

Planning Committee Meeting

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

Thursday, 26 September 2019 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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

Access

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

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 26 September 2019 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Andrea Luxford Vaughan	Deputy Chairman
Councillor Lyn Barton	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

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

AGENDA

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

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

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6.1 Planning Committee Minutes 13 June 2019 7 - 26

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 13 June 2019.

6.2 Planning Committee minutes 25 July 2019 27 - 30

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 25 July 2019.

6.3 Planning Committee Minutes 15 August 2019 31 - 42

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 15 August 2019.

6.4 Planning Committee Minutes 5 September 2019 43 - 50

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 5 September 2019.

7 Planning Applications

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

7.1 171529 Land off Halstead Road, Eight Ash Green, Colchester 51 - 92

Outline planning application for the development of up to 150 dwellings (including 30% housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access points from Halstead Road and Fiddlers Hill. All matters reserved except for means of access.

7.2	183077 North Colchester Urban Extension, Mile End Road, Colchester	93 - 144
	Application for the removal or variation of a condition following grant of planning permission (121272).	
7.3	191581 North Colchester Urban Extension, Mile End Road, Colchester	145 - 168
	Application for the removal or variation of conditions 7, 8, 28 and 62 following grant of planning permission (121272).	
7.4	190274 International House, Moss Road, Colchester	169 - 178
	Application for approval of reserved matter following outline approval 180886 - residential use of former car park to international house following change of use from B1a (offices) to C3 (dwellings) of International House.	
7.5	191414 Former Wilkins and Sons Ltd, Factory Hill, Tiptree	179 - 202
	Erection of 49 dwellings and associated parking and landscaping (modifications and reduction in built footprint of last phase for 40 units of approved planning application 130245).	
7.6	191525 Lane Farm, Lane Road, Wakes Colne, Colchester	203 - 224
	Barn Conversion	
	Planning Committee Information Pages v2	225 - 236
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, 13 June 2019

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Martyn Warnes
Substitutes: Councillor Derek Loveland (for Councillor Andrew Ellis)
Also Present:

706 Site Visits

Councillors Hazell, Jarvis, Liddy, Loveland, Luxford Vaughan and Maclean (for the visit to Wyvern Farm, Stanway only) attended the site visits.

707 Planning Committee Minutes 25 April 2019

The minutes of the meeting held on 25 April 2019 were confirmed as a correct record, subject to the deletion of the name 'Councillor Hazell' from minute No. 685, Site Visits.

708 Planning Committee minutes of 22 May 2019

The minutes of the meeting held on 22 May 2019 were confirmed as a correct record.

709 183028 Land the corner of Tufnell Way and adjacent to 188 Bergholt Road, Colchester

The Committee considered a planning application for the creation of a four bedroom detached house at land at the corner of Tufnell Way and adjacent to 188 Bergholt Road, Colchester. The application had been referred to the Committee because it has been called in by Councillor Goss.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Benjy Firth, Planning Officer, presented the report and assisted the Committee in its deliberations.

Emily Skinner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for listed building consent. She explained that she lived with her family at 188 Bergholt Road, immediately adjacent to the application site. She referred to the east side of the proposal extending well beyond her own property which would be very overbearing with five windows being overshadowed by the proposal. She considered this loss of light would affect their utility bills, quality of life and mental health. A solicitor had advised that the proposals could impact her and her family's right to light under the Prescription Act 1832 due to the double height building beyond the original house size and, as such, it was possible that she would take legal action against the developer if the application was approved. Her concerns related to her ability to continue working from home due to noise and disturbance from the development as well as an adverse impact in relation to Article 1 of the Human Rights Act in terms of her family's ability to enjoy their home peacefully. She felt it may be necessary for her family to move from their home but that the development would negatively affect the value of their property. She was also concerned about the orangery windows which were not proposed to be of obscured glazing and she considered this impacted her rights to privacy. She considered the development would reduce visibility at an already dangerous junction which had previously been the subject of collisions. She was also concerned about wildlife destruction and did not consider there was need for a dwelling to be located on this site and the removal of trees from the site would remove screening of the electricity sub-station. She did not consider any benefit would be gained for the local community and no consideration had been given to the detrimental impact on local residents.

Michael Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the previous dwellings occupying the site had been removed to make the access road into a new housing development. The applicant had maintained the land following the new development in order to bring it into residential use. Pre-application discussions had informed the proposal and care had been taken in the design of the building to create an attractive frontage and respecting the existing building line on the corner plot. He acknowledged the relationship with Bergholt Road was important and the height, scale and appearance of the building were intended to reflect the character of the area. The house would appear as the first house along Tufnell Way and there would be no negative impacts on highway safety and there would be a buffer of soft landscaping to the front of the property, replicating the landscape on the opposite side of the street. Car parking was also provided at the bottom of the garden, so that the character of Tuffnel way would be maintained. One single property was proposed so there would be no over development. Direct overlooking of the neighbouring house in Bergholt Road had been avoided and the current levels of sunlight and daylight had been maintained. He confirmed that the site would comply with the Council's Development Management Standards in terms of private amenity space and car parking. He was of the view that the proposal would make good use of the site and the design accorded with all planning

policies with no negative impacts to the existing house to the east and the safe operation of the road junction and it sought to maintain the landscape feel of the New Braiswick Park development.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He referred the two brick walls on either side of Tufnell Way which acted like a gateway to the New Braiswick Park site and he considered the loss of part of that gateway would be detrimental to the original design of the development. He referred to the original intention to install a pedestrian refuge in Tufnell Way due to the width of the road but which had not been implemented by Essex County Council and the double yellow lines along the length of the road, questioning how it would be possible to manage construction vehicles in this location. He considered the junction to be very dangerous given the building of 710 houses and a school for 420 primary age children within the development, the majority of whom arrived at school by car. He had personal knowledge of accidents at the junction and commented on the location of the access to the proposed property at this junction. He referred to the impact of the proposal on the residents of 188 Bergholt Road as detailed in the report to the Committee and he also referred to 44 objections to the proposal from residents. He commented on the aspect of the proposed dwelling, with its side facing Bergholt Road and the front door to Tufnell Way which he did not consider fitted with the design of neighbouring properties. He considered the scheme was a questionable case, given the site was now located at a very busy junction which had not been the case when the original terraced houses had occupied the site and the road was the access to the Flakt Woods factory. He also referred to the previous applications for development of the site which had not been approved, he considered the current proposal to be over development, that it would negatively impact the residents of 188 Bergholt Road and that the driveway to the proposed property was inappropriate given the nature of the road junction at that point. He asked the Committee members to reject the application on grounds of overdevelopment, dangerous highway impact and the impact on 188 Bergholt Road.

The Planning Officer explained that a condition was proposed providing for the submission of a Construction Method Statement which would look to minimise the impact on the neighbouring area during construction and provide for all deliveries direct to the site. He explained that replacement trees would be required within the Landscaping Scheme and the Council's Arboricultural Officer had indicated his satisfaction with the removal of trees subject to the necessary replacements. He confirmed that the Highway Authority had not raised any objections to the proposal and to the location of the driveway to the property. He also confirmed that the site was considered to be capable of accommodating the size of the proposed dwelling and that the proposal complied with the parking and amenity space standards. He acknowledged that the impact on 188 Bergholt Road was of primary consideration and he confirmed that the 'right to light was civil legislation and, as such, was not a matter which the Committee could take into consideration but the planning policy tests in relation to loss of light had been met by the proposal. As such, although there would be an impact on

the neighbouring property, this was considered to be acceptable.

Members of the Committee sought clarification on the weight to be given to the loss of one side of the brick gateway, the details of the construction method statement in terms of construction details, delivery of materials and vehicle movements and whether measures could be sought to mitigate the detrimental visual impact of the removal of one side of the brick gateway.

One member of the Committee supported the views expressed by the ward councillor in terms of overdevelopment of the site and the poor siting of the driveway adjacent to a busy road junction.

Other members of the Committee were of the view that the proposal could potentially enhance the site, the previous applications had constituted over development of the site but the proposed single dwelling on a brownfield site was to be welcomed. Whilst the removal of one side of the gateway to New Braiswick Park was regrettable, this was not deemed to be a sufficient ground on which to refuse the application. Reference was also made to the driveway to the proposed dwelling being set back from the line of the road junction and views concerning over development of the site were not supported. It was acknowledged that the site had previously been used for residential purposes, whilst comments in relation to 'right to light' constituted a private legal matter for the resident concerned and, as such, was not a material planning consideration and the necessary planning loss of light tests had been passed.

The Planning Officer confirmed that there was no requirement to retain the brick wall and, as it was part of the application site it would need to be removed in order to implement the proposal whilst the wall on the opposite side of Tuffnell Way would remain unless the owner of the land wished to remove it. He again confirmed that a proposed condition provided for the preparation of a construction method statement, the details of which would be considered when submitted.

RESOLVED (SIX voted FOR and THREE voted AGAINST) that the planning application be approved subject to the conditions set out in the report and the amendment sheet.

710 183130 Former Homebase Ltd., St Andrew Avenue, Colchester

The Committee considered a planning application for the external alterations and subdivision of the existing Homebase store into two units, including change of use to allow food retail together with associated landscaping and car parking at the former Homebase Ltd., St Andrew Avenue, Colchester. The application had been referred to the Committee because the proposed development constituted a departure from the Local Plan being a town centre use in an out-of-centre location and was a major development where an objection has been received.

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

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Principal Planning Officer explained that Tesco had submitted a late representation referring to the need for a full Retail Impact Assessment however explained that there had been no adverse impacts identified as a result of a more basic impact assessment. Also referred to was the emerging Local Plan which set a lower threshold for retail impact assessments but she explained that the Plan was not considered to carry sufficient weight currently, whilst that part of the Local Plan had been the subject of objections and so would need to be examined. A further comment was made in relation to a lack of control of floorspace and there was potential for the two units to be amalgamated, in response to which she proposed adding a condition to the recommendation to ensure that the units were maintained as separate units. The objection letter also referred to the interpretation and application of the sequential test. She explained that a sequentially preferable site had been identified and was available at the Chesterwell Woods Neighbourhood Centre. However this site did not meet the suitability test as it did not meet the generic operational needs of the development as the site did not have the significant and immediate residential population needed to ensure the scheme's viability and there was insufficient roadside prominence, both of which would negatively impact on the scheme's viability and, as such, this site could not be made suitable for this type of development.

Marcin Koszyczarek addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he represented Rapley's Planning Consultant's on behalf of Lidl. He welcomed the planning officer's recommendations for approval, based on no adverse impact, no sequentially preferable sites to accommodate the proposal. He acknowledged the objections from Aldi and Tesco but considered no additional issues had been raised which had not already been addressed in the report. He confirmed that the Highways Authority considered the application to be acceptable in terms of access, parking and delivery, subject to conditions. The design was also considered to enhance the surrounding area and there was no significant impact on residential amenity. He also referred to a number of tangible benefits, including investment boosting the local economy, the redevelopment and reuse of a brownfield site, enhanced customer choice and improvements to the visual appearance of the surrounding area. As such he considered the proposal conformed with the provisions of the National Planning Policy Framework and he asked the Committee to approve the recommendation contained in the report.

One member of the Committee referred to the upgrading of the existing bus stops and asked whether it would be appropriate to relocate the bus stops to a location closer to the store which would encourage more customers to use a more sustainable form of transport. Concern was also expressed in relation to access to the nearest bus stops in

Cowdray avenue for residents of Ipswich Road.

The Principal Planning Officer explained that the bus stop improvements had been recommended by the Highway Authority for the benefit of staff as well as customers and she referred to the trend towards greater top-up shopping rather than weekly shopping which had been adopted by Lidl, the applicants, and that existing residential properties were located close by and would benefit from proposed improvements to the pedestrian crossings. She also confirmed that the Highway Authority had looked into the application in considerable detail and had been quite specific in their identification of the bus stops which required improvement, as such, the Highway Authority's professional requirements were being complied with in relation to the proposed conditions.

Another member of the Committee regretted the absence of the submission of a full retail impact assessment, given the threshold for this was due to be lowered in the foreseeable future.

The Principal Planning Officer confirmed that there was no requirement on the applicant to submit a retail assessment but, nevertheless, an assessment which addressed the retail impact had been provided which concluded that there was no adverse impact from the proposal. She acknowledged the emerging Local plan contained a policy which included the lowering of the threshold for a retail impact assessment but she confirmed that this had yet to be examined by the Inspector and, as such, it was not deemed to carry sufficient weight in this case.

Other members of the Committee referred to the site being vacant for some time, the need for the site to be brought back into use, that commercial competition was not a material planning consideration and that the proposal would enhance the site and would benefit local residents.

Comment was also made in relation to the vulnerability of glazed bus stops to vandalism and the need for all bus stops to incorporate raised kerbs for wheelchair and pushchair users

The Development Manager explained to the Committee members that, although the representations to the application from Tesco had been received late in the application process, the matters raised, in relation to the application of the Sequential Test and the availability and suitability of alternative sites must be borne in mind in the Committee's determination of the application.

RESOLVED (UNANIMOUSLY) that, in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulation 2018, the Assistant Director Policy and Corporate be authorised to negotiate with the applicant / agent, and amend, as necessary, the pre-commencement conditions and subsequently approve the planning application subject to the conditions set out in the report and the amendment sheet and

an additional condition to provide for the separation of the two units to be maintained.

711 181859 Land north of Wyvern Farm, London Road, Stanway, Colchester

Councillor Maclean (by reason of her previous acquaintance with members of the public in attendance at the meeting in respect of this application) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a planning application for for 102 residential dwellings (Use Class C3), comprising 96 houses (2 - 2.5 storeys) and an apartment building with six units (3 storeys), associated car parking, cycle parking, public open space and pedestrian / cycle infrastructure, formation of pedestrian and cycle links and other associated works and improvements and an amended submission for 100 residential dwellings (Use Class C3), comprising 95 houses (2 - 2.5 storeys) and one building containing five apartments (3 storeys) with associated car parking at land north of Wyvern Farm, London Road, Stanway, Colchester. The application had been referred to the Committee because it was a major application, material objections had been received and residential development was proposed on land currently allocated for employment use.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Sue Jackson, Planning Projects Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Matt Parsons, on behalf of Persimmon Homes, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposals, which had been shaped following discussions with residents and planning officers, included 100 new homes with 2, 3 and 4 bedrooms and an apartment block including provision for wheelchair users, together with 20% affordable housing, in accordance with the Council's adopted policy, new pedestrian and cycle links, 6,000 sqm. of open space and an equipped play area. He confirmed that the area to the south of the site did not form part of this proposal. In addition, a £250,000 contribution would be provided for Stanway Country Park, £165,000 to a community facility on Stanway Western bypass, £745,000 for the expansion of existing schools and £36,000 towards local NHS services. He acknowledged the need for disruption to existing residents during the construction phase of the development to be minimised and, accordingly a construction management plan would be agreed prior to commencement of the development. He also confirmed that a central landscape area

would be provided prior to the commencement of phases 3 and 4 of the development. He confirmed that the scheme accorded with planning policy, the development was viable and the applicant was committed to its early delivery.

Councillor Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She considered that the proposal would impact on residents of Stanway ward although the site was located in a neighbouring ward. She referred to Highways England's view that the contributions from the Tollgate and Stane Park applications would deliver solutions to the traffic problems associated with junction 26 of the A12, she was of the view that it would be preferable for these improvements to be implemented at one time in terms of cost effectiveness and prevention of ongoing disruption to the public. As such, she acknowledged that the proposed Wyvern Farm development would have little impact on the A12 junction. She sought clarification in the event that the linked development did not go ahead or if there was a considerable gap between the two implementation dates and asked whether this would mean that the junction 26 improvements would not be implemented. She acknowledged that no objections to the application had been received from Highways England or the Highway Authority and she was concerned that these conclusions did not take account of failure of delivery of one of the schemes. She noted that contributions towards the monitoring of improvements to the Stanway Western Bypass / London Road roundabouts would be required before the occupation of any dwellings but she was concerned about the delivery of the highway improvements themselves before housing occupation and she asked that a further condition be provided to ensure highway improvement delivery. She also acknowledged that no request had been made for a safe pedestrian crossing by Essex County Council to enable residents from the development to access schools, GPs and jobs. She was also aware of a further contribution of £25,000 towards the Stanway Western Bypass / London Road roundabout improvement from the Stane Park Phase 2 development. She sought clarification regarding the £36,000 NHS contribution in terms of what it would be used for. She also referred to the proposed condition to provide for an acoustic barrier and sought clarification that this would not displace the noise channelling along the A12 and, as such, would not negatively impact local residents and she asked whether any dog bins were planned.

The Planning Projects Officer confirmed that the responses from Highways England and the Highway Authority had been set out in full in the report and she confirmed that it had been concluded that the proposed development, in its own right, did not require any further improvements to junction 26 and that the contributions negotiated for Tollgate and Stane Park would be sufficient for this development as well. She further confirmed that the Highway Authority contributions would be paid prior to the occupation of any of the dwellings and that no contribution had been required for a pedestrian crossing at London Road. She explained that NHS contribution would go towards local surgeries within the Stanway area. She confirmed that a new acoustic barrier would be provided within the site, along the edge of the existing trees to screen road noise from the A12 and would not replace any existing barriers.

One member of the Committee referred to the numerous developments which had taken place in Stanway in recent months and she regretted that the Committee's previous request for a meeting with Highways Officers had not yet taken place. She also regretted the submission of proposals within the Stanway area in a piecemeal manner as she was of the view that a substantial and tangible improvement in traffic movement should be required to be provided for the benefit of local residents. She was of the view that the various contributions which had been negotiated for the numerous developments, relating to crossings, travel plans, schools, leisure now needed to come to fruition and schemes needed to be implemented. Concern was also expressed about the delayed delivery of the community facility. Reference was made to the first phase of development by Persimmon which had been approved by the Committee and was subsequently the subject to an amendment which had changed the development which was delivered. Complaints had also been received from residents of that development that Persimmon had not provided street signs prior to houses being occupied. She was of the view that the NHS contribution from that development was not sufficient to pay for an additional GP, yet GP appointments were still very difficult to get hold of. She was of the view that the construction traffic should not be permitted through the existing development and that no inconvenience and disruption should be placed on existing residents.

Another member of the Committee sought clarification regarding the location of the affordable housing on the site and sought assurances about future viability assessment of the development which may jeopardise delivery of the affordable housing element.

The Planning Projects Officer explained that the affordable housing element of the development was set out in detail in the report which was fully compliant with the Council's policy for 20% affordable housing together with two units for wheelchair users. She gave an assurance that the application would be referred back to the Committee in the event that the applicant considered the development to be unviable in the future. She confirmed that it was proposed for officers to be delegated the authority to refuse the application if no progress was being made with the Section 106 Agreement within six months of the Committee's decision. She explained that she was unaware of a request from the Committee for a meeting with the Highway Authority but she offered to make further enquiries, if that was required. The report also set out the details of the contributions which had been negotiated and which were all policy compliant and she confirmed that no suggestion had been made that the scheme may not be viable. She was aware that the trigger points for the contributions towards the provision of the community facility were approaching and efforts would be made to ensure those contributions would not be lost. She confirmed that a condition was proposed that street names were required to be put in place for dwellings which were occupied. The proposed route for the construction traffic had been proposed to be through the existing streets as the applicants did not have ownership of other land with which to direct the construction traffic.

Other members of the Committee asked whether it was possible to build a temporary access road to the site for the construction phase of the development and sought assurances regarding a noise barrier to mitigate disturbance from the traffic on the A12. The provision of affordable housing to the 20% ratio required in the Council's policy was welcomed whilst assurances were sought in relation to the proposed number of parking spaces for the development.

The Planning Projects Officer explained that the proposed parking provision met the adopted parking standard, that is 2 spaces per unit plus 25% visitor parking which provided a total of 225 spaces and this was as proposed. She also confirmed that a new noise barrier was proposed at the back edge of the tree belt.

Another member of the Committee agreed with previous comments that legitimate concerns made by residents should be properly addressed by a developer. Some residents were being required to live with problems associated with poor build quality and lack of street signs. She considered the needs of residents should be properly taken account of and measures should be considered by the Committee to ensure that concerns are taken seriously and improvements are undertaken.

Members of the Committee generally considered that the Council needed to be more robust in ensuring that levels of affordable housing were maintained and not subject to future negotiations downwards on grounds of poor viability. Support was also given to the provision of an access road for construction traffic and, if this was not possible, that a duty be placed on the developer to repair any damage caused to the existing roads by the construction traffic.

Reference was made to the assessment of the proposal by the Highway Authority, whether there were criteria which had been used to make the assessment, such as a maximum number of houses which an access road could service, and the absence of the detail of this assessment in the report to the Committee.

The Planning Projects Officer confirmed that the comments of the Highway Authority on the proposal had been set out in full in the report to the Committee and that it had been concluded that the capacity of the existing road network was adequate to accommodate the traffic generated from the development. She explained that the Highway Authority assessment was based on the detailed transport survey which had been submitted with the application but, if further information or more clarity was required from the Highway Authority, this would need to be referred back to the Highways officers. She also confirmed that it was proposed that the construction traffic would use the two existing access points off London Road.

A request was made that the proposed condition providing for the construction traffic route to be amended to provide for a designated route utilising the second access point only and then along the edge of the site and for this route to be repaired at the

conclusion of the development so it did not effect the existing development or inconvenience existing residents.

The Planning Projects Officer confirmed that it was possible to condition a designated route for the construction traffic but it would need to utilise a route of sufficient width to accommodate large construction vehicles and that it would also be possible to place a condition on the times of deliveries.

The Development Manager confirmed that proposed condition 3 could be amended to provide for the consultation of the three Marks Tey and Layer ward councillors on the agreement of a construction traffic delivery route.

The Chairman commended Persimmon Homes on the contributions which had been agreed within the proposed Section 106 Agreement. He acknowledged the request for a pedestrian crossing at London Road but accepted it was not possible for it to be delivered as part of this proposed development but asked that officers make a note that a pedestrian crossing at London Road be factored into future development negotiations, where relevant. He also referred to the concerns expressed by residents in relation to the performance of Persimmon in dealing with their complaints about poor construction and lack of road signs and he proposed that a letter be sent to Persimmon on behalf of the Committee to remind them of their obligations to residents occupying housing within their developments. He also considered that it would be helpful for a meeting to be arranged between the Highways Authority and the Committee members in order to clarify a number of issues.

RESOLVED (UNANIMOUSLY) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet, proposed condition 3 to be amended to provide for construction traffic delivery routes to be agreed following consultation with the three ward councillors for Marks Tey and Layer ward and with authority to make changes to the wording of those conditions, as necessary, and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Parks and Recreation: a contribution of £251,337 to be used towards the provision and/or maintenance of a wheeled sports facility and ancillary items at Stanway Country Park, with Open Space and fully equipped LEAP on site and a commuted sum would be required if the Council adopted the open space/LEAP;
- Community Services: a contribution of £165, 000 to be used on phase 2 of the community centre on the Western Bypass;
- Education: no early year's contribution, primary contribution of £370,559.40 and secondary contribution of £375,293, totalling £745,852.40;
- Archaeology: a contribution of £281;
- Highways: a £25,000 contribution (index-linked) plus 2% (or up to £2,000) Section

106 agreement monitoring fee towards improvements at the Stanway Western Bypass/London Road roundabout to be paid prior to the occupation of any dwellings;

- NHS: a contribution of £36,271
- RAMS: a contribution of £122.30 per dwelling in accordance with the draft HRA Mitigation Strategy SPD;
- Affordable Housing provision: twenty units as affordable housing including two wheelchair accessible units as set out in the table below:

House Type Reference	Beds	Number of Units	Floor Area (sq ft)	Tenure
FT1 (wc)	1	1	667	Rent
FT2 (wc)	2	1	775	Rent
FT3	2	1	775	Rent
FT4	2	2	667	Rent
P	2	2	643	Rent
P1	2	1	663	Rent
P1	2	1	663	Intermediate
Q	3	3	811	Rent
Q	3	2	811	Intermediate
G	3	1	999	Rent
Q1	3	2	835	Rent
Q1	3	1	835	Intermediate
R	4	1	1168	Rent
M	4	1	1222	Rent
Total		20		

- The two bed ground floor apartment would be required to meet Part M4 Cat 3 (2) (a) adaptable with a wet room, so it could be suitable for a wheelchair user and the one bed ground floor apartment would be expected to meet Part M4 Cat 3 (2) (b) fully adapted and all other affordable homes (Excluding upper floor apartments) would be expected to meet a minimum Part M4 Cat 2 in lieu of lifetime homes.

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

(iii) A letter be sent to East of England Persimmon Homes from the Assistant Director Policy and Corporate, on behalf of the Planning Committee, with reference to community concerns around quality of build and site management issues and to remind them of their obligations to residents occupying houses within their developments.

712 190631 Former Bus Depot, Magdalen Street, Colchester

The Committee considered a planning application to vary Condition 2 of Planning permission 181281 at the former Bus Depot, Magdalen Street, Colchester. The application had been referred to the Committee because a minor increase in the height of the buildings was proposed which had been an issue when the original application was considered by the Planning Committee and a linking agreement was also required to ensure the obligations secured under the original application were also required under the revised submission.

The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) that –

- (i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and subject to the signing of a linking agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to link this application to the legal agreement for application reference 181281.
- (ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.

713 190423 89 Chapel Road, West Bergholt, Colchester

The Committee considered a planning application for two new dwellings with associated parking and amenity following demolition of existing dwelling at 89 Chapel Road, West Bergholt, Colchester. The application had been referred to the Committee because it has been called in by Councillor Barber.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

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

Bob Tyrrell, on behalf of West Bergholt Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for listed building consent. He explained that the Parish Council was disappointed at the proposal to develop the small site, being uninspiring, of urban appearance and over development for a village location. He considered the proposed building needed to be set back from the line of 89A Chapel Road and the proposals would be very dominating at the junction of Spring Lane and Chapel Road. He considered the proposals to be contrary to the West Bergholt Neighbourhood Plan, which had recently been approved by the Planning Inspectorate, and the village design statement, adopted in 2009, which was used to protect inappropriate development. Spring Lane was identified in the Neighbourhood Plan as a character area, being part of the original village. He was concerned about the provision of four additional parking spaces which would have a negative impact on the special nature of Spring Lane. He was also concerned about site access. The Parish Council did not consider the site to be a windfall site due to its small proportions. He considered the proposals to be cramped and out of keeping and inappropriate in a village setting and was of the view that a single more modest dwelling would be more appropriate and asked the Committee to reject the proposals.

The Principal Planning Officer explained that matters of context and relationship with neighbouring dwellings had been considered in the report and amendments to the proposal had been made as a result of comments made. As such the width of the gables had been reduced and the roof pitch had been increased which was quite characterful of the area. The proposal had a similar appearance to other properties in the area which had one and a half storey appearance with dormer windows and garden sizes were also comparable. Parking provision had also been revised as a result of comments from the Highway Authority and no concerns had been raised about road safety issues regarding the junction. Queries about the legal right of access from Spring Lane were private matters and, as such, not of material planning consideration. A condition had been proposed requiring the parking provision to be provided prior to the occupation of the dwellings.

A member of the Committee acknowledged that the Parish Council was proud and protective of West Bergholt's village status and commended the work done by Parish Councillors in the village. The view that the proposal was contrary to the Neighbourhood

Plan was supported and concern was expressed regarding the character of the older part of the village which the community wished to protect. The Parish Council's wish to retain its ability to determine where new development would take place was also supported as well as the concerns reported regarding the resident of 89A Chapel Road. He considered the proposals to be an over-development of the site and would have a negative impact on the area.

Another member of the Committee referred to the line of the building not being in accord with that of 89A Chapel Road, expressed concern in relation the layout of the parking provision, acknowledged that the loss of light test had been met but was of the view that the proposal would be very cramped on the site. Clarification was sought in relation to the need for two-bedroom properties in the area.

The Principal Planning Officer confirmed that whilst a 'right to light' was a civil matter, the impact on the amenity of existing residents had been considered, such as adverse over-shadowing being harmful to the enjoyment of property. In this case it had been considered that there would not be a significant impact on the resident of 89A Chapel Road, in terms of loss of light, given the 45-degree test had been met both in elevation and in floor plan. She explained that if Committee members were concerned about matters of over development it would be necessary for particular issues would need to be identified and what harmful impacts the issues would have in order to justify any reason for a refusal of the application.

Concerns were expressed regarding the parking provision to the rear of the property and the potential congestion within Spring Lane, weighed against the benefits of the provision of two-bedroom accommodation which might be more affordable for local residents, whilst needing to be mindful of the contents of the West Bergholt Neighbourhood Plan and the village design statement. Comments were also made in relation to the proposal's negative impact on the street scene of Chapel Road, the over-bearing nature of the proposal and the potential for the character of the rural village to become spoilt. Clarification was also sought in relation to the current status of the West Bergholt Neighbourhood Plan.

The Principal Planning Officer referred to the policies contained in the village design statement concerning the retention of hedge lines, the need for new buildings to enhance the surrounding area and make a positive architectural contribution, requirements for in-fill proposals in terms of nuisance to adjacent properties, requirements to reflect size and shape of gardens, the contextually appropriate with the character of the area in terms of materials, colour, texture, proportion and scale, the width of new garden plots and new parking not being in front of properties. It was considered that the proposal complied with hedge line requirements, was of acceptable design, did not cause harm to adjacent properties, garden size reflected those in the surrounding area, the design of the proposal was in context of a number of other dwellings in the area, the width of the garden was comparable with others and the

parking provision had been located to the rear of the property.

The Development Manager confirmed that the West Bergholt Neighbourhood Plan was very advanced, with a date set for the referendum in September. A letter from the examiner confirmed that significant could be afforded to the emerging Neighbourhood Plan, although it was yet to be formally made. He went on to advise that the Committee would need to identify which policies in the Neighbourhood Plan to which this proposal was contrary and also to identify material harm, if the Committee were of a mind to refuse the application. He confirmed that a case could be made that the proposals are in conformity with many of the policies set out in the village design statement and the report had concluded that the majority of the policies within the Council's Local Plan had also been met, including parking, amenity space and impact on neighbouring properties.

Committee members considered the proposal had a negative impact on the surrounding area which had formed part of the original village. The design of the dwelling was not considered suitable and the garden size was insufficient. It was considered that the views of West Bergholt residents, as set out in the emerging Neighbourhood Plan, should be supported on the grounds that the proposal did meet the Plan's aspirations for the village. As such it was considered that the proposal was not in-keeping with the street scene and was out of character with the area and the design of the proposal was not appropriate given the close proximity and density of the two dwellings on the site.

Clarification was sought regarding garden sizes in the area and, given the substantial weight which could be afforded to the emerging Neighbourhood Plan, why the report did not contain more information on this aspect.

The Principal Planning Officer explained that the village design statement referred to the need to provide larger garden sizes than the standard, dependent upon context and she referred to the variety of building and garden sizes in the locality.

The Development Manager acknowledged the lack of coverage of the policies within the West Bergholt Neighbourhood Plan within the report because the report had been drafted the letter from the examiner was yet to be received and, as such, no commentary could be given regarding the weight to be given to the document. He considered it was at the discretion of the Committee whether to refuse the application and were this to be the case, officers would be happy to provide details reasons for refusal based on the discussion regarding inappropriate design, density and relationship to neighbouring properties.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report, the Chairman invited the Committee to consider whether invoking the Delayed Decision Protocol should be considered but this was not considered necessary.

RESOLVED (SEVEN voted FOR and TWO ABSTAINED) that the planning application be refused on the grounds of conflict with the emerging West Bergholt Neighbourhood Plan, including failure to enhance the street scene on a prominent corner site, cramped and contrived and adverse impact on the amenity of neighbouring property, with the detailed wording of the reasons for refusal being delegated to the Assistant Director Policy and Corporate.

714 190690 Springbourne, Spring Lane, West Bergholt, Colchester

The Committee considered a planning application for a ground floor extension and first floor addition to an existing bungalow at Springbourne, Spring Lane, West Bergholt, Colchester. The application had been referred to the Committee because it had been called in by Councillor Barber.

The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Sean Tofts, Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Bob Tyrrell, on behalf of West Bergholt Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for listed building consent. He explained that the Parish Council objected to the proposal on the grounds of the overall height of the proposed dwelling which was out of keeping with adjacent properties. He explained that Spring Lane was on a slope and the land fell away across the width of the site. A reduction in the height of the building had been requested by the Parish Council but this issue had not been addressed by the applicant. He explained that existing property was about 2 feet taller than the adjacent bungalow and it was proposed to add an additional 10 feet making the new ridge 12 feet higher than the bungalow and he considered this to be entirely out of keeping. He also considered the proposal to be contrary to the West Bergholt Neighbourhood Plan and the village design statement, adopted in 2009 which was used to protect inappropriate development. Spring Lane was identified as a character area and part of the original village and the village design statement policy was to resist any building works that would detract from this character. The Parish Council's view was that the ridge height proposed should be reduced by 5 feet to make the proposals more appropriate and, as such asked for the application to be deferred in order to negotiate a reduced ridge height or to be refused.

Richard Brett addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposed extension to the property had been designed in order to provide a long-term

family home and to make a positive contribution to Spring Lane. He explained that the advice of the planning officers had been followed throughout the application process and a scheme had been produced which satisfied his family's needs whilst keeping the size of the extension to a minimum. He explained that the height of the ridge had been restricted to 1500mm and the usable floor area had been maximised in order to keep the ridge height down. He confirmed that the footprint of the building would be increased by 2% and that there would be no impact on parking provision. He confirmed that there would be no new windows to the side elevation, with the exception of one roof light at very high level. All new windows to the rear would look over the property's own garden and he did not anticipate there to be any issues of over-looking, which was confirmed by the site plans. He considered there was no architectural value in the existing building on the site which was an early 1960's bungalow with low quality cladding. He also considered there was no cohesive architectural style or era in Spring Lane and in West Bergholt generally with which to frame the design. He considered each house in Spring Lane to be very different in terms of style, form, mass and finish and he did not consider there was over-arching style which should be followed. However, he did consider that the design was sympathetic to neighbouring properties. The materials planned were of superior quality including slate roof, rendered finishes and windows, all reflected elsewhere in properties nearby. The one and a half storey style was also already reflected in Spring Lane. He explained that Spring Lane sloped north to south and there was also a gradual decrease in height of dwellings which would still be the case after the development was complete. He was also of the view that the proposal would not dominate the street scene and, given the construction methods and materials used, that the impact on the neighbours during the construction phase would be minimised. He explained that extending the property was the most viable option for his family due to the high cost of property in the village and he was of the view that Spring Lane would be enhanced by the proposal.

The Planning Officer explained that, in officer's view, there was no need to reduce the proposed ridge height of the building as it was in-keeping with the street scene and was as low as possible to achieve the requirements of the extension. He referred to the emerging Neighbourhood Plan and confirmed that more weight could now be given to that document than had been suggested in the report. He confirmed that the proposal was located within the character area and that proposals were expected to respect this character status in terms of scale, design and setting of any development. It was his view that the proposal complied with this policy and potentially making the street more characterful. He also confirmed that the existing property did not contribute positively to the street scene.

One member of the Committee considered the policies within the emerging West Bergholt Neighbourhood Plan and the village design statement were of relevance in the Committee's consideration of this application and considered that the proposal conflicted with the policies in relation to a lack of enhancement of the area, that it did not reflect the character of the surrounding area and it negatively affected the amenity of the residents

in the neighbouring bungalow. He considered that an amended proposal, including a reduced ridge height could be supported.

The Planning Officer considered that the proposal was acceptable in relation to the emerging Neighbourhood Plan whilst he was mindful that the village design statement did not carry any statutory weight in decision making. He also highlighted the fact that the property had the benefit of permitted development rights which was a material consideration when taking into account the ability to mitigate some of the harm which may be caused. He explained that these rights would include the construction of a flat roof dormer across the property with windows which would not be subject to restriction, also the principle of development at the first floor would also be permitted development, as such, he maintained his view that the application was acceptable.

Other members of the Committee considered there was no harm caused by the proposals, given the height of existing properties either side of the site and, as such, the Parish Council's objections were not considered to be robust in this instance. The permitted development rights available with the property were also borne in mind as well as the benefits to be gained from an enhancement to the street scene which the proposal would deliver.

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

Planning Committee

Thursday, 25 July 2019

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Martyn Warnes

Substitutes: No substitutes were recorded at the meeting

Also Present:

724 Site Visits

No site visits were undertaken in advance of the meeting. A Committee site visit in respect of application 172409 Land West of Chitts Hill had been undertaken before the meeting on 4 July 2019.

725 172049 Land West of Chitts Hill, Stanway, Colchester

The Committee resumed consideration of an application for the development of the site to provide 100 dwelling houses (Class C3) with access from Chitts Hill, associated on site infrastructure, open space, landscaping and parking. The application had been considered at the meeting on 4 July 2019, when the Committee had invoked the Deferral and Recommendation Overturn Procedure for further advice from officers on the risks of a refusal of the application on the grounds of the impact of the proposal on highway safety and non-conformity with the current Local Plan.

The Committee had before it a report in which all the information was set out, together with further information on the Amendment Sheet.

The Committee undertook a site visit before the meeting on 4 July 2019 in order to assess the impact of the proposal on the locality and the suitability of the proposal for the site.

Lucy Mondon, Principal Planning Officer, presented the report and, together with Simon Cairns, Development Manager, and Karen Syrett, Planning and Housing Manager, assisted the Committee in its deliberations. It was reported that the applicant had submitted revised drawings showing a proposed revision to move the site access approximately 17 metres further south. This meant that, if approved, the entrance to the site was now 87 metres from the level crossing. The applicant's transport consultant had advised that this reduced the likelihood of interaction between the site access and

potential queues from the level crossing. Clear highway markings, such as dragons' teeth and a keep clear box were also proposed. It remained the case that there were no objections from Highways England or the Highways Authority.

Paragraph 109 of the National Planning Policy Framework (NPPF) stated that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the cumulative impact on the network would be severe. There was no evidence that there would be an unacceptable impact on highway safety, or that the cumulative impact would be severe.

Network Rail had now commented and had confirmed that there were no objections to the development. They had indicated that the proposed new layout with the revised access was their preferred option. The applicant had also supplied comparative information of sites where there was development in close proximity to railway crossings, such as the crossings at East Gates, Great Bentley and Ardleigh.

Martin Mason, Essex County Council Highways, also attended and addressed the Committee and explained that he had reviewed the plans and was content that there was adequate visibility at the junction and that whilst there would be some impact on the highway network, this would not be classed as severe.

Whilst the new layout had been submitted informally, it was open to the Committee, if it was minded to approve the application, to approve on the basis of the new layout and give officers delegated authority to consult on the revised plans.

In terms of the issues around conformity with the Local Plan, it was considered that the Emerging Local Plan was at an advanced stage as it was currently being examined and therefore significant weight could be afforded to it. It was not for the Planning Committee to second guess the outcome of the examination. There were no unresolved objections to the allocation of the site in the Emerging Local Plan and there was a high degree of consistency with local policies and with the policies in the NPPF. If the application were to be approved, the dwellings would be confirmed within the housing supply and would put the Council in a stronger position in being able to demonstrate a five-year supply of housing.

Whilst a potential reason for refusal had been identified around the failure to include a legally binding mechanism to secure the necessary section 106 contributions, the first draft of the agreement had been produced. The Committee could also safeguard the position by requesting that the application be referred to the Committee should the terms of the agreement change.

In discussion, members of the Committee were pleased to note the proposed revised access to the development, which significantly eased concerns about the impact of the development on highway safety. However, members stressed that it was important that any approval be on the basis of the revised plans. Some concern was also expressed

about light pollution from cars leaving the site on the house opposite the junction and accessibility to public transport from the northern part of the site. It was explained that the access was opposite the boundary treatment, so light from cars leaving the site would not harm the amenity of properties on Chitts Hill. There were bus stops on Halstead Road and King Coel Road and the Highways Authority had suggested some improvements to the access to these.

Following the conclusion of the debate, Councillor Jarvis withdrew his proposal that the application be refused. A motion to accept the officer recommendation, subject to a consultation based on revised access proposals, was then proposed and seconded.

RESOLVED (SEVEN voted FOR| and ONE ABSTAINED from voting) that:-

(a) Authority be delegated to officers to reconsult on the revised access proposals;

(b) Subject to the revised access proposals being acceptable, the application be approved subject to:

- Agreement of pre-commencement conditions with the applicant as per the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 and authority be delegated to officers to revise those conditions as necessary in accordance with the regulations;
- 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 six months, to delegate authority to the Assistant Director to refuse the applications or otherwise to be authorised to complete the agreement.
- The conditions set out in the Planning Committee report of 25 July 2019.

726 182869 Colchester Museum, Former Museum Resource Centre, 14 Ryegate Road, Colchester

Councillor J. Maclean (in respect of her business being in a commercial relationship with Crittal Windows) declared a disclosable pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5) and left the meeting during its consideration and determination.

The Committee considered an application for the conversion of the building from Class D1 (Museum) to residential use (Class C3) for nine apartments, with associated demolition works, internal and external alterations, car/cycle parking, bin storage areas and infrastructure works.

The Committee had before it a report in which all the information was set out, together with further information on the Amendment Sheet.

Chris Harden, Senior Planning Officer, presented the report and together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He thanked officers and the applicant for bringing the application forward. The building had almost been lost 45 years ago as part of the improvement of the Dutch Quarter, but he had campaigned for its retention in view of its historic significance and its visual impact. The windows, which were constructed and installed by a local firm Crittal, were of significance in themselves. The building was on the Local List and the application would ensure its retention. Concern was expressed that if the building had not been owned by the Council, it would have been determined under delegated powers, as he felt that such decisions needed to be taken by elected members.

The Committee indicated that the application was welcomed as it secured the retention of a building of historic significance. The Committee were also pleased that its listing on the Local List was being respected. A member of the Committee enquired as to how the building would be insulated in order to maintain the integrity of the Crittal windows. The Senior Planning Manager and the Development Manager explained that this would be a matter considered as part of building regulations. It could be achieved either through secondary glazing or through consideration of the overall fabric of the building to ensure compliance with building regulations. It was suggested that condition 10 be amended to cover details of any alterations to internal windows.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the receipt of the RAMS payment and subject to the conditions and informatives set out in the report, with condition 10 amended to cover details of any alterations to internal windows.

727 Funding for the Rowhedge Trail

The Committee considered a report from the Assistant Director Policy and Corporate seeking approval to amend the wording of a section 106 agreement to allow a financial contribution to be used to fund improvement to the whole of the Rowhedge Trail and not just the part along footpath 27.

RESOLVED (UNANIMOUSLY) that the wording of the section 106 agreement from application 144684 be amended to allow a financial contribution to be used to fund improvement to the whole of the Rowhedge Trail and not just the part along footpath 27.

Planning Committee

Thursday, 15 August 2019

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes

Substitutes: Councillor Sam McCarthy (for Councillor Andrea Luxford Vaughan), Councillor Gerard Oxford (for Councillor Philip Oxford)

Also Present:

728 Site Visits

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

729 Planning Committee minutes 4 July 2019

The minutes of the meeting held on 4 July 2019 were confirmed as a correct record.

730 190288 Land adjacent to 56 Berechurch Hall Road, Colchester

The Committee considered an outline planning application for the erection of four flats at land adjacent to 56 Berechurch Hall Road, Colchester. The application had been referred to the Committee because it has been called in by Councillor Harris.

The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Benjy Firth, Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Peter le Grys addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the site had been the subject to an identical application in 2008 which had been granted permission and nothing had changed with the application since that time. However, he acknowledged the need to consider changes in circumstances in relation to the site. He referred to the highway considerations and he confirmed that layout, car parking, visibility splays and the vehicle turning area had been considered satisfactory by the Highway Authority. He was therefore of the view that the application ought to meet with

the Committee's approval. He acknowledged the comments made by a local councillor in respect of the speed of traffic along Berechurch Hall Road but was of the view that this was a matter for the police, outside the Committee's remit and outside the control of the applicant.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He explained that Essex County Council Highways Authority had not accepted his invitation to meet on site to consider the access to the application site. He acknowledged the need for the type of accommodation proposed and welcomed this aspect of the application. However, he was concerned about use of the road by vehicles travelling in excess of the 30mph speed limit and considered that the conclusions reached by the Highway Authority on the application were based on vehicles travelling within the speed limit. He referred to Maypole Green Road and Cumberland Way, both of which had poor access visibility despite their positioning on a straight section of Berechurch Hall Road. On these traffic grounds, given the application site was located at a bend in Berechurch Hall Road, he therefore asked the Committee members to seek assurances that the sight splay for the proposed development would be made as generous as possible in order to improve the visibility as much as possible. He also referred to the Construction Method Statement and the need for provision to be made for the careful management of construction delivery vehicles in and out of the site in order to ensure there would be no traffic congestion around the access.

One member of the Committee welcomed the application whilst also acknowledging the concerns expressed by the ward councillor. He was of the view that proposed access would not be safe. He referred the width of the proposed access which he considered had been calculated using measurements based on derived stopping site distances contained in the Highways Manual for Streets and he considered that an additional condition was required to provide for all the undergrowth to be cut back either side of the entrance. He explained that he had conducted his own traffic survey at the location in order to determine the length of time required for a pedestrian to cross the road. He also referred to the provisions contained in the Government document on vehicular access standards and the requirements for minimum distances between new and existing access points. He considered the Highway Authority's consideration of the proposal had not been sufficiently rigorous and was of the view that the opportunity should be taken for the Highway Authority to re-evaluate the proposal and to provide an explanation regarding the proximity of the proposed access to Berefield Way. Safety concern was particularly raised in relation to vehicle movements from Berefield Way towards the right and across the carriageway at the time when vehicle movement was also taking place from the proposed access to the left.

The Planning Officer explained that the Construction Method Statement would include provisions for the management of delivery vehicles and wheel washing and he confirmed that the Highway Authority was the statutory consultee on matters relating to access and sight splays and, as such, it was not usual to question their conclusions. He also

confirmed that the applicants had confirmed that the Highway Authority requirements regarding the access were achievable. He also confirmed that the application plans did not illustrate the 2.4metre wide footpath which had been constructed in the location which was more than the requirement for the sight splay which the Highway Authority was seeking. In addition there would be the benefit of vegetation clearance to the side of the access and a condition providing for the vegetation to be kept clear.

The Development Manager questioned whether the minimum distance information was pertinent to junction specifications rather than driveway access points.

Other members of the Committee noted the concerns expressed regarding the speed of traffic along Berechurch Hall Road and welcomed the clarification provided by the Planning Officer regarding the width of sight splay, the distance from the road and the intended clearance of vegetation to the side of the access which would make it clearly visible. This was considered to adequately mitigate the concerns expressed by the ward councillors. Reference was also made to the previous permission which had been granted and the likelihood that the proposal would enhance the area.

The Chairman sought clarification as to whether an additional condition would satisfy the concerns expressed regarding the extent of vegetation to the side of the access.

Members of the Committee sought clarification on landscaping matters, 'hit and miss' fencing and the similarity of the application to the previously approved one. The concerns expressed in relation to the management of construction vehicle movements were also noted.

The Planning Officer confirmed that landscaping matters would be dealt with at the application's reserved matters stage, that 'hit and miss' fencing referred to fencing which was not continuous but included gaps and that the current application was exactly the same as the previously approved application, other than the current application was outline only, not full and the landscaping matters would be subject to a separate application.

RESOLVED (FIVE voted FOR and FOUR voted AGAINST) that the planning application be approved subject to the agreed Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) contribution, together with the conditions set out in the report.

731 191230 Longacre Bungalow, Colchester Road, Wakes Colne, Colchester

The Committee considered a planning application for a proposed new annexe and cartlodge at Longacre Bungalow, Colchester Road, Wakes Colne, Colchester. The application had been referred to the Committee because the application has been called in by Councillor Chillingworth.

The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

David Lewis, Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations. The Planning Officer explained that the Highway authority had withdrawn its requirement for the removal of the western access and had accepted that the access did meet the required standards and, as such, proposed Condition 5 would not be required.

Julian Bowden, a resident at Millbank and also on behalf of the residents of Highview, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He disputed the terminology used by the applicant's agent concerning the application, for example referring to the utility room at his property as not being a habitable room. He considered that the amenity of the utility room would be affected by the development. His main objections to the application related to over-development and access. He referred to the planning permission granted eight years ago for the existing dwelling the decision notice for which referred to matters such visual amenity, over-development and privacy of adjoining occupiers. He considered the current proposal to be clear over-development of a small site in a rural location and deemed it to be 'development creep'. He explained that access was shared between Longacre and Highview, the driveway having been made wider. He referred to the current occupier of Longacre now having a greater number of vehicle movements which had led to disturbance and greater maintenance costs.

Adam Jackson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the proposal was for a small annexe for use by the applicant's elderly parents, together with a double cart lodge. The applicant's wished to provide a greater level of care for their parents, to share shopping tasks and to be on hand in the event of an emergency. The annexe had been designed to comply with building regulations, particularly in relation to accessibility and accessibility for wheelchair users. The design had included matched floor levels to the existing house and the sectional height of the building had been minimised so far as was possible to avoid disturbance to neighbours to the west and to mimic historic out-buildings throughout the village. A topographical survey had been undertaken to ensure proposals were accurate. He welcomed the recommendation for approval and he commented that the objections relating to rights to view and over-development should be considered as non-material.

Councillor Chillingworth attended and, with the consent of the Chairman, addressed the Committee. He explained that he had called in the application at the request of the Parish Council due to concern that it may be possible for the annexe to be used as a

separate dwelling in the future. He was of the view that the site was constrained and two separate dwellings would constitute over-development, as well as affecting the amenity of the neighbouring properties. He referred to the Highway Authority's original request for the western access to be closed but that this request had been withdrawn. He also referred to the comments made by Mr Bowden who lived closest to the proposed annexe and asked the Committee members to give them careful consideration, particularly in relation to his amenity and over-development. He confirmed that he agreed with the comments relating to developments in rural locations should reflect the rural aspect and not reflect similar proposals in urban sites. He confirmed that he had no objection to the principle of an annexe for elderly relatives, which he considered to be a satisfactory way for two generations to be housed and, as such, he welcomed the proposed condition which tied the dwelling to the occupiers of the main house, which could only be altered by a new planning application. He explained that both access points were to directly to the A1124 where there was a 30mph speed limit but which was well known for speeding traffic as well as being the scene of numerous accidents. He considered exiting both access points was hazardous and he also referred to the damage caused to the shared drive with Highview and was of the view that the construction of an annexe, together with a greater number of people living at the site, would extend and increase the usage and cause further damage to the shared access. He acknowledged that the Highway Authority had not required the widening of the shared access to the west but he asked the Committee members consider the addition of such a condition to safely accommodate increased traffic and to protect the amenity of occupiers of Highview.

The Planning Officer explained that the Highway Authority was satisfied with the access arrangements as proposed and, as such, it would be difficult to justify the imposition of an additional condition.

Members of the Committee generally confirmed they had no objection to the principle of the development, provided permitted development rights were not exceeded but referred to the potentially hazardous nature of the access points to the site and sympathised with the concerns of the residents of Highview in relation to the increased use of the shared access by the residents of Longacre. Clarification was sought regarding the possibility of seeking the applicant's agreement to constructing a separate access, adjacent to the shared access.

The Planning Officer was of the view that any future application to improve the access for the site was likely to be supported by the Highway Authority but he did not think it would be justified to require such an application to be made or to add a condition as part of the current application. He did, however, consider the addition of an informative that encouraged continued dialogue to seek an improvement to the access for the site would be possible.

One member of the Committee sought clarification regarding deferral of the Committee's consideration to allow for further discussion with the Highway Authority on the access

and safety requirements.

The Planning Officer was of the view that the applicants were keen to secure safe access for the site and, as such, an informative may be helpful in bringing forward further discussions on the matter.

RESOLVED (EIGHT voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report, with the exclusion of proposed Condition 5 and with an additional informative providing for improvements to the driveway access.

732 Appeal at Land at Queen Street, Colchester (Appeal ref: 3231964 and Planning Application No: 182120)

The Committee considered a report by the Assistant Director Policy and Corporate concerning first reason for refusal (relating insufficient community consultation) in the Decision Notice for planning application 182120 for the demolition of existing buildings/structures and redevelopment to provide purpose-built student accommodation; hotel; commercial space (use Classes A1, A3, A4, B1(c) and D2); artist studios and associated vehicular access and public realm improvements at Queen Street, Colchester.

Additional information received since the publication of the report was set out in an amendment sheet.

Simon Cairns, Development Manager, presented the report and, together with Alistair Day, Planning Specialists Manager, assisted the Committee in its deliberations.

The Development Manager explained that the recommendation in the report had incorrectly referred to the withdrawal of the first reason for refusal as set out in the decision notice. He confirmed that, in accordance with the advice of Pegasus Group, the national planning, urban design and heritage consultancy, who had been appointed to represent the Council at the scheduled Public Inquiry, the Committee was being asked to confirm that the first reason for refusal (insufficient community consultation) would not be defended by Pegasus Group, on behalf of the Council, at the Public Inquiry. He further confirmed that the Committee's endorsement of this recommendation would not prevent any third party from seeking to defend this reason for refusal.

The Development Manager referred to the Statement of Community Involvement, a document adopted by the Council, setting out certain requirements such as consultation with immediate neighbours and, for Major applications, additional measures were strongly recommended, proportionate to the nature and scale of the proposal, to engage with the local community and local councillors. He went on to confirm that the applicant had submitted a Statement of Community Involvement (SCI) as part of the planning

application which included details of the community engagement undertaken by the applicants. He further referred to the provisions for community engagement set out in Paragraph 128 of the National Planning Policy Framework (NPPF), including the need for design proposals to take into account the views of the local community.

The Development Manager confirmed that the SCI submitted with the application explained that the applicants, Alumno, had sought to work with the local community by:

- Informing local elected representatives, local groups, neighbours and nearby residents about the proposals;
- Engage the community on the proposals for the site and capture feedback to inform the further progression of the scheme;
- Identify concerns and respond to these, where possible through the design process, liaison and understanding local views about the site and the surrounding area to help the applicants to work with the local community to the planning submission phase.

He also detailed the actual measures undertaken to meet the objectives identified, including:

- A public exhibition on 4 July 2018 at Greyfriars Hotel, High Street, Colchester;
- A letter to 2,690 local residences and businesses, including invitations to the exhibition and contact details of the project team and details of a consultation website with details of the project and an online feedback mechanism;
- A press release to the Colchester Gazette;
- 158 people (including a number of Borough Councillors and key members of the local community) attended the exhibition, and 30 feedback forms were submitted at the exhibition and a further nine forms by post;
- Meetings with local elected representatives, including the local MP, Borough and County Councillors;
- Consultation with local artistic groups, including representatives from Firstsite and Space, the creative business centre;
- Contact with local business groups, including the Colchester Retail and Business Association and the Colchester Business Improvement District;
- Community Groups contacted on 18 July 2018, including Priory, Roman and Castle, Dutch Quarter, Rosebery and Smythies and Riverside Residents Associations;
- Feedback forms were supplied at the exhibition and a Freepost facility, email address and dedicated telephone number and website were also made available.

Following the initial public consultation further images of the proposals were published together with a series of Frequently Asked Questions on the website. The applicants had also undertaken to continue to engage with the local community following submission of the application and throughout the post-submission phase.

The Development Manager explained that Pegasus Group, the Council's Consultants, were of the view that there was no conflict with Paragraph 128 of the NPPF as pre-

application discussions, including ward councillors and the local community, had taken place and had been acknowledged as complying with the Council's Statement of Community Involvement. As such, Pegasus Group had concluded it was not possible for them to defend the first reason for refusal.

The Development Manager also gave details of a further letter submitted by the applicants, Alumno, setting out their view that the reason for refusal should be withdrawn by the Council.

The Chairman explained that the amendment sheet had referred to the first reason for refusal not being 'contested' and he confirmed that the Committee was being asked to confirm that the first reason for refusal (insufficient community consultation) would not be 'defended'. He further explained that, due to the level of interest in the application, he had used his discretion to vary the Committee's usual speaking arrangements such that up to three representations in opposition to the recommendation and up to three representations in support of the recommendation would be permitted.

Kathryn Oelman, of Lawson Planning Partnership Ltd. on behalf of OMC, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the recommendation in the report. She referred to the requirements of the NPPF in terms of early, proactive and effective engagement, to work closely with the community, to take account of views and evolve designs. She was of the view that if this didn't take place it was a material consideration. She also explained that the Council's SCI was not included in the first reason for refusal of the application and, as such, there was no expectation that the Council would seek to defend the reason on this basis. She explained that many of the people listed as being consulted had stated they had not been consulted effectively or early enough. She referred to requests for meetings with the developers which had not been granted, design concerns had been raised but had not been addressed. She was of the view that evidence should be sought from the developers regarding the evolution of designs to take account of views expressed. Minor revisions had been undertaken but these did not address the concerns previously expressed. She did not consider that this complied with the NPPF as the consultation had not been meaningful and the developer had failed to listen to the community, with design opportunities being missed. She was of the view that the Committee needed to decide whether the reason for refusal was reasonable and coherent not whether it would win.

John Burton, President of Colchester Civic Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the to the recommendation in the report. He was of the view that the Planning Committee had been fully justified in refusing the planning application on the grounds of lack of public consultation. He considered the Alumno SCI, in comparison with those undertaken by other developers, was wholly inadequate. He was of the view that the duration of the exhibition was too short for such a large-scale proposal in such a critical area of the town

centre. He acknowledged that five local associations had been contacted by the developers but concerns had been expressed about the short timescale for engagement which had prompted a request for a meeting with all the resident's associations at one time. This request had been declined with an assurance that a meeting would take place but this did not happen. Following the exhibition the proposals were materially changed but without community involvement to explain the changes or to obtain community views. He considered the developers had avoided the required openness of the planning process, causing distress to residents. He asked the Committee to retain the first reason for refusal.

Dorian Kelly addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the recommendation in the report. He referred to three pieces of case law and good practice. Firstly, the Planning Inspectorate Good Practice Advice Note 9 concerning the Secretary of State considering the same matters that were considered by the local Planning Authority which he considered would not be the case if the Committee agreed not to defend the first reason for refusal. He also argued that the consultation was not carried out in a proper manner, was unfair and therefore unlawful. He referred to a case involving the London Borough of Brent and whether public consultation was a legal requirement, whether they were proper and undertaken at an appropriate stage. He did not consider the consultation undertaken was adequate in this regard. He had attended the exhibition on 4 July following sight of the details in the local newspaper. He referred to artists impressions of plans submitted by the developers which lacked detail but paperwork which was far too difficult to interpret. He considered no notice had been taken of views from the public, the only changes being as a consequence of comments from Historic England. He also referred to a case involving Holborn Studios v the London Borough of Hackney concerning failure to reconsult being deemed to be unfair and unlawful. He considered this was the case with the Alumno project and, as such it should have involved a full 13-week consultation period and no re-consultation had been undertaken.

The Development Manager responded to matters raised. He explained that the Committee members were entitled to make their own judgement in relation to compliance with the Council's Statement of Community Involvement and he reiterated and clarified the measures reported to have been undertaken by Alumno in their submitted SCI. He explained that adequacy of the hours of opening of the exhibition was a matter for the Committee members to determine. He also confirmed that the Committee was being asked to agree to the first reason for refusal to be not defended and it was not being suggested that the reason would be withdrawn. As such, there would be nothing to preclude all other third-party groups making representations to the Inspector in relation to the community consultation undertaken. He confirmed that he had no knowledge of the case law referred to by Mr Kelly and, as such, was unable to provide any guidance as to their relevance to the matter.

One member of the Committee was minded to take the advice provided by the Council's

professional and independent consultants, also acknowledging that consultation had taken place and, as such, was of the view that the recommendation to not defend the first reason for refusal should be supported, bearing in mind that third parties would be permitted to defend the reason at the appeal.

Other members of the Committee referred to the conflicting evidence presented by members of the public and the developers about the timing, duration and adequacy of the public consultation and sought further clarification and more detailed information as to why the Committee needed to make a decision on the defence of a reason for refusal which had previously received the full support of the Committee when the application had been determined in February. Clarification was also sought, should the Committee determine that the reason for refusal should be defended would this mean that the consultants would be unable to act for the Council.

The Development Manager referred to concerns regarding the need for a decision by the Committee on the defence of the reason for refusal, he acknowledged views expressed that the consultation had been flawed but explained that the Council's consultants had confirmed that they were unable to defend the reason for refusal as it could potentially undermine their professional credibility. He explained that this proposal would mean that the local planning authority would not provide evidence in relation to the first reason for refusal, this would not prevent third parties giving evidence and it would be for the Inspector to form their own independent view. He considered the views expressed about the inadequacy of the consultation may possibly have emanated from the design outcomes and the mix of uses on site not reflecting the community group's aspirations. He also confirmed that Lawson Planning Partnership Ltd. had confirmed that it intended to provide evidence at the appeal in relation to the first reason for refusal as a Rule 6 party to the appeal.

The Planning Specialists Manager confirmed that Alumno had not been involved in any way with the writing or preparation of the report before the Committee. He also clarified that no further consultation had been undertaken by the applicants following amendments during the course of the planning application. However, the Council had consulted all those who had made representations to the original application, in accordance with their adopted policies as part of the usual planning process.

The Development Manager went on to explain that the report had been submitted to the Committee because the consultants had advised they would be unable to defend the first reason for refusal on the grounds that they had to adhere to a Code of Conduct which required them to provide evidence which they honestly believed to be true and, in their view, there was an adequacy of compliance with the SCI. This did not mean the consultants would not be able to act for the Council, and, should the Committee wish the reason for refusal to be defended, either another consultant would need to be appointed or an appropriate Committee member could act in this capacity.

One member of the Committee reiterated concerns about the Committee being required to adjudicate on a reason for refusal and questioned whether the reasons supporting the Committee's previous decision to refuse the application were being undermined. The view was expressed that the Committee's determination of the application had been genuine and reasonable and, as such, it was considered unlikely that an Inspector would deem the reasons for refusal to be weak. Accordingly, it was argued that the Committee's decision should be confirmed and evidence presented to the appeal on that basis.

Another member of the Committee confirmed their determination that the Council should win the appeal, whether or not the first reason for refusal was considered robust. Reference was made to the consultation not being meaningful, together with an absence of design modifications in the light of comments made during the consultation. However, acknowledgement was also given to the consultation being deemed to have complied with the requirements of the NPPF and the need to focus on the potentially far more robust ground for refusal that it was a poorly designed scheme in the historic core of the town centre conservation area.

Reference was also made to the advice of the consultants that the reason for refusal was not possible to defend given that pre-application discussions had taken place with ward councillors and the local community and that planning officers had confirmed that this complied with the requirements of the adopted Statement of Community Involvement.

The Development Manager explained that the Council's adopted SCI provided a measure against which community engagement measures could be judged. He again highlighted the provisions in the document and detailed again the measures undertaken by Alumno which were known to have taken place. As such, without making a judgement regarding the quality of the measures undertaken, he was able to confirm that all the requirements identified in the adopted SCI had taken place and therefore complied with the adopted SCI. Accordingly, the Council's consultants had concluded that it was not possible for them to defend that reason for refusal on behalf of the Council. He reiterated he was able to confirm that the measures had taken place evidentially, that he was not in a position to judge the measures from a qualitative perspective and that no influence had been exerted on the Council's consultants by the planning officers in forming their independent opinion on the matter.

The Planning Specialists Manager also confirmed that the Council's consultants had been supplied with details of the contents adopted SCI, together with the extent of the consultation, in terms of the content of the Alumno SCI and the measures said to have been undertaken.

RESOLVED (SEVEN voted FOR and TWO voted AGAINST) that the recommendation of Pegasus Group, the consultants appointed to act on behalf of the Council at the

forthcoming appeal, that the first reason for refusal of application 182120 at land at Queen Street, Colchester (referring to a level of community engagement undertaken prior to the submission of the application) be not defended by them on behalf of the Council be approved.

Planning Committee

Thursday, 05 September 2019

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Martyn Warnes

Substitutes: No substitutes were recorded at the meeting

Also Present:

733 Site Visits

Councillors Barton, Hazell, Jarvis, Liddy, Loveland, Luxford Vaughan and J. Maclean attended the site visits.

734 Planning Committee minutes 30 May 2019

The minutes of the meeting held on 30 May 2019 were confirmed as a correct record.

735 190699 Land at the rear of AGM House, 83A London Road, Copford, Colchester

Councillor Bentley (by reason of his responsibility as Essex County Council Cabinet Member for Infrastructure) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a planning application for the erection of a business park, comprising 3,009 sqm of B1(a) offices in three two-storey blocks with associated parking at land at the rear of AGM House, 83A London Road, Copford, Colchester. The application had been referred to the Committee because it was a major application with material planning objections and the recommendation constituted a departure from adopted Local Plan policy.

The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Benjy Firth, Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Alan Beasley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that the proposal would provide 3,000 sqm of office space which could theoretically accommodate 550 office workers whilst 140 new car parking spaces had been proposed which he considered to be inadequate despite the expectation that some workers would use alternative accommodation. He was concerned that visitors to the site currently opted to park on London Road and he was of the view that any overspill parking at the extended site would make this situation worse. He also noted that no cycle way or footpath for use within the site had been identified in the application drawings and he anticipated there would dangerous conflict between pedestrians and cyclists within the site and on the pavement on London Road. He asked what measures would be introduced to mitigate this danger. He disputed the comments in the application that cyclists would not need to use single or dual carriageways on the basis that there were no designated cycleways in the local area. He referred to the traffic assessment's conclusion regarding numbers entering and leaving the site at morning and peak times and considered them to be inadequate. He also did not consider that the application had adequately identified the business needs for the site nor had there been satisfactory justification regarding the need to depart from the Council's Local Plan policies. Accordingly, he asked the Committee to refuse the application.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He acknowledged that part of the site fell outside the village envelope however the site had previously had the benefit of approvals for very large industrial building which had not been built due to operational changes to the business at the site. He also explained that the Local Plan and the National Planning Policy Framework supported development in rural areas outside settlements. He further explained that the proposal had been assessed by the Council's policy team who had advised that the proposal was compliant. He confirmed that 20 to 30% of the proposed development was required by the applicant's company which would allow growth within the business and create new job opportunities. Regarding the need for the remaining accommodation, he referred to the report from Fenn Wright that there was demand in Colchester for this type of office provision due to existing stock in the town centre being old, with no parking and much having been converted to residential use. He explained that if there proved to be less demand than anticipated then the offices would not be built with the rest of the site remaining as it was currently. He was of the view that concerns raised by the Council's urban designer and landscape officer had not had regard to the site's planning history or the current planning policy position. He also explained that the proposals had far less impact on neighbouring dwellings than the previous proposals and, as such, had been considered acceptable in residential amenity terms. He was of the view that the occupiers of the houses closest to the site would have been aware of the planning permissions which existed at that time and that the current scheme was an improvement. He confirmed that the parking provision exceeded the maximum standard and he expressed concern about problems

of parking on London Road that there was currently an over supply of parking provision when the overspill area was taken into account.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He had no objection to the provision of local business accommodation in principle but he had concerns regarding associated highways matters. He was of the view that consideration needed to be given to the impact on the neighbouring area which needed to be done in relation to the current Local Plan and the emerging Local Plan and what mitigation was proposed to address issues which were planned for 20 years' time. He referred to the need to encourage people to not use their cars, to adopt alternative forms of transport and for such transport to be safe. He referred to the details of the application and the lack of detail in respect of infrastructure for cycleways and pedestrianisation. He referred to the proposed Travel Plan and the lack of details in relation to the appointment of a Travel Plan co-ordinator, the monitoring and enforcement of the plan and for how long the co-ordinator would be employed. He was also of the view that the detail of the Highways Authority assessment of the impact on the local road network needed to be provided to the Committee members for their consideration and for an explanation as to what it would mean for the next 5, 10 years and beyond. He acknowledged the previous planning permission for the site and the implications in terms of the Committee's ability to refuse the application, but he strongly suggested the Committee consider deferring their consideration in order to seek further evidence on the matters he had raised concerning the highway implications for the area and its residents now and in the future. He was also of the view that this would ensure that applications in the area which would be coming forward in the future could be considered in a join-up way, rather than each application in complete isolation of others. He suggested further information be sought on cycle provision, pedestrianisation, details of the Travel Plan and its monitoring, the appointment of a Travel Co-ordinator and for how long and to ask the Highway Authority how the proposals would fit with the current Local Plan and for modelling for the next 10 to 15 years.

The Planning Officer confirmed that the proposed parking provision was policy compliant. It was proposed to deliver an over provision of 50 general parking spaces whilst retaining the total number of disabled spaces at six, which delivered the required 5% of the total provision for the disabled spaces had the general provision been limited to the maximum stipulated in the parking standards. He confirmed that the Highway Authority had been consulted as the statutory consultee in relation to the access road, who had confirmed that they were satisfied with the parking and access proposals. He also confirmed that the proposals had been considered by the Council's Development Team which had concluded it would be appropriate to seek improvements to the two bus stops on London Road and which had been included as conditions. He confirmed that there was a proposed condition providing for a Travel Plan to be prepared and adhered to which would be monitored by the Council's Enforcement Team.

One member of the Committee acknowledged the need for the provision of business

units but commented on the benefit of additional evidence to demonstrate the level of need. Comment was also made about the site's partial location outside the settlement boundary and the policies in place to protect the settlement boundary. She also confirmed that there were ongoing parking problems along London Road but that they were not related to the application site, which had an abundance of parking for staff and customers. Comment was made regarding the prematurity of the application, given the current situation in relation to the examination of the emerging Local Plan, the outcome of which would assist in determining the needs for Copford as a whole. Reference was made to the current status of the application site, as open space backing onto farmland, that there were a number of planned developments which were likely to affect the area and the need for further information in order to better inform the Committee's consideration of the matter.

Another member of the Committee sought additional conditions to provide for improvements to footpaths and cycleways in order to encourage alternative means of transport.

The Planning Officer explained that there was a policy requirement to evidence the need for business accommodation which had been provided by means of a report from Fenn Wright. He also confirmed that the site was not allocated in the current or the emerging Local Plan, it being open countryside currently and, as such, the progress of the new Local Plan would not change the designation of the site. He confirmed that contributions had not been sought for infrastructure improvements which was likely due to the small scale of the development.

Other members of the Committee expressed concern regarding the emerging Local Plan and it was considered that the Highway Authority assessment may well be very different if it was to take into account what development proposals would be forthcoming in the future and, as such, it was agreed that the proposal was premature. Concern was also expressed regarding the amount of traffic using London Road and the need for the Highway Authority to consider the application in the context of future developments as well as the current problems facing local residents.

Concern was expressed regarding the need to allow the existing business to expand and the implications if the Committee's consideration of the application was deferred. Clarification was sought on conditions relating to light pollution in a rural setting and the mitigation measures recommended by the Highway Authority. Comment was made to the previous planning permission for industrial units which had not been implemented whilst the applicants had been in ownership of the site for a number of years. As such, clarification was sought regarding the need for the development at this time. Reference was also made to the development being largely car dependent, the need for the number of likely employees on the site and the implications of that, particularly in relation to parking provision.

The Planning Officer confirmed that it would be possible to consider an additional condition to provide for the phasing of the development, should the Committee consider this to be necessary. He confirmed that the proposed conditions included provisions for light pollution for minor developments in urban and rural areas. He also clarified that the Highway Authority mitigation requirements comprised the laying out of the car park prior to the occupation of the units, along with details of bike storage, wheel washing facility during the construction phase, the provision of a travel plan and improvements to the two bus stops on London Road.

The Development Manager commented on the Council's adopted parking standards which had been significantly exceeded, as such there would be no grounds upon which to seek further parking provision. He confirmed that the Highway Authority, in accordance with the requirements of the National Planning Policy Framework, had not identified any severe highway network capacity issues that would warrant a refusal of the application. He confirmed that it would be possible to seek further information from the Highway Authority, should the Committee consider this to be appropriate.

Another Committee member welcomed the application in terms of the economic benefits to the area and the arguments made within the report by Fenn Wright were considered to be interesting and potentially credible. However, it was acknowledged that concerns expressed during the Committee's consideration remained in relation to increased traffic, highway safety and access safety.

RESOLVED (FIVE voted FOR, ONE voted AGAINST and THREE ABSTAINED) that consideration of the application be deferred and the Highway Authority be requested to undertake a review of the case and to provide further detailed information for consideration by the Committee:

- (i) Explaining the impact of the proposals on the highway network in relation to increased traffic;
- (ii) Measures to improve safety on the site and to improve safety at the access point for egressing vehicles.

736 191676 60 Creffield Road, Colchester

The Committee considered a planning application for proposed refurbishment and replacement dwellings to provide six flats and two houses with associated parking and landscaping including demolition of ancillary buildings and change of use from C4 (large HMO) to C3 (dwelling houses), resubmission of application no. 190750 at 60 Creffield Road, Colchester. The application had been referred to the Committee because the applicant was Colchester Amphora, a company owned by Colchester Borough Council and the proposal had also been called in by Councillor Cope.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

James Ryan, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Roger Gilles addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had been appointed in June 2018 by Colchester Amphora Ltd. to produce a scheme which would bring 60 Creffield Road back into use and repair the damage to the attractive and significant building. The building's most recent use had been for a house in multiple occupancy which had brought downgrading of the interior and a lack of repairs and considerable resources would be required to return it to a satisfactory condition. A sympathetic remodelling of the interior had been devised along with repairing the architectural features which remained and to completely restore the exterior of the building so it could make a positive contribution to the street frontage. He considered comments about restoring the building as a single-family home were unrealistic as a viable option, whilst providing six well-proportioned flats and two new semi-detached houses in the grounds would create sufficient resources to fund the work required. There would also be a positive contribution to the local housing supply, together with providing affordable housing. He also referred to adverse comments about the design of the new houses and confirmed that the proposals had been the subject of extensive work with consultees and council officers and the design had been complimented by the President of Colchester Civic Society. The had been intended to provide a transition scale from the height of the application building to the much lower adjacent property at 27 Inglis Road, with the relationship of the new houses being an important consideration and they had been careful to strike a balance between the three elements. He was of the view that the proposals would not have an overbearing effect on the neighbouring property and, as the building lay to the north of the adjacent property in Inglis Road, over-shadowing would not be an issue.

Councillor Higgins attended and, with the consent of the Chairman, addressed the Committee. She explained that she was attending on behalf of Councillor Cope who had called in the application and she referred to the reasons he had cited in relation to over-crowding on a small site, inappropriate design, overbearing for the occupiers of 27 Inglis Road and the unsympathetic design of the new houses. She explained that these comments actually related to a previous application for 12 flats on the site and understood that Councillor Cope was content with the current application with the exception of the over-bearing nature of the new houses for the occupants of 27 Inglis Road.

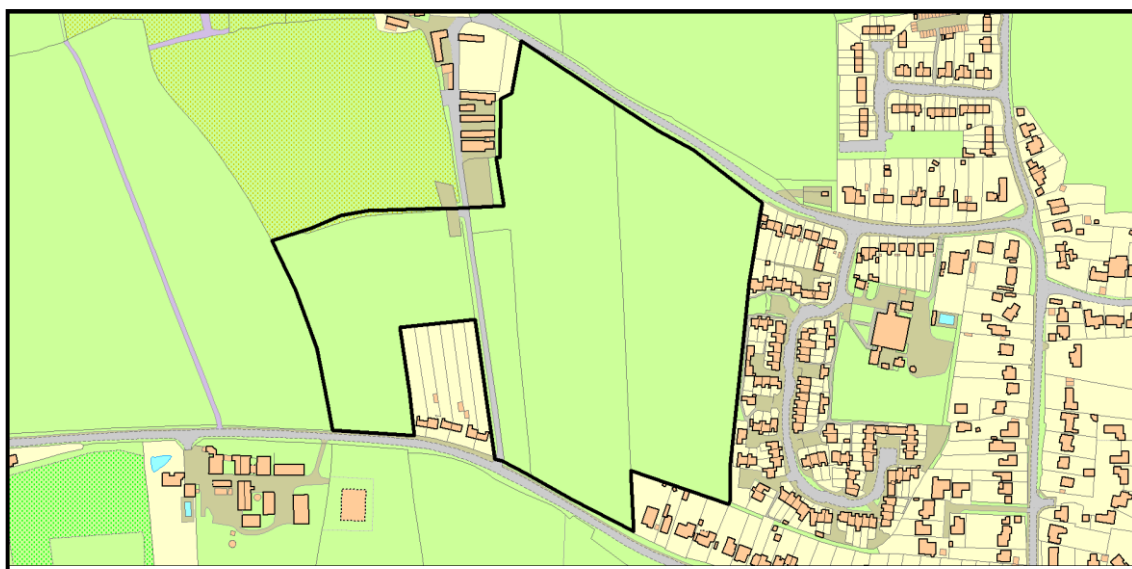
Members of the Committee referred to the local listing of 60 Creffield Road, demonstrating its value to local residents, whilst the building's poor condition was well

known and its previous use as a house in multiple occupation had been unfortunate, generating episodes of anti-social behaviour. Accordingly, the proposed restoration of the building was warmly welcomed.

One member of the Committee sought reassurances in relation to the provision of two new houses in addition to the flats and the proposed provision of only one parking space per dwelling, which was considered inadequate for a family home and in respect of visitor parking. Clarification was also sought in relation to the garden provision for the two new houses.

The Principal Planning Officer acknowledged the comments regarding parking provision but he was of the view that it was acceptable given the highly sustainable location of the site, along with the opportunity to deliver two more family houses in the area and the restoration of a much-valued building in the community. He confirmed that the surrounding road network benefitted from a residents' parking scheme which applied during short time periods in the middle of the day, with free parking otherwise and the area was generally very quiet with the exception of the school start and finish times. He also confirmed that the proposed garden provision complied with policy for the two houses and the ground floor flats and, as such, was considered entirely appropriate for the area. Accordingly, he was of the view that the benefits of the scheme strongly outweighed the drawbacks.

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



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Item No: 7.1

Application: 171529

Applicant: Gladman Developments

Proposal: Outline planning application for the development of up to 150 dwellings (including 30% housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access points from Halstead Road and Fiddlers Hill. All matters reserved except for means of access.

Location: Land Off, Halstead Road, Eight Ash Green

Ward: Lexden & Braiswick

Officer: Lucy Mondon

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it constitutes a departure from the adopted Local Plan by virtue of the application site being outside the current settlement boundary of Eight Ash Green. In addition, the proposal represents major development where objections have been received and the recommendation is for approval. A s106 legal agreement is also required.

1.2 Councillor Barber has also requested that the application be determined at Planning Committee for the following reasons:

‘The application is premature before completion and submission of the neighbourhood plan as part of Eight Ash Green’s allocation from the emerging local plan. There are also insufficient plans for infrastructure in this application, which is a key reason for residents choosing this area for development as part of the neighbourhood plan.’ [Case Officer Update: The Eight Ash Green Neighbourhood Plan has been examined by an independent examiner and publication of the final report is expected imminently. Further details are provided within the remainder of this report).

2.0 Synopsis

2.1 The application seeks outline planning permission for the development of up to 150 dwellings (including 30% housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access points from Halstead Road and Fiddlers Hill. All matters are reserved (i.e. further reserved matters applications are required in respect of these detailed matters except for means of access).

2.2 The key issues for consideration are the principle of development; landscape impact; traffic and highway implications; contamination; flood risk; ecology; heritage; amenity; and design and layout. Impact on neighbouring amenity and the surrounding area will also be discussed.

2.3 The emerging Eight Ash Green Neighbourhood Plan (EAG NP) has allocated the entire site that is the subject of this application for 150 dwellings. Following the required Regulation 16 consultation held between 22 January to 5 March 2019 of the EAG NP, an independent examiner was appointed to examine the Plan. Examination commenced in May 2019 and the EAG NP is considered to be at an advanced stage and commanding weight in the decision-making process as the Examiners Report is currently being fact-checked by Colchester Borough Council and the Qualifying Body (Eight Ash Green Parish Council) with publication of the final report being expected shortly.

2.4 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended, subject to the prior completion of a S106 agreement.

3.0 Site Description and Context

- 3.1 The site, measuring 8.23ha in area, lies outside, but contiguous to, the settlement boundary of Eight Ash Green and comprises three field parcels; the two easternmost fields being separated by a hedge, and the westernmost field being separated on its eastern boundary by an access track.
- 3.2 The site lies between Fiddlers Hill to the north and Halstead Road to the south. The site wraps around a row of six cottages located on Halstead Road (Choats Cottages) and lies to the west of Fiddler's Folly, a densely built residential development. Immediately to the north-west of the site is a Grade II listed building known as Fiddlers Farm with associated farm buildings (now operating as a variety of business units). Beyond this is Fiddlers Wood, a local wildlife site and ancient woodland. The site is within an area recorded as being Grade 2 (best and most versatile) agricultural land.
- 3.3 The statutory listing description for Fiddlers Farm reads as follows:
EIGHT ASH GREEN FIDDLERS HILL 1. 5214 Fiddlers Farmhouse TL 92 NW 7/65 II 2. Circa 1900 (typographical error?). Timber framed and plastered 2 bay range of one storey and attics, with central chimney bay and tapered red brick chimney stack. Roof ridged and gabled, pegtiled. One flat topped dormer on east slope; above door on ground storey which has 6 fielded panels 2 leaded casements on first storey and a leaded casement to left and right of door. A short range of one storey extends length to north east with 3 modern leaded casements - with pegtiled ridge and gable roof. Extended further to north east, by a plastered brick and timber range of one bay with matching pegtiled roof and modern chimney centrally and a set of 3 leaded casements. Plaster medallion with date '1700' over entrance door.

Listing NGR: TL9319126614

- 3.4 The nearest community facilities to the site are Holy Trinity Primary school (approximately 250m from the site); a petrol station with shop (approximately 425m from the site); and a general store and hairdresser (approximately 495m from the site). In terms of public transport, there are bus stops to both the north (Wood Lane) and south (Halstead Road) of the site, being approximately 420m and 580m from the centre of the site respectively. There are Public Rights of Way (PROW) in the vicinity of the site, the nearest one being PROW 132_15 opposite the site on Halstead Road, which leads south to Daisy Green.

4.0 Description of the Proposal

- 4.1 The application seeks Outline Permission for a development of up to 150 dwellings (including 30% housing) with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access points from Halstead Road and Fiddlers Hill. All matters are reserved except for the means of access.

- 4.2 The following documents have been submitted as part of the planning application:
- Affordable Housing Statement
 - Air Quality Screening Report
 - Arboricultural Assessment
 - Archaeological Assessment
 - Built Heritage Assessment
 - Design and Access Statement
 - Draft Heads of Terms
 - Ecological Impact Assessment
 - Ecology Addendum (bat, dormouse, reptile, and great crested newts surveys)
 - Flood Risk Assessment
 - Foul Drainage Analysis
 - Health Impact Assessment
 - Landscape and Visual Impact Assessment
 - Noise Assessment
 - Phase 1 Geoenvironmental Assessment (Desk Study)
 - Planning Statement
 - Socio-Economic Statement
 - Soils and Agricultural Quality of Land Report
 - Statement of Community Involvement
 - Geophysical Survey Report
 - Transport Assessment
 - Travel Plan
 - Utilities Statement
- 4.3 The following drawings have also been submitted:
- Development Framework Plan CSA/3121/111 Rev E
 - Location Plan CSA/3121/113
 - Proposed Site Access Strategy P16089-001G
- 4.4 A request for an Environmental Impact Assessment Screening Opinion was submitted on 9th March 2017 under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (ref: 170654), with the Local Planning Authority response being issued on 15th March 2017. The conclusion of the Local Planning Authority was as follows:
- 4.5 “The land is not sensitive as defined by the Regulations and there are no other existing receptors likely to be significantly affected by this proposal. Any identified potential environmental impacts would be subject to appropriate mitigation measures within the normal planning process. Consequently, while there may be some impact as a result of this development, it is not considered that a proposal of this type, size, and scale at this location would result in significant environmental impact. An Environmental Impact Assessment is not, therefore, required.”
- 4.6 A further Screening assessment was undertaken upon receipt of the Outline application in line with the 2017 Regulations, which came into force on 16th

May 2017. The conclusion remained that an Environmental Impact Assessment is not required.

5.0 Land Use Allocation

- 5.1 Unallocated in the adopted Local Plan. Allocated for residential development as part of policy SS5 of the emerging Local Plan and the Eight Ash Green Neighbourhood Plan (EAG NP). Following the required Regulation 16 consultation held between 22 January to 5 March 2019 of the EAG NP, an independent examiner was appointed to examine the Plan. Examination commenced in May 2019. The Examiners Report has been received and is currently being fact-checked by Colchester Borough Council and the Qualifying Body (Eight Ash Green Parish Council) with publication of the final report being expected shortly.

6.0 Relevant Planning History

- 6.1 A pipeline from Wormingford Pumping Station to Abberton Reservoir runs through the site (ref: 080194).

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 ('the Framework') must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
 - SD2 - Delivering Facilities and Infrastructure
 - SD3 - Community Facilities
 - H1 - Housing Delivery
 - H2 - Housing Density
 - H3 - Housing Diversity
 - H4 - Affordable Housing
 - UR2 - Built Design and Character
 - PR1 - Open Space
 - PR2 - People-friendly Streets
 - TA1 - Accessibility and Changing Travel Behaviour
 - TA2 - Walking and Cycling
 - TA3 - Public Transport
 - TA4 - Roads and Traffic
 - TA5 - Parking
 - ENV1 - Environment
 - ENV2 - Rural Communities

- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- 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 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Backland and Infill
- Affordable Housing
- Community Facilities
- Open Space, Sport and Recreation
- Sustainable Construction
- Cycling Delivery Strategy
- Sustainable Drainage Systems Design Guide
- Street Services Delivery Strategy
- Planning for Broadband 2016
- Managing Archaeology in Development.
- Developing a Landscape for the Future
- ECC's Development & Public Rights of Way
- Planning Out Crime
- Air Quality Management Guidance Note, Areas & Order
- Eight Ash Green Village Design Statement

7.5 Submission Colchester Borough Local Plan 2017-2033:

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

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application. In particular, Policy SS5 sets out that allocations for development will be made via the Eight Ash Green Neighbourhood Plan. The Neighbourhood Plan is now at an advanced stage having been submitted to the Planning Inspectorate (PINS) for examination. The Examiner's initial report has been received and is currently being fact-checked by Colchester Borough Council and the Qualifying Body (Eight Ash Green Parish Council) with publication of the final Examiner's Report being expected shortly. As the contents of this report are now known, there are no issues identified that would prevent progression of the Neighbourhood Plan to Referendum.

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 Anglian Water:

There are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

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

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.

Recommended condition relating to surface water management strategy.

8.3 Arboricultural Officer:

The Council Arboricultural Officer has confirmed that they would require further information in order to assess the impact of the proposal upon trees (i.e. a plan to show built form in relation to the tree constraints plan).

8.4 Archaeological Adviser:

An adequate geophysical survey has been carried out across the proposed development site. There are now no grounds to consider refusal of outline permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 199), any outline 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. Recommended a condition for further archaeological investigation.

8.5 Building Control:

No comments received.

8.6 Colchester Fire Station:

No comments received.

8.7 Colchester Police:

No comments received.

8.8 Contaminated Land Officer:

It is concluded that no potential sources of contaminative risk have been identified. However, it is noted that further risk assessment has been recommended, including intrusive site investigations. The applicant should be advised that Environmental Protection will expect the proposed additional site investigation to include all potential sources of contamination, including the land adjacent to the car repair/scrap car storage areas; the current on-site agricultural use(s), as well as any current or historic offsite uses of the storage sheds (located just beyond the north-western boundary of the site); the pole mounted substation. Laboratory analysis suites must be relevant to the conceptual site model e.g. to include PAHs, VOCs, PBCs, pesticides, herbicides, insecticides, biocides, asbestos etc.

Based on the information provided, it would appear that the site could be made suitable for the proposed use, with land contamination matters dealt with by way of condition. Consequently, should permission be granted for this application, Environmental Protection would recommend inclusion of conditions for site characterisation, remediation, and procedure to follow should any unexpected contamination be encountered.

8.9 Environment Agency:

No comments.

8.10 Environmental Protection:

Areas of the site have been identified to be exposed levels of noise that are adverse to health and will be caused a statutory nuisance from existing neighbouring business activities that will lead to legal action being taken against the existing business should complaints be received (Which is very likely based on the data supplied). This does not apply to the whole site.

Mitigation can be provided for the road traffic noise which should incorporate the design and layout considerations as well as building envelope mitigation.

The noise from the business activity can only really be mitigated in a way that offers protection to the business on site by installing at source mitigation options as described in the Wardell Armstrong report. The mitigation should be carried out and a further BS4142 noise assessment undertaken prior to the agreement of reserved matters. Housing should only be located in areas where the noise assessment identifies an adverse impact.

Should OUTLINE planning permission be granted the following conditions are recommended: detailed acoustic assessment; scheme for mitigating or offsetting the impacts on local air quality resulting from increased road traffic generated by the development.

- 8.11 Essex County Fire and Rescue:
No comments received.

- 8.12 Essex Partnership for Flood Management:
No comments received.

- 8.13 Essex Police:
No comments received.

- 8.14 Essex Wildlife Trust:
We have examined the proposals and the accompanying ecological report. There is the potential for multiple adverse impacts on a range of protected and priority species and habitats, therefore it is crucial that all the mitigation measures outlined in the [Ecological Impact Assessment] are delivered in full and supported by secured funding.

Post-development monitoring of both onsite biodiversity, plus the habitat condition and biodiversity of Fiddler's Wood LoWS and the hedgerows, should also be secured via a S.106 agreement, with measures included to address any reduction in biodiversity or loss of habitat condition within the LoWS and the hedgerows.

In addition to the proposed house martin boxes, consideration should be given to the incorporation of Manthorpe Swift Nesting Brick Boxes into new buildings.

- 8.15 Forestry Commission:
No comments received.

- 8.16 Highway Authority:
No objections from a highway and transportation perspective subject to conditions for a construction management plan; a range of highway improvements (priority junction, bus stop upgrades, widen footway on Halstead Road, residential travel information packs, residential travel plan); and a restriction on through traffic.

- 8.17 Highways England:
HIGHWAYS ENGLAND ("we") has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

No objection subject to condition to secure a travel plan.

8.18 Heritage Advice:

The main conservation issue raised by this application is the effect that the proposed development would have on the setting of nearby listed buildings, most notably Fiddler's Farmhouse which is located to the north west of the application site.

The Built Heritage Assessment (BHA) identifies that harm will be caused to the setting of Fiddlers Farmhouse. The report does not however provide a cogent justification as to why this site is the most suitable site for development (i.e. there are no alternative sites available) nor does it explain how the public benefits that may flow from this development outweigh the harm that will be caused. These elements need to be resolved prior to the determination of this application. The measures that are put forward to mitigate the impact of the proposed development also need to be robustly tested prior to determination (and appropriate amendments undertaken if found necessary). The Framework provides that in cases of less than substantial harm, the public benefits of the scheme should be weighed against the public benefits in the 'planning balance'.

8.19 Landscape Officer:

The following should be taken into consideration when determining the application:

- The Design and Access Statement and Landscape Appraisal needs to be revised to take account of the protected hedgerows on site and the conclusions of any agricultural classification survey. [Case Officer Comment: It is considered that a satisfactory assessment can be made with regards to these matters without the documents being physically amended]
- The field boundary hedges are protected under the Hedgerows Regulations 1997 and this need to be taken into consideration.
- The proposals include two breaches of the protected hedgerow (one on Fiddlers Hill and one on Halstead Road) to facilitate the site accesses. Further details are required to clearly plot the footprint of the existing hedge, the breach point, any sight line requirements, and lengths of the hedgerow required to be removed.
- The site lies outside the adopted settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that 'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'.
- The site lies within Landscape Charter Area B4, this sets a landscape strategy objective to 'conserve and enhance' the landscape character of the Area. It might be argued that the proposal, introducing as it does an urban development with proposals to remove existing protected field hedges and a substantial area of grade 2 agricultural land, fails to 'conserve and enhance' the existing rural character of the site and dilutes the sites field hedgerow structure. This fragmenting the rural setting of Eight Ash Green (which is characterised 'a mixture of medium to large-scale enclosed, predominantly arable fields') and thereby failing to comply with the

requirements of the Colchester Borough Landscape Character Assessment and therefore Core Policy ENV1.

- The agricultural land classification report lodged on 04/08/17 identifies the site as comprising higher grade 2 (very good quality) & 3a (good to moderate) agricultural land. If it is considered that higher grade land equates to 'the best and most versatile land' classification under the Framework then this will need to be taken into account.

[Case Officer comment: The site does not comprise a 'valued landscape' under the Framework. The localised urbanising effect on the edge of the village that would result from the development could arguably inevitably result from any such greenfield allocation. In terms of the grade of land, whilst grade 2 land is one of the best grades of agricultural land, much of the Borough falls within these categories and some loss is almost unavoidable consequently.]

8.20 National Grid:

No comments received.

8.21 Natural England:

No objection. The proposed development could benefit from enhanced green infrastructure and biodiversity enhancements.

[Case Officer Note: The site is within an SSSI Impact Zone and there is a requirement to consult Natural England. Although Natural England have been consulted, they have not provided any comments in respect of impact on the setting of the SSSI.]

8.22 NHS:

The NHS have provided comments as part of the Council's Development Team process in respect of s106 obligations. Please see section 15 of this report.

8.23 Planning Policy:

The Council's Planning Policy team have provided detailed advice to the Case Officer and this will be included in the main body of this report.

8.24 RSPB:

No comments received.

8.25 Street Services:

No comments received.

8.26 SUDs:

No objection subject to conditions for a detailed surface water drainage scheme; scheme to minimise off-site flooding from surface water during construction; and a maintenance and management plan for the drainage strategy.

8.27 Urban Designer:

I would object to the application which based on the information provided seeks to unnecessarily promote a relatively remote, inaccessible (by public transport) and generally unsustainable greenfield site:

- Locally valued greenfield site;

- Development would be reliant on car access given lack of amenities, job opportunities and decent public transport within reasonable walking distance;
- No direct pedestrian/cycle links proposed to Fiddlers Folly;
- Increase in traffic on rural lanes will detrimentally impact on walking, cycling and the area's rural character;
- The proposed 150 dwellings is significantly larger than required to support natural growth in Eight Ash Green;
- Eight Ash Green isn't a sustainable location;
- Unlikely that the proposed density of 36dph will be achievable whilst meeting adopted design standards and in response to the rural context;
- A lower density scheme of less than 30dph would be more appropriate to the site location;
- No compelling place-making vision or wider deliverable access improvements.

[Case Officer Note: The objections from the Urban Designer are noted, although they primarily cover matters of Planning Policy rather than strictly urban design. The matters raised are assessed in the main body of the report, and moreover considered by the Neighbourhood Plan site selection process but in summary the site is in a location that is reasonably served by a number of services and facilities required for day-to-day living (i.e. a school, shop, hairdresser, bus stops); pedestrian links are accounted for; traffic impact has been assessed as being acceptable by both the Highway Authority and Highways England; the amount of housing required to support growth and need for Eight Ash Green has been determined as part of the emerging Local Plan and Neighbourhood Plan process; indicative layouts have been provided, along with an analysis of potential character areas, the detail of which will be determined at Reserved Matters. Eight Ash Green is considered to be a sustainable location for housing growth as reflected in the adopted development framework for the village.]

8.28 The Woodland Trust: No comments received.

9.0 **Parish Council Response**

9.1 The response from Eight Ash Green Parish Council (dated 17th July 2017) is as follows:

'Eight Ash Green Parish Council have considered this application in detail taking into account the current Village Design Statement and the emerging EAG Neighbourhood Plan.

We consider that this application is premature - the application site is currently outside the defined settlement boundary of the village. The emerging Neighbourhood Plan addresses this issue, but the boundary will remain unchanged until the Plan has been independently examined and adopted.

We consider that further information on the implications for traffic generation and

the package of mitigation and improvement for the village is necessary before an informed decision on the acceptability of the application is made.'

[Case Officer Update: The Parish Council comments were submitted in 2017 and since then The Eight Ash Green Neighbourhood Plan has been submitted for independent examination. The Examiner's report has been received and is currently being fact-checked by both Colchester Borough Council and the Parish Council, with the Examiner's final report being expected shortly.]

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 Seven letters of objection have been received from local residents, the content of which has been summarised below:

- The proposal is extending the village and will destroy the countryside. There is a lot of unused land inside the village envelope that has not yet been developed.
- Although this is the 'village preferred' site for development the application is far too premature. The Neighbourhood Plan is still being put together and the chosen development site should be for after the Neighbourhood Plan has been fully adopted and not before.
- The indicative site plan does not include the link road to take HGV traffic away from all the residential areas around Fiddlers Hill, Wood Lane, Heath Road, Porters Lane, and Porters Close. This was proposed by the landowner's Agent and was shown on earlier drawings displayed at public meetings.
- Although this site was chosen by a survey of some of the residents, it was only chosen because of the offer of the link road from Fiddlers Hill to Halstead Road, as well as an offer of either land or financial help to build a new village hall. If these items have been withdrawn, it is necessary to go back and reconsider all the other sites that offered rewards to the village.
- This site, or indeed any site in the village, should not be considered until all the other proposals around Colchester are settled (i.e. the sites proposed for allocation in the emerging Local Plan). These sites would provide thousands of homes which may be enough to satisfy the needs of this part of Essex.
- Highway and pedestrian safety
 - On the approach to Eight Ash Green from the west Halstead Road changes from 40mph to 30mph, but many road users do not observe the speed limit (tables 3.1 and 3.2 of the Transport Assessment shows this). There have been several incidents on this road due to the excessive speed of motorists and the residents are in constant fear of accidents. Physical speed calming measures are required as part of the development.

- The pavements surrounding development area are only one foot wide in places and the public walkway opposite No. 1 Choats Cottage opens up on a blind corner at the point where Halstead Road becomes 40mph. It is currently far too dangerous for walkers to negotiate. A pedestrian crossing should be considered at the point where the proposed development land meets the current public walkway opposite No. 1 Choats Cottage. The pavements and walkways in the area surrounding the proposed development should be improved as part of the proposals.
- The proposed 150 dwellings could generate up to 300 vehicle movements twice a day, adding to existing problems on the A12 and the A1124 Halstead Road.
- Proposed new roundabout will increase car fumes and pollution due to cars stopping and starting.
- Halstead Road will become much busier, which will increase noise and disturbance to residents. Currently sleep is disturbed by motorbikes and cars on the road at night.
- Views of the countryside from Choats Cottages will disappear (currently compensating for the busy Halstead Road).
- Concerns regarding overlooking. Properties must be restricted from overlooking the gardens of the Choats Cottages residents.
- Disagree with the statement that the proposed site could be fed by existing infrastructure. The broadband and mobile phone coverage in this area is inadequate; mobile coverage is intermittent and the download speeds are very slow. The service is not sufficient for current residents, let alone new ones. The development should be required to implement telecoms fibre cable connections to provide an adequate and sustainable broadband service for this area.
- Proposed road and houses alongside No. 1 Choats Cottages (including garden) will disturb residents.
- The development will increase vulnerability of Choats Cottages to intruders (gardens are currently difficult to access).
- Wildlife habitat will be destroyed. Currently have bats, owls, woodpeckers, deer, badgers, Kestrels, and Sparrowhawks visiting gardens.
- The fumes, dust and vibrations during the construction period will cause disruption.
- Concern that the 20% affordable housing will be withdrawn after Outline Permission is given with claims that its inclusion will make the site unviable.
- The short determination time does not give other parties long enough to conduct their own studies into environmental impact, traffic surveys, public transport, school availability, and medical services.

10.3 Three letters of support has been received from a local resident, the content of which is summarised below:

- There is a shortage of property in North Essex and we need these developments for the next generation of workers, most of whom will work from home, which is good for the North Essex local economy.
- The village is in desperate need of more housing.

- Provision should be made for a new Eight Ash Green village hall as the present one in Spring Lane has poor access, insufficient parking, and the building is an old 1940 Nissan hut designed for a temporary use.
- Aghast that the Applicant is required to justify the impact of the development on a listed building.

11.0 Parking Provision

11.1 The application is for outline permission only and no layout or detailed design is to be agreed at this stage. Any Reserved Matters application would be required to comply with the Council's adopted Vehicle Parking Standards, subject to material planning considerations.

12.0 Accessibility

12.1 As an Outline application there is limited detail on the layout and design of the development; these matters will be forthcoming in a Reserved Matters application. Access to/from the site is applied for in full and this will be assessed as part of the application.

12.2 With regards to the Equality Act, there are no concerns that the proposals would result in any discrimination. The submitted Design and Access Statement provides further information on accessibility issues, with particular reference to creating 'a place that is accessible to everyone, which makes everyone feel comfortable, safe and secure and a place where people want to live.'

13.0 Open Space Provisions

13.1 The indicative layout shows public open space and play areas, although details of the layout and landscaping of the scheme would be required as part of a Reserved Matters application rather than at this stage. It would be necessary, however, to secure that at least 10% public open space is provided on site in accordance with Development Plan Policy DP16. This requirement is carried forward to Policy DM18 of the emerging Local Plan. In addition, 1.84 hectares of open space will be required to be made available prior to first occupation of the development as on-site mitigation as part of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). Further information in respect of RAMS is included in section 16 of this report.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a "Major" application, there was a requirement for this proposal to be considered by the Council's Development Team. It was considered that Planning Obligations should be sought. The Obligations requested by DT that would be agreed as part of any planning permission would be (in alphabetical order):

- Affordable Housing: 30%
- Archaeological financial contribution toward the display, promotion, and management of archaeological discoveries from the site;
- Community Facilities financial contribution towards Eight Ash Green Village Hall and/ or Fordham Village Hall; or toward the provision of a new community facility within the vicinity of the site;
- Ecological Mitigation contribution for off-site mitigation, as well as securing 1.84 hectares of open space prior to occupation of any dwelling as on-site mitigation, as part of the Conservation of Habitat and Species Regulations 2017 and the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS);
- Education financial contribution towards increased pupil capacity at Holy Trinity CE Primary School and/or Fordham All Saints CE Primary School; and Secondary School Transport contribution;
- Healthcare financial contribution toward Ambrose Avenue Group Practice (including its main surgery);
- Secure provision of Public Open Space, amenity areas, and play areas on site.

16.0 Report

16.1 The main issues in this case are: principle of development; landscape impact; highway matters; contamination; flood risk and drainage; ecology; heritage; amenity; and design and layout.

Principle of Development

16.2 The proposal for 150 dwellings on land off Halstead Road, Eight Ash Green is on land which is outside of the current settlement boundary in the Adopted Local Plan and Emerging Local Plan. The site is, however, allocated in the Emerging Eight Ash Green Neighbourhood Plan (EAG NP) under Policy SS5 of the Emerging Local Plan (ELP).

16.3 The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging Local Plan are relevant. The relationship of the proposal to each of those plans and the compliance of relevant adopted and emerging policies with the 2019 National Planning Policy Framework (the Framework) are accordingly key policy considerations in assessing conformity with the Development Plan and the 'planning balance'.

16.4 It is considered that the fundamental principles of both the Adopted and Emerging Local Plans as well as the emerging Neighbourhood Plan are compliant with the new Framework. The analysis below will consider whether there are any relevant non-compliant elements of Colchester Borough Council policy with the Framework that justify a reduction in the weight to be given to the policy in assessing the planning balance in this case. For the Emerging Local Plan and Neighbourhood Plan, the following analysis reflects the Framework criteria on the weight to be given to policies, which depends on the stage of

preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies to the Framework (see paragraphs 48 – 50 of the Framework 2019).

- 16.5 In the Adopted Plan, Policy SD1 is consistent with the Framework's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the Local Planning Authority working proactively with applicants. It is noted, however, that the housing and jobs target provided in the policy no longer remain current. Whilst the supply figure itself may be out of date the principle of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded. The settlement hierarchy defined by Policy SD1 designates Eight Ash Green as a rural community which is the lowest order of settlements considered suitable for planned growth. The approach of SD1 is consistent with the continued thrust of the Framework seeking to achieve sustainable development as set out in paragraphs 7 and 8. It also accords with Paragraph 23 which indicates that: *"Strategic Policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area"*. It is considered that Policy SD1 seeks to achieve these requirements and therefore fundamentally accords with the Framework.
- 16.6 The allocations made in Policy H1 accord with the requirement in Paragraph 59 of the Framework, which directs local authorities to allocate a sufficient amount and variety of land for housing. Weight can be given to Policy H1 with the exception of the housing target figure which has been superseded by later figures. Whilst the supply figure itself may be out of date, the principle of the overarching spatial strategy and the settlement hierarchy are not, and as such weight should still be afforded to the allocations made in the policy.
- 16.7 The requirements of policy ENV1 for the conservation and enhancement of Colchester's natural and historic environment is in accordance with paragraph 170 of the Framework which clearly recognises the intrinsic character and beauty of the countryside and demonstrates that planning policies should contribute to and enhance the natural local environment via protection, maintenance, and preventing unacceptable risk.
- 16.8 Based on the protection afforded to land outside Settlement Boundaries and outside of the most sustainable locations in SD1 and ENV1, the proposal is not considered to be compliant with these policies. While Policy ENV2 on rural communities covers rural exception sites, it is of limited relevance to this specific proposal which is not based on the rural exception principle.

- 16.9 The Framework also advocates consideration of other factors including emerging local plans which can be afforded weight when they reach an advanced stage of preparation. In this respect Paragraph 48 states that authorities may give weight to emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies (and the significance of these objections - the less significant the greater the weight that can be given) and the degree of consistency of the relevant policies to the Framework (the closer the policies are to policies in the Framework, the greater the weight that may be given). Testing these criteria will inform the judgement about the weight which should be afforded to the emerging Local Plan and Neighbourhood Plan in this case.
- 16.10 The emerging Local Plan (ELP) is considered to be at an advanced stage having been submitted in 2017 with examination having commenced in January 2018.
- 16.11 Amongst other matters, the ELP seeks to allocate additional land to meet the housing targets up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1). Eight Ash Green is identified as a Sustainable Settlement as the third tier in the settlement hierarchy, as these existing settlements are considered to have the potential to accommodate further proportionate growth. Policy SS5 outlines that the Eight Ash Green Neighbourhood Plan (EAG NP) will allocate a preferred site(s) to deliver 150 dwellings.
- 16.12 The Spatial Strategy (Policy SG1), Eight Ash Green allocation (SS5) and EAG NP are aligned with the Framework which reinforces the plan-led system (paragraph 15) and sets out at paragraph 16 how plans should be prepared. The policies will contribute to the delivery of sustainable development. Paragraphs 18 and 28 of the Framework outline that Local Plans should include non-strategic policies which provide more detail for specific areas and types of development. Paragraph 59 reiterates the Government objective of increasing the supply of homes. Paragraph 29 outlines the importance of Neighbourhood Plans to give communities power to develop a shared vision for their area and their ability to contribute to sustainable development in accordance with strategic policies of the Local Plan. The EAG NP is one of a number of neighbourhood plans which will allocate sites for residential dwellings within Colchester as identified by the Spatial Strategy.
- 16.13 The key policies in the emerging Local Plan relevant to this scheme are considered to be highly consistent with the Framework and should therefore be afforded considerable weight.
- 16.14 The final issue to be taken into account when considering the weight to be afforded to the emerging Local Plan is the level of unresolved objection to the relevant policies. Accordingly, further consideration of the issues raised in representations to Policy SS5 is necessary to guide the judgement of the weight which should be given to the emerging policy in this case. A total of

6 representations were made in respect of Policy SS5. These are summarised below:

- Support for this proposed site from the developer
- Concern that the maximum yield for the village is not justified and Eight Ash Green is an appropriate location for increased housing provision
- Consideration of Grade II listed building asset and setting required to determine appropriate location and densities for growth
- Eight Ash Green development could have a severe impact upon A120 and J26 of A12. There is a large amount of development already permitted which will load onto junction which already suffers peak time congestion
- Promotion of alternative site - Land south of Halstead Road

- 16.15 In response to these comments, as outlined in the Framework paragraph 65 strategic policy making authorities are required to outline a housing requirement for designated neighbourhood areas. The examiner of the emerging Local Plan has fully endorsed the housing figure of 920 dwellings per annum as representing the objectively assessed housing need for Colchester in his letter dated 27th June 2018.
- 16.16 The Council's specialists have commented on this application and conclude that a Heritage is a principle consideration for the proposed development. This is a matter that should have informed the site selection as part of the Neighbourhood Plan process.
- 16.17 In terms of Highway-related matters, as a statutory consultee to this application, Highways England have responded to this application suggesting a number of conditions. The Highways Authority have also responded to this application that the proposal is acceptable subject to mitigation and a number of conditions.
- 16.18 The application site covers the entire site allocation in the Eight Ash Green Neighbourhood Plan (EAG NP), which is for 150 dwellings. The EAG NP is considered to be at an advanced stage and therefore commands weight in the decision-making process. Following the necessary Regulation 16 consultation for the EAG NP, held between 22 January to 5 March 2019, an independent examiner was appointed to examine the Plan. Examination commenced in May 2019 and the Examiner's Report is currently being fact-checked by Colchester Borough Council and the Qualifying Body (Eight Ash Green Parish Council) with publication of the final report being expected shortly. Significant weight should therefore be attributed to the EAG NP.
- 16.19 In respect of the site allocation, the Neighbourhood Plan sets out the following policies:
- FF1: *To designate Fiddlers Field as a single Strategic Site for the development of 150 dwellings*

FF2: *Up to 150 residential dwellings on Fiddlers Field with a layout of medium density and design to be compatible with the character and context of the village*

FF3: *A mix of residential dwellings comprising houses, bungalows and flats of no more than 2 storeys high which meet the evidenced housing needs of the village offering homes for first time buyers, downsizers, families and executives*

FF4: *A new direct access road built to a standard which can accommodate HGV traffic and to the satisfaction of the local Highways Authority, will be provided directly linking Fiddlers Hill to the A1124 with access to the said road being provided by way of priority junctions*

FF5: *A specific speed limit and other speed limiting measures that are appropriate to the residential roads within Fiddlers Field site*

FF6: *A new pavement built to standards outlined within the Highways England Design Manual for Roads and Bridges, Volume 7 Pavements Design and Maintenance⁴, will be provided along the northern edge of the A1124 to connect the site to the village facilities*

FF7: *A pedestrian through route linking to the Holy Trinity School and the Fiddlers Folly development*

FF8: *Two new bus stops, including lay-by, raised kerb and shelters located on the A1124 within 50 metres of the site entrance*

FF9: *A suitable landscaping plan which provides screening to the existing businesses on Fiddlers Farm and adjacent houses, to include the Grade 2 listed Fiddlers Farmhouse, all of which border and limit any expansion of the site, to ensure that ambient noise and amenity currently enjoyed at these properties is maintained*

FF10: *A scheme demonstrating that appropriate surface water drainage is provided within the site*

FF11: *Appropriate wiring to be installed within each property to provide for charging for electric cars/vehicles*

FF12: *Ducting to be installed to every new house on the site for the provision of either copper or fibre superfast broadband*

FF13: *All the new dwellings on the site should have the potential for the installation of sustainable battery pods that stores energy from renewable sources*

- 16.20 In conclusion, the proposed residential development of land off Halstead Road, Eight Ash Green is allocated in the Eight Ash Green Neighbourhood Plan (EAG NP) which can be afforded sufficient weight in the determination of this application due to its advanced stage. It is considered that the

principle of development in Eight Ash Green in the relevant policies of the Emerging Local Plan are compliant with the Framework and can also be afforded sufficient weight in the determination of this application. The Planning Policy team have confirmed that they support the general principle of development on this site, although specific details should be addressed through advice from specialists and conform with policies in both the emerging Local Plan and the Eight Ash Green Neighbourhood Plan. The final Examiner's Report may propose some amendments to the policies in the EAG NP, which will need to be taken into account as part of the current application; this can be achieved via amendment and/or conditions as necessary.

Landscape Impact:

- 16.21 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.
- 16.22 A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application. The LVIA identifies key landscape and visual principles to be taken into account when developing the proposals:
- Creation of a large area of public open space running through the centre of the Site with pedestrian links across the Site, providing informal recreation opportunities;
 - Creation of a new children's play area, providing recreation opportunities for the new and existing communities;
 - Creation of a pedestrian link to the existing network of public rights of way to the south of the Site;
 - A 15-metre buffer from the Ancient Woodland to the north-west of the Site;
 - Retention and reinforcement of the existing landscape framework of field boundary hedgerows; and
 - Substantial new planting within the public open space and the internal streets and plot frontages of the development.
- 16.23 The LVIA states that that 'the majority of existing landscape features on the Site will be retained in the development proposals. The proposals include a new area of public open space running through the centre of the Site, which together with native tree planting, new hedgerow planting and the woodland buffer will contribute to enhancing the local landscape character and ensuring the wider countryside and its character are respected', concluding with 'the assessment found that the Site is capable of accommodating development in line with the principles set out in Section 5 and on the accompanying Development Framework Plan, without resulting in material harm to the surrounding countryside's landscape character and views from the wider area'.

- 16.24 The Council's Landscape Officer has considered the LVIA and has not raised any issues in respect of the principles identified. The Landscape Officer has however commented that the site is outside the settlement boundary of Eight Ash Green and could be considered to fail to conserve and enhance the existing rural character of the site. Whilst development on any greenfield site would undoubtedly have an impact on landscape character, it is necessary to consider whether this impact would result in any material harm. The National Planning Policy Framework (the Framework) makes specific reference to protecting and enhancing 'valued landscapes' with distinctive defining characteristics (which may include landscapes with a statutory status such as an Area of Outstanding Natural Beauty), which has been a principle consideration at appeal. The application site is not within a 'valued landscape' so the level of harm to be considered would be upon the general rural character of the area rather than a wider landscape character. It could be argued that this harm would result from the development of any greenfield site. In respect of the rural character, the site has been allocated for development in the Eight Ash Green Neighbourhood Plan, having first undergone a selection process that considered visual impact and impact on the character of Eight Ash Green Village. The Planning Policy position with regards to the Neighbourhood Plan is set out above, but essentially, the principle of development at this site is established and a change in character of the site is accepted. The impact of development on rural character would need to be considered as part of the overall planning balance.
- 16.25 With regards to the proposed access points having an impact on the existing field boundary hedgerows, as a site allocated for development it has to be accepted that the site would need to be accessed from the road. Some impact on the hedgerow boundaries would therefore be inevitable. As an Outline application, details of site layout and landscaping would be established at a later date under Reserved Matters submissions so suitable mitigation (e.g. a scheme to minimise impact, along with compensatory planting) would be secured at a later stage in the planning process. Similarly, the impact upon trees on site would be established at Reserved Matters stage once layout is put forward, although the submitted Development Framework plan indicates a buffer to the existing woodland, as well as significant landscaping and open space through the centre of the site so there are no fundamental concerns that would prevent an approval of Outline planning permission in this case.
- 16.26 The classification of the site as Grade 2 agricultural land also requires assessment. The Council does not have an adopted policy that specifically relates to agricultural land classification, but Paragraph 170 of the Framework expects planning policies and decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, including the economic and other benefits of the best and most versatile agricultural land. In practice this would mean that, within grades 1, 2 and 3a agricultural land, when determining planning applications, and where there is a choice, development should be directed to the lowest possible classification. Caselaw has generally established that the loss of higher-grade land to

housing development may sometimes be countenanced on appeal by the fact that the fact that most of the land in the area was of high quality (i.e. there is no choice available).

- 16.27 The land comprising the application site is classified by Defra as Grade 2 agricultural land, although the submitted Soils and Agricultural Quality of Land Report demonstrates that the quality of the land varies from grade 2 to grade 3a. The remainder of Eight Ash Green, as well as the surrounding area is also classified as grade 2, with some 'pockets' of Grade 3 agricultural land. Given that both grade 2 and grade 3 land is regarded as 'best and most versatile agricultural land' in national policy terms it is considered that there is no opportunity to direct development to land in the vicinity that falls below this quality. The proposal is therefore considered to be acceptable in terms of its impact upon agricultural land having taken into account wider matters.

Highway Matters:

- 16.28 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 16.29 In terms of sustainability, the site is well-located in relation to services and facilities for a village/rural location: a primary school, petrol station and shop; general store; and hairdresser, all within acceptable walking distance. There are also bus stops in close proximity to the site which would provide public transport to services and facilities that are further afield without the need to rely on private car. The Framework states, at paragraph 78, that housing should be located 'where it will enhance or maintain the vitality of rural communities'; additional housing in this location is considered to support existing services and facilities within the village (not just those in the immediate vicinity of the site).
- 16.30 Impact on the highway network has been considered by both the Highway Authority and Highways England who have confirmed that they have no objection to the proposed development, having considered the Transport Assessment subject to conditions. For information, the submitted Transport Assessment has assessed the following:
- A review of accident data within a study area on the wider highway network has been undertaken for the most recent five years available at the time of the request. There were 46 recorded accidents within the search area. 38 of the accidents were classified as 'slight' while 8 were classified 'serious'. Given that all of the accidents appeared to be attributable to human error there is nothing to suggest that highway condition, layout or design were contributory factors. It is

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therefore concluded that there are no deficiencies in the highway network, or existing safety issues in the vicinity of the site, that would be exacerbated by the development proposals.

- It is proposed that vehicular access would be provided from two new priority-controlled junctions, one being located to the north of the site on Fiddlers Hill, and the other being located to the south of the site on Halstead Road. The two accesses would include 2.0m footways into the site; these would be integrated into existing footways located on Fiddlers Hill (by extending the footway on to the east of the site across the site frontage) and Halstead Road (tying directly into the footway on the northern verge).
- It has been demonstrated that visibility from the site accesses can be achieved in accordance with prevailing observed 85th percentile speeds on Fiddlers Hill and Halstead Road. Notwithstanding this, the applicant would be willing to provide a financial contribution towards the extension of existing 30mph speed limits located on Fiddlers Hill and Halstead Road to include the entirety of the site frontages.
- Pedestrian and cycle access to the development would be enhanced by the provision of dedicated connections located in the north-western and north-eastern corners, and to the south-western frontage of the site. These points are located adjacent to existing pedestrian infrastructure/ the PROWs network and as such would promote walking as leisure activity and/or means of travel.
- An assessment has been undertaken of the site's level of accessibility by sustainable modes, from which it can be concluded that realistic options exist for access to local amenities, education, and employment opportunities on foot, by cycle, and by public transport.
- CBC's Settlement Boundary Review (July – 2016), which forms part of the evidence base for the new Local Plan, also considers the location of the application site within the settlement of Eight Ash Green to be sustainable stating, in addition to this, that the village is 'reasonably well served by facilities' before listing the various amenities available. In the same document it says of the site (RNW67) that 'it would be well located to other key facilities i.e. the primary school'.
- It is proposed that occupiers of the proposed development would be made aware of the options available for sustainable modes of travel through the site's Travel Plan and also through Welcome Packs provided to residents at the development. The Welcome Packs would not only highlight the location of nearby services and how these are accessible on foot, cycle or public transport but also the distance and likely travel time to such destinations.
- An impact assessment has been undertaken on the wider highway network, indicating that the development would generate a negligible proportion of new trips at the A12/A1124 junction. Junction capacity assessments have been undertaken at the proposed site access and at Wood Lane/A1124 Halstead Road and Spring Lane/A1124 Halstead Road/Blind Lane. The results of capacity assessments undertaken on junctions on the local highway network indicate that

the development proposals would have an overall negligible impact on the local highway network.

- 16.31 Matters of parking and road layout would be considered under Reserved Matters.

Contamination:

- 16.32 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.
- 16.33 A Geoenvironmental Assessment (GA) has been submitted in support of the application. The Council's Contaminated Land Officer has considered the submission and concluded that no potential sources of contaminative risk have been identified. It is noted that further risk assessment has been recommended in the GA, including intrusive site investigations and this would be required to be submitted via condition. Conditions would be required for site characterisation, remediation, and procedure to follow should any unexpected contamination be encountered. The site can, therefore, be made suitable for the proposed development taking into account risks of contamination.

Flood Risk and Drainage:

- 16.34 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 16.35 The site is located within Flood Zone 1 which means that there is a low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. The Environment Agency Long-Term Flood Risk information shows limited instances of flood risk from surface water and where these instances do occur they are also recorded as being low risk.
- 16.36 The submitted Flood Risk Assessment (FRA) concludes:
- The FRA has identified that the site lies in an area of Zone 1 Flood Risk. The Sequential and Exception Tests do not therefore apply.
 - There are no water bodies which present a source of risk to the development. Development levels will be set to ensure any flows within the minor on site ditch systems do not impact on the development.
 - Geoenvironmental assessment work has established that ground conditions are unlikely to prove suitable for an infiltration-based drainage solution. On this basis it is proposed to connect surface water drainage to the Anglian Water surface water sewer in Fiddler's

Hill road with flows limited to greenfield run off rates thus mimicking existing run off in accordance with the Framework.

- The proposed piped drainage systems will be designed to contain flows from, at minimum, a 1 in 30-year event and will discharge into an attenuation basin located within the north west corner of the site prior to outfalling via a flow control structure. The piped systems within the development will be put forward for adoption by Anglian Water under a Section 104 agreement and Anglian Water will therefore become responsible for their long-term maintenance. Subject to negotiation with Anglian Water, the attenuation basin, control structure and outfall connection could also be adopted or alternatively become the responsibility of the management company set up for the development. Overall flows will be contained on site up to the 1 in 100 year plus 30% climate change event.
- Where required, land drainage systems will be introduced to pick up any residual land drainage and direct flows safely around or through the development.
- It is therefore concluded that this FRA has demonstrated in accordance with the Framework that the development is not at risk of flooding from external sources, will not increase flood risk associated with the development and its environment and is therefore appropriate.

16.37 The Environment Agency have not commented on the application, but Essex County Council, as Lead Local Flood Authority, have agreed to the Surface Water Drainage Scheme concept and have recommended conditions to secure detailed proposals. In terms of foul drainage and sewers, Anglian Water have confirmed that there is available capacity for the development.

16.38 Development of the site is not, therefore, at risk of flooding and would not pose a risk to flooding elsewhere, subject to conditions.

Ecology:

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

16.40 An Ecological Impact Assessment (EclA) has been submitted with the application. The EclA establishes the baseline ecological conditions at the site; identifies the likely effects of the proposed development; sets out ecological mitigation and enhancement measures as necessary; identifies

any compensation measures required to offset residual impacts; and provides information with which to determine whether the proposal accords with relevant nature conservation policies and legislation.

- 16.41 The impact upon statutory designations has been considered, namely impacts on Abberton Reservoir as a Ramsar. The EclA acknowledges that the proposed development has the potential to increase visitor numbers to the reservoir visitor centre, although this is likely to be in low numbers given the distance from the site. Any visitors to the reservoir are only granted access to a small part of the reservoir, so the majority of the designation would remain unaffected. The proposed development is not, therefore, anticipated to have a significant adverse effect on Abberton Reservoir.
- 16.42 In respect of non-statutory designations, the adjacent Fiddler's Wood is of relevance as a Local Wildlife Site; this is a semi-natural woodland within which are a number of public footpaths. The proposed development is likely to have an impact on the woodland during the construction phase, as well as post-occupation with increased recreational use from residents, as well as increased artificial lighting. Mitigation is therefore required in the form of a 15m (minimum) buffer to the southern boundary of the woodland, along with protective fencing. In addition, properties along the woodland edge should face the woodland in order to reduce the risk of dumping of garden waste into the woodland. The on-site open space to be provided would also reduce the need for residents to access the woodland for recreation. On-site dog mess bins would be provided to encourage responsible behaviour from dog-walkers. Local residents would be provided with a leaflet to set out the importance of Fiddler's Wood as a local wildlife site, along with information on reduction impacts whilst visiting the woodland. The proposed mitigation measures will minimise the impacts on Fiddler's Wood.
- 16.43 Direct impacts on the site itself would be the permanent loss of the grassland and scrub currently on site, although the proposal would include a large area of open space which would present opportunities for enhancement measures by way of planting. The boundary hedgerows would be affected at the access points to the site as sections of the hedgerows would need to be removed, although this would be kept to a minimum and supplementary planting can be provided where necessary.
- 16.44 The loss of grassland and some hedgerow habitat could reduce foraging opportunity for bats and the introduction of artificial lighting could cause disturbance. Mitigation measures include the woodland buffer and a sensitive lighting scheme, as well as additional planting as part of the open space and general landscaping of the site.
- 16.45 No badger setts have been identified on site, but there are setts in the nearby Fiddler's Wood. There is, therefore, potential for badgers to use the application site for foraging and dispersal. Mitigation is necessary during the construction phase to ensure that badgers using the site are not harmed; steep sided excavations will need to have ramps or a means of escape, and open-ended pipework would need to be capped off over-night. The woodland buffer would reduce the potential for disturbance. The EclA also

states that foraging opportunities would be provided within the open space in the centre of the site which would be connected to Fiddler's Wood via a green corridor. Similar provision is made for hedgehogs, with the addition of holes at the bases of garden fences to enable free movement and foraging opportunities.

- 16.46 There is no confirmation of the presence of Dormice at the site or in adjacent woodland, although the EclA proposes mitigation and enhancement measures as a precautionary measure; this includes erecting dormice nest boxes at the dense boundary habitats at the site.
- 16.47 The EclA also make provision for Harvest Mice, birds, and reptiles proposing management of the site pre-construction, and a timetable for vegetation clearance outside any bird nesting period. The impact on amphibians is considered to be minimal given the low-quality habitat on site.
- 16.48 Further enhancement measures proposed in the EclA include a planting scheme of known wildlife value, SUDs features to create additional wet grassland and reed areas, the installation of bat and bird boxes, and the creation of log piles.
- 16.49 The submitted Ecology Addendum provided details of surveys for bats, dormice, reptiles, and great crested newts, confirming that no further mitigation measures other than those proposed in the EclA are required.
- 16.50 Essex Wildlife Trust have assessed the proposals and the accompanying EclA and have confirmed that the proposed mitigation measures are essential in order to minimise the impacts on species and habitats. Taking this into account it is considered necessary to condition an Ecological Mitigation and Enhancement Plan to be submitted in order to secure the mitigation and enhancement proposal set out in the EclA. On this basis, the proposed development is not considered to have a significant adverse impact on ecology.

RAMS Mitigation

- 16.51 A further point to consider is the impact of the proposal upon European designated sites under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The whole of Colchester Borough is within the zone of influence (ZoI) of relevant sites as identified and set out in the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and the proposal is thus subject to Appropriate Assessment (AA) under the Habitats Regulations. An AA has been carried out and concludes that the proposal, being for 150 dwellings, is likely to have a significant effect upon the interest features of Habitat sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered either alone or in-combination with other plans and projects.

16.52 The AA considered the following mitigation measures to be necessary:

On-site measures:

- 3.9ha of formal and informal public open space, equating to over 45% of the site area. This is in excess of the minimum figure (1.84ha) advised by Natural England to offset associated disturbance.

Off-site measures:

- A monetary contribution can be secured in accordance with the Essex Coast RAMS.

16.53 Natural England have been consulted on the application and they have agreed with the mitigation deemed necessary in order to address impacts on the designated sites.

16.54 On the basis of the above, the proposal is considered to be capable of satisfactorily mitigating the impact of the development upon ecology.

Heritage:

16.55 The main conservation issue raised by this application is the effect that the proposed development would have on the setting of nearby listed buildings, most notably Fiddler's Farmhouse (grade II) which is located to the north west of the application site.

16.56 There is a statutory requirement for planning applications to be determined in accordance with development plan policies unless material consideration indicate otherwise. In terms of built heritage, Core Strategy Policy ENV1 and Development Plan Policy DP14 are the most relevant. Both policies seek to protect the heritage assets. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. However, as this policy does not contain a balancing mechanism to allow the public benefits identified to be weighed in the 'planning balance' against the wider indirect harm identified to setting, it is out of date with the Framework and consequently must be afforded lesser weight.

16.57 The National Planning Policy Framework (the Framework) is also a material planning consideration. A Core Principle of the Framework is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

16.58 Paragraph 189 of the Framework requires the applicant to describe the significance of any heritage asset that may be affected by a proposed development, including any contribution made to their setting. In determining planning applications, paragraph 192 of the Framework includes a requirement for local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets. Furthermore, paragraph 193 of the Framework states that when considering

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the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 194 makes it clear that any harm to, or loss, of the significance of a designated heritage asset should require clear and convincing justification. Levels of harm are described as substantial harm (or total loss of significance of) or less than substantial harm.

- 16.59 Paragraph 196 of the Framework states 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 benefits of the proposal including, where appropriate, securing its optimum viable use. “
- 16.60 The Built Heritage Statement (BHS) submitted in support of the application provides a description of the site and its environs (including identification of affected heritage assets), the policy context for the assessment of development proposals affecting heritage assets and seeks to explain the impact that the proposed development would have on the identified heritage assets.
- 16.61 The BHS states that the significance of Fiddler's Farmhouse is derived primarily from its “architectural and historical special interest within its fabric and form and that this includes an aesthetic value as an attractive, vernacular-style, rural dwelling”. The report also explains that the environment surrounding the farmhouse, which includes the application site, makes a contribution to the significance of the farmhouse. This is due to the historical connection between the farmhouse and the agricultural context and the wider rural context in which the heritage asset has always existed. The submitted BHS therefore accepts that the existing setting of the Fiddlers Farmhouse contributes to the significance of this listed building.
- 16.62 The BHS explains that the proposed development will change the wider setting of the Fiddlers Farmhouse and that this is will have a detrimental impact upon the overall significance of the heritage asset. The BHS concludes that the harm caused to the setting of the listed farmhouse would constitute less than substantial harm (see paragraph 196 of the Framework above).
- 16.63 The application site is an open area of undeveloped land which both physically and visually separates the developed edges of Eight Ash Green from Fiddlers Farmhouse. This separation is enhanced by the open land to the north and by Fiddler's Wood to the west. The commercial buildings to the south of the site, have the appearance of former agricultural buildings and, as such, do not diminish the overall rural character of the farmhouse's setting. The open rural nature of site not only performs the function of creating an obvious pastoral character and setting to the village but also provides the setting through which Fiddlers Farm is experienced.
- 16.64 The proposed development would introduce new-build development in the countryside. The Council's Heritage advice is that developing the site in the scale and manner proposed would seriously erode the physical and visual

separation between Eight Ash Green and Fiddler's Farmhouse which would fundamentally change the character of the site and hence the setting of Fiddlers Farmhouse. As the Framework makes clear, significance derives not only from a heritage asset's physical presence but also from its setting. The open aspect of the application site provides a convincing rural countryside setting to Fiddlers Farm and its significance would be diminished by the creation of a modern suburban estate development. It is however agreed that the harm caused would be less than substantial harm rather than substantial harm.

- 16.65 The application does not include much in the way of justification for the harm to the setting of Fiddler's Farmhouse. The BHS does set out some public benefits that include the provision of housing (both private and affordable), economic benefits (including possible job creation), the provision of public open space and environmental enhancement. This would need to be assessed in the planning balance as to whether the public benefits of the scheme outweigh the less than substantial harm identified.
- 16.66 The BHS does explain mitigation measures, including setting the development back from the north-western boundary of the application site, as well as additional tree planting to mitigate the impact of the development on the setting of the listed building. The field adjacent to the listed building is currently indicated to comprise attenuation ponds and this would mean that the existing character of this field would change being currently agricultural. The area immediately adjacent the listed building would, however, remain free of built development so the 'openness' would be retained.
- 16.67 The site has been allocated for development as part of the Eight Ash Green Neighbourhood Plan (NP) having first been subject to a site selection process which included a strategic environmental assessment that acknowledged that the NP includes a policy (Her 1) the provides for mitigating the impact upon heritage assets, protecting and, where possible, enhancing assets. The Examination has confirmed that this policy is in general conformity with the Framework and Core Strategy Policy ENV1.
- 16.68 The principle of development in this location, in the vicinity of Fiddler's Farmhouse, is established by the NP. By introducing development that affects the setting of the farmhouse, the proposal would represent less than substantial harm that would need to be considered as part of the overall planning balance. Mitigation of this impact could be sought through the detailed site layout as part of the reserved matters application.
- 16.69 In terms of archaeology, the Archaeological Desk-Based Assessment submitted has acknowledged that there is recorded evidence of cropmarks representing a possible ring ditch and part of a rectangular enclosure on or adjacent to the site. This leads to the conclusion that the site has potential for archaeological evidence of importance. A Geophysical Survey has been carried out on site and the Council's Archaeological Adviser has confirmed that the survey is adequate. There is no objection to developing the site

subject to further archaeological investigation being carried out; this can be secured by condition.

Amenity:

- 16.70 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 16.71 In general terms, the proposal is unlikely to have a significant impact upon neighbouring properties, provided that the layout at reserved matters stage is respectful in terms of back-to-back distances and privacy. Satisfactory levels of amenity would also need to be achieved within the development and this would also be assessed at Reserved Matters stage.
- 16.72 The Council's Environmental Protection team have identified that there would be impacts upon future residents by way of noise and disturbance from the existing business units, as well as traffic noise, in certain parts of the site. Mitigation measures (e.g. sound attenuation, layout and design solutions) are therefore necessary and these can be secured via condition.
- 16.73 The site does not lie within an existing Air Quality Management Area (AQMA), but the impact of the proposed development upon air quality has been considered by the Applicant in consultation with Environmental Protection. A review was carried out and submitted with the application as an Air Quality Screening Report. The conclusions of the review was that any effects would not be significant. As per Environmental Protection consultation comments, it is considered necessary to secure measures to mitigate the impact upon air quality, specifically with the introduction of car electric charging points. This can be achieved via condition.

Design and Layout:

- 16.74 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.
- 16.75 The application is for outline planning permission and all matters of layout, appearance, and landscaping do not form part of this application and will be submitted and agreed under the reserved matters application. The access arrangements submitted do form part of the application and consist of vehicular access points to the north and south of the site, as well as pedestrian access points to existing footways (providing access to the school, as well as the wider village). The access arrangements are considered to be acceptable.
- 16.76 Whilst the design and layout of the proposed development is a matter for the Reserved Matters application, it is beholden on an applicant to show how a given number of units could be accommodated on site. The average

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density of the proposed development would be 36 dwellings per hectare (dph), with the housing mix being a range of house types, sizes, and tenures. This is considered to be achievable having considered the Development Framework plan provided and the analysis of the site (set out in the submitted Design and Access Statement). The Council's Urban Designer does not agree that the proposed development is achievable, but the Design and Access statement provides indicative layouts that set out character areas that do not raise any immediate concerns. Detailed proposals would need to be submitted as part of the Reserved Matters and would need to adhere to adopted planning policy.

17.0 Planning Balance and Conclusion

- 17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the emerging Local Plan and Eight Ash Green Neighbourhood Plan but is contrary to the adopted Local Plan as the site is outside the settlement boundary of Eight Ash Green. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy. The social role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives as it would achieve the number of dwellings required to support growth in Eight Ash Green (as set out in the Colchester Borough Council Objective Assessment of Housing Need) and is located within walking distance of a number of key local services and facilities required for day-to-day living. In respect of the third dimension (environmental), the proposal will provide housing in a sustainable location so that future residents would not be reliant on private car, being able to walk or use public transport to access necessary services and facilities, thereby minimising environmental impacts; ecological enhancements can also be secured as part of the development. There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. Whilst the proposed development would have an impact on the existing character of the site (i.e. by introducing built development where there is none currently) and would result in less than substantial harm on the setting of a heritage asset (Fiddler's Farm) through a general suburbanising effect on the wider setting, which weigh against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme and could reasonably be judged to outweigh the shortcomings identified given the weight afforded to the supply of new homes in the Framework and the possible design

mitigation that could be secured as part of any future reserved matters application.

- 17.2 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts identified and the proposal is considered to be acceptable on this basis.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

Delegated authority for the negotiation of any amendments as a result of the Examiner's final report on the Eight Ash Green Neighbourhood Plan and, subject to the successful outcome of these amendments, APPROVAL of Outline 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. Time Limit for Outline Permissions Part 1 of 3

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

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

2. Time Limit for Outline Permissions Part 2 of 3

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

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

3. Time Limit for Outline Permissions Part 2 of 3

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

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

4. Approved Drawings

The drawings hereby approved as part of this application are Site Location Plan CSA/3121/113 and Proposed Site Access Strategy P16089-001G.

Reason: For the avoidance of doubt as to the scope of this permission.

5. Locally Equipped Area of Play (LEAP)

The reserved matters application shall make provision for at least 10% of the site area being laid out for use as amenity open space, as well making provision for a Locally Equipped Area for Play (LEAP) within the site.

Reason: In the interests of sustainable development and in order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment.

6. Acoustic Assessment and Mitigation Report

The reserved matters shall include a detailed acoustic assessment and mitigation report which shall have first been submitted to and agreed in writing with the Local Planning Authority. The detailed report shall provide details of the noise exposure at the facade of proposed residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces.

The detailed assessment shall fully assess mitigated noise from the premises identified as AAAR in chapter 4 of the Wardell Armstrong titled, 'Gladman Developments LTD, Halstead road, Eight Ash Green, Noise Assessment Report. Issued May 2017. Report Number LE13781.

The design and layout of the development shall avoid, as far as practicable, exposure of habitable rooms to noise levels to above the following criteria

- 60dBLAeq16hours (Daytime outside)
- 55dBLAeq8hours (night outside)

Acoustic barriers, Site design (including building orientation) and internal layout of dwellings shall be used to minimise noise exposure to habitable rooms and reduce the need to rely on closed windows as far as practicable.

Where exposure to noise levels exceeds those stated above full details of acoustic glazing and suitable mechanical ventilation options that demonstrate that internal noise levels do not exceed the internal noise levels stated in Table 4, paragraph 7.7.2 of BS8233:2014 Guidance on sound insulation and noise reduction for buildings shall be submitted as part of the reserved matters. This includes details of any mechanical ventilation operating where required.

Where the facade noise levels outside of habitable rooms are less than those stated above but exceed the internal noise levels stated in Table 4, paragraph 7.7.2 of BS8233:2014 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided.

Noise levels in external amenity spaces shall not exceed 55dBLAeq 16hours.

Reason: In the interests of the living standards of future occupants.

7. Tree and Hedgerow Protection

The reserved matters shall include an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837. Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree 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.

8. 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.

9. Limits to Hours of Work

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

Weekdays: 0800-1800

Saturdays: 0800-1300

Sundays and Bank Holidays: No working.

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

10. Vehicle Electric Charging Points

Each residential property shall be provided with 1 No. EV charging point for vehicles. The EV charging point shall be installed prior to the first occupation of the residential property.

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

11. Construction Traffic Management Plan

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

Reason: To protect highway efficiency of movement and safety.

12. Archaeology

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

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.

- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

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

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

13. Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place, other than archaeological investigation, 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

14. Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place, other than archaeological investigation, 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

15. Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than archaeological investigation and works required to carry out any remediation of contamination, 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.

16. Ecological Mitigation and Enhancement Plan

No development shall commence, until an Ecological Mitigation and Enhancement Plan (EMEP), including an implementation timetable, has been submitted to, and approved in writing by, the Local Planning Authority. The EMEP shall provide specific details on the mitigation and enhancement measures set out in the CSA environmental Ecological Impact Assessment (Report No. CSA/3121/04) and the CSA environmental Ecology Addendum (ref: 3121_05). The approved EMEP shall thereafter be implemented as approved.

Reason: In the interests of mitigating the impact of the development on ecology and in order to secure ecological enhancements.

17. SUDs

No works shall take place, other than archaeological investigation and works required to carry out any remediation of contamination, until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in

writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Infiltration and groundwater testing in line with BRE 365. If infiltration is demonstrated to be unfeasible, discharge rates from the site should be limited to the 1 in 1 greenfield rate for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. A detailed assessment should be submitted for the calculation of the 1 in 1 greenfield rate. If any greenfield run-off is going to be contained on site, it must be demonstrated that there are suitable mitigation measures in place and any flooding is appropriately managed.
- 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. Provision in storage should also be made for the effect of urban creep.
- Final modelling and calculations for all areas of the drainage system.
- More information on the existing catchments on site. It must be demonstrated that discharge of surface water is following the natural drainage regime and discharging surface water to any particular outfalls is not increasing flood risk off site.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy

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

18. Surface Water Drainage during Construction

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

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

of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

19. SUDs Management and Maintenance

No works shall take place, other than archaeological investigation and works required to carry out any remediation of contamination, until a Surface Water Drainage Management and Maintenance Plan, detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

20. Highway Works

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

- a) A priority junction off either Halstead Road or Fiddlers Hill to provide access to the proposal site as shown on drawing P16089-001G (Proposed Site Access Strategy)
- b) Upgrade to current Essex County Council specification, the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) A minimum 2 metre wide footway along both sections of the proposal site's Halstead Road frontage.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport.

21. Travel Plan

No part of the proposed development shall be brought into beneficial use or occupation until a package of measures to promote the use of sustainable modes of travel, including the content of a Residential Travel Plan (with Travel Plan Co-Ordinator) for the site, has been agreed in writing by the Local Planning Authority in consultation with the Local and Strategic Highway Authorities. This should include:

- Residential Travel Information Packs
- Details of improvements to pedestrian and cycle links between the site and Colchester town centre, to be agreed in writing with the Local Planning Authority;
- Details of a Travel Plan, including targets, measures to be adopted, an implementation mechanism, a monitoring regime and fall-back measures if targets are not being met, all to be agreed in writing with the Local Planning Authority; and
- Agreed thresholds and timescales for the implementation of the pedestrian, cycle and bus service measures and the Travel Plan.

Reason: To ensure that the Strategic Road Network can continue to operate as part of the national system of routes for through traffic and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

22. Validation Certificate*

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

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

23. Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

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

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2. Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application

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for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3. Informative on Any Application With a Site Notice

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

4. Informative on Archaeology:

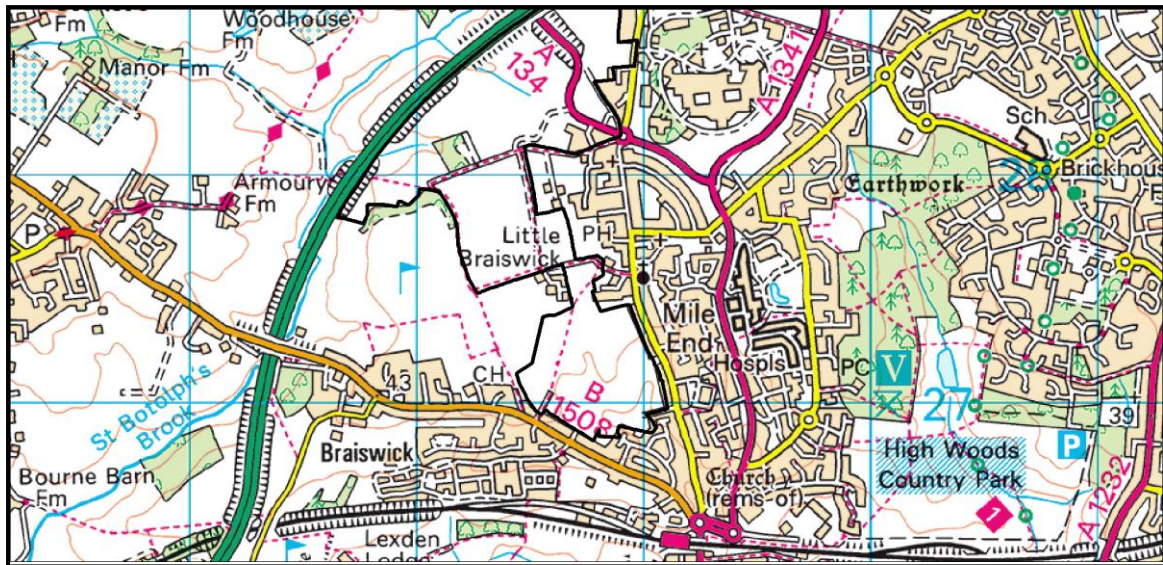
PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

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

5. Drawing NOT Approved

The Developer is advised that, in response to the submitted Development Framework Plan (CSA/3121/111 Rev E) the following areas need to be addressed as part of the development concept:

- The Locally Equipped Area of Play (LEAP) needs to be centrally located within the site and easily accessible by foot (i.e. not dissected by roads);
- The relationship between the area of open space and the proposed 'HGV route' needs to be arranged in such a way to ensure that the open space is readily accessible and usable as an area of public amenity space.



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ITEM NO	7.2
Application:	183077
Applicant:	Mersea Homes
Agent:	David Lock Associates
Proposal:	Application for removal or variation of conditions following grant of planning permission. (121272)
Location:	North Colchester Urban Ext, Mile End Road, Colchester
Ward:	Mile End
Officer:	Alistair Day
Recommendation:	Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because objections have been received to this application and a s106 legal agreement is required. Cllr Martin Goss has also requested that this application is referred to the Planning Committee for consideration as:

- Bartholomew Court was only ever planned as a bus route;
- It will displace existing residents parking; and
- It will push more traffic onto Mile End Road and, in particular, North Station Roundabout

2.0 Synopsis

2.1 The key issue for consideration is whether the principle of serving 160 dwellings from Bartholomew Court on a temporary basis is acceptable. The report sets out the reasons for the amendment and the planning policy implications (including the potential impact on the five-year supply of housing land), the impacts on highway capacity and safety, parking, air quality and residential amenity. The report concludes that the provision of the temporary access is acceptable. Members are asked to resolve to approve this application subject to the conditions set out in the report and defer to the Assistant Director Policy and Corporate to enable the completion of new s106 legal agreement.

3.0 Site Description and Context

3.1 The application site covers an area of approximately 103.74 hectares. In 2014 outline planning permission (ref 121272) was granted for a mixed-use development comprising up to 1,600 dwellings, a neighbourhood centre including commercial, residential and community uses, site for primary and secondary schools, strategic landscaping, green infrastructure and areas for outdoor sport facilities. This development has commenced with approximately 330 dwellings constructed in the northern part of the site. The remainder of the site consists of agricultural and grassland defined by hedgerows and trees.

3.2 The site is bounded to the north by the A12, beyond which the landscape has a predominantly rural character. The eastern boundary of the site is mainly formed by the rear boundaries of the properties fronting Mile End Road, Nayland Road, Fords Lane and Boxted Road; part of the eastern boundary of the site is formed by the Mile End recreation ground. The southern boundary of the site is primarily formed by the rear boundaries of the properties along Bergholt Road, Prior Road, Golden Dawn Way and Hugh Dickson Road. The site excludes land at Braiswick Farm. The southern boundary of the site is some 550m from Colchester's main railway station and some 2km from the town centre. The western boundary of the site is formed by the Colchester Golf Club.

3.3 Under the extant permission, the new dwellings are served from the realigned A134 and the primary street (the development's main estate road) that will

eventually run from the A134 in the north to Bartholomew Court in the south. Access via Bartholomew Court is proposed to be controlled by a bus gate. In addition to this, there are several points of access into the site that predate the Chesterwell development; these include Public Rights of Way.

- 3.4 The site is covered by a Tree Preservation Order (Order reference 87/10).
- 3.5 There are no international or national ecological, landscape designations within the application site. Braiswick Farm, which lies outside but immediately adjacent to the site, is listed grade II for its special architectural interest.

4.0 Description of the Proposal

- 4.1 The purpose of this S73 application is to secure an alternative temporary access to the southern part of the site (serving up to 160 dwellings). This is due to a delay in the transfer of the land in the northern part of the site.
- 4.2 The applicant proposes that the following planning conditions attached to the original outline planning permission are varied:
- Condition 7: which requires the submission of Reserved Matters in accordance with approved drawings. It is proposed that revised drawing (reference MHC002/DFP/02 Rev G) will be approved and will thereby substitute drawing MHC002/DFP/02 Rev F Movement Network Plan).
 - Condition 8: which requires highway works to be constructed in compliance with specified drawings. It is proposed that revised drawing VD18773/P-100/D will substitute drawings VN20059-706-B (Primary Street Connection to Bartholomew Court Bus Gate) and VN20059-526-A (Bartholomew Court Bus Gate).
 - Condition 28: which precludes works starting on residential parcels R18 to R25 unless a scheme has been approved controlling access to Braiswick Lane.
 - Condition 62: which precludes occupation of residential parcels R18 to R25 until the Primary Street between parcel R16 and Mile End Road has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R25 but remains for parcels R18 and R19.
 - Condition 64: which precludes occupation of residential parcels R18 to R25 until the footpath/cycleway connection to Tuffnell Way has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R22, but remain for parcels R18, R19, and R23 to R25.

A s73 application is in effect a new planning application and therefore a new s106 legal agreement will be required. It is proposed to mirror the existing agreement and include a new schedule in relation to Recreation Avoidance Mitigation Strategy (RAMS).

- 4.3 The effect of the change is to temporarily allow all vehicles associated with the construction of 160 dwellings to access Mile End Road via Bartholomew Court. The purpose of this amendment is to permit the continuation of the Chesterwell development which would otherwise stall due to the existing land owner delaying the sale of the land to Mersea Homes. Once the primary street is completed, the access via Bartholomew Court will be closed to general vehicular traffic and a bus gate installed (as per the extant permission).

5.0 Land Use Allocation

- 5.1 Predominantly residential

6.0 Relevant Planning History

- 6.1 121272 - Outline Planning Permission for a mixed use development comprising up to 1,600 dwellings, a neighbourhood centre including commercial, residential and community uses, site for primary and secondary schools, strategic landscaping, green infrastructure and areas for outdoor sport facilities, access (in detail where specified) related infrastructure and other works and enabling works – Approved, subject to conditions and a s106 legal agreement.
- 6.2 Various reserved matters and discharge of condition applications (pursuant to the outline permission) have been approved for Phases 1 and 2 of the Chesterwell development.
- 6.3 191581 – S73 application to allow all vehicles associated with the construction of 160 dwellings to permanently access Mile End Road via Bartholomew Court.
- 6.4 191358 – reserved matters application (pursuant to outline application 121272) for the details of the southern section of the Primary Street.

7.0 Principal Policies

- 7.1 In determining the planning applications regard has to be had to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 In this case, the development plan comprises the adopted Colchester Borough Core Strategy (adopted December 2008, amended 2014), adopted Colchester Borough Development Policies (adopted October 2010, amended 2014) and the Site Allocations (adopted 2010).

- 7.3 The Core Strategy provides strategic policies for the Borough; particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2c - Local Centres
- 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

- 7.4 The Development Plan Policies provide more detailed planning policy guidance. The most relevant policies are:

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP7 Local Centres and Individual Shops
- DP10 Tourism, Leisure and Culture
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP15 Retention of Open Space and Indoor Sports Facilities
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

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

SA CE1 Mixed Use Sites

SA H1 Housing Allocations

SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area

SA NGA1 Appropriate Uses within the North Growth Area

SA NGA2 Greenfield Sites in the North Growth Area

SA NGA3 Employment Uses in the North Growth Area

SA NGA4 Transport measures in North Growth Area

SA NGA5 Transport Infrastructure related to the NGAUE

- 7.6 The National Planning Policy Framework (2019) is a material consideration and sets out the national planning principles that guide the decision taking process. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

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

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

North Colchester Growth Area

Community Facilities

Vehicle Parking Standards

Sustainable Construction

Open Space, Sport and Recreation

The Essex Design Guide

External Materials in New Developments

Affordable Housing

Cycling Delivery Strategy

Myland Design Statement

Myland Parish Plan

- 7.9 The Council is developing a new Local Plan (Submission Colchester Borough Local Plan 2017-2033). The whole of the emerging Local Plan was submitted to the Secretary of State in October 2017; however, the examination of the sections is taking place separately. The Section 1 examination hearing sessions were held in January and in May 2018. The Inspector had concerns with the plan's evidence base and the examination process has paused in order to allow additional work to be undertaken that would make the plan sound. Further hearing sessions are expected to take place at the end of the year. The examination of Section 2 of the emerging Local Plan is estimated to go ahead in the spring/summer of 2020 that has been submitted to the Planning Inspectorate (October 2017).

The NPPF states that decision makers may give weight to relevant policies in emerging plans according to:

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

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

8.0 Consultations

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

Spatial Policy and Transportation

- 8.2 Planning applications 183077 and 191581 both involve removal of a planning conditions requiring provision of a bus gate at Bartholomew Court to restrict access by car to the Chesterwell development, also known as the Northern Growth Area Urban Extension (NGAUE). Application 191358 seeks approval for the details of the southern section of the Primary Street and details of the bus gate to control access between Bartholomew Court and the primary street.
- 8.3 Access by car for 160 units at the southern end of the site is intended to enable early development of that area. The remainder of the 1,600 dwellings consented by the 2014 approved permission for the scheme would retain access solely via the main access to the north. Application 183077 proposes that the bus gate relocation would be temporary, while application 191581 propose the permanent relocation of the bus gate.
- 8.4 In the Adopted Plan, Policy SD1 Sustainable Development is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the Local Planning Authority working proactively with applicants. It is noted, however, that the housing and jobs target provided in SD1 and in policy H1 Housing no longer remain current. Whilst the supply figure itself may be out of date the principle of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded to those elements of both policies. Transport policies TA1 Accessibility and Changing Travel Behaviour, TA2 Walking and Cycling and TA3 Public Transport, all support the shift to more sustainable transport modes and are considered able to be given full weight as they are compliant with the NPPF.

8.5 The NGAUE, is covered by Policies SA NGA1 Appropriate Uses within the North Growth Area and SA NGA2 Greenfield Sites in the North Growth Area and are also considered NPPF compliant. NGA2 refers to the requirement for the NGAUE to increase sustainability and minimise dependence on the private car through the provision of the following transport-related measures:

- On and off-site sustainable transport and highway improvements including continuous links through the site for public transport, cycling and pedestrians
- Comprehensive travel planning to reduce the need to travel by private motor car
- Provision of a convenient, cohesive, safe and attractive walking and cycling network to ensure local facilities are accessible
- Provision of public transport infrastructure and services to meet local needs and link into the wider network.

8.6 Paragraph 5.120 of the 2010 Site Allocations document notes a Supplementary Planning Document (SPD) was being prepared to inform the layout of development, general planning requirements and transportation improvements. The North Colchester Growth Area SPD was subsequently adopted in June 2012. The SPD states that 'In producing this Masterplan the Council has ensured that regard to good urban design principles is what shapes structure and layout and not the traditional highway first approach...The development... will make the use of public transport and non-car modes of transport attractