposes 20 spaces which equates to 0.09 spaces per bed space. However the applicant estimates the demand will actually be lower at 0.04 vehicles per bed space.

11.3 The supporting information states that “the proposed parking spaces will be reserved for staff, disabled students and essential users (e.g. students that are enrolled on courses that require them to use a car perhaps due to ‘out of hours’ commitments). Those students that are not eligible for a parking space will be required to sign a lease that includes a clause preventing them from bringing a vehicle to Colchester during term time.

A Travel Plan is proposed to encourage students to make use of more sustainable modes of transport when travelling to/from the site and an Operational Management Plan will be implemented which will include measures relating to pedestrian, cyclist and vehicle access, as well as measures to manage student arrivals and departures at the beginning and end of the academic year.

- 11.4 The supporting information indicates the key elements of the Operational Management Plan in relation to traffic and parking management in these periods are:-

“Student Arrivals:

The vast majority of student arrivals are evenly spread over a three-day period (i.e. Friday to Sunday) between 9am and 6pm, usually during the third week of September; Prior to arrival, every student is allocated an arrival slot (for duration of circa 20-minutes) and is provided with directions to the site. All students are informed that once belongings are unloaded, cars must be removed to nearby public car parking.

Residents will also be encouraged to use nearby public car parks rather than parking directly outside the site for unloading; albeit the shared footway / drop off / pick up and loading bay provided on Magdalen Street will also be made available.

The Halls management team will employ students to act as guides/traffic marshals, who manage the flow of vehicles.

Students will also be employed to help unload cars so that they can be moved to nearby car parks.

Student Departures:

Students move out of accommodation more gradually, over a period of 5-6 weeks during late May to June, meaning there is not the same pressure as during the arrivals period.

During the departures period, students will be able to utilise the drop off/pick up layby provided on Magdalen Street to collect their belongings. Cars will not be permitted to be left unattended, and once loading has finished students will be directed to nearby public car parks.

Such management strategies have been successfully employed at other existing halls of residence operated by Victoria Halls across the UK”

The above parking standard requires 1 cycle space per 5 staff and 1 cycle space per 3 students - 110 spaces are proposed which exceeds this standard.

12.0 Open Space Provisions

- 12.1 Whilst Policy DP16 of the Adopted Development Policies document states residential development will be expected to provide publicly-accessible areas of open space and as guideline at least 10% of the gross site area should be utilised for this purpose, Members are advised that there is no specific policy standard that relates to the provision of student accommodation.
- 12.2 The submitted scheme includes a landscaped area to the Magdalen Street frontage. It also proposes a pedestrian link between Magdalen Street and Military Road which will be available for public use between dawn to dusk. In addition there are courtyard amenity areas of hard and soft landscaping within the site between the buildings.
- 12.3 The proposed amenity space provision is considered acceptable and in terms of the areas of the site visible in the public domain these will enhance the amount of green space.

13.0 Air Quality

- 13.1 The site is within the Air Quality Management Area. The specialist consultant employed by Environmental Protection to assess the Air Quality Assessment Report has commented:-

“I have taken a little time to assess this report. The design of the buildings won't introduce further street canyons (although some are raised in height) and modelling predicts that they may actually improve pollutant dispersal consequently reducing concentrations at the existing properties in Magdalen Street opposite the site.

Exceedances of NO₂ were predicted at the north façade of Block A and Block C and mechanical ventilation is proposed for this location to prevent exposure. I would note, that the existing AQMA will need to be extended to cover these properties as per Defra guidance.

- 13.2 Along with the mechanical ventilation, other mitigation measures have been proposed;
- Provision of a Travel Plan – This should be monitored
 - Electric heating to avoid NO_x emissions from boilers raising background pollutant concentrations
 - 110 secure cycle parking spaces
 - 2 EV charging points 10% which is consistent with the draft Technical Guidance for Air Quality
- 13.3 Subject to the above mitigation being conditioned and provided, I am satisfied that the development (with the proposed mitigation) is acceptable on air quality grounds. For the mechanical ventilation, this should be a suitable domestic system compliant to the relevant British Standard and Building Regulations and that a plan of commissioning, ongoing inspection, filter replacement and other scheduled maintenance is required.

Officer comment: These requirements could be secured by conditions.

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that were considered appropriate and satisfy the CIL tests and will be agreed as part of any planning permission are
- Upgrading of 8 buses with a catalytic reduction system
 - Upgrading to current ECC specification including real time information of a bus stop
 - Travel Plan including monitoring
 - CCTV (the applicant will be installing a private CCTV system) a link is sought to the Council's CCTV network
 - Provision of a pedestrian link through the site to connect Military Road to Magdalen Street
 - A prohibition on students being issued with a residents parking permit
 - Widening of footways to Military Road and Magdalen Street

15.0 Report

Policy Context

15.1 Policy SAEC2 and SAEC5 in the Site Allocation Document are relevant to this application and are summarised below;

Policy SA EC2 Development in East Colchester

Development within the East Colchester Regeneration and Growth Area will be permitted provided it complies with all the relevant key criteria, as set out below:

- All developments shall provide for a balanced and integrated mix of uses that are compatible with the comprehensive regeneration of East Colchester as set out in the Core Strategy
- Contributions will be required from all developments towards the provision of infrastructure and/or environmental. Where appropriate contributions will also be sought towards the delivery of a comprehensive network of footpaths and cycleways across the whole of East Colchester, Public transport improvements, Environmental enhancements to improve green links through the area.
- All applications for development will be required to include, where appropriate; a transport impact assessment; flood risk assessment; proposals to provide and/or enhance infrastructure for the community or the environment; proposed decontamination measures.

15.2 Adopted site allocation

Policy SA EC5 Area 3: Magdalen Street

To the north of Magdalen Street, housing areas will be extended and consolidated, but other small-scale uses will be permitted provided they are compatible with the overall housing proposals. New development on the south side of Magdalen Street shall continue the existing mix of commercial, industrial, service and retail uses. Proposals must not adversely affect the amenity of neighbouring housing areas. Development shall accord with the more detailed criteria set out in the adopted Magdalen Street SPD.

15.3 Development Brief

The development brief is a supplementary planning document and is a material consideration in the determination of the application but the brief clearly states that it is not intended to be prescriptive, but is to be used to guide future development in the area. The brief is part of the decision making process and weight will be given to the details during the determination of relevant planning applications. The document provides general information for members of the public about possible future changes in the area and what type and form development may take.

15.4 The brief considers sites on the edge of the town centre which currently have relatively inefficient land uses and considered suitable for regeneration. These sites with the existing range of local facilities and uses makes this part of the borough a sustainable location.

- 15.5 The brief identifies the “vision for Magdalen Street is to regenerate this street as a 21st century gateway to the town centre. In virtually every town and city there is a pattern of small scale mixed use environments combined with houses and flats. For Magdalen Street there is the opportunity to create a vibrant community and small scale, compatible uses associated with an edge of centre gateway. Architecturally the Council will seek contemporary responses to the existing character and densities appropriate to the edge of centre location. In most sites the expectation will be for three storey development with ground floors that offer a robust range of small scale use opportunities”.
- 15.6 The purpose of the brief is to:
- Provide a sustainable and coherent development framework for the area that promotes comprehensive redevelopment of the sites;
 - Provide details of the local and national policies relevant to this area;
 - Outline the key constraints in the area and the opportunities that exist;
 - Promote a mix of uses that can co-exist and complement uses elsewhere in the vicinity;
 - Outline the Council’s expectations of delivering improvements to accessibility of the area by walking and cycling, community infrastructure, the public realm and streetscape, and improving the air quality through the redevelopment of the area; and
 - Outline the design and development principles and the parameters of expected design quality.
- 15.7 The development brief provides the basis for a coordinated and comprehensive approach to future development that can achieve greater economic, social and environmental value in the area. The development brief provides a guide for proposals and must be considered alongside adopted local and national policies. The development brief therefore does not preclude student accommodation or buildings with 4 storey elements. What the brief does require is for any development to minimise impact on the Air Quality Management Zone for traffic levels associated with any development to be limited, buildings to be set back from the carriageway with large scale forecourts and tree planting and for a reduced parking standard to be considered. This proposal requires limited parking and would generate a very low level of traffic, the buildings are also set back from the carriageway and tree planting is proposed to the road frontage. The brief promotes an active frontage to Magdalen Street and whilst the proposed development does locate the communal facilities along part of this frontage they will not achieve the same degree of activity as shops or commercial uses. However this is not sufficient reason to refuse the application.
- 15.8 The brief describes the area as “mixed-use of predominantly commercial buildings interspersed with some residential units. Building styles at the western end of Magdalen Street largely reflect its development in the late 19th and early 20th century and are of primarily red brick construction. Various nationally and locally listed buildings are found within this area which provide an important historical context that should be enhanced and incorporated into any future design and site layout”. The development retains the locally listed tram shed faced onto Military Road and tram lines are incorporated into the amenity space. The impact on heritage assets is discussed in more detail below. The brief also promotes a pedestrian link between Magdalen Street and Military Road and this is included within the layout.

Design and Layout

- 15.9 A contemporary architectural style is proposed; the development brief indicates a contemporary approach is acceptable. The elevations are predominantly brick; red, dark and buff bricks are indicated, and the buildings have flat roofs. The detailed design includes elements of timber cladding, zinc cladding and curved roofs. The retained façade of the tram shed will have a tiled roof.
- 15.10 The buildings front Magdalen Street and Military Road and provide built form in the street scene where currently there are unsightly gaps. The proposed buildings to Magdalen Street are set back behind a soft landscaped strip. The buildings also face a pedestrian link through the site. The buildings will each appear as a separate structure due to the gaps between them, the use of curved elevations, and fourth floor elements being recessed and the use of a different material –zinc cladding. A plaque of the borough coat of arms will be installed on the frontage following demolition of the existing building.
- 15.11 It is considered the contemporary design would complement the local mixed character and the modelling of the buildings provides design interest. The Urban Design Officer has referred to the importance for high quality details and materials and conditions requiring materials and finishes to be approved plus large scale drawings of all the architectural features including window reveals, recessed water goods and windows and ground floor glazing are proposed.

Scale, Height and Massing

- 15.12 The proposed development comprises 3 blocks; Blocks A, B, and C, fronting Magdalen Street. Each block is broken up with a varied roof line and elevational treatments. There is a gap of 5 metres between Block A and Block B, which will allow views through the site and also breaks up the massing of the development. These 3 blocks comprises both three and four storeys elements with the taller four storey elements located towards the centre of each block and the lower elements to either side. In some places the 4 storey element is recessed behind the frontage and is also constructed of a different material. Whilst the development includes some 4 storey elements the development is below the ridge height of the adjacent residential development in Magdalen Street. The elevation drawings show the proposed buildings and their height relative to adjacent buildings.
- 15.13 Blocks D and E are located behind Blocks A and B. Block C will however extend close to the rear boundary with the Kendalls Almshouses but will decrease in height towards the boundary; this element is described in more detail in the “Impact on neighbouring properties” section below.

- 15.14 Blocks D and E are located on the southern side of the site. Block D is part-two and part-three storeys in height, and block E is part-one, two and three storeys in height. It is considered that the scale and massing of the proposed development is appropriate in the context of the surrounding area, and scale of surrounding buildings in this edge of centre location.. Given the changes in ground levels, the first storey of the proposed new development sits below the ground level of the Kendalls Almshouses to the rear. The rear garden wall to the alms-houses is also quite substantial in height. As such, in places 2 storeys of the proposed scheme sit, almost entirely, below the existing garden wall.
- 15.15 The locally listed façade of the former tram shed is retained and incorporated into block E on the Military Road frontage.
- 15.16 Members will note that the development does propose some elements of 4 storeys but the majority of the built form is lower. In considering the appropriateness of the heights of the development it is important to consider the context of the surroundings and the change in ground levels between Magdalen Street and Military Road. There are various redevelopment schemes in the area including the Emmaus and YMCA buildings the former has a 4 storey element. Residential development on the east side of the site is 3 storeys height but the pitched roof means it is higher than the 4 storey elements of the proposed buildings. It is considered that the design and arrangement of the development is acceptable within this setting. The upper storeys are generally set back from the principal façade in the manner of a penthouse. The curved nature of elements of the buildings and the use of materials will help to break up the mass of individual elements. Furthermore the higher elements of the development would read as a series of smaller scale projections that would add visual interest to the roofline of the building.

Impact on Surrounding Area

- 15.17 The current appearance of the site which comprises vacant buildings and unsightly gaps presents an unattractive and run-down appearance on one of the main approaches to the town centre. The proposal will have a positive impact in the street scene. It will also introduce a soft landscape edge incorporating trees across the frontage in a street which currently has limited landscape features.
- 15.18 The use will generate limited vehicular movements this is also a positive impact particularly when compared to the previous bus depot use, which included buses travelling along the road as well as maneuvering within the site.
- 15.19 The frontage to Military Road will also be improved by the demolition of the depot sheds and the opening up of the frontage to provide a pedestrian link. This link would benefit local residents providing easier and safer access to town centre, the Town station and other bus services. Local businesses are likely to benefit from an increase in trade.

Impacts on Neighbouring Properties

- 15.20 The scheme has paid regard to the amenities of neighbouring properties; in particular the Almshouses to the side and rear. The cross section drawings show the height and location of the Almshouses and proposed building; these drawings will form part of the presentation to committee and will demonstrate how the buildings have been designed so they are not overbearing and do not overlook neighbouring properties. The uses next to the site on the Magdalen Street frontage are Roberton's vehicle hire premises and a flatted residential building it is considered there is no adverse impact on these properties.
- 15.21 All the blocks have the potential to have an adverse impact in terms of overlooking of the Almshouses, these issues are discussed below and it is explained how the design prevents any adverse impact.
- 15.22 Part of the rear elevation of block A faces towards the rear of 16- 22 Military Road however the rear of this block is approx. 13metres from the boundary and the rear elevation has a "saw tooth" profile and the proposed windows are aspected towards the internal court yard not the rear boundary. Block B, with the exception of the fourth storey element is hidden by Block D. The windows in the fourth storey element of Block B are at the same level as the roofs to Kendalls Almshouses and are located some 15 metres from the boundary.
- 15.23 Block C, which is "T" shaped extends close to the boundary with Kendalls Almshouses but the number of storeys reduces towards the boundary. There is a significant level distance at this point; the top of the garden wall of the Almshouses is 5 metres above the ground level - the first full storey is below the garden wall so is not visible from that level. The third storey of this block would be just below the roof of the Almshouses and set some 8 metres from the boundary. Where this building is close to the rear boundary rooms are lit from the side and the closest windows in the rear elevation will be a minimum of 13 metres from the boundary.
- 15.24 Block D is close to the rear boundary with Kendalls Almshouses currently there is a metal shed along part of this boundary higher the proposed building. The design of Block D includes a curved roof towards the Almshouses with no windows on this elevation. Again the section drawings demonstrate this building will not overlook or have an overbearing impact on residents.
- 15.25 Block E extends along the side boundary of 22 Military Road, the site has a substantial metal shed extending the full length of the side and rear boundary of this property. This shed is on the boundary with windows on both side and rear elevations. Block E will be located away from the side boundary it also has a much smaller foot print, and has no windows looking towards no 22. Where the side elevation of this building fronts the internal path the elevation has a "saw tooth" profile and windows are angled towards the road.
- 15.26 Due to difference in ground levels, profile of elevations and position of windows residents of the Almshouses will not suffer a loss of privacy and buildings will not appear overbearing. In fact some residents will have an improved amenity by the demolition of large high buildings and removal of overlooking windows. All the residents will benefit from the removal of the bus depot use.

- 15.27 The development has been designed so there are no doors facing onto the boundaries of the site and all the accommodation is accessed from inside the scheme. The proposal includes a private CCTV system to provide internal and external coverage across the whole development including the amenity areas, external elevations, security gates and building access. The CCTV coverage will provide visual coverage on monitors within the management office. The supporting information states “the site is overlooked by a security suite located on the corner of Block B. It has a view of the main entrance, a view of the Military Road entrance, a view of the entrance to the site from the car park and a good overview of the entrances to all the Blocks which are accessed from inside the site”
- 15.28 It is considered the applicant has had regard to the amenity of neighbouring properties in developing the detailed design and layout of the scheme which has produced a development which is sensitive to its location, sits comfortably within the site and will not have an adverse impact on its neighbours.

Highway Issues

- 15.29 It is noted the Highway Authority raises no objection to the application.
- 15.30 The proposed use of the site will generate far less vehicular traffic than the former bus depot use and will not have an adverse impact on the road network. The existing vehicular accesses to Magdalen Street will be closed and 2 new ones proposed. The western access will be ramped into a basement car park while the more central access road will be used as a vehicular access for emergency vehicles only, and its primarily function will be to provide a pedestrian link.
- 15.31 The parking provision is discussed above; the level of provision is considered appropriate. Twenty car parking spaces are proposed and will be used for on/offloading on moving days, staff, disabled parking and any other maintenance or management related activities. Two of these spaces will have electric chargers provided in order to encourage the use of electric cars and reduce overall emissions. A Travel Plan and measures to reduce the reliance on private car travel including the provision of secure cycle parking spaces and cycle and pedestrian access links are proposed. Although the proposal will not result in a material impact on local transport networks mitigation measures are proposed and comprise an Operational Management Plan to minimise disruption at the start and end of the academic year and the Travel Plan. The scheme will provided 110 secure cycle spaces, in various locations around the site, this represents a 48%cycle parking provision in order to encourage and promote this as the main mode of private transport.
- 15.32 The use will generate far fewer trips than the previous use and will not have an adverse impact on the road network. The site is in a sustainable location close to the town centre, bus stops and train station and is acceptable in highway terms.

Air Quality

- 15.33 The site is within the Air Quality Management Zone.

- 15.34 Environmental Protection was concerned that changes to the local urban topography could result in air quality impacts during the operational phase of the development in addition to the construction phase. The submitted information includes an assessment of the air quality impacts of the development during both phases.
- 15.35 The results of the assessment indicated that impacts on annual mean NO₂ concentrations as a result of the proposed development are predicted to be of substantial beneficial at two locations, moderate beneficial at one location, slight beneficial at four locations, moderate adverse at one location and negligible at two locations. The overall beneficial effects are attributed to a reduction in traffic generation from the site, as well as increases in canyon widths at some locations on Magdalen Street as a result of the new buildings. The development also has the potential to expose future occupants to elevated pollution levels and mitigation in the form of mechanical ventilation has been recommended for a number of units.
- 15.36 The proposed development incorporates a number of design features to mitigate any likely impacts on air quality. These design features have been established within the indicative layout plan within the Council's Magdalen Street Development Brief. Gaps have been included between the buildings to prevent a 'canyon' effect from forming on Magdalen Street. The gaps allow air pollutants to disperse. Furthermore, blocks A, B and C are set back from the public footpath. This set back allows for the inclusion of a soft landscaping strip (including tree planting) to be located in front of the blocks. These measures assist in mitigating any impacts on air quality.
- 15.37 Further mitigation measures are set out in the Air Quality Section above.
- 15.38 The development brief expects developments to include measures that reduce emissions and improve air quality. The proposed use will generate only low levels of traffic and this should have a positive impact on the AQMA. In fact this use will generate significantly fewer movements than the bus depot and probably less than other potentially acceptable uses.
- 15.39 The Council's specialist consultant has confirmed no objection on air quality matters subject to the proposed mitigation measures being provided.

Drainage/Flood Risk

- 15.40 The site is within flood zone 1 where Government policy directs new development. The submitted flood risk assessment provides an assessment of the risk of flooding to the proposed development. The report concludes that the site is situated in Flood Zone 1, which is defined as having a low annual probability of flooding and overall, there is a low risk of flooding from all sources.
- 15.41 It is anticipated that the surface and foul water drainage systems will continue to discharge to the surrounding sewers, in common with the existing development on the site.
- 15.42 The Environment Agency has raised no objection to the proposal but there is a holding refusal from Essex County Council Flood & Water Management Planning & Environment team it is anticipated this objection will be withdrawn before the committee meeting.

Landscaping/ Ecology

- 15.43 The Arboricultural Report indicates that the trees within the development site are self-seeded and consisted mainly of sycamore there are also several shrubs which consist of more ornamental species such as viburnum and Portugal laurel. The trees, and significant vegetation, are assessed as being of low quality and value (C category). The trees and shrubs make a limited contribution to public amenity and many of them contain structural defects. The proposals will require the loss of all trees and vegetation within the site. Some crown pruning works will be necessary to a tree just outside but overhanging the site. The proposals include the planting of a significant quantity of new trees and shrubs to be planted in key locations of the site to maximise both public and private amenity; at least 20 new trees are proposed and will be located in positions where they will be able to grow to maturity. Over the long term, new tree planting has the potential to significantly enhance the amenities of the property and contribute to the character and appearance of the local area.
- 15.44 The application includes a soft landscaping strip in front of blocks A, B and C on Magdalen Street. It also proposes areas of hard and soft landscaping between the buildings. Areas for cycle parking are included within the hard landscaped areas. The former tramlines located on the site are proposed to be retained and incorporated as part of the landscape scheme. The submitted landscaping plan includes full details of the proposed landscaping scheme and this is acceptable, in principle, to the Landscape Officer.
- 15.45 The landscaping to the frontage will be a significant improvement to Magdalen Street where there is currently very limited soft landscaping.
- 15.46 The majority of the site is covered by either buildings or hard surfaced with small trees and shrubs only on the rear and part side boundaries
- 15.47 The application documents include a Biodiversity Phase 1 Habitat Survey which assesses the vegetation and habitat types within the site. The survey report concluded there was negligible potential for presence on the site of protected species other than bats where there is medium potential for roosting in some buildings and birds nesting in buildings. The report recommends a bat roost survey for 1 building and for the roofs of buildings to be removed outside the main birds nesting season. These matters will be secured by condition. If bats are present a license will be required from Natural England.

Heritage and Archaeology

- 15.48 When considering an application that affects a conservation area the Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Similarly when considering an application that affects the setting of a listed building the Planning Authority must have special regard to the desirability of preserving that setting (s.72(1) and 66(1) of the PI (Listed Buildings & Conservation Areas) Act 1990).
- 15.49 The rear boundary of the site abuts the boundary of the New Town Conservation Area. There are listed and locally listed Almshouses to the rear and along Military Road. There are also locally listed buildings in Magdalen Street.

- 15.50 There are no statutorily listed buildings on the site and the site is not within a Conservation Area. Whilst the retention of the façade of the bus depot is referred to in the representations it is not listed nor locally listed. Historic England has not objected to the demolition of this façade. The local list was prepared on behalf of the Colchester Historic Building Forum and adopted by the Council in 2011. The site includes a former tram shed which is on the local list. This building includes an attractive brick façade to Military Road and is retained and incorporated into the development.
- 15.51 Existing tram tracks in the tram shed have been incorporated into the courtyard amenity areas, and an existing plaque of the Borough's coat of arms on the street elevation of the bus depot has been retained, incorporated into the new design and will be located within the street elevation to Block A.
- 15.52 The setting of the Kendall Almshouses carries a legal duty to preserve and this aspect has been afforded special consideration in the design of the scheme. Given the existing buildings and their brutal qualities, their replacement by the proposals has the potential to enhance the current situation. Historic England consider "the proposed redevelopment of this major site would not cause harm to the significance of the setting of the grade II listed Kendall Almshouses or the adjacent Colchester New Town Conservation Area. The scale, massing and detailed design of the residential scheme would be an enhancement on the current street scene in this prominent location on Magdalen Street".
- 15.53 The setting of the Conservation Area will be enhanced by the demolition of the existing metal clad shed on the Military Road frontage, and the introduction of a pedestrian link. The new development, in part due to the change in ground level, will not be prominent in views from the Conservation Area.
- 15.54 The archaeological desk-based assessment has established the archaeological potential of the site and states that the site has been shown to have a high potential for encountering medieval and post-medieval activity, particularly along the street frontage. The assessment suggests a low potential for activity from other periods to be found on the site. The Councils archaeologist recommends further archaeological investigation should be undertaken and this will be secured by way of condition.

Land Contamination

- 15.55 The site comprises a former bus/tram depot with an electrical sub-station and includes fuel storage and repair/servicing areas; these uses suggests there is potential for localised contamination to be present and this is confirmed in the submitted phase 1 desk study. This report recommends that a Phase II intrusive investigation is undertaken to confirm (or otherwise) the presence of contamination that could pose a risk to human health and the wider environment and to determine adequate remedial measures prior to the commencement of development. These conclusions are agreed by the Contaminated Land Officer and appropriate conditions are recommended.

Sustainable Design and Construction

- 15.56 The submitted design and access statement sets out a number of measures that are aimed at achieving a BREEAM score of 'very good' these include (summarized)
- Water efficiency
 - Energy and reduction in CO2 emissions
 - Sustainable construction: opportunities to utilise the local workforce will be explored; the procurement of construction materials will also seek to utilise local materials and supplies
 - Waste and recycling: sustainable waste management processes will be put in place to maximise recycling and reduce litter
 - Biodiversity: features of biodiversity interest will be retained, protected and enhanced where possible; and
 - Site layout and building design: the proposal is for the regeneration of an underutilised site within an urban area, and will contribute to reducing local economic inactivity and improving the appearance of the area.

Other Matters

- 15.57 As part of preliminary enquiry process the applicant held a community engagement exhibition at the Magdalen Street YMCA on 16th October between 3.00 - 7.00 to inform the local community about the proposals and seek their feedback. Key stakeholders including ward Councillors and a clerk to the Winnocks and Kendalls Almshouses charity were notified of the public exhibition and proposals. Full details of the public consultation exercise are set out in the submitted Statement of Community Involvement.

16.0 Conclusion

- 16.1 The application proposes the development of a brown field site in a sustainable location on the edge of Colchester town centre. One of the core planning principles contained in the National Planning Policy Framework encourages '...the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value...' The application site has clearly been developed in the past and does not have a high environmental value. It is considered that the application site matches this requirement. Following on from this the site is also within a defined regeneration area within Colchester. The site is also within the Magdalen Street development brief area. When a brief is prepared it is not possible to predict all uses that may come forward and the documents main function is to set out parameters for development and identify constraints. In this instance the main constraints to development are the location of the site with the Air Quality Management Zone and the requirement for a reduced parking standard. Student accommodation has the advantage of being a use where it is possible to restrict car ownership and therefore limiting the number of parking spaces and the amount of traffic generated. This development will have neither an adverse impact on air quality nor the road network. In this respect the proposed use will have far less of an impact than many other potential uses. The demolition of the buildings, removal of the former bus depot use and the redevelopment of the site will be a significant benefit to the public realm and residential amenity.

- 16.2 The development satisfies many of the parameters identified in the brief namely public realm and street trees to Magdalen Street and a pedestrian link between Magdalen Street and Military Road. The brief identifies a contemporary architectural style as appropriate and the detailed design and layout of buildings is considered acceptable. The buildings facing Magdalen Street would be a mix of 3-4storeys, the height of the buildings is also mitigated by being set back from the street and the use of a recessed top floor with set-backs from the main façade meaning from the street the frontage will be perceived as predominantly 3 storey. The massing will be broken down by the variation in storey heights and gaps between buildings.
- 16.3 Careful consideration has been given to the amenity of adjacent residents and the layout and detailed design together with change in ground levels will ensure residents' amenity is protected. The development will not have an adverse impact on any heritage assets and retains the locally listed building and other features of local interest. Concerns relating to tranquility would be addressed by the constant on site management presence that the developer typically provides.
- 16.4 The application involves the redevelopment of a vacant site with a run-down appearance on a main road into the town centre. It is considered the proposed development satisfies the Council's aspirations for the regeneration area in general and Magdalen Street in particular. A conditional planning permission is recommended.

17.0 Recommendation

- 17.1 APPROVE 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 Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:
- Restrict occupancy to students **in tertiary, full-time education**
 - Agreement to employ an on-site manager /s and for there to be a 24/7 presence on site
 - Travel Plan, a Travel Plan Co-ordinator to be employed and Travel Plan to be regularly monitored by the council
 - Details of an Operational Management Plan (for management of parking on site, loading bay, student arrivals and departures)
 - Details of Maintenance Company responsible for all communal areas/refuse areas
 - An Ecological Clerk Of Works to be employed
 - Buses upgrade with a catalytic reduction system
 - Provision of a scheme of CCTV and link to CBC network
 - Upgrade to a bus stop to current Essex County Council specification, including real time
 - Passenger information
 - Pedestrian path from Magdalen Street to Military Road to be available for public use in perpetuity between dawn to dusk (for pedestrian and pedestrians wheeling bicycles) and agreement that this path will not be to used as a vehicular through route but only by emergency vehicles
 - Agreement that students will not to be granted residents parking permits

- Agreement that those students that are not eligible for an on-site parking space will be required to sign a lease that includes a clause preventing them from bringing a vehicle to Colchester whilst they are living at the approved development
- Provision of electrical heating
- Provision of 2 Electric Vehicle (EV) charging points,
- Provision of mechanical ventilation for units in blocks A and C
- Prevent use of flat roofs except for maintenance purposes

7.2 On completion of the legal agreement and subject to no objections being raised by Essex County Council Flood & Water Management Planning & Environment, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing AFM1512 PL-10-SITE, AFM1512 PL-10-00 rev C, AFM1512 PL-10-01, AFM1512 PL-10-02, AFM1512 PL-10-03, AFM1512 PL-10, AFM1512 PL-10, AFM1512 PL-20-A-100, AFM1512 PL-20-B-101, AFM1512 PL-20-C-102, AFM1512 PL-20-C-103, AFM1512 PL-20 -D-104 AFM1512 PL-20-E-105, AFM1512 PL-30-01, AFM1512 PL-40-SS-01, AFM1512 PL-40-SS-02 AFM1512 PL-40-SS-03, AFM1512 PL-50-A-01, AFM1512 PL-50-B-02, AFM1512 PL-50-C-03 AFM1512 PL-50-D-04, AFM1512 PL-50-E-05, AFM1512 PL-50-ST-100, AFM1512 PL-50-ST-01 AFM1512 EX-10-01, AFM1512 EX-50-02, AFM1512 EX-50-03, AFM1512 EX-40-04 and LANDP001 rev)3.

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

3 - Non-Standard Condition/Reason

Notwithstanding any details shown within the submitted application, this permission expressly excludes the use of the bricks indicated on the submitted drawings. No works shall take place until details of alternative bricks have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out using these approved materials.

Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.

4 - Non-Standard Condition/Reason

The development shall be constructed in accordance with the submitted cross section and elevation drawings that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site and finished floor levels.

Reason: To ensure the development does not have an adverse impact on the surrounding area or residential amenity.

5 - Schedule of Types & Colours to be Submitted

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

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

6- Non Standard Condition/Reason

Prior to the commencement of any works, additional drawings that show details of all architectural features including, but not limited to, windows, doors, window reveals, recessed rain water goods, parapet, to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these features which are essential elements of the design.

.

7 - 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.

8 -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.

9 - Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

10 - Cycle Parking (as approved plan)

Prior to the first OCCUPATION/USE of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

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

11 - Non-Standard Condition/Reason

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

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

12 - Non-Standard Condition/Reason

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

- a) Two dropped kerb footway cross-overs off Magdalen Street each with a minimum 43 x 2.0 x 43 metre clear to ground visibility splay y distance to 0.5 metres from carriageway edge)
- b) A loading bay in Magdalen Street
- c) A minimum 2 metre wide footway along the site frontage in Magdalen Street and the maximum width available in Military Road
- d) There shall be no vehicular connection through the proposal site between Magdalen Street and Military Road.

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

13 - Non-Standard Condition/Reason

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the demolition and construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors
- hours of deliveries and hours of work
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- and a scheme for recycling/disposing of waste resulting from demolition and construction works
- measures to control noise.

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.

14 - Demolition Programme TBA

No demolition whatsoever shall take place until such time as a programme has been submitted to and approved, in writing, by the Local Planning Authority stipulating the extent and timing of such operations. Any demolition shall thereafter take place solely in accordance with the approved details.

Reason: In the interests of the appearance of the locality and to avoid unnecessary disturbance to amenities.

15 - Non-Standard Condition/Reason

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

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.

16 - Non-Standard Condition/Reason

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the sites plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter. Although some information was provided with the acoustic survey, further information to demonstrate compliance with the above condition will be required once the noise level of the proposed equipment and its specific location is known. Single background noise levels for the reference time periods should be provided.

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

17 - Non-Standard Condition/Reason

Prior to the commencement of development, a noise survey, including details of the accommodation structure, for proposed residential properties that are in the vicinity of the ROADS shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours (or representative periods), and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 good conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax).

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter. Note: Although some

acoustic information was provided with the application, it acknowledges that further work is necessary once the accommodation structure detail is known. This additional information shall provide single representative LAeq figures for both 16-hour daytime periods and 8-hour night-time periods and take into account that the accommodation is set back from the road, some of the blocks are shielded and the accommodation height. The proposed mitigation measures should be specific to each part of the site and take into account night-time maximum noise levels as well as LAeqs. Once the site is secured longer assessment periods may be possible.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

18 - External Light Fixtures TBA

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.

19 - Non-Standard Condition/Reason

Prior to the commencement of development details of the insulation to the gym shall be submitted to and approved in writing by the Local Planning Authority. Such detail as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY building on the site and shall be maintained as agreed.

Reason: To prevent noise disturbing the accommodation above.

20 - 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

21 - 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

22 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

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

23 - 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 20, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 21, 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 22.

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

24 - *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 20.

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

25 - Non-Standard Condition/Reason

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

26 - Non-Standard Condition/Reason

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential

pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

27 - Non-Standard Condition/Reason

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority. Condition If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection: Principles and practice (GP3:2013) position statements.

28 - Non-Standard Condition/Reason

Prior to the commencement of demolition a Level 3 analytical programme of recording shall be carried out on the site's buildings and a report produced and presented to the lpa. The sufficiency of the report shall thereafter be agreed by the lpa in writing prior to the commencement of demolition.

Reason: In order to ensure that the heritage resource is preserved by record in order to enable the proper interpretation of the Borough's historic environment.

29 - Scheme of Archaeological Investigation

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

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

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

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

30 - Non-Standard Condition/Reason

The roofs to existing buildings identified in the Biodiversity Phase 1 Habitat Survey as Buildings A and C) shall only be removed outside the main bird nesting season. The Ecological Clerk Of Works shall be present to oversee the removal of these roofs.

Reason : To minimise the risk of disturbing birds nesting in these buildings.

31 - Non-Standard Condition/Reason

No works shall take place until a bat roost survey, carried out at an appropriate time of the year, to confirm or disprove the presence of bats on the application site, has been submitted to and approved, in writing, by the Local Planning Authority. If bats 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.

32 - Non-Standard Condition/Reason

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 are not acceptable in all respects and the new landscape detail shall include:

- RETAINED TRAM LINES
- WORKS TO EXISTING AND NEW RETAINING WALLS
- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;

- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

33 - Non-Standard Condition/Reason

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.
Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

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

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

(4) The loading bay would require a Traffic Regulation Order to control its use.

- The Highway Authority has assumed the proposal site internal layout would not be laid out and constructed to adoptable standards and that the applicant would not intend to offer it to the Highway Authority for adoption.
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All highway related details should be agreed with the Highway Authority
- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.

(5) PLEASE NOTE that it is understood that bat roosts exist within the application site. Bats are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 which relate to the protection of bats and their roosts are fully complied with.

(6) 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.

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

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

(9) 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.

(10) PLEASE NOTE that the site is known to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. Tiered risk assessment shall be carried out in accordance with the procedural guidance and UK policy relating to the contaminated land regime. Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land. The Local Planning Authority will determine the application on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post-development and that the applicant had prior knowledge of the contamination, the applicant is likely to be liable for this under Part IIA of the Environmental Protection Act 1990 and as such become an Appropriate Person. In this event the applicant will be lawfully responsible to remove the risk posed by the contamination. Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this the applicant or those acting on his behalf will be liable under Part IIA of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment. During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public, property and the environment are protected against noise, dust, odour and fumes. The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of at an appropriately licensed landfill site. The Local Planning Authority will provide a Validation Certificate mentioned in Condition INSERT for completion by the applicant/developer. This certificate will not only provide confidence in the site for the local authority in terms of development control and the Part IIA regime but will help discharge conditions applied by the approved inspector and also provide confidence for solicitors and homebuyers in the conveyancing process.

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

(12) 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.

(13) 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>

(14) PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable) paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.

(15) Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place.

(16) Informative on Archaeology

Whilst a pre-determination archaeological evaluation is not required for this proposal it is recommended that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required. 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>

20.0 Positivity Statement

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

Student Complaint Protocol – Environmental Protection

Student Complaint Received by the CBC EP Team
Contact complainant to discuss the complaint.

Pass to Essex University - email to <mailto:community@essex.ac.uk>
Student Reps will carry out the initial visit to Subject Premises.
[Notify Zone Warden](#). Street reps to provide update following visit.
Place premises on monitoring list for Weekend Noise Service.

Complaint resolved?

No

Yes

EP Team & Police to visit Subject Premises
Send Formal letter to subject premises and
diary sheets to complainant.

Log & close case

Notify Landlord of complaints.
Update University/ Zone Warden

Complaint Resolved?

No

Yes

If noise nuisance continues after the
above steps have been followed formal
action to be taken on subject premises.
Inform Essex University for possible
disciplinary action

Log & close case



VICTORIA
HALL Management
(UK) Limited



COLCHESTER

OPERATIONAL MANAGEMENT PLAN

Introduction

Victoria Hall is a private company formed in 1996, which specialises in the development and management of purpose built student accommodation. We provide affordable high quality accommodation designed specifically for students.

Victoria Hall's sites are carefully selected for student convenience within key University cities throughout the UK. We currently manage a portfolio of around 11,000 UK student beds with future pipeline projects either under-construction or at Planning stage to further expand the operational portfolio.

Each Victoria Hall residence is self-managed with an on-site management suite containing a team of administration staff, caretaker and security cover that ensures the complex is maintained 24 hours a day, 7 days a week throughout the year. It is important for us that our sites are staffed by local people who can be on-site to look after our customers but also to act as a link between Victoria Hall and the communities in which we operate. A local network of skilled tradesmen are also contracted to attend to the various maintenance requirements of the complex.

Our objective is to commit to the local areas in which we operate and to form lasting relationships with the local community - our on-site teams, staffed by local people, are responsible for achieving this.

Every site is constructed with an emphasis on safety; the entrances to the complex are strictly controlled by door entry and intercom systems whilst being supported by the presence of on-site personnel, security fencing and CCTV cameras. These preventative measures undertaken by Victoria Hall ensure we maintain a low level of incidents throughout the year.

Victoria Hall is the ideal place for students to live comfortably and safely whilst pursuing their academic life. The quality and service provided is reflected by the high proportion of students that choose to remain living within Victoria Hall for the duration of their University life and become part of the local community for many years.

Community

- 1.1 Each Victoria Hall development represents a long-term economic, social and educational investment into the local community, but we fully recognise that the key to the success of that investment lies within the creation of strong links with the communities we serve.

Victoria Hall recognise that student accommodation can often bring pre-conceptions of its impact on an area, largely through historic perception but also a lack of understanding of the product and the modern controlled environments that Victoria Hall creates. Our principle objective is therefore to integrate any new development into its community and we pride ourselves on establishing successful relationships with our neighbours through transparency and trust.

Victoria Hall recognises that each new community is individual and that each new environment gives rise to unique challenges and opportunities, but we work hard to tailor our service in order to meet those challenges head on.

Magdalen Street itself is commercial in nature, but the surrounding hinterland is residential and we are acutely aware of the close proximity of existing residential properties to the site and the need to protect the amenities and general wellbeing that existing residents currently enjoy.

We would therefore propose to establish a Community Steering Group that will create a regular forum for open discussion of concerns, but also a forum for generating ideas to help strengthen ties with the community. The forum would include members of the local community with a specific invitation to representatives of the nearby Almshouses and Ward Councillors to participate, along with senior Victoria Hall Operations Management, the accommodation Hall Manager and most importantly student representatives. Accountability lies at the heart of transparency and actively engaging the students themselves within the forum will help to engender a sense of accountability and an understanding of the environment and the mixed community within which they live and study. We would initially propose that the Steering Group meet on a monthly basis, but upon inception it would be for the members themselves to determine the frequency of meetings.

Victoria Hall will work hard to create strong successful links with the local community surrounding the Magdalen Street site, encouraging a philosophy of openness with the community in order to not only protect and enhance the quality of the surrounding area, but also to protect Victoria Hall's long-term investment into the social and economic growth of Colchester.

Security

We outline below both the Security Arrangements and Security Plan that will be adopted at the Magdalen Street site and are a minimum operational standard that we adopt across the whole Victoria Hall portfolio.

Security Arrangements

Objectives

- 2.1 Victoria Hall employ 24-hour Caretaking/Security staff specifically in order to provide assistance and support to students, staff, visitors and members of the local community. Their function is to ensure, as far as is possible, the personal safety of students, staff and visitors; the wellbeing of the local community, particularly neighbouring properties; the security of residential buildings and the protection of personal property.

The 24 hour team are a proven aid to Victoria Hall's focus on the control of noise and anti-social behaviour on-site out of office hours. The team provides an effective on-site presence to initially deter, but also react immediately to any issues and also act as a key point of contact for the local community in the unlikely event that an incident occurs.

These objectives will at all times be carried out in an effective, efficient and courteous manner, which reflects the aims, objectives and standing of Victoria Hall.

Victoria Hall will:

- Offer a quality of service based firmly on the concept of equal opportunities
- Respond to and investigate reports of crime committed within Victoria Hall
- Publicise, on a regular basis, information concerning crime and trends in crime occurring at Victoria Hall and actively promote crime prevention and security awareness.
- Provide liaison between the University, Community and Victoria Hall so far as it relates to student behaviour.
- Provide training opportunities to all members of staff.

Staffing

- 2.2 The staff team within a Victoria Hall site comprises of a Hall Manager, an Assistant Manager and 2 no. Caretakers who are based on-site and supplemented by additional Security guards.

A Business Relations Manager, Operations Manager, FM Manager, Health and Safety Assistant and Child Protection Officer are also employed by Victoria Hall to provide support and guidance. These positions are based off site.

Victoria Hall also employs casual staff to assist as and when required.

Monitoring & Communication

- 2.3 Frequent supervisory and shift meetings are held to appraise all staff of developments within Victoria Hall and to receive views from other members of staff on changes to and implementation of, the policies and procedures of Victoria Hall.

All members of Victoria Hall Staff promote communications and liaise between Victoria Hall, students, staff, visitors and the local community.

In an endeavour to ensure Victoria Hall establishes and maintains a satisfactory and relevant service any suggestions from members of the University or from the local community, which it is considered will improve the service, are welcome.

Security Lodge

- 2.4 The security lodge provides an out of hours contact point for students, staff, visitors and other enquirers, in need of assistance or advice.

Persons seeking assistance or advice are advised in the first instance contact the security lodge by either: -

- i) In an emergency:
From pay or external telephone - (caretakers mobile phone)
- ii) Non emergency matters:
From pay or external telephone - (security lodge direct line)

The personnel within the security lodge are able, by use of close circuit television cameras, to control any vehicular access to and from the complex and also monitor movements within the site; this includes the monitoring of parking on site and dealing with any unauthorised vehicles.

The security lodge will be used as the control centre in the event of a major incident or any other incident, which necessitates a co-ordinated response and the emergency services have standing instructions to report to the security lodge in the first instance.

The security lodge is also used as an out of hour's service for receiving, advising and directing visitors around the site.

We recognise the importance of the security lodge function in that it is often the first point of contact that visitors to the complex will have with members of Victoria Hall staff. The operation of this function and the level of staff training is continuously monitored and expanded / updated where appropriate.

Reception Office

- 2.5 The reception office is normally staffed between the hours of 9.00am and 5.00p.m. Monday to Friday.

The office is generally staffed by the Hall Manager and their Assistant who are responsible for dealing, in the first instance, with all enquiries and in particular with people reporting crime, lost and found property and the administration of Victoria Hall access control. The Management Team will also deal with any reports of antisocial behaviour and noise complaints and undertake investigation into any allegations before any disciplinary action is initiated against any resident.

Outside of normal working hours the responsibility for receiving reports of crime, lost and found property and other enquiries is that of the security lodge and the member of staff on duty at the time.

Security Patrols

- 2.6 Caretaking / Security staff are responsible, throughout the 24-hour period, for patrolling the exterior and interior of the complex and for responding to incidents.

Whilst on patrol, these staff will deal proactively with any noise issues to ensure that disturbance to other residents as well as surrounding neighbours is minimised. These patrols are increased in the event of incidents occurring which warrant ongoing attention.

Victoria Hall employees will at all times perform their duties in such a manner, which endeavours to ensure the personal safety of students, staff and visitors to Victoria Hall.

Victoria Hall staff undertaking both internal and external patrols will at all times wear full uniform and an identification badge.

Security of Victoria Hall buildings

- 2.7 The security of all buildings is in the first instance the responsibility of the occupants within.

Victoria Hall has a responsibility to assist both residents and staff in monitoring the security of all buildings and this extends to checking the validity of residents, staff and visitors to all areas of the site.

Caretaking / Security staff will check and ensure that block, office, launderette and all common room doors are locked and unlocked where applicable and at times specified by the Hall Manager.

Protection of Personal Property

- 2.8 The safeguarding of personal property is primarily the responsibility of the owner. However, we continually endeavour to reduce the incidences of crime within and around the managed site by way technology, security patrols, advice and education and the introduction of crime reducing initiatives.

Response Times

- 2.9 Victoria Hall will endeavour to respond to all emergencies within **Five Minutes** of receipt of the call. Other requests for assistance are prioritised according to the degree of urgency afforded to it by the security lodge staff and/or the Hall Manager. In all instances, the caller will be informed of the outcome of the incident.

Support Services

- 2.10 Victoria Hall will also provide support in the following specialist areas:
- i) The investigation of incidents, crimes and internal matters
 - ii) The interviewing of students and staff.
 - iii) Submission of reports to the University in respect of (a) and (b) above
 - iv) Advice on matters relating to crime and offences.
 - v) Receiving and investigating complaints from residents of unsociable and criminal behaviour of students.

Staff Training / Development

- 2.11 The continued development and training of all staff within Victoria Hall is a high priority. All staff receive periodic reviews and undergo appraisal mechanisms identifying areas of required development and/or training.

Complaints

- 2.12 All complaints, received by a member of staff will be brought to the attention of the Hall Manager as soon as practicable. It will be the responsibility of the Hall Manager and in consultation with the University where necessary to investigate all such complaints received.

Security Plan

Victoria Hall recognises that it has an important role to play in the local community whilst supporting students, staff and visitors; to maintain security of residential buildings and other property including personal property.

Primary Objectives

- 3.1 In endeavouring to achieve its objectives staff at Victoria Hall are faced with a number of ongoing problems. The primary areas of concern may be listed as follows:
- Ensuring the safety and welfare of students, staff, visitors and the neighbouring community.
 - The incidence of reported crime occurring on site.
 - The unsociable behaviour of some students.

Ensuring the Safety and Welfare of Students, Staff, Visitors and the Neighbouring Community

- 3.2 This is achieved in the following ways -:
- The provision of high profile internal and external patrols: including (but not limited to) courtyards, communal staircases and the roads/footpaths surrounding Victoria Hall.
 - Establishing good communications within the community and between staff, students and visitors to Victoria Hall.
 - Establishing good communication links with the local community resident groups, local police force, fire department and Universities.
 - The provision and maintenance of a fully integrated digital CCTV surveillance system, monitoring all public areas inside the complex and all surrounding roads in the immediate vicinity of the complex.
 - The provision and maintenance of a restricted door entry system to all the site's access points, to all individual blocks and to each individual flat.
 - The provision of high security fencing where applicable on the perimeter of the complex.
 - Offering support and assistance to Victoria Hall staff when they are dealing with instances requiring welfare or disciplinary action

- Providing a contact point, out of office hours, for parents and others wishing to contact their son/daughter/friend for whatever reason.

The Incidence of Reported Crime

3.3 In attempting to prevent and/or reduce the incidence of crime occurring at Victoria Hall, the following initiatives are encouraged and developed:

- A Victoria Hall Residents Watch Scheme.
- Crime prevention education of both staff and students.
- Regular contact with the police through the local beat officer, C.I.D and at senior officer level.
- Providing accurate and workable recording procedures.
- High profile patrols, by staff in uniform, in vulnerable areas.
- Covert operations when required in plain clothes.
- A policy governing the issue and wearing of identification cards.
- On going staff training.

The Unsociable Behaviour of Some Students

3.4 To try and prevent and/or reduce the level of unsociable behaviour of our residents, Victoria Hall undertake:

- To visit all local complainants in the community who are concerned at the anti-social behaviour committed by students of Victoria Hall.
- To investigate matters, of a purely internal nature, resulting from student misbehaviour.
- To give advice, guidance and support to all members of Victoria Hall staff in dealing with students who have misbehaved or contravened their Tenancy Regulations.
- To introduce a central database of offenders which would be accessible to those members of the Police and University who have a vested interest in such matters.

Disciplinary Issues

- 3.5 Most of our residents act in a responsible manner having a respect for themselves, neighbours and property. There are some, however, who act inappropriately which often results in the requirement for disciplinary action to be taken. Noise in general, antisocial behaviour, loud music both inside and outside the hall, deliberately setting off fire alarms and engaging in criminal activity, are all areas of concern and it is essential that all such incidents are dealt with quickly and effectively.

To assist in managing potential situations / incidents Victoria Hall has drawn together a useful guide for Hall Managers which sets out how to try and ensure the effective management of low level incidents of anti-social behaviour, and how the support of the University concerned can assist in dealing with serious incidents of anti-social behaviour. There is evidence to support that dealing with these types of incidents quickly prevents escalation into more serious or more frequent incidents

The guidance and examples below are not definitive and we appreciate that there may be incidents which do not immediately fall into the categories as outlined. On these occasions further advice is sought from the senior management team.

General Anti-Social Behaviour (e.g. noise, general disturbance, overnight guests)

- 3.6 These are considered to be low level issues which Victoria Hall would expect the hall management to be dealing with in terms of speaking to the students concerned and keeping a clear and accurate record of the discussions. In all instances of noise complaint occurring out of office hours, the member of staff receiving the report will attend the room or flat responsible immediately and resolve the noise issue before making a full report of the incident for the Management Team to review the following working day. In the first instance we would expect a meeting to take place with the student clearly setting out the concern and advising on appropriate behaviour. Examples of such incidents which would warrant a first warning might be:

- Creating a noise which is of a level which can be heard by other students in adjoining flats / blocks or neighbouring properties
- Causing general disturbance to other resident students / neighbours
- Having guests back who create a disturbance
- Leaving kitchen / communal areas in an untidy / unacceptable

In the event of repeated incidents further discussions would take place and a first written warning would be issued. Again clear records to be kept.

Relevant charges as previously notified to all students are applied as necessary.

On the 3rd occasion that a student receives a written warning a further meeting should take place and a final written warning is given. The student should also be clearly advised that a letter of complaint will be written to the relevant University and their guarantor (usually parent/guardian), which is likely to result in an investigation and possible disciplinary action being taken by that University.

The Hall Manager can move to letter 3 stage at any point during the early stages of discussion if they feel the level of nuisance or the student's attitude/response is not sufficient e.g. the student responds in an offensive manner.

Once the above has been followed Victoria Hall would ensure that a formal letter of complaint about the student is sent (along with all supporting information) to the University and make arrangements for an investigation to take place possibly requiring the student to attend a Disciplinary Hearing where the matter will be discussed further.

Sanctions at this stage could range from further warnings being given, to fines being imposed by the University, to the involvement of guarantors (usually parent/guardian) and ultimately the commencement of legal proceedings leading to eviction from the hall.

It is worth noting that the accommodation will have common room facilities that are regularly monitored by the onsite staff and access to these areas can be controlled at certain times by the access control system. No bar facility will be available within the scheme. Residents' noise is therefore kept to a reasonable level and monitored in real time which would not be achievable if a bar or common room were open all hours or if on-site security was not present.

Criminal Activity

3.7 These are activities which would require Police intervention and examples of such incidents which would warrant an immediate letter of complaint might be:

- Theft
- Acts of violence to other students or to staff members
- Drugs
- Race hate
- False activation of fire alarms

Hall staff would need to contact the Police, clearly explain the situation and be guided by any advice given by the Police. On these occasions once the Police have been notified Victoria Hall would also ensure that the University and Guarantor (usually parent/guardian) are notified and that on the next working day a full report is sent to the University.

Once the above had been followed Victoria Hall would ensure that a formal letter of complaint about the student is sent (along with all supporting information) to the University and make arrangements for an investigation to take place possibly requiring the student to attend a Disciplinary Hearing where the matter will be discussed further.

Sanctions at this stage could range from further warnings being given, to fines being imposed by the University and ultimately the commencement of legal proceedings leading to eviction from the hall.

From a Student's Perspective

- 3.8 Students are made aware through hall literature of their responsibilities in terms of community living and the impacts of anti-social behaviour, along with the process and procedures in place to deal with any incidents.

Students are made aware that they are also fully responsible for the actions of any guest they invite into the flat and that they and their guest will be held responsible / accountable for their behaviour.

Students are also advised that as a result of their behaviour this may lead to a letter of complaint being written to the University about the incident along with all supporting documentation and that the University may in turn wish to investigate the matter further which may lead to the University instigating disciplinary action.

Students are also aware that a condition of tenancy states that any incidents that cause a breach of tenancy can and will be notified to their personal guarantor immediately.

Action can be taken against a student's guarantor for a breach of tenancy alongside any action taken against the tenant themselves.

Discipline within the Halls is important and must be maintained at all times thus allowing the residents peace and quiet for studying. We actively promote as part of our advertising strategy that we will create an atmosphere which is conducive to academic study and beneficial to those living within the accommodation and in the surrounding area.

Service Levels

Accommodation Management and Administration

- 4.1 Victoria Hall will always use reasonable endeavours to:
- Manage the accommodation in accordance with the ANUK National Code of Standards;
 - Provide a telephone helpdesk, available 24 hours per day, 365 days per year, to all members of the local community as well as the residents, to deal with all issues relating to the day to day management including, noise or anti-social behaviour, security incidents, complaints the reporting of emergency maintenance, tenancy information and use of the accommodation;
 - Ensure that complaints are dealt with quickly and are usually resolved straight away by either the office management or the security / caretakers depending on the time of day or night.
 - Ensure that all staff, whether directly engaged, contracted service providers or other suppliers employed in the provision of services, are adequately qualified, have received adequate training, and conduct themselves in a professional manner at all times;
 - Co-operate and assist in the provision of the residential accommodation and make available to enable prospective residents to view the accommodation;
 - Make available to residents, at a reasonable charge and within reasonable timescales, replacement keys, fobs or swipe cards required to access the accommodation and maintain an adequate level of security;
 - Ensure the receipt and effective distribution, by the Post Office, of in-coming mail to all residents' mail boxes;
 - Provide a resident's welcome book which contains details of the services residents can and should expect, details of procedures, contact numbers of the helpdesk, complaint procedures and details of the requirements and responsibilities expected of each resident relating to their behaviour and conduct; and
 - Ensure that all students are aware of any restriction on applying for local resident parking permits, encourage the use of local public transport and monitor and deal with unauthorised parking on-site

Buildings Maintenance

4.2 Victoria Hall will always use reasonable endeavours to:

- Provide accommodation that is fully functional, safe, secure and meets all relevant statutory requirements;
- Ensure that all elements of the accommodation (both internally and externally) maintain a good, clean, stain and graffiti-free appearance;
- Ensure that all elements of the accommodation, building services and utility suppliers are fully operational and performing in accordance with relevant design intent;
- Ensure that repairs to damage of the building fabric and services is delivered through a responsive maintenance service, with emergency assistance available 24 hours per day, 365 days per year;
- Ensure the regular inspection and testing of all elements of the fabric, finishes and building services;
- Ensure a rolling programme of planned maintenance, repair and replacement, covering all elements of the structure, fabric, finishes, building services, and external areas is undertaken;
- Ensure a regular programme of redecoration is undertaken;
- Ensure that all work undertaken, is at such times and in such a manner, as to comply with all relevant statutory requirements, manufacturers' instructions and recommendations, reasonable industry practice, and, cause the minimum risk of injury or damage to residents and their property;
- Ensure that all health and safety information and notification details are made available both to all residents and visitors;
- Ensure that all drainage systems are free-flowing and no safety hazards or noxious odours emanate from the drainage system;
- Record, monitor and report on the results of inspection and testing surveys, reported faults and the progress of any resultant planned and reactive maintenance work;
- Ensure that all accommodation is provided with mains lighting and power;
- Ensure that all accommodation (excluding circulation areas) is able to be adequately heated, having due regard to ambient external temperatures, and in accordance with normal requirements; and
- Ensure that procedures and operating plans are in place to deal with emergencies and in particular interruptions in utility supplies.

Fixtures, fittings and Equipment Maintenance

4.3 Victoria Hall will always use reasonable endeavours to:

- Ensure that all fixtures and fittings and equipment provided are fully functional and safe, meet all relevant statutory requirements and perform with relevant design intent;
- Ensure the regular inspection and testing of all fixtures and fittings and equipment in accordance with relevant statutory legislation etc;
- Ensure a rolling programme of planned maintenance, repair and replacement of all fixtures and fittings and equipment;
- Ensure a responsive and user friendly, emergency maintenance, repair and replacement service which provides cover 24 hours per day, 365 days per year;
- Ensure that any required non-emergency reactive maintenance, repair and replacement is given appropriate priority in order to minimise any health and safety risks and any downtime in respect of non-availability of the accommodation (or any specific fixture, fitting or piece of equipment); and
- Ensure that all work undertaken, is at such times and in such a manner, as to comply with all relevant statutory requirements, manufacturers' instructions and recommendations, reasonable industry practice, and, cause the minimum risk of injury or damage to residents and their property.

Grounds Maintenance

4.4 Victoria Hall will always use reasonable endeavours to:

- Ensure all hard landscaped areas are safe and accessible, and kept free from graffiti, litter, weeds, waste and other debris;
- Ensure all soft landscaped areas are kept free from litter and other debris and are tended to produce a well kept and cared for appearance; and
- Ensure that all external signage is clean, legible and unobstructed and that all illuminating signs are maintained in accordance with the general building maintenance requirements.

Cleaning & Waste Management

Cleaning

4.5 Victoria Hall will always use reasonable endeavours to:

- Provide an environment that is clean, tidy, free of odour, refuse, debris, pests and other infestations;
- Regularly provide for the cleaning and where appropriate disinfecting of all the common parts of the accommodation both internal and external, (excluding within the flats other than servicing between lets) and all fixtures and fittings and equipment within common facilities, common areas and circulation space;
- Regularly provide for the cleaning and where appropriate disinfecting of low level and high level surfaces such as floor surfaces, curtain rails, skirting boards, radiators, windows and doors, sills etc in all common facilities, common areas and circulation space;
- Ensure all areas are free of rodent, insect or other infestation;
- Ensure cleaning is undertaken at such times, and in a manner as to cause the minimum level of disturbance to residents, neighbours and visitors;
- Ensure cleaning is undertaken at such times and in such a manner as to comply with all relevant statutory requirements and to cause the minimum risk of injury or damage to residents, neighbours, visitors or their property; and
- Provide a responsive service to emergency incidents such as spillages leaks etc, including spillages and leaks of flammable materials.

Waste Management

- 4.6 We will ensure that the site is kept refuse free. The Magdalen Street scheme includes a dedicated refuse store within Block A, to be managed through regular weekly collections. The site caretaker will supervise on collection days, ensuring that the bins are returned to the store once refuse vehicles have left the site. The refuse store will be subject to regular cleaning.

With respect to our general waste management procedures, Victoria Hall will always use reasonable endeavours to:

- Ensure the frequent collection and removal of all waste in a hygienic manner from the designated bin store;
- Ensure that sufficient capacity is available to cope with the quantity of rubbish within the accommodation and increase storage provision if necessary
- Ensure that collection is at such times and in such a manner as to cause the minimum level of disturbance to residents, neighbours and visitors;
- Ensure that collection is at such times and in such a manner so as to comply with all relevant statutory requirements and cause the minimum of risk to the health and safety of residents, neighbours and visitors;
- Ensure that collection is undertaken at such times and in such a manner so as to comply with all relevant statutory requirements and cause the minimum of risk of rodent, insect or other infestation; and
- Ensure adequate recycling facilities are available.

Traffic Management

- 5.1 The development proposals include limited on-site parking provision comprising of 20 spaces, 1 of which will be a designated disabled parking space. These spaces will be used primarily by staff, visiting contractors, and students with mobility requirements. Remaining spaces will be rented to students for the entire academic year. All other students will be advised that there is no parking provision available to them and a recommendation given before arrival that they do not bring a car with them.

All students will receive a letter prior to arrival advising that there is no facility for onsite parking, and advising them of the lack of parking in the immediate vicinity.

All residents and employees will be provided with a travel information pack when they begin their employment or take up residence at the development. This information pack will include details, maps and timetables for local buses; information regarding local facilities (retail facilities, banks, schools, local cycle shops etc) and other useful information (including Journey Planner phone numbers and website details, and contact details for registered local taxi operators).

A dedicated travel notice board will be set up in logical common areas such as the student reception area. This will include not only public transport, walking, and cycling information but also details of the Travel Plan itself.

The Hall Manager will ensure that all train and bus services are well publicised and promoted to residents and employees. Bus and train routes and timetable information will be included within the information packs and on-site travel notice boards;

Victoria Hall will also publicise to residents the local Journey Planner and National Rail web sites and all relevant contact phone numbers.

All students aged 18 years and over are entitled to a discount on public transport. This will also be promoted.

Provision of a free telephone service in the main foyer direct to a reputable local taxi firm to ensure students have access to taxi services if required.

The effective control and monitoring of parking within the confines of the site will be managed by Victoria Hall staff. Whilst the external loading bay is effectively on the public highway and therefore beyond our control, Victoria Hall will endeavour to regulate use of this areas as best as possible.

A site specific Travel Plan document can be produced separately to detail further the traffic management strategy in Colchester, this document will be managed and enforced by the appointed Travel Plan Co-ordinator.



Application No: 162005

Location: Land west of Stanway Western Bypass and north of London Road, Stanway

Scale (approx): 1:2500

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.3 Case Officer: Lucy Mondon Date Expires: 03/11/2016

MAJOR

Site: **Land west of Stanway Western Bypass and north of London Road, Stanway, Colchester, Essex**

Application No: **162005**

Date Received: 4 August 2016

Agent: Miss Jessica Ferguson, MRPP

Applicant: The Churchmanor Estates Company Plc

Development: Application for removal or variation of condition 8 following grant of planning permission 150945.

Ward: Stanway

Summary of Recommendation: Conditionall Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it constitutes a major planning application which is recommended for approval where objections have been received.

2.0 Synopsis

- 2.1 The key issue explored below is the impact that the proposed earlier opening time for one of the permitted units would have upon residential amenity.
- 2.2 The report describes the site, the proposal, and its planning context, as well as the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application relates to the northern section of a site known as 'Stane Park', which is an area of land to the north of London Road and west of the Sainsburys store in Stanway. The development benefits from planning permission by virtue of a recent appeal decision (ref: APP/A1530/W/15/3139491) and consists of three restaurants, two of which have drive-through facilities. Together with the southern part of the site (also benefitting from planning permission by virtue of a recent planning appeal decision ref: APP/A1530/W/15/3139492) it forms part of a wider development which in total comprises six units: a pub/restaurant; 3 restaurants; and 2 restaurants with drive-through facilities. In his decision, the Planning Inspector concluded that 'there would be no unacceptable loss of employment land, either in quantitative or qualitative terms,

and that the proposals pass the sequential test. There would be some harm arising from conflict with the development plan, from the significant level of car-borne customers and to the setting of a listed building. However, the totality of that harm is limited and is significantly outweighed by the benefits of the schemes [as identified above]. There is conflict with the development plan but in respect of both appeals this is outweighed by the other material considerations. I conclude that both appeals should succeed.'

3.2 In respect of the planning conditions imposed, the Inspector made the following comments:

The main parties put forward lists of suggested conditions and these were discussed in some detail at the Inquiry. I have identified the approved plans for the avoidance of doubt. I have included Drawing No 13-0134/0-638 in the list of Appeal A plans as this provides details of the plans and elevations of the cart lodge. I have imposed conditions in respect of external materials, landscaping and the use of outdoor spaces in the interests of the visual amenities of the area. The access and egress arrangements specified in the application need to be provided in the interests of highway safety and the living conditions of London Road residents. The bus gate to the Wyvern Farm housing site need to be provided to ensure a co-ordinated approach to public transport provision.

A code of construction statement; limitations on the hours of working, operation and times for deliveries; the provision of self-closing doors; measures to control fumes; limitations on noise at the site boundaries; the provision of details and subsequent implementation of a litter management scheme; details of the use of outdoor spaces; and details of external lighting are necessary to protect the living conditions of nearby residents. An archaeological watching brief is necessary to safeguard archaeological assets in the area. Drainage details need to be submitted and approved as no such details have been provided and to minimise the risk of flooding.

I have imposed conditions restricting permitted development rights and the provision of additional commercial floor space in order that the Council may consider the implications, including highway and parking implications, of increasing the density of the development. For the same reasons I have imposed a condition prohibiting the sub-division of the units. I have imposed a condition removing permitted development rights in respect of changes of use. This condition limits the use of each of the individual units to the use applied for. This ensures that the development accords with the terms of the planning applications and prevents the units being used for other purposes, such as for retail use, which could impact adversely on the town centre. I have amended the Appeal B suggested condition to reflect the uses sought and now permitted.

I have imposed the reduced condition concerning contaminated land as suggested by the appellants as the lengthier conditions contain much advice on the types of information that may be necessary in such a scheme. The highway works, although specified on the plans, need to be the subject of conditions to ensure that they are carried out before trading commences.

3.3 Following the appeal decision, the Planning Inspectorate issued corrections to conditions 2 and 25. These corrections have been incorporated into the recommended conditions set out in section 18.0 of this report.

4.0 Description of the Proposal

- 4.1 The application seeks to vary condition 8 of planning permission 150945 to enable an earlier opening time of 7am for Unit 4 of the development. Unit 4 is located to the north-eastern part of the site and is shown as being intended for a Starbucks on the masterplan submitted.

- 4.2 Condition 8 currently states:

The uses hereby permitted shall not operate outside of the following times:

Weekdays: 08:00-23:30

Saturdays: 08:00- 23:30

Sundays: 08:00-23:00

The application seeks to amend the condition to stipulate the following:

The uses hereby permitted shall not operate outside of the following times:

Weekdays: 08:00-23:30

Saturdays: 08:00- 23:30

Sundays: 08:00-23:00

Other than in the respect of Unit 4 which shall not operate outside the following times:

Weekdays: 07:00-23:30

Saturdays: 07:00- 23:30

Sundays: 07:00-23:00

- 4.3 All other elements of the development would remain as currently approved.

5.0 Land Use Allocation

- 5.1 The site is located within a Growth Area and a Strategic Employment Zone.

6.0 Relevant Planning History

- 6.1 There have been a number of planning applications relating to the site since 1995. However, the recent appeal decision (ref: APP/A1530/W/15/3139491) is the most relevant as it allowed planning permission for the development to which this application relates: one restaurant and two drive-through restaurant/café units (which will also facilitate the consumption of food and drink on the premises) with associated car parking, landscaping, access and servicing. Details of the decision are included in section 3.0 of this report. The appeal decision can be read in full on the Council's website, under planning reference 150945.
- 6.2 The southern part of the site was granted planning permission under appeal reference APP/A1530/W/15/3139492 (Council planning reference 146486) for: one pub/restaurant (with ancillary residential accommodation) and two restaurant units, with associated car parking, landscaping, and "cart lodge".

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2a - Town Centre
- CE2b - District Centres
- UR2 - Built Design and Character
- 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
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP6 Colchester Town Centre Uses
- DP7 Local Centres and Individual Shops
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP25 Renewable Energy

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

- SA STA1 Appropriate Uses within the Stanway Growth Area
- SA STA3 Employment and Retail Uses in Stanway Growth Area
- SA STA4 Transportation in Stanway Growth Area

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

Vehicle Parking Standards
Sustainable Construction
External Materials in New Developments
Cycling Delivery Strategy
Stanway Joint Design Statement and Village Plan
Tollgate Vision Statement

8.0 Consultations

- 8.1 Environmental Protection: No objection.
- 8.2 Contaminated Land Officer: No comment.
- 8.3 Highway Authority: The Highway Authority has no comments to make on the proposal from a highway and transportation perspective.
- 8.4 The following consultees have not responded:
Environment Agency
Colchester Archaeological Group
Technical Fire Safety Service
Essex County Fire and Rescue
Essex Bridleways Association
The Ramblers Association
Openreach (BT)
Planning Policy

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

9.0 Parish Council Response

- 9.1 No comments received.

10.0 Representations

- 10.1 Two letters of objection have been received, although they do not specifically refer to the condition intended for variation. The contents of the letters of objection are summarised as follows:
- Insufficient provision for cyclists: request that wide designated cycle paths, with links to local residential areas and town centre routes, and cycle racks throughout the development are provided;
 - The development would make existing traffic issues worse; and
 - The development will affect the town centre, which has been slowly dying for some time.

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

11.0 Parking Provision

- 11.1 Parking provision remains unaltered from the permitted scheme.

12.0 Open Space Provisions

- 12.1 The landscaping of the site, pocket park, and play area remains unaltered from the permitted scheme.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 No planning obligations were required as part of the appeal decision.

15.0 Report

- 15.1 There have not been any material changes in circumstance since the appeal decision on 4th July 2016 and, as such, the proposed development is considered to be acceptable in accordance with that decision. The main planning consideration in this case is whether the proposed earlier opening time for Unit 4 is acceptable in terms of residential amenity.
- 15.2 Unit 4 would be located to the north-east of the site, adjacent to an existing roundabout, and would not be in close proximity to residential properties, the nearest property being over 80 metres away. As such, the earlier opening time of 7am (as opposed to 8am for the remaining units) is not considered to have a detrimental impact upon residential amenity in terms of noise and disturbance from customers and/or staff. The Council's Environmental Protection team have been consulted as part of the application and do not have any objections to the earlier opening time for Unit 4. All other conditions necessary to protect residential amenity (i.e. a code of construction statement; limitations on the hours of working, operation and times for deliveries; the provision of self-closing doors; measures to control fumes; limitations on noise at the site boundaries; the provision of details and subsequent implementation of a litter management scheme; details of the use of outdoor spaces; and details of external lighting) would remain as part of the permission.
- 15.3 For clarity, the Local Planning Authority considers it necessary to amend condition 1 so that the time limit for implementing the decision in the planning permission accords with the three year time limit established in the appeal decision.
- 15.4 Two letters of objection have been received that are concerned with the level of provision for cyclists, traffic implications, and the impact of the development upon the town centre. All of these matters were considered as part of the Planning Inspector's decision and it is considered that there is no change in circumstance specific to either the site or proposal that would lead the Local Planning Authority to reassess these matters.

16.0 Conclusion

- 16.1 Due to the location of Unit 4, being away from residential properties, the earlier opening time of 7am is not considered to have a detrimental impact upon residential amenity in terms of noise and disturbance and it is considered that the condition can be amended as proposed by the applicant.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - Non-Standard Condition/Reason

The development hereby permitted shall begin no later than 4th July 2019.

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 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings, except where they are required to be amended as required by conditions 16 (Landscaping) and 24 and 26 (Highway Improvements) of this permission.

Location Plan 14-0262/0-600

Design Brief 14-0262/0-601 Rev A

Proposed Site Plan 14-0262/0-602 Rev D

Proposed Site Elevations 14-0262/0-604 Rev A

Unit 3 - GA Plans 14-0262/0-610 Rev B

Unit 3 - GA Elevations 14-0262/0-611 Rev C

Unit 4 - GA Plans 14-0262/0-620 Rev A

Unit 4 - GA Elevations 14-0262/0-621 Rev A

Unit 4 - Proposed Sections 14-0262/0-622 Rev A

Unit 5 - GA Plans 14-0262/0-630 Rev C

Unit 5 - GA Elevations 14-0262/0-631 Rev B

Unit 5 - Proposed Section 14-0262/0-632 Rev C

London Road Widening F171/SK/302 Rev A

Chameleon Material Samples 20150213DJ001

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

3 - Non-Standard Condition/Reason

Notwithstanding such detail as has been previously provided to support the planning application no works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials; joinery details and external hard landscaping materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

4 - Non-Standard Condition/Reason

No part of the development hereby permitted shall open for trade until the highway and access works, signage, uni-directional barrier and parking spaces shown on Drawing Numbers 13-0134/0-605 Rev F and F171/SK/302 Rev A have been provided and are fully operational. Such facilities shall thereafter be retained for as long as the development, or any part of it, remains unless agreed in writing by the Local Planning Authority.

Reason: In order to ensure that appropriate access arrangements are provided and thereafter retained in the interest of maintaining highway safety and efficiency and in order to safeguard the amenity of residents living opposite the development on London Road.

5 - Non-Standard Condition/Reason

No part of the development hereby permitted shall open for trade until:

a) Detailed drawing/s of the bus gate design and arrangements shown in preliminary detail on submitted Drawing Number 14-0262/0-602 Rev D have been submitted to and approved by the Local Planning Authority, and

b) The bus gate access arrangements have been provided to the boundary of the site so as to be co-terminus with the equivalent section of bus-gate being provided by the relevant developer of the Wyvern Farm development. Once connection is made the bus-gate access shall remain freely available for use for the intended purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order that the Local Planning Authority is satisfied that appropriate detail has been agreed and is implemented to facilitate enhanced public transport connectivity through this estate to adjacent development which will be similarly required to facilitate bus connectivity in a co-ordinated approach.

6 - Non-Standard Condition/Reason

Prior to commencement of the development the developer shall submit a code of construction statement for approval to the Local Planning Authority. That statement shall include details of the following:-

- Pre- and post-opening maintenance arrangements at the developer's expense for roads, kerbs, paths, lights, dog and litter bins, public realm, landscaping and the public realm generally.
- Arrangements for the prominent display in a publicly accessible location of the following:
 - Site manager contact details. (email and telephone)
 - Out of hours contact details for the reporting of problems during construction
 - The display of the planning permission and all associated conditions and an approved layout drawing
 - Summarised build programme
- Compound location
- Overall build programme
- Site parking arrangements
- Routing plan arrangements for construction and construction related traffic
- Dust suppression
- Tyre washing
- Concrete plant location
- Noise suppression (vehicles reversing alarms)

- Site manager contact details for residents
- Top soil mound positions
- Local newsletter arrangements and catchment
- Floodlighting
- Fuel storage arrangements

Development shall not proceed until such details have been agreed in writing by the Local Planning Authority and thereafter the developer shall comply with such detail as shall have been agreed.

Reason: In order to safeguard the amenity of existing local residents living in the vicinity of the site

7 -Non-Standard Condition/Reason

No construction work other than of internal works to a completed shell with windows and doors in place shall take place outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No working.

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

8 - Non-Standard Condition/Reason

The uses hereby permitted shall not operate outside of the following times:

Weekdays: 08:00-23:30

Saturdays: 08:00- 23:30

Sundays: 08:00-23:00

Other than in the respect of Unit 4 which shall not operate outside the following times:

Weekdays: 07:00-23:30

Saturdays: 07:00- 23:30

Sundays: 07:00-23:00

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.

9 - Non-Standard Condition/Reason

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

Weekdays: 07:00-23:00

Saturdays: 07:00-23:00

Sundays: 07:00-23:00

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

10 - Non-Standard Condition/Reason

Prior to 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.

11 - Non-Standard Condition/Reason

Prior to the occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 5dB(A) above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

12 - Non-Standard Condition/Reason

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.

13 - Non-Standard Condition/Reason

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

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.

14 - Non-Standard Condition/Reason

Beyond that described in the supporting lighting strategy and provided as so described no additional external lighting shall be installed unless it has first been 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 lighting 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.

15 - Non-Standard Condition/Reason

Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public and the environment when the site is developed. Development shall not commence until the measures approved in the scheme have been implemented.

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

16 - Non-Standard Condition/Reason

Notwithstanding such landscaping details as have been submitted, further details of proposed landscaping shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The approved details shall be carried out in full prior to the end of the first planting season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that the landscaping provided appropriately complements the setting and context of this site. The scheme as submitted contains a number of elements that are considered unsuitable or lacking in sufficient detail to ensure that appropriate quality standards are met.

17 - Non-Standard Condition/Reason

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

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/Reason

The developer shall afford access at all reasonable times to any archaeologist, nominated by the Local Planning Authority, provide ten working days notice of any excavations and allow him/her to observe those excavations and record items of interest and finds.

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.

19 - Non-Standard Condition/Reason

Notwithstanding the definition of development provided by s55 of the Town & Country Planning Act 1990 no additional floorspace shall be created within any part of any voidspace within any building or buildings without the prior written approval of the Local Planning Authority.

Reason: The council wishes to ensure that it is able to consider the planning implications that arise from any increase in commercial floorspace within this development. This is particularly so because a number of units within the development have high ground to eaves levels but only ground floor accommodation is currently proposed. Increased floorspace expansion is likely to have traffic and parking implications that need to be considered in terms of possible mitigation before such expansion can occur.

20 - Non-Standard Condition/Reason

No works shall take place until details of surface water and foul water drainage have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: The application contains insufficient drainage information to properly assess the impacts of the development on drainage and in order to minimise the risk of flooding.

21 - Non-Standard Condition/Reason

No outdoor space or spaces shall be used for the purpose hereby permitted within the buildings unless and until an outdoor area management plan has been submitted to and agreed in writing by the Local Planning Authority. This plan shall include details of:

- physical extent of such areas as defined on a site plan
- intended use of such areas

The defined outdoor space shall only be used for the prescribed purposes between the hours of 08:00-23:00.

Reason: The drawings submitted with the application suggest that some parts of the outdoor areas may be used for outdoor eating and drinking but this level of detail is too vague for a proper assessment of the impact of such activity on the amenity of adjoining residential premises to be made. It is therefore appropriate to require further information in this regard before any outdoor use is permitted.

22 - Non-Standard Condition/Reason

The permission hereby granted is for the use stated below within the unit specified only and no other use; including any use which may currently or at any future date constitute a permitted development change of use as described in the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) or in any Order or Instrument amending, revoking or replacing that Order:

Unit 3: A3 (restaurants & cafes) as a restaurant;

Unit 4: Mixed A5 (hot food takeaway) /A3 (restaurants & cafes) as a drive through restaurant with seating; and

Unit 5: Mixed A5 (hot food takeaway) /A3 (restaurants & cafes) as a drive through restaurant with seating.

Reason: The site sits outside of any designated area within the Adopted Development Plan as appropriate for A1 (shop) retail or other 'town centre' uses. It is therefore appropriate to restrict the ability to change uses through the exercise of permitted development powers in order to ensure that the Councils Strategic retail objectives are not prejudiced by unforeseen changes in the character of activity at Stane Park which could further prejudice the viability and vitality of the Town Centre. In addition it is considered appropriate to control the mix of A3-A5 in order to ensure that the site does not become more unsustainable through the creation of a car-based custom destination.

23 - Non-Standard Condition/Reason

23. The permission hereby granted is for the units specified in the approved plans. There shall be no sub-division or intensification of any units without prior planning approval; including any alterations which may at a future date constitute permitted development as described in the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) or in any Order or Instrument amending, revoking or replacing that Order.

Reason: The site sits outside of any designated area within the Adopted Development Plan as appropriate for 'town centre' uses. It is therefore appropriate to restrict the ability to change the approved scheme through the exercise of permitted development powers in order to ensure that the Councils Strategic retail objectives are not prejudiced by unforeseen changes in the character of activity at Stane Park which could further prejudice the viability and vitality of the Town Centre and ensure that the site does not become more unsustainable through the creation of a car-based custom destination.

24 - Non-Standard Condition/Reason

Prior to commencement of the development revised details shall be submitted to and approved in writing by the Local Planning Authority to show the following:

The link located off London Road adjacent the bus shelter and cycle parking and the link off the Stanway Western Bypass immediately north of Unit 2 as minimum 3 metre wide shared footpath/cyclepaths. The development shall be carried out in accordance with the approved plans.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

25 - Non-Standard Condition/Reason

No part of the development shall open for trading until the following have been provided or completed:

- a) A bell mouth access as shown in principle on the application drawings. Access to include but not limited to a minimum 70 x 2.4 x 70 metre visibility splay
- b) The works shown on drawing F171/SK/302 Rev A have been completed.
- c) Upgrading (and possible relocation) of the two bus stops located west of the Stanway Western Bypass/London Road roundabout to current Essex County Council specification to include but not limited to real time passenger information (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) A minimum 3 metre wide shared footway/cycleway along the length of the proposal site's southern frontage onto London Road (to link with the 3 metre wide shared footway/cycleway attached to the Wyvern Farm planning permission (ref. 145494) and the 3.5 metre wide shared footway/cycleway alongside the Stanway Western Bypass
- e) An employee travel plan

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

26 - Non-Standard Condition/Reason

Notwithstanding the submitted drawings, prior to commencement of the development revised drawings shall be submitted to and approved in writing by the Local Planning Authority to show the following:

- a) The footways on all sides of the site access infrastructure, including new roundabout and arms off, from the Stanway Western Bypass onwards as minimum 3 metre wide shared footway/cycleways.
- b) The splitter islands at the new roundabout being wide enough to accommodate a cyclist
- c) The link to the adjacent Wyvern Farm planning permission [ref. 145494] being a minimum 3 metre wide shared footpath/cyclepath

No occupation of any part of the development shall take place until the works described above have been provided or completed.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

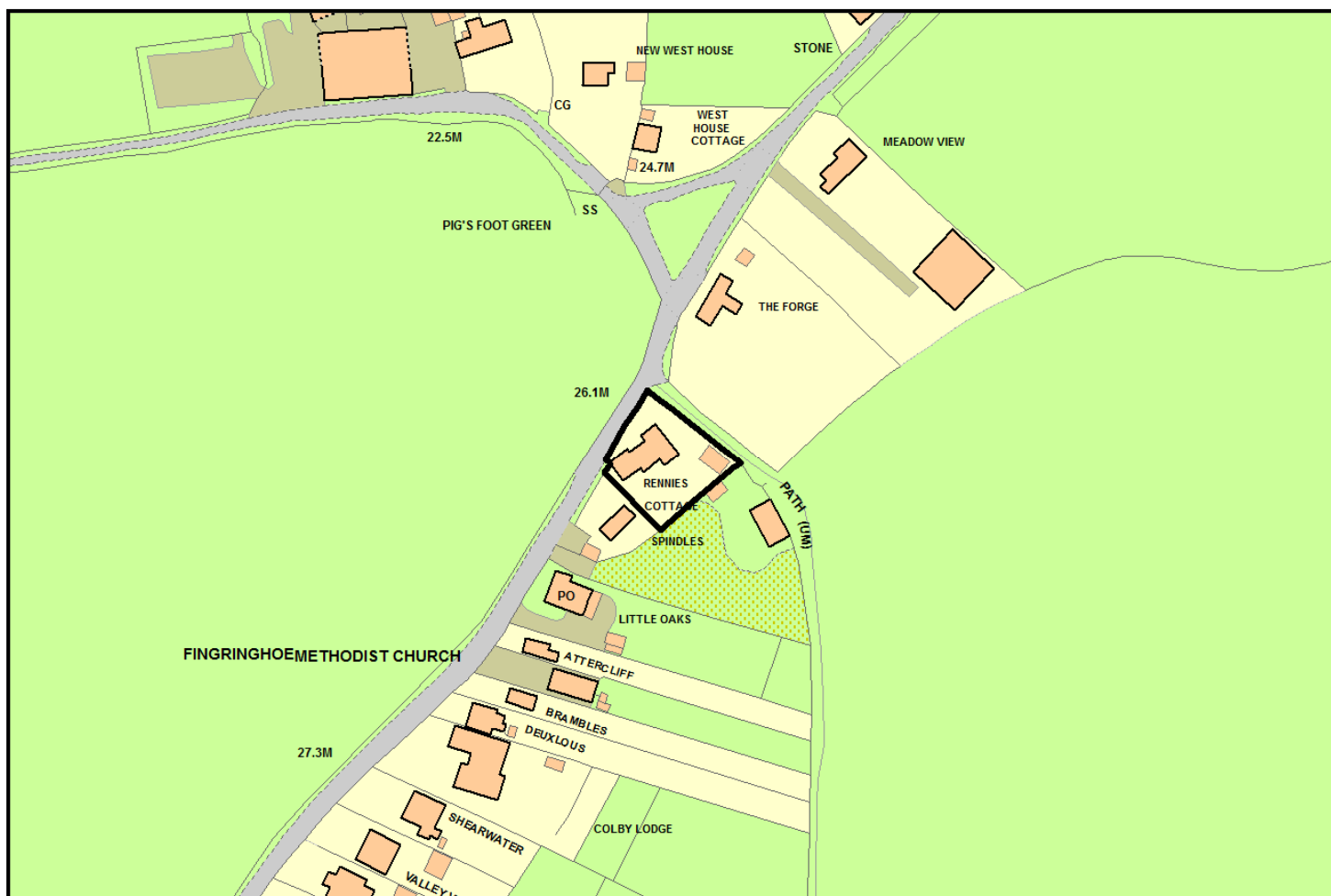
The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control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

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

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

20.0 Positivity Statement

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



Application No: 161503

Location: Rennie Cottage, Chapel Road, Fingringhoe, Colchester

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.4 Case Officer: Mark Russell

HOUSEHOLDER

Site: Rennie Cottage, Chapel Road, Fingringhoe, Colchester

Application No: 161503

Date Received: 20 June 2016

Agent: Ms L Bane, Inkpen Downie

Applicant: Mr & Mrs D Bruton

Development: Demolition of an ex.domestic outbuilding and replacement with a garage and workshop building.

Ward: Mersea & Pyefleet

Summary of Recommendation Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Davidson for the following reasons: "Excessive height of outbuilding impacting on Grade II listed building – also street-scene impact."

2.0 Synopsis

- 2.1 The key issues explored below are the impact on neighbours, the street-scene and the setting of the listed building Rennie Cottage.
- 2.2 Comments from our Historic Buildings Officer are reported and it is held that the setting of the listed building is positively enhanced by the proposal and the street-scene is unharmed.
- 2.3 An objection from a neighbouring property, regarding the height and potential use for business, is reported. In response, it is held that the height is acceptable and that any business use would require Planning permission.
- 2.4 It is concluded that the proposal is acceptable and approval is recommended, subject to conditions.

3.0 Site Description and Context

- 3.1 The subject building is a post-war construction in the curtilage of a listed building. However, as it post-dates 1948 it is not curtilage listed.
- 3.2 Rennie Cottage is a Grade II listed building (listed as "Cob Cottage") which is described as being sixteenth century timber framed and plastered, extensively altered in the twentieth century. The house contains one original cross wing, a gabled dormer and a red plain tile roof.

- 3.3 The building stands to the rear and to the left-hand side of the cottage, down a small lane which is also bridleway 133_7 that links through to South Farm.
- 3.4 To the south and east are woodland and agricultural fields, with outbuildings adjacent to the dwellinghouse Spindles. To the north are the garden and grounds of the Grade II listed Forge Cottage.

4.0 Description of the Proposal

- 4.1 It is proposed to demolish an existing outbuilding and replace it with a new storage/workshop building of improved appearance. The footprint of old and new is 82m².
- 4.2 The existing comprises corrugated iron with a corrugated asbestos cement roofing. The proposal increases the height and also introduce brick on the north elevation.

5.0 Land Use Allocation

- 5.1 Residential, Fingringhoe Village Envelope.

6.0 Relevant Planning History

- 6.1 None

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
ENV1 - Environment

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

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

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

n/a

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

- Sustainable Construction
- The Essex Design Guide
- External Materials in New Developments

8.0 Consultations

- 8.1 Historic Buildings Officer: “The existing outbuilding is of no historic or architectural merit and there is no objection to its demolition. The proposed replacement would have a beneficial impact on the setting of the LB. I recommend permission is granted.” Conditions relating to External materials and External joinery details were also recommended.
- 8.2 Tree Officer: The impact on the trees shown to be retained is limited. Details of how the trees will be protected during the construction process should be provided. This information can be provided post permission if required.
- 8.3 Archaeology: No issues.
- 8.4 Highway Authority: “This Authority has assessed the highway and transportation impact of the proposal and would not wish to raise an objection to the above.”

NOTE – this recommendation was subject to the adjacent Public Right of Way not being obstructed and a standard Highway-related informative.

- 8.5 Natural England: No comments.

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

9.0 Parish Council Response

- 9.1 Fingringhoe Parish Council has commented: *“The Parish Council has considered the application and wish to comment that there should be no new access permitted from the bridleway into the property. Secondly that officers should make a condition of planning that the proposed new garage/workshop may not be used for residential accommodation now or in the future.”*

10.0 Representations

- 10.1 From Forge Cottage (neighbouring property): *“This new building seems much higher than the original. We are also worried about the workshop aspect. Does this mean there will be a noisy business run from here? Is there permission already in place to run a business? Will the removal of the asbestos from the old building be thoroughly checked? We already live next door to one disgusting site, and it is supposed to be a conservation area.
Can we be reassured with the above comments, and receive a reply before authorisation. We would like to be kept informed.”*
- 10.2 Ramblers Association: *“The bridleway to remain open, clear and safe for all users during development, in particular keeping sudden loud noises to a minimum and not blocking the route with vehicles. No new access to the bridleway in the longer term.”*

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

11.0 Parking Provision

- 11.1 Two garage spaces are shown. These are deficient in size, but there is ample room on site for the parking of two cars.

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Design and Layout:

- 15.1 As outlined in the “Description of the Proposal” section at paragraph 4.0, the proposal is for a replacement outbuilding on the existing footprint of 82m².
- 15.2 The proposed building reaches just over 4.5 metres at ridge and 2.2 metres at eaves. This compares with an existing structure which has a slacker pitch and measures approximately 2.5 metres to ridge.

- 15.3 The proposed pitch is more visually pleasing at about 45 degrees as opposed to the existing which is about 15 degrees.
- 15.4 The front elevation (to the west, originally described as “east”) comprises two side opening timber garage doors with limited high level glazing. At the higher level is an additional set of timber double-glazed windows. This section is to be clad in black, feather-edged weather-boarding. The rear also features such boarding, but the lower half is red facing brick. The brick then makes up the side walls and returns to the front to form pillars. The roof is shown as clay pan-tiles.
- 15.5 Whilst largely comprising a simple gabled form, the building has some slightly recessed elements to the side. The south elevation is glazed all the way along its top half, whilst limited high level obscured glazing is shown to the north.
- 15.6 The internal aspects of the building show the garage at one end and a studio/workshop area at the other. In between is a wc. Whilst single-storey, the middle section of the building is shown as having a storage area above the toilet.

Heritage issues:

- 15.7 The existing and proposed outbuildings are within the curtilage of a Grade II listed building. The existing is post 1948 and thus not curtilage listed. Similarly the replacement will not be curtilage listed. However, both affect the setting of the listed building because of the proximity.
- 15.8 The existing is clearly ramshackle and down at heel, but is modest. The replacement is a far superior structure, but is clearly larger and thus could be seen to rival the listed building. However, with a gap of four metres, there is still breathing space for this heritage asset. The form of design and choice of materials are fitting for this location. Our Historic Buildings Officer has spoken positively of the scheme (having negotiated some changes pre-application) and has suggested conditions to further enhance the proposal. Therefore it is held to be acceptable with reference to heritage considerations.

Residential Amenity:

- 15.9 There are no concerns on this front, the outbuilding is set far enough away from the neighbouring property to avoid any amenity issues.

Other Matters:

- 15.10 A neighbour has expressed concerns about potential business use. However, this is a householder application. Any business use (other than *de minimis*) would require Planning permission and would need to be considered on its merits were it to be put forward.
- 15.11 The Parish Council has asked that the outbuilding be conditioned to prevent it from being used as residential accommodation now or in the future. There does not appear to be any justification for this. If the building were used as a separate unit of accommodation, then this would require Planning permission. Such a condition, therefore, will not be imposed.

- 15.12 The neighbouring residents have also voiced concern about asbestos, this will be dealt with by an informative.
- 15.13 A condition will also be in place reminding the applicant to ensure that the neighbouring Public Right of Way is not obstructed.
- 15.14 An amended set of drawings has been received. This corrects an initial error on the original drawings which wrongly assigned the compass points and showed an axonometric rather than a flat aspect.
- 15.15 Finally, by way of clarification, the site is not within a conservation area as has been claimed.

16.0 Conclusion

- 16.1 The development at hand presents no heritage concerns or amenity issues and is of an acceptable design in the setting of a listed building. It is, therefore, recommended for approval.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers A-1525-PL- 03A and A-1525-PL-04C.

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

3 - Listed Building Materials

No works shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the works hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

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

4 - *External Joinery Details

No works shall commence on site until details of all new external WINDOW AND DOOR JOINERY AND/OR METAL FRAMED GLAZING have been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall thereafter be carried out in accordance with the approved details. Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.

5 - 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.

6 - 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.

7 - *Protecting Public Rights of Way

The public's rights and ease of passage over BRIDLEWAY number 133-7 shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility.

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

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

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

(4) The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

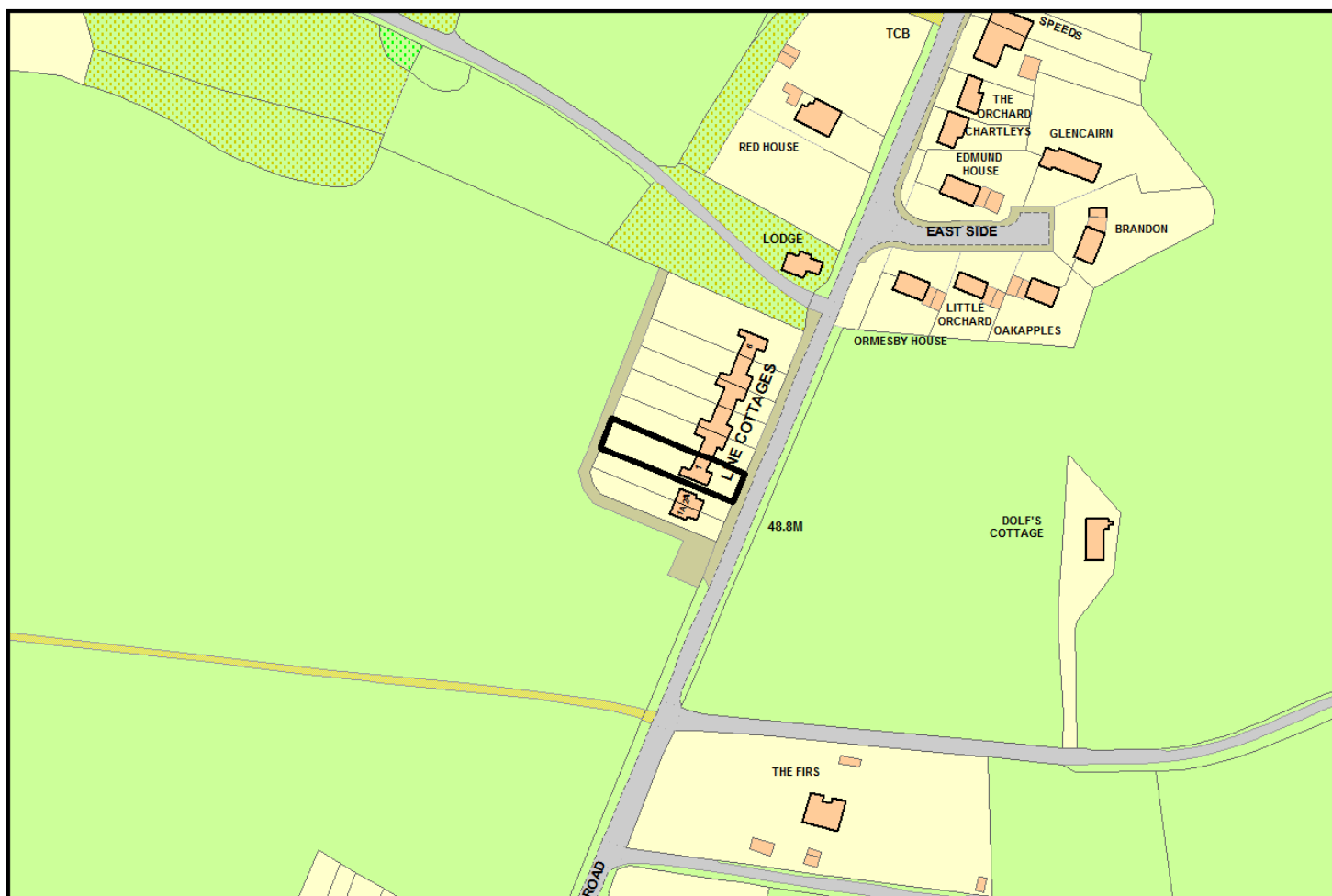
(5) The applicant is advised to take steps to provide sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles associated with the development shall affect the ease of passage along the PROW.

(6) The applicant is advised to consult the Health and Safety Executive guidance sheet a14 "Asbestos essentials, non-licensed tasks - Removing asbestos cement (AC) sheets, gutters, etc and dismantling a small AC structure."

(7) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

20.0 Positivity Statement

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



Application No: 161849

Location: 1, Line Cottages, Straight Road, Boxted, Colchester, CO4 5QT

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.5 Case Officer: Ishita Sheth**HOUSEHOLDER**

Site: 1 Line Cottages, Straight Road, Boxted, Colchester, CO4 5QT

Application No: 161849

Date Received: 11 July 2016

Agent: Peter Tyler Surveying

Applicant: Mr Ross Taylor

Development: Front extension.

Ward: Rural North

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the agent works for the Council on a consultancy basis.

2.0 Synopsis

- 2.1 The key issues explored below are the design of the proposed front extension and its potential effect on residential amenity.
- 2.2 It is held that these issues are satisfied and approval is recommended.

3.0 Site Description and Context

- 3.1 The site comprises a residential property in a terrace of six of varying facing treatments just outside the village settlement boundary of Boxted Cross. There are fields on all four sides.

4.0 Description of the Proposal

- 4.1 The proposal is to build a first floor element in the middle section of the front of the building above the existing porch area and to add a single storey porch to the front.

5.0 Land Use Allocation

- 5.1 Residential, outside of any settlement limits.

6.0 Relevant Planning History

- 6.1 86/1085 - Erection of 2 storey rear extension. Approved 8th August 1996;

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

DP19 Parking Standards

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

n/a

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

Extending Your House?

The Essex Design Guide

External Materials in New Developments

Boxted Parish Plan incorporating the Village Design Statement

8.0 Consultations

8.1 None received.

9.0 Parish Council Response

9.1 No comments received from Bixted Parish Council.

10.0 Representations

10.1 None received.

11.0 Parking Provision

- 11.1 Not affected by this proposal – it is still possible to park two vehicles as per the standards.

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Design/Layout

- 15.1 The proposal seeks to alter the frontage of the end of a terrace of six. Potentially this could appear discordant in its setting. However, it is noted that the row is not absolutely symmetrical and is not consistent. The subject house has a narrower gable than others in the series and has different facing materials. These differences are such that the proposal would not appear discordant. The only deviation is the proposed porch which extends beyond the building line. However, this is a minor incursion.
- 15.2 The proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 15.3 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.
- 15.4 The proposal seeks to provide a window at first floor level in the northern elevation which has the potential to overlook the front garden area of the neighbouring dwelling at No. 2 Line Cottages. However, this window would serve a bathroom and it would be acceptable to impose a condition requiring this window to be obscure glazed and fixed shut to a height of 1.7m from the finished floor level without any detriment to the internal living conditions. Subject to such a condition, no objection can be raised.

16.0 Conclusion

- 16.1 The proposal carries no issues of design and amenity and is, therefore, recommended for approval.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 817-1, 817-6 and 817-5.

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

3 - Materials to Match

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

4 - *Removal of PD - Obscure Glazed & Non-Opening (Check Building Regs)

The window in the northern elevation at first floor level of the extension hereby approved shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity to a height of 1.7m from the finished floor level before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

19.0 Informatives

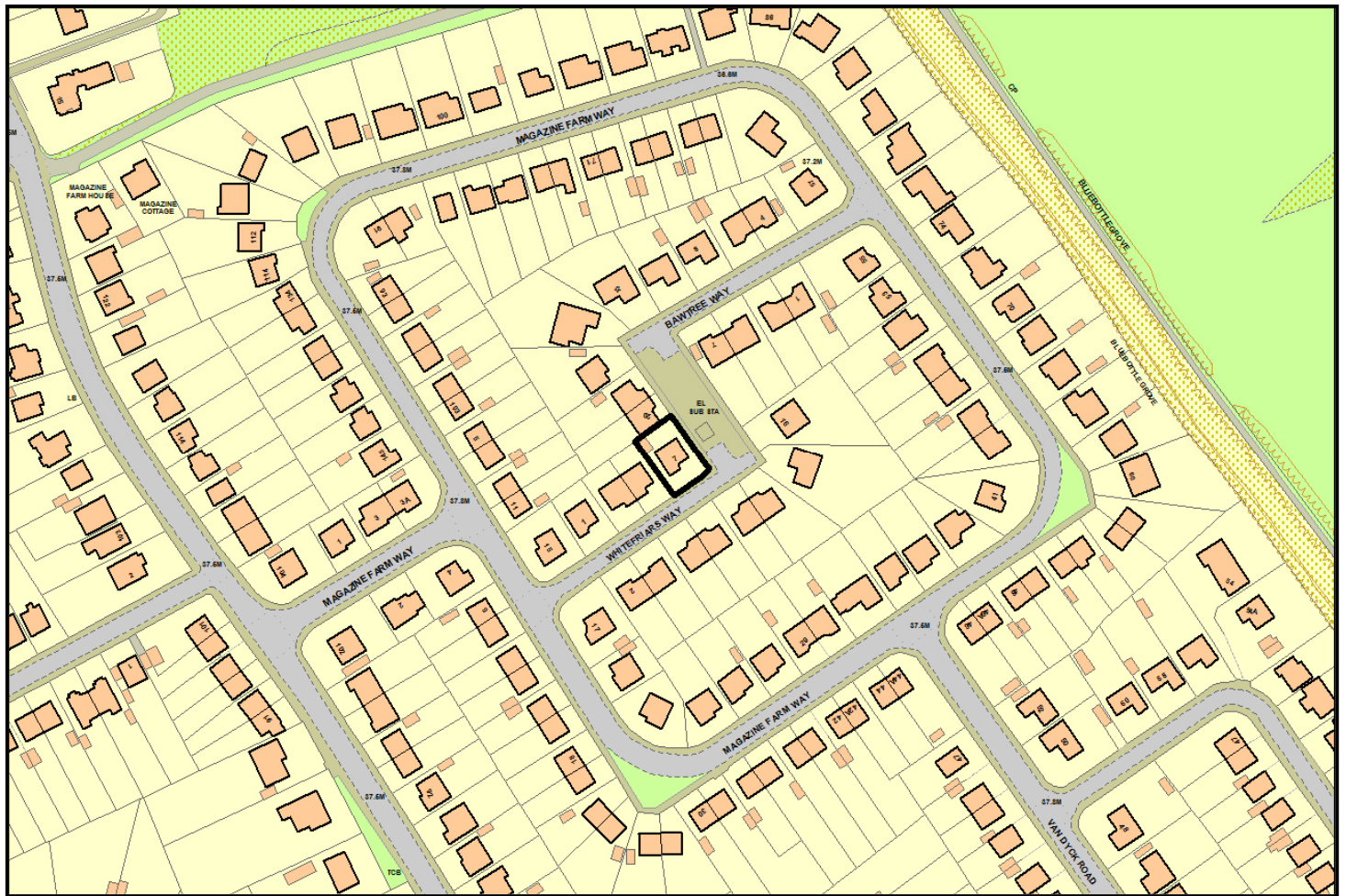
(1) ZT0 – Advisory Note on Construction & Demolition

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

20.0 Positivity Statement

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



Application No: 162049

Location: 7 Whitefriars Way, Colchester, CO3 4EL

Scale (approx): 1:1250

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

7.6 Case Officer: Eleanor Moss Due Date: 27/09/2016

HOUSEHOLDER

Site: **7 Whitefriars Way, Colchester, CO3 4EL**

Application No: **162049**

Date Received: 2 August 2016

Agent: Mr Peter Tyler

Applicant: Mr Derek Windsor

Development: Proposed single storey extension.

Ward: Prettygate

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the agent is employed by this Council on a consultancy basis.

2.0 Synopsis

- 2.1 The key issues explored below are the design of the proposed extension and its impact on the street scene and neighbouring amenities.
- 2.2 It is considered that these are acceptable and approval is recommended.

3.0 Site Description and Context

- 3.1 The application site is a modest detached bungalow adjacent to Whitefriars Way, occupying an unobtrusive plot. The surrounding area is a mix of different architectural styles and materials, although largely red brick and grey slate bungalows.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the erection of a single storey rear extension. The proposed extension measures 6.2 metres wide by 4.8 metres deep. This is in order to provide an enlarged kitchen and dining room on the ground floor. The detailing is the same as the existing front elevation other than the fenestration where a dormer window is proposed.

5.0 Land Use Allocation

- 5.1 Predominantly Residential.

6.0 Relevant Planning History

6.1 N/A

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

N/A

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

Extending Your House?
The Essex Design Guide

8.0 Consultations

8.1 None received at the time of writing. Any comments received will be reported on the amendment sheet and will be available to view on the Council's website.

9.0 Parish Council Response

9.1 Not parished.

10.0 Representations

10.1 None received at the time of writing.

11.0 Parking Provision

- 11.1 Parking in excess of adopted Parking Standards will be retained.

12.0 Open Space Provisions

- 12.1 Not applicable

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Design, Layout and Impact on Surrounding Area:

- 15.1 The simple detailing of the extension reflects the character and detailing of the dwelling. The proposed extension is designed to appear as a subservient addition and is complementary to the existing dwelling and therefore is considered to be acceptable. The design, scale and form of the proposed development are considered satisfactory on their own merits. The extended dwelling would still relate satisfactorily to the character of the street scene overall, which is varied. The dwelling would look appropriately designed and not over-scaled in this context.
- 15.2 The proposed rear extension is considered to be relatively modest in size and appears to complement the existing dwelling. There will be limited views of the proposal from the public realm, it is considered that the proposal would have a marginal impact overall.

Impact on Residential Amenity:

- 15.3 The potential impact on the amenity of the neighbouring properties has been assessed using the principles set out in “Extending Your House?” for assessing amenity for rear extensions and also with reference to The Essex Design Guide. The proposal contains windows in the rear elevation; however as these are ground floor in height it is not considered there will be a negative impact on residential amenity. The proposal is considered acceptable in amenity terms and accords with DP1.

16.0 Conclusion

- 16.1 The proposal is acceptable; any impact upon neighbouring residential amenity would be marginal and does not raise any design concerns. Therefore an approval is warranted.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 835- 1, 835-4 and 835-5.

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

3 - Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

Reason: To ensure that materials are of an acceptable quality appropriate to the area.

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

20.0 Positivity Statement

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

