

# Planning Committee Meeting

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

**Thursday, 30 March 2017 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](http://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](http://www.colchester.gov.uk)

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### Access

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### Facilities

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## Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

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

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

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

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

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

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

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

## **Planning Obligations**

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

## **Human Rights, Community Safety and Equality and Diversity Implications**

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

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

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

## Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

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

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- |                                          |                         |
|------------------------------------------|-------------------------|
| 1. Necessary                             | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable           |
| 5. Precise                               | 6. Enforceable          |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

### **Parking Standards**

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



## **Colchester Borough Council Environmental Control**

### **Advisory Notes for the Control of Pollution during Construction and Demolition Works**

*The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.*

#### **Best Practice for Construction Sites**

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

##### **Noise Control**

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

##### **Emission Control**

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

## **Best Practice for Demolition Sites**

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

### **Noise Control**

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

### **Emission Control**

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.



# **The Town and Country Planning (Use Classes) Order 1987 (as amended)**

## **Class A1. Shops**

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

## **Class A2. Financial and professional services**

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

## **Class A3. Restaurants and cafes**

Use for the sale of food and drink for consumption on the premises.

## **Class A4. Drinking establishments**

Use as a public house, wine-bar or other drinking establishment

## **Class A5. Hot food takeaways**

Use for the sale of hot food for consumption off the premises.

## **Class B1. Business**

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
- (b) for research and development of products or processes, or
- (c) for any industrial process,

being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

## **Class B2. General industrial**

Use for the carrying on of an industrial process other than one falling within class B1 above

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

**Class C2. Residential institutions**

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

**Class C3. Dwellinghouses**

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

**Class C4. Houses in multiple occupation**

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

**Class D1. Non-residential institutions**

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

**Sui Generis Uses**

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

***Interpretation of Class C3***

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

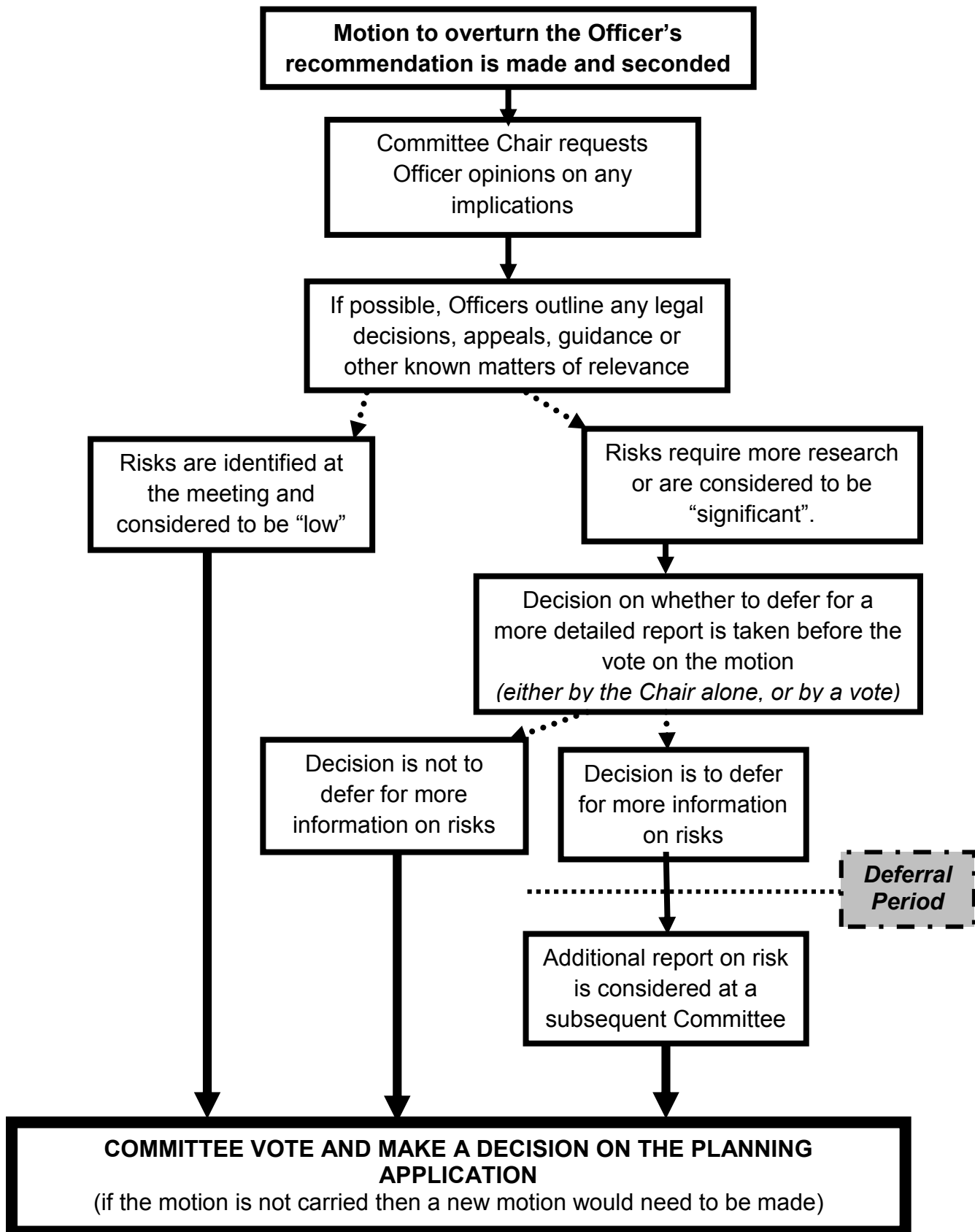
***Interpretation of Class C4***

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

## 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, 30 March 2017 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, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, John Elliott, Annie Feltham, Adam Fox, Martin Goss, 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 16 March 2017 17 - 20**

To confirm as a correct record the minutes of the meeting held on 16 March 2017.

**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 162399 Land south of Cambian Fairview, Boxted Road, Colchester 21 - 50**

Full Application for the erection of 32 dwellings with associated garages/car ports and parking spaces, estate roads, acoustic fence, detention basin, local area of play and landscaped amenity space (application amended to 26 dwellings).

**7.2 163226 Playgolf Colchester Ltd, Lexden Wood Golf Club, Baker's Lane, Colchester 51 - 68**

Addition of adventure golf course and car parking within existing golf course land.

**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, 16 March 2017**

**Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean  
**Substitutes:** Councillor Dave Harris (for Councillor Rosalind Scott)

### **446 Site Visits**

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

### **447 Minutes of 16 February 2017**

The minutes of the meeting held on 16 February 2017 were confirmed as a correct record.

### **448 163203 3 Ward Close, Belle Vue Road, Wivenhoe, Colchester**

**Councillor Chuah (by reason of her acquaintance with the applicants) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Higgins (by reason of her acquaintance with the applicants and the residents of the neighbouring property) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a retrospective application to remove condition 19 of planning permission 140208 at 3 Ward Close, Belle Vue Road, Wivenhoe, Colchester. The application had been referred to the Committee because the application had been called in by Councillor Scott. 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.

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

**449      170158 St James' House and the Waiting Room, Queen Street, Colchester**

The Committee considered an application for the demolition of St James' House and the Waiting Room at Queen Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report in which all 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.

Simon Cairns, Major Development and Projects Manager, presented the report and assisted the Committee in its deliberations.

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

**450      170260 8 Roman Road, Colchester**

The Committee considered an application to demolish the rear extension, build a two storey rear extension and replace the entrance door to the front of 8 Roman Road, Colchester. The application had been referred to the Committee because the applicant was an employee of the Council. 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.

Daniel Cameron, Planning and Contributions Officer, presented the report and, assisted the Committee in its deliberations. He explained that, following representations from the applicant confirming there was no prospect of a collaborative way forward in respect of the width of the first floor rear window and the use of brick facing materials, the recommendation contained in the report had been changed to refusal of the application.

John Pearce addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposed extension faced a green space which was a discreet part of Castle Park. There were various forms of rear extensions to neighbouring properties and he considered the proposal would be a visual improvement to the existing extensions at the application site. The design was a mix of contemporary and traditional and accorded with 'golden ratio' design principles. The proposed finish would be larch rather than the originally intended cedar which would complement the host dwelling. He considered the use of brick as a facing material would have a jarring effect as it would be difficult to source an exact match with the existing brick and it would create an incoherent finish.

He referred to the National Planning Policy Framework (NPPF) which sought to raise standards of design and advocated design respecting the character of a location. However, he also considered that the NPPF argued against the imposition of a design style and accordingly asked the Committee to view the application favourably.

The Planning and Contributions Officer referred to the various trees in the locality which, it had been argued, would provide a measure of screening of the proposed extension. He explained that the trees were not in the ownership of the applicant and, as such, there was no assurance that they would remain. He was of the view that the application drawings did not entirely comply with the 'golden ratio' spiral which had been applied to them, particularly in relation to large parts of the upper window. In any event the spiral ratio of proportionality was only one method of measuring good design. He went on to confirm that the requirement for a brick finish had been at the request of the Council's Historic Buildings and Areas Officer, given the application site's location within the town centre conservation area.

Members of the Committee noted the applicant's request for the application to be refused should his application not be acceptable without revision and went on to express their considerable disappointment that the applicant was unwilling to accede to the requirements deemed necessary within a conservation area and that, given the circumstances, it had not been possible to agree on a suitable compromise.

RESOLVED (UNANIMOUSLY) that the application be refused and the Head of Commercial Services be given delegated authority to determine the detailed wording of the reasons for refusal based on the heads of terms set out in the report, namely the design of the proposed rear pattern of fenestration and the proposed facing materials and the harm which would be caused to the character and appearance of the conservation area.

**451      163120 29 The Crescent, Great Horkesley, Colchester**

The Committee considered an application for the demolition of a small brick shed and new extension to the rear of the property at The Crescent, Great Horkesley, Colchester. 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.

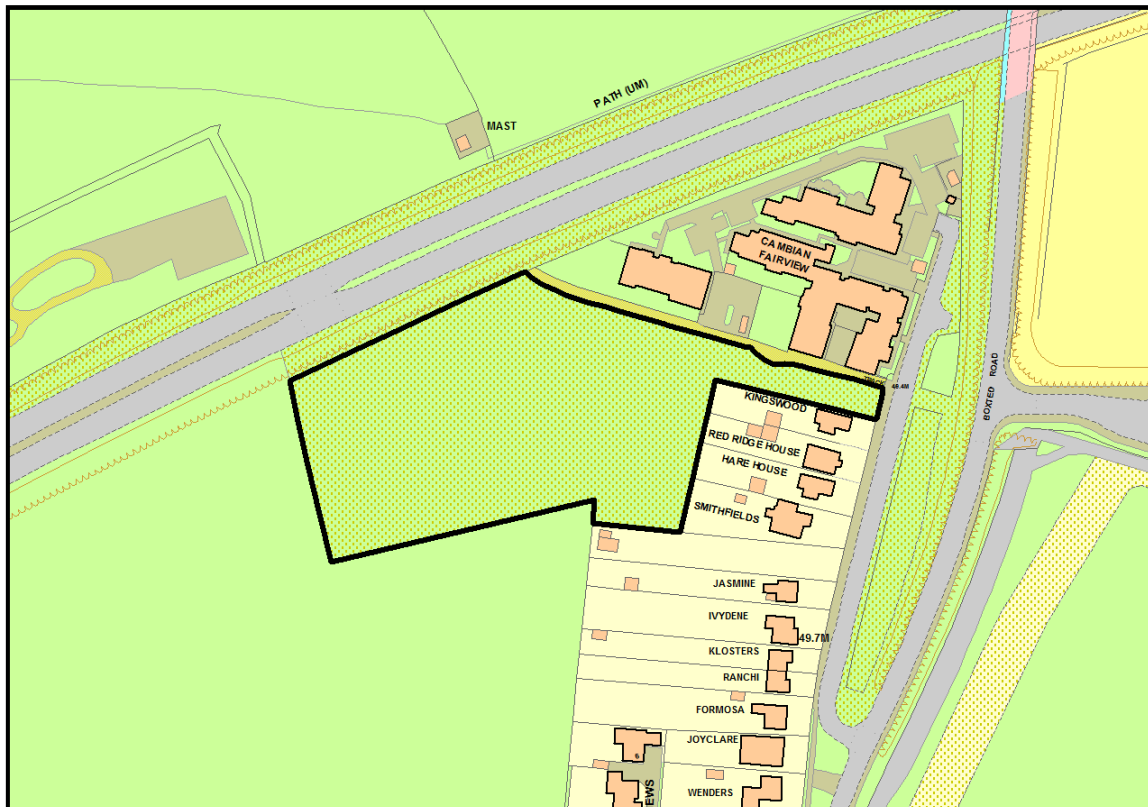
**452      162876 40 Heckworth Close, Colchester**

**Councillor Liddy (by reason of his directorship of Colchester Borough Homes)**

**declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for a museum store extension at 40 Heckworth Close, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Homes. 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.



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**Item No:** 7.1

**Application:** 162399

**Applicant:** Cadena Land -

**Agent:** Mr Edward Gittins

**Proposal:** Full Application for the erection of 32 No. Dwellings with associated garages/car ports and parking spaces, estate roads, acoustic fence, detention basin, local area of play and landscaped amenity space (amended proposal 26 dwellings)

**Location:** Land south of Cambian Fairview, Boxted Road, Colchester, Essex

**Ward:** Mile End

**Officer:** Sue Jackson

**Recommendation:** Approval subject to a legal agreement & conditions

## **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 and objections have been received and the recommendation is for approval subject to a legal agreement.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the land use allocation, planning history, noise mitigation measures, representations received and the officer response to the representations.
- 2.2 The application is subsequently recommended for permission subject to a legal agreement.

## **3.0 Site Description and Context**

- 3.1 The application site measures approx. 1.26 hectares. It is irregular in shape but best approximates a rectangle. It has boundaries with the A12 Trunk Road, the North Growth Area Urban Extension (NGAUE), the rear and side gardens of existing dwellings and Cambian Fairview; a centre for individuals with learning difficulties.
- 3.2 This section of Boxted Road is a cul de sac which serves residential properties, the Cambian Fairview Centre and private drives which provide access to dwellings behind the road frontage. The cul de sac runs parallel to the main Boxted Road with access onto it opposite the site of the former Severalls Hospital now part of the North Colchester Growth Area Regeneration Area. The site is some 380 metres south of the entrance to the Weston Homes Community Stadium, the home of Colchester United FC and some 700 metres north of the recently modified roundabout junction serving Chesterwell (part of the NGAUE).
- 3.3 The site is flat and overgrown containing grass, brambles, self-seeded scrub and small trees; together with trees and hedgerows either along the boundaries or just within the rear gardens of neighbouring dwellings. A Tree Preservation Order (TPO) on the NGAUE abuts part of the south and north boundaries. A Public Right of Way (PROW) 231 from Boxted Road to the A12 runs along the east site boundary close to boundary with the Cambian Fairview Centre.

## **4.0 Description of the Proposal**

- 4.1 This full application originally proposed 32 dwellings but following amendment to secure separation from the A12 and improvements to the layout the number was reduced to 26.
- 4.2 Access is proposed from the Boxted Road cul de sac passing between the Cambian Fairview centre and a dwelling; Kingswood. The site then widens and a group of 9 no. 2-storey dwellings, 7 no. detached and a pair of semi-detached units are served by a narrow drive off the main access road which

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continues to the rear of the site. Here a group of linked houses, some 3 storeys high front the open space. Two small terraces of 3 and 4 units also face the open space.

- 4.3 A 3 metre high acoustic barrier with landscaping is proposed along the north boundary with the A12.
- 4.4 Parking is principally on plot; either a garage or car port and a parking space, the terraced units have spaces within a parking court.
- 4.5 A linear area of public open space is proposed, this area includes a Local Area for Play (LAP) and a detention basin which forms part of the sustainable drainage scheme. A 3.5 metre wide cycleway/footpath runs through the open space to the boundary with the NGAUE.
- 4.6 The application documents include:
  - Planning Statement;
  - Design and Access Statement;
  - Environmental Noise Report and technical note;
  - Phase 1 Habitat Survey and Protected Species Scoping Assessment;
  - Reptile Survey Report;
  - Arboricultural Impact Assessment;
  - Flood Risk Assessment and Surface Water Drainage/SUDS Strategy;
  - Environmental Desk Study and Preliminary Risk Assessment.

## **5.0 Land Use Allocation**

- 5.1 Residential uses - the site is adjacent to the NGAUE (Chesterwell).

## **6.0 Relevant Planning History**

- 6.1 072103 Outline application related to part of the current site (the area immediately to the rear of Boxted Road). Planning permission granted in principle for residential development.
- 6.2 111901 Application for reserved matters (outline 072103) approval granted on 30.03.2012 for 10 dwellings. The conditions imposed on the outline and reserved matters permissions were not discharged in the relevant time period and this permission lapsed.

## **7.0 Principal Policies**

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- 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 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- 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
- DP21 Nature Conservation and Protected Lanes



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

#### SA H1 Housing Allocations

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

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Backland and Infill  
Affordable Housing  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Urban Place Supplement  
Sustainable Drainage Systems Design Guide  
Street Services Delivery Strategy  
Planning for Broadband 2016  
Managing Archaeology in Development.  
ECC's Development & Public Rights of Way  
Planning Out Crime  
North Colchester Growth Area  
Air Quality Management Guidance Note, Areas & Order  
Myland Parish Plan AND Myland Design Statement

## 8.0 Consultations

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

- 8.2 **Highway Authority** has no objection subject to conditions.

### 8.3 Contamination Officer

The submitted report is acceptable for Environmental Protection's purposes. It is noted that it has been recommended that some intrusive investigation is undertaken at the site to fully assess the risks, including with respect to ground gases and groundwater. However, based on the information provided, it would appear that unacceptable contamination would not preclude development, with the additional risk assessment and, where found necessary, remediation, dealt with by way of conditions.

## 8.4 **Anglian Water**

### **ASSETS**

#### **Section 1 – Assets Affected**

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. The development site is within 15 metres of a sewage pumping station. This asset requires access for maintenance and will have sewerage infrastructure leading to it. For practical reasons therefore it cannot be easily relocated. Anglian Water consider that dwellings located within 15 metres of the pumping station would place them at risk of nuisance in the form of noise, odour or the general disruption from maintenance work caused by the normal operation of the pumping station. The site layout should take this into account and accommodate this infrastructure type through a necessary cordon sanitaire, through public space or highway infrastructure to ensure that no development within 15 metres from the boundary of a sewage pumping station if the development is potentially sensitive to noise or other disturbance or to ensure future amenity issues are not created.

### **WASTEWATER SERVICES**

#### **Section 2 – Wastewater Treatment**

The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows.

#### **Section 3 – Foul Sewerage Network**

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

#### **Section 4 – Surface Water Disposal**

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

#### **Section 5 – Trade Effluent**

Not applicable

#### **Section 6 – Suggested Planning Conditions**

Anglian Water would therefore recommend planning condition if the Local Planning Authority is mindful to grant planning approval.

## 8.5 **Essex County Council Lead Local Flood Authority**

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 documents submitted with this application are implemented and secured by way of a planning condition on any planning permission.

#### Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

### 8.6 **Environmental Protection**

Concerns over noise exposure from road traffic using the A12 and activities at the adjacent medical use have been addressed by an improved site design and proposed 3m high acoustic barrier running the length of the site boundary above the A12 which will adjoin the existing acoustic barrier at the rear of Cambrian Fairview.

Although the site design maximises separation from the noise source enhanced glazing and passive ventilation to first and second floor bedrooms will be required to plots 10 -18 and 20 -26 with units marked as type J and K where the windows are facing the A12.

This service therefore has no objection subject to conditions being applied.

### 8.7 **Landscape Officer**

To accord with the Council's adopted Landscape Strategy the landscape element of the proposal needs to be cross-checked against the Council's standard generic requirements under landscape 'Guidance Notes A (LIS/A)'

In addition to the above generic requirements it is recommended the following site specific requirements be applied to any revised proposals:

- PRoW 314\_231 should maintain its line as a footpath extending along the northern side of the proposed access road and be appropriately landscaped Proposed units need to face onto the total length of PRoW 314\_2, this to afford it sufficient passive surveillance
- The access road need to run parallel to the A12 boundary to the north, this road set behind a deep planting belt, planted up with a hedge and hedgerow trees along the boundary itself and accommodating a footpath link through from northern end of PRoW 314\_231 through to

the Chesterwell development to the west. Units along this northern boundary need to facing toward rather than back onto the access road/A12 boundary. This to afford a positive face and green link along to the A12 boundary, a potentially strong link between PRoW 314\_231 and the Chesterwell development and to help soften the street scene.

- The access road needs to extend along the eastern boundary where required to feed units, here it needs to be set behind a verge deep enough to accommodate any existing trees root protection areas along this eastern boundary, and proposals need to be included to reinforce the existing hedgerow structure. Units should face the existing hedge. This to afford a positive face & improved structure to the hedgerow as an existing landscape feature and to help soften the street scene.
- Conditions are recommended

*Officer comment: the amended plans address these comments*

#### 8.8 **Arboricultural Officer**

The report provided highlights the key arboricultural components of the site and adequately demonstrates that the development may be possible while retaining the trees.

#### 8.9 **Archaeologist**

The proposed developed site is located in an area of archaeological interest, close to archaeological features recently recorded during trial-trenched evaluation at Severalls Hospital (HER no. ECC3797). There is high potential for encountering early occupation remains, at this location. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

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

In this case an archaeological condition is recommended:

I will, on request of the applicant, provide a brief for the archaeological investigation. In this case, further trial-trenching will be required in advance of development. 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.

#### 8.10 **Urban Designer**

The layout and design of the house types have been the subject of negotiation with the urban designer. This has resulted in a reduction in the number of units. A linear area of open space is now included with a cycleway footpath link to the NGAUE plus a pedestrian link to adjacent land. Dwellings front the road and address the open space. The car parking is better integrated and the number of parking courts reduced. The proposals have improved and the

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layout appears broadly acceptable. Further amendments have since been secured including the relocation of carports to provide greater enclosure to the street and amendments to the fenestration.

8.11 **Highways England** offer no objection;

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

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

*Officer comment: Conditions are recommended which secure the retention and protection of existing trees and hedgerows, a scheme of habitat enhancement and appropriate landscaping.*

## 9.0 **Parish Council Response**

9.1 Myland Community Council are concerned about the houses backing onto the A12:

Noise pollution - the sound attenuation measures proposed seem to be inadequate. There is no bund and the fence is only 3m high this will offer no protection to the first floor levels of the houses. There should be a landscape buffer between the development and the A12.

Air Quality - there is absolutely no mention of air quality in any document, notably the Planning Statement incorporating Design and Access Statement. What measures are to be taken to address this issue?

If this application is approved a condition should be applied as per the previous approved application (111091): to secure the extension of the existing PROW (FP231) to connect to the adjacent major development site.

If this application is approved the relevant Community Facilities contributions should be made as per the CBC SPD.

It should be noted that the information provided in the response from Essex County Council, Economic Growth and Development, dated 19th October is incorrect. It states 'The closest primary school to this development is St John's CE Primary' this is wrong. There are at least five primary schools closer to the development: Camulos Academy, Myland Community Primary School, Queen Boudica Primary School, Brinkley Grove Primary and Highwoods Community Primary. In the future there will also be a primary school at Chesterwell which will be the closest of all.

*Officer comment: The layout and house designs have been revised following comment from Environmental Protection. An acoustic and landscaped barrier is proposed plus appropriate glazing and ventilation for the dwellings. The existing PROW is retained and a new cycleway footpath link is proposed to NGAUE. The full range of planning obligations will be secured including a community facilities contribution.*

## **10.0 Representations from Notified Parties**

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

10.2 Councillor Goss comments:

It is absolutely imperative the following is taken care of:

1. A full resident only or yellow line scheme to stop this area being used by football supporters or attendees of the stadium when Colchester United games or events are on. The area is plagued by this issue and this must be dealt with at application stage and a scheme installed from 1st house occupation.
2. Management company - how will this land be adopted and managed. We need full details of any management plan for private parking areas and public open spaces.
3. St Paul's Hospital staff abuse the local road and cause issues with parking. Again it is key a full resident only or yellow line scheme is in with the 1st house occupation otherwise this will cause residents issues.
4. Superfast Broadband must be included as part of this.
5. Lots of tree planting must be included as part of any landscape proposals.
6. Electric car charging points for each dwelling need to be included.

There is no mention in this application of Public Footpath 231 (Myland). This footpath is a crucial link between Tower Lane (BR233 - Myland) and Footpaths 46, 45, 39 and 38 (all Myland). A previous application, (subsequently elapsed) had a condition which secured the extension of the existing PROW connect to the adjacent major development site. A similar condition must be attached to this application,

Paragraph 75 of the NPPF states :-

Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails. This application is one such opportunity.

*Officer Comment: The applicant has confirmed the road will be managed by a Management Company they will therefore be private roads and the company will be able to prevent parking by non-residents. The PROW is retained and the Highway Authority has recommended a condition for improvements to its surface; a link is proposed to the NGAUE. The applicant has agreed to install empty ducting to allow for the future installation of fibre broadband and will provide clarification on electric car charging points prior to the committee meeting. The majority of trees and hedgerows are to be retained and conditions will secure new planting.*

### 10.3 Representations received from neighbours:

- Traffic/parking issues in this section of Boxted Road as it will see a new access point and increased traffic.
- Residents of this cul-de-sac are subjected to inconsiderate and sometimes illegal parking along the lane blocking driveways and turning areas, and on the grass verges obscuring vision at the junction with the main Boxted Road. These cars are staff/visitors to Cambian Fairview Hospital and also Stadium users – despite both venues having car parks. Delivery vehicles and waste trucks to the Hospital are daily forced to reverse up and/or down the cul-de-sac.
- Clarification required on boundary treatment with existing properties where site backs onto rear gardens of existing houses tree protection zones of existing trees in neighbours gardens are not shown
- Clarification required on sewerage
- PROW needs to be shown
- Screening to A12 boundary required and boundary with Cambian Fairview required
- Parking issues consideration should be given to a residents' only parking scheme

## 11.0 Parking Provision

- 11.1 All the properties have a minimum provision for two cars generally comprising a garage or car port and a parking space; 7 visitor spaces are also indicated. This meets the Councils adopted parking standards.

## **12.0 Open Space Provisions**

- 12.1 An area of public open space is proposed which includes a Local Area of Play (LAP). Policy requires a minimum of 10% open space. In addition all the properties have private rear gardens which meet the Councils adopted guidance for private amenity space.

## **13.0 Air Quality**

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

## **14.0 Planning Obligations**

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

- Shared pedestrian cycleway of 3.5m width required to link into adjacent NGAUE site
- Open Space Sport & Recreation – 10% on site open space provision required plus contribution of £145,570.35
- Community Facilities – contribution of £52,000
- Affordable Housing – Number of units offered is in line with policy 20% but the mix should be amended to reflect the mix of
- Education – a contribution of £117,293 requested for primary school places
- Highways – Travel Information Packs for all residential properties, also support pedestrian/cycle link to NGAUE

## **15.0 Report**

The main issues in this case are:

### The Principle of Development

- 15.1 The site is allocated for residential purposes therefore the proposal is acceptable in principle. Planning permission was granted in 2007 for residential development on part of the site but this has now lapsed.

### Design and Layout

- 15.2 The development will be served by a single access from Bosted Road, a group of 9 dwellings is served by a drive off the new road. The access road then continues to the rear of the site where further houses front the open space. The dwellings are of a traditional design with facing materials of brick and boarding and pitched tiled roofs.



### Scale, Height and Massing

- 15.3 The buildings are all domestic scale and mass. The houses are detached, semi-detached or terraced and heights are either 2 or 3 storeys.

### Impact on the Surrounding Area

- 15.4 The development will not have an adverse impact on the surrounding area. The PROW will be retained and cycle and pedestrian links will be provided to the adjacent land.

### Impacts on Neighbouring Properties and Amenity Provisions

- 15.5 The dwellings in Boxted Road which back onto the site have long rear gardens and the new dwellings will not appear overbearing. Three of the new houses will be sited along the boundary with existing properties. One is side on and has no windows in the first floor side elevation; the other two dwellings back onto this boundary and a single bedroom window has the potential to overlook these gardens. The Essex Design Guide recommends a distance of 15 metres from the rear wall of new properties where they back onto existing properties. The 15 metre distance is not satisfied. However as this bedroom also has windows in the front elevation the rear window could be amended to either high level or part obscured glazed and the rooms would still be adequately lit and ventilated and privacy to existing residents would be maintained.
- 15.6 Environmental Protection originally raised concerns about noise as the site has a boundary with the A12 and the Cambian Fairview Centre. The amenity of new residents will be maintained by acoustic fencing with landscaping and some of the houses will have triple glazing and ventilation, these matters will be secured by condition.

### Landscape and Trees

- 15.7 The application includes an Arboricultural Impact Assessment including a tree survey, tree constraints plan and root protection area (RPA). The survey indicates significant trees on or adjacent to the site are largely located either side of the site boundaries; 20 trees, 13 groups and 1 woodland area are identified. Trees are mainly category B and C. Vegetation on the site comprises mainly scrub and naturally regenerated oak and ash. A lime (T1) is located near the site entrance footpath. Reduced dig construction is required here which is secured by condition. Groups of trees on the west and south boundaries will be retained. Two scots pine trees within the centre of the site will be removed and the report suggests they could be transplanted. Another tree T4, in a residents garden, is referred to in the representations, the layout drawing indicates the house on the adjacent plot, plot 1, outside the root protection area of this tree. There is a TPO on the adjacent site which extends to the south and part west boundary of the site.

### Highway Safety and Parking Provisions (including Cycling)

- 15.8 The Highway Authority has raised no objection to the proposed development. Access is from the Boxted Road cul de sac via the main Boxted Road. Parking meets the Councils adopted parking standards. Each property has a private amenity area where residents can store bicycles and a condition is recommended to secure provision of cycle storage.
- 15.9 The applicant has indicated the access, whilst constructed to an adoptable standard with a turning head suitable for refuse and emergency vehicles; will be managed by a private management company. Councillor Goss and residents have referred to issues with parking on football match days, as the access will be privately owned the management company will be able to legally prevent parking by non-residents. The development will satisfy parking standards and will not add to any parking issues off site.

### Public Open Space Provision

- 15.10 The development includes a linear area of public open space (POS) along the rear boundary which is overlooked by a number of dwellings. The POS includes a Local Area for Play. The POS has an area of approx 0.19 hectares which exceeds the 10% policy requirement.

### Private Amenity Space Provision

- 15.11 Each dwelling has a private garden area which meets the Councils adopted standard.

### Drainage and Flood Risk

- 15.12 A Flood Risk Assessment and Surface Water Drainage and Sustainable Drainage Strategy have been submitted. The site is within Environment Agency Flood Zone 1 and a Flood Risk Assessment is required as the site exceeds 1 hectare. The documents have been reviewed by Essex County Council as the Lead Local Flood Authority and Anglian Water. It is noted both these specialist consultees raise no objection to the proposed development the conditions recommended by Essex County Council will be imposed. Anglian Water has indicated there is a sewage pumping station within 15m of the site and request a condition requiring no development to take place within 15m from its boundary. The records held by Building Control indicate this building is on the Boxted Road frontage and as the area of the site where development is proposed is well in excess of 15 m from its boundary this condition is considered unnecessary.

## Ecology

### 15.13 The applicant includes a Phase 1 Habitat Survey and Protected Species Scoping Assessment and Reptile Survey Report.

The site has the potential to include habitat for nesting birds and reptiles. However the surveys undertaken on site for reptiles, amphibians, badgers other mammals, birds, bats and invertebrates indicate there were no signs or evidence of protected, priority or rare species. A small number of mature trees in the south west corner of the site have the potential for roosting bats and boundary habitats were suitable for foraging and commuting bats. The hedgerow is considered a UK priority habitat, though is defunct and not continuous around the boundary indicating it is not an 'Important Hedgerow' under the Hedgerow Regulations 1997. The majority of boundary trees (including those with potential for bats) and hedgerows are proposed for retention.

The report recommends a range of precautionary measures in respect of bats, birds and invertebrates together with biodiversity enhancement including

- new proposed landscaping should include native and wildlife attracting plants
- bird boxes should be installed on new buildings or retained trees
- The retention of western and southern boundary hedgerow and mature trees which contain rot holes, cavities and dead wood features suitable for small mammals, invertebrates and other local wildlife.
- Provision of bat boxes

Conditions are proposed to secure a scheme of habitat and landscape enhancements.

## **16.0 Conclusion**

- 16.1 To summarise the development proposed meets the Councils adopted standards and a full range of planning contributions are secured. In addition the applicant has agreed to install empty ducting to allow for the future provision of fibre broadband. The dwellings will include appropriate glazing and ventilation measures to mitigate against road noise. The development retains the PROW and a new cycleway/pedestrian link to adjacent land is proposed. Conditions will secure enhancements to habitats and landscaping. The development has been amended following negotiation and is considered acceptable. Planning permission is recommended.

## 17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for a legal agreement to be signed to secure the following matters

- Provision of a shared pedestrian cycleway of 3.5m width to link into adjacent NGAUE site and a pedestrian link to the adjacent land
- Open Space Sport & Recreation – 10% on site provision and a contribution of £145,570.35 (NB to be amended to take account of the reduction in the number of units)
- Community Facilities – a contribution of £52,000 (NB to be amended to take account of the reduction in the number of units)
- 20% Affordable Housing – unit mix to reflect the private mix
- Education – a contribution of £117,293 requested for primary school places (NB to be amended to take account of the reduction in the number of units)
- Details of Management Company (MC) to be submitted and agreed prior to commencement of development. The MC to be responsible for the access road and all other areas not to be adopted or forming private gardens

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

1. ZAA - Time Limit for Full Permissions

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 3165. 001L, 002B, 004B, 011C and 012B

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

3 – Non Standard Condition - Materials

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. The roof materials for the dwellings shall comprise plain tiles and artificial slates. 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 - Biodiversity

The clearance of scrub, shrubs and trees shall be carried out either

a) outside of the main bird breeding season (March until the end of September) or

b) following the submission of a report, to and approved in writing by the Local Planning Authority from a qualified ecologist confirming there are no active bird nests on the site.

Reason: To prevent harm to nesting birds

#### 5 – Non Standard Condition – Scheme of habitat and biodiversity enhancements

No works shall take place until a detailed scheme of habitat and biodiversity enhancements, including an implementation timetable, has been submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to the following:

- 2x 1SP Schwegler Sparrow Terrace
- 3x 1B Schwegler General Purpose Nesting Boxes
- 2x Open-fronted Schwegler Bird Boxes
- Bat boxes
- Retention of boundary hedgerow and mature trees with rot holes, cavities and dead wood features; habitat pile from dead wood
- Landscaping to include native and wildlife attracting species

The approved scheme shall be implemented in accordance with the approved implementation timetable.

Reason: To allow appropriate mitigation for the impact of the development on the contribution of nature conservation interests to the amenity of the area.

#### 6 – Non Standard Condition - Lighting

No external lighting fixtures, including street lights, 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. The lighting features shall use LED bulbs. 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 in the environment and its impact on fauna.

#### 7. ZDE - Removal of PD for Open Plan Fences/Walls

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

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

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the east elevation WALL(S) or roof FACE(S) of the DWELLINGS on plots 1, 2 and 3 unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

9 – Non Standard Condition - Protection of amenity: Overlooking

Prior to the commencement of works amended drawings for the first floor window in the rear east facing elevation of the dwellings on plots 1 and 2 shall be submitted to the Local Planning Authority for approval. The window shown on the submitted drawings is not approved. The amended window shall comprise either a high level window or window with part obscured glazing or an alternative amendment. The development shall be completed in accordance with the approved details and these windows shall therefore be retained as approved.

Reason: To protect the privacy of adjacent dwellings

10. ZDM - Retaining Garage for Parking

The garage accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate on-site parking provision in the interest of highway safety

11 – Non Standard Condition - Landscaping

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

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- EARTHWORKS (INCLUDING THE PROPOSED GRADING AND MOUNDING OF LAND AREAS INCLUDING THE LEVELS AND CONTOURS

TO BE FORMED, SHOWING THE RELATIONSHIP OF PROPOSED MOUNDING TO EXISTING VEGETATION AND SURROUNDING LANDFORM)

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

#### 12. ZFE - Landscape Management Plan

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

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

#### 13 – Non Standard Condition - Tree retention

The development shall be carried out in accordance with the Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, Unless otherwise agreed in writing with the Local Planning Authority an Arboricultural Consultant shall be retained 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.

#### 14. ZFU - Tree Canopy Hand Excavation

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

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

#### 15 - ZFQ - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works

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on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

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

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

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

17 – Non Standard Condition – Tree Protection during works

The excavation for the main access road from Boxted Road within the Root Protection Area of T1 shall be carried out under the supervision of an Arboricultural Clerk of Works in accordance with the Arboricultural Impact Assessment.

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

18 – Non Standard Condition - Tree Protection during works

A 2.5m wide area of “reduced –dig” footpath shall be implemented as shown on the Tree Protection Plan at appendix 5, appendix 7 and appendix 8 in the Arboricultural Impact Assessment.

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

19 – Non Standard condition - Noise mitigation

No dwelling shall be occupied until a 3m high acoustic barrier has been constructed in the location shown in Drawing No 3165:001 dated 12.07.16 by John Finch Partnership. The barrier shall be constructed to the specification detailed in paragraph 4.8 of the Sharps Redmore Environmental Noise Assessment, Project Number 1515799, dated 8th February 2017 or equivalent. Final details of construction shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation. The approved acoustic barrier shall thereafter be retained.

Reason: The site is adjacent to a busy road and the dwellings need to be adequately insulated to protect the future residents from traffic noise

20 – Non Standard Condition - Noise Mitigation

The bedroom windows on the facades facing the A12 on plots 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26 as shown in Drawing No 3165:001 dated 12.07.16 by John Finch Partnership shall have a minimum sound insulation performance of SRI - 33dB Rw+ Ctr. Acoustic trickle vents or acoustic air bricks (minimum Dn,e,w 40 dB) shall be used for facades where this enhanced glazing specification is being installed. All other windows for the development shall have an SRI not less than 31dB Rw + Ctr with standard trickle ventilation included.

No works shall take place until final details of construction have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed in full prior to the occupation of the dwellings and shall thereafter be retained.



Reason: The site is adjacent to a busy road and the dwellings need to be adequately insulated to protect the future residents from traffic noise.

**21 – Non Standard Condition - Protection of PROW**

No works shall take place until the position of the definitive right of way has been marked out on site and agreed in writing with the Local Planning Authority in conjunction with the Highway Authority. If the right of way is required to be diverted no works shall take place until an Order securing the diversion of the existing definitive right of way to a route has been confirmed and the new route has been constructed and made available for use to the satisfaction of the Local Planning Authority.

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

**22 – Non Standard Condition - Architectural details**

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, window reveals, stone window surround, jetty, cills and arches 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 an important element of the design of the dwellings

**23. ZPA – Construction Method Statement**

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel and underbody 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, to ensure that amenities of existing residents are protected as far as reasonable and to ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

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

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning

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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.

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

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

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

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

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

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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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 24, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 25 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 26.

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

28. ZG3 - \*Validation Certificate\*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 24.

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.

29 – Non Standard Condition - Drainage

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and 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 rates to 1.2l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event

- Provide sufficient treatment for all elements of the development. Treatment should be demonstrated to be in line with the guidance within the CIRIA SuDS Manual C753.

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

### 30 – Non Standard Condition - Flood risk mitigation

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

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

### 31 – Non Standard Condition - SUDS Maintenance

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

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

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

### 32 – Non Standard Condition - SUDS Maintenance

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.

### 33 – Non Standard Condition - Archaeology

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

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

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

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

### 34 – Non Standard Condition - Sustainable transport

Prior to the first occupation of the development, the developer shall be responsible for the provision of Travel Information Packs to each dwelling; the details shall have been previously submitted to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of promoting sustainable development and transport.

### 35 – Non Standard Condition - Layout

The proposed carriageways, footways and layout shall be provided in complete and precise accord with the details shown in Drawing Number 3165:001 revision L. Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011

**36 – Non Standard Condition - Highway construction**

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

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

**37 – Non Standard Condition - Estate Roads**

The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling, prior to occupation has a properly consolidated and surfaced carriageway and footway between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any up-stands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and paths in front of each dwelling shall be completed with the final surfacing within twelve months from the first occupation of such dwelling.

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

**38 – Non Standard Condition - Parking**

All off street parking facilities shall be provided in accord with current Parking Standards.

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

**39 – Non Standard Condition - Turning facilities**

Prior to occupation of the proposed development, vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

40 – Non Standard Condition - Surfacing of driveways

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

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

41 – Non Standard Condition - Access construction

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

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

42 – Non Standard Condition - Cycle Storage

Prior to commencement of the proposed development, details of the provision for storage of bicycles for each dwelling, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

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

43 – Non Standard Condition - Sustainable transport

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council.

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

44 – Non Standard Condition – Public footpath

Prior to the occupation of the proposed development, the applicant shall improve Public Footpath No. 231 (Myland) by the provision of a full width level walkable grass verge throughout the proposed development site.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way in accordance with Policy DM 1 and 11 of the Highway Authority's Development Management Policies February 2011.

45 – Non Standard Condition - Fibre Broadband

The construction of the dwellings shall include the installation of empty ducting to allow the provision of fibre broadband.

Reason: In the interests of delivering sustainable economic growth.

## 18.0 Informatives

### 18.1 The following informatives are also recommended:

#### 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.

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

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

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

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

#### ZTG - Informative on Section 106 Agreements

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

#### Informative on Archaeology:

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

<http://www.colchester.gov.uk>

#### Drainage:

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](mailto:suds@essex.gov.uk).

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.



Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ 'Guidance Notes LIS/C'.'

#### ZTV - Informative on New Roads Serving Over 5 Dwellings

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

#### Non Standard Informative

The public's rights and ease of passage over Public Footpath No.231 (Myland) shall be maintained free and unobstructed at all times.

#### Non Standard Informative

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

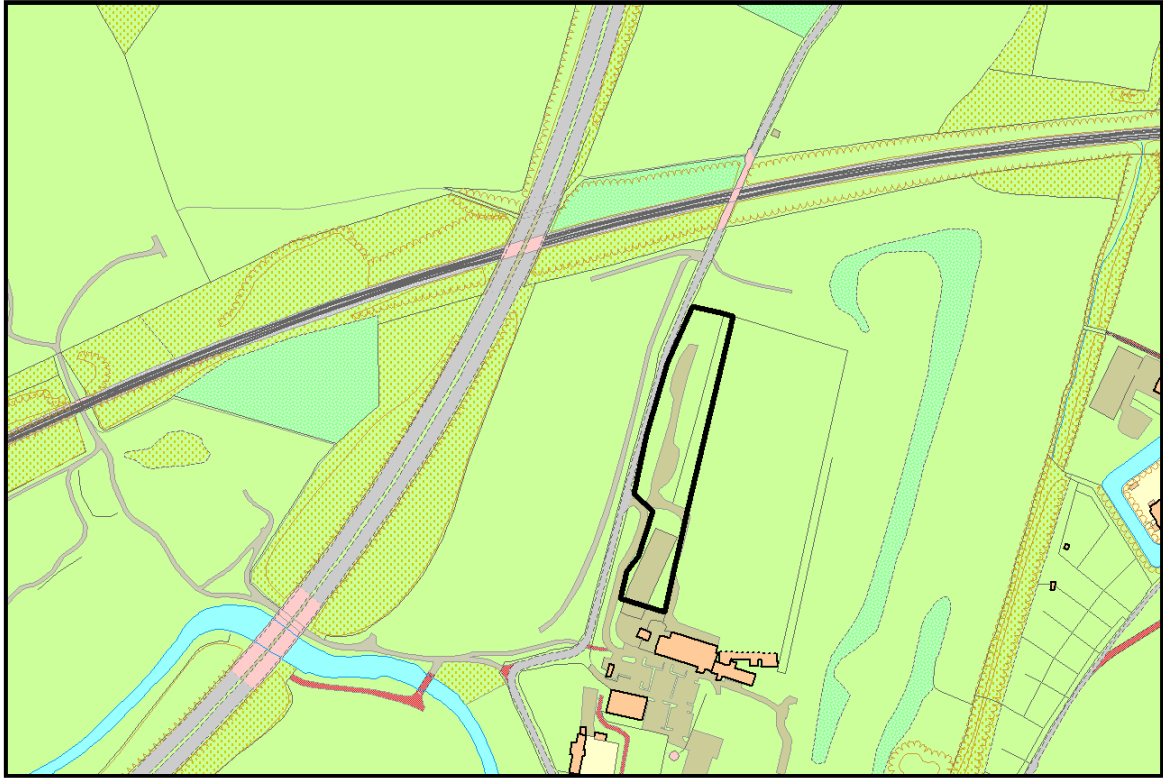
#### Non Standard Informative

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

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

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

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



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<b>Item No:</b>	7.2
<b>Application:</b>	163226
<b>Applicant:</b>	Pat Wilson
<b>Agent:</b>	Mr Stephen Belchem, ADP Ltd
<b>Proposal:</b>	Addition of Adventure Golf Course & car parking within existing Golf Course land.
<b>Location:</b>	Playgolf Colchester Ltd, Lexden Wood Golf Club, Bakers Lane, Colchester, CO3 4AU
<b>Ward:</b>	Lexden & Braiswick
<b>Officer:</b>	James Ryan
<b>Recommendation:</b>	Approval

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

- 1.1 This application is referred to the Planning Committee because it is a major application with objections.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact on the landscape, the setting of a Scheduled Ancient Monument and the highway network.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 Playgolf is a golf complex located on Bakers Lane. It comprises a golf course and associated facilities including a conference suite. There is also a driving range for golf practice. To the east of the site is Moat Farm Dyke which is a Scheduled Ancient Monument.
- 3.2 The site is located between the tree belt and hedge that run along Bakers Lane and the very large driving range netting fence which is held up by latticework towers. The north of the site is marked by a large earth bund.
- 3.3 To the north of the access with Bakers Lane is an area of what was previously a number of earth mounds, long grass, weeds and rubble but has recently been cleared with the grass and topsoil removed so is now an area of bare earth.
- 3.4 There are a number of recently planted whips directly in front of the access from Bakers Lane. To the south of this area is an existing car park. The access road sits between this car park and the hedge that sits on the boundary with Bakers Lane. Beyond the car park is the existing Playgolf complex.

## **4.0 Description of the Proposal**

- 4.1 This scheme proposed the remodelling of this area of the Playgolf site. Broadly speaking an 'adventure golf' course is proposed where some of the site's existing car parking area is and a new car park is proposed to the north of that. A new terrace linking the adventure golf course to the main building is also proposed along with new planting.

## **5.0 Land Use Allocation**

- 5.1 The land in question has no specific allocation.

## **6.0 Relevant Planning History**

- 6.1 The Playgolf complex has a detailed planning history. Of most relevance is application 151564 which was approved in 2015. This proposed an adventure golf course in a location to the north of that which is now before Members. It also included an area of car parking between the proposed adventure golf and the existing car park and which is smaller than currently proposed.

## **7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
CE1 - Centres and Employment Classification and Hierarchy  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment  
ENV2 - Rural Communities  
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP9 Employment Uses in the Countryside  
DP10 Tourism, Leisure and Culture  
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  
DP21 Nature Conservation and Protected Lanes

- 7.4 Some “allocated sites” also have specific policies applicable to them but none are relevant to this scheme.
- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
  - External Materials in New Developments
  - EPOA Vehicle Parking Standards
  - Open Space, Sport and Recreation
  - Sustainable Drainage Systems Design Guide
  - Managing Archaeology in Development.
  - Developing a Landscape for the Future
  - ECC’s Development & Public Rights of Way

## **8.0 Consultations**

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

### **8.2 Historic England**

This proposal concerns the addition of an Adventure Golf Course and car parking within the existing Lexden Wood Golf Course. The proposed development is located in proximity to the Moat Farm Dyke, which is designated as a scheduled monument (NHLE 1019964). The Moat Farm Dyke is one of the best surviving examples of the linear earthworks which defined the perimeter of the late Iron Age defended settlement of Camulodunum. The dyke survives a substantial earthwork linear feature, which, for the most of its length, can be appreciated in an open & green landscape setting, and which contributes to its significance.

The proposed development is located 250m to the west of the scheduled dyke, in an area where the landscape character has already been altered by landscaping associated with the modern golf course. While the addition of additional car parking and adventure golf course are likely to result in further erosion to the open landscape character, the impact on the setting of the dyke is likely to be limited owing to the distance between the dyke and the proposed development.

Paragraph 131 details that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 132 identifies that significance can be harmed or lost through alteration or destruction of an heritage asset, or development within its setting and continues to detail that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification, and continues that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit (paragraph 133).

Historic England considers that the proposed development may result in slight harm to the significance of the scheduled monument, arising from additional

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development within the monument's landscape setting. We advise your council should balance this harm against any public benefits in the proposed development. We also advise that the views of the Colchester Borough Council's Archaeological Advisor be sought regarding the requirements for any additional archaeological work in advance, or during, the proposed development.

#### Recommendation

Historic England has no objection to the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraph 134 and 141 of the NPPF. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

#### 8.3 Highways England: No objections.

#### 8.4 Essex County Council Highways:

The Highway Authority does not object to the proposals as submitted.

##### Informative1:

The two new trees coloured red alongside the access route and adjacent to the new junction to the proposed car park should be removed to provide a reasonable degree of intervisibility between those using the all-purpose access and those using the new car parking facilities.

##### Informative2:

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

#### 8.5 Essex County Council SuDS:

It is unclear whether over 1000m<sup>2</sup> of impermeable area will be created by the development as part of this planning application. If over 1000m<sup>2</sup> of impermeable area is being created then please reconsult us and we will provide formal comments on the application. If under 1000m<sup>2</sup> of impermeable area is being created, we have no further comments.

*Officer note – the applicant has confirmed that the area is less than 1000m<sup>2</sup> as follows: “You will note that of the 750sqM of impermeable area in the Ad Golf includes 567sqM of decking for seating and pathway. This will be timber decking over a permeable base. Therefore, the actual impermeable area would be in the region of less than 200sqM. All the car parking will be fully permeable due to use of selected car park area system being small stones contained in a grid of plastic formers, as currently in operation on site”.*

#### 8.6 Natural England: No objection.

8.7 Tree Planning Officer:

Regarding the proposed development and the TPS Arboricultural Method statement ref: TPSarb5940116, dated 24<sup>th</sup> February 2017: I am in agreement with the information provided. Conditions requested.

8.8 Landscape Planning Officer:

There are no Planning Projects Team objections to this application on landscape grounds. A landscaping condition is requested.

8.9 In House Archaeology:

The proposed development is located within an area of archaeological interest recorded in the Colchester Historic Environment Record (HER). Trial-trenched evaluation relating to this development (the area of car parking) was undertaken by Colchester Archaeological Trust in March 2016 (CAT report 930, HER no. ECC3726). This evaluation defined two undated pits and three structural features in Trench 7, associated with a large quantity of fired clay probably from a wattle and daub structure (wattle voids are preserved), that will require further investigation in advance of any new development. There is also high potential for encountering archaeological remains in the area of the proposed Adventure Golf. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

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

The following archaeological condition is recommended:

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

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning



Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

I will, on request of the applicant, provide a brief for each stage of the archaeological investigation. In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the proposed Adventure Golf. 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. However, I would recommend that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

In terms of the proposed new car parking, archaeological excavation will be required in advance of development. A brief for this work was prepared in May 2016 and will need to be revised subject to the results of the further evaluation.

#### 8.10 Contaminated Land Officer:

No objection subject to the five contaminated land conditions.

### **9.0 Parish Council Response**

9.1 Non-parished.

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

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

10.2 In this instance three representations were received. Two were general observations and one an objection to the scheme. They related to highway matters and stated that Bakers Lane is in a poor state of repair, is a rat-run, is very dangerous to use and that further development that is served by it should not be allowed.

## **11.0 Parking Provision**

11.1 This application proposed 68 spaces in the new area of parking which is 28 more than was approved in 151564. It will result in 118 spaces on site as there are 50 on site currently. Whilst in excess of the maximum requirements set out in the adopted standards in this instance it is held to be acceptable.

## **12.0 Open Space Provisions**

12.1 This scheme raises no requirements for open space.

## **13.0 Air Quality**

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

## **14.0 Planning Obligations**

14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that no Planning Obligations should be sought.

## **15.0 Report**

15.1 The main issues in this case are:

### The Principle of Development:

15.2 This application involves the extension of the existing car park and the creation of an ‘adventure golf’ mini golf course including significant additional landscaping on the Playgolf site. A small terrace area is also proposed between the adventure golf area and the existing buildings.

15.3 In principle this is addition to the tourist/leisure offer is wholly in accordance with the NPPF and Development Plan policy DP10 particularly as it uses part of the existing site next to the driving range that offers little in terms of landscape benefit and is currently serving no useful purpose.

### Design and Layout:

15.4 The car park element is laid out in a manner which is held to be acceptable in design terms.

15.5 An indicative design for the adventure golf course has been provided. The applicants have requested that the precise detail of the proposed structural features be dealt with by condition but the scheme will have a cave feature, two waterfall features and a volcano. The golf areas will wind their way through and between these features. Following a suggestion at Development Team, some references to Colchester’s history was put to the applicant and they were enthusiastic about this. They have now suggested that some of the features could be:

- Colchester Castle
- Colchester Roman wall
- Amphora – as found on site on earlier excavation a couple of years ago.
- Boudicca
- Jumbo water tower

15.6 This approach is welcome. It should set the Adventure golf course apart from others and make it more locally specific. It will also tie in with the Borough's other tourism offers.

#### Scale, Height and Massing:

15.7 This is a key issue to consider. The adventure golf course will be visible from Bakers Lane at the entrance point to the site. As submitted the features were considered to be excessively high. For example the volcano feature was 4m in height. This was discussed with the agent and the applicant agreed to reduce the scale of the features somewhat. As above the precise details will be secured by condition but the applicants have put forward a following guide:

- Cave – reduced from 4M to 2.1M
- Waterfall 1 – reduced from 5M to 2M
- Volcano – reduced from 5M to 2.5M
- Waterfall 2 – reduced from 4M to 2M

A condition is therefore suggested to be imposed restricting all structures to be no higher than 2.5m in height. This is considered to be acceptable in the context.

#### Impact on the Surrounding Area:

15.8 The scheme will be set behind a new planting scheme which will soften its impact and will be viewed against the backdrop of a very large driving range fence/netting and the latticework towers that hold the net up. On that basis whilst clearly visible, the scheme will not have a materially harmful impact on the countryside or landscape.

15.9 It is very important to assess the scheme in terms of the impact on the setting of the Moat Farm Dyke Scheduled Ancient Monument (SAM). As can be seen from Historic England's consultation response, they consider the scheme with cause 'slight harm' to the SAM's setting. As the proposal is set to the western side of the golf complex with the main building and driving range and netting as intervening features, it is not held that this slight harm to the setting of the Moat Farm Dyke SAM warrants a refusal. Significant weight is given to the fact Historic England do not want to formally object to this scheme.

15.10 The scheme is not held to have a materially harmful impact on the setting of the listed 'West House' to the south.

Impacts on Neighbouring Properties:

- 15.11 As an expansion to an existing golf facility and in a position that is relatively remote from its neighbours, the scheme is not held to cause any issues in this regard.

Amenity Provisions:

- 15.12 This scheme raises no amenity space requirements.

Landscape and Trees:

- 15.13 As set out in 'Impact on the Surrounding Area' officers do not consider the scheme to have an impact on the landscape that will be materially harmful.
- 15.14 The plans show indicative planting surrounding the development which will help soften any impact from the public domain. The detail will be secured by condition as requested by the Landscape Planning Officer.
- 15.15 An Arboricultural Impact Assessment has been provided. The Arboricultural Officer is satisfied with its findings and has requested conditions, including one that will ensure on-site monitoring.

Highway Safety and Parking Provisions (including Cycling):

- 15.16 The Highway Authority has no objection to the scheme. It has requested that two new trees that are shown on the indicative planting scheme be moved to improve visibility. This will be dealt with at condition discharge stage.
- 15.17 As set out above, this scheme provides the site with parking levels in excess of the adopted standards. It is understood that generally significant levels of car parking are needed to serve golf courses as golfers will often bring their own golf clubs with them for example. On that basis the level of parking provision is held to be acceptable and not contrary to the interests of sustainability. To offset this provision a condition requiring additional cycle parking will be imposed.
- 15.18 Three representations stating that Bakers Lane cannot take any more development due to its inadequacies on highway grounds were received. It was suggested that the road should be repaired in its entirety, should be made one way only and should have a speed restriction of 30mph.
- 15.19 The improvements or changes to Bakers Lane, the speed limit or the way the road operates that were suggested by the objectors are matters for the Highway Authority. It is not held that the issues raised would warrant a refusal of this scheme without the support from the Highway Authority or Highways England. On that basis it is not considered that this scheme will create a level of intensification that warrants a refusal.

Public Open Space Provision:

- 15.20 This scheme generates no requirements for public open space provision.

Private Amenity Space Provision:

- 15.21 This scheme generates no requirements for private amenity space.

Ecology:

- 15.22 The scheme has come with an ecological survey. The survey found no evidence of protected species. It is considered that with the addition of a good landscaping scheme the ecological benefit of this section of the site can be increased.

Flood Risk:

- 15.23 The site is located in Flood Zone One and therefore raises no material flood risk issues.

## **16.0 Conclusion**

- 16.1 To summarise, this scheme proposed economic tourism and leisure based development via the expansion of an existing well used site. The impact it will have on the landscape and highway network is held to be acceptable and therefore the scheme is held to be wholly line with the NPPF, PPG and Development Plan. Therefore an approval is warranted.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

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

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 680.2017.L.001, 680.2017.L.003, L102 and L109.

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

### **3. Z00 – Approval of Details of Features**

Prior to the installation of any of the above ground adventure golf features, precise details of the features including elevational drawings and materials to be used and colours of said features shall be submitted to and approved in writing by the Local Planning Authority. The features shall only be installed in precise accordance with the agreed details.

Reason: As the application has come with insufficient information in this regard as the adventure golf course will be publically visible this condition is essential.

### **4. Z00 – Limit on Heights of Features**

No elements of the adventure golf course shall be higher than 2.5 metres in height measure from ground level.

Reason: To prevent the proposed features being excessive in scale and therefore harmful to landscape interests.

### **5. Z00 – Archaeology**

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

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

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

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

### **6. ZFE - Landscape Management Plan**

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in

writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

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

#### **7. Z00 – Bespoke Landscape Condition**

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

- PROPOSED FINISHED LEVELS OR CONTOURS;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- EARTHWORKS (INCLUDING THE PROPOSED GRADING AND MOUNDING OF LAND AREAS INCLUDING THE LEVELS AND CONTOURS TO BE FORMED, SHOWING THE RELATIONSHIP OF PROPOSED MOUNDING TO EXISTING VEGETATION AND SURROUNDING LANDFORM);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

#### **8. Z00 – Landscape Implementation**

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding 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 there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

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

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

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

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

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

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

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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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, 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 11.

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

**13. ZG3 - \*Validation Certificate\***

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 11.

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

**14. ZJA - Cycle Parking TBA**

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

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

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

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing as shown in the TPS Arboricultural Method Statement ref TPSarb5940116 dated 24<sup>th</sup> February 2017. All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

**16. ZFS - Tree and Hedgerow Protection: General**

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

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

### **17.ZFU - Tree Canopy Hand Excavation**

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

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

### **18.Z00 – Bespoke Tree Monitoring**

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition [15] has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

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

## **18.0 Informatives**

18.1 The following informatives are also recommended:

### **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.

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

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

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

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

**Non Standard Highways Informative 1:**

The two new trees coloured red alongside the access route and adjacent to the new junction to the proposed car park should be removed to provide a reasonable degree of intervisibility between those using the all-purpose access and those using the new car parking facilities.

**Non Standard Highways Informative2:**

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

**Non Standard Landscape Informative:**

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.

**Non Standard Development Team Suggestion Informative**

At the development team meeting it was strongly suggested that Playgolf should sign up to the Armed Forces Covenant. This will allow discounts for the Armed forces and their families.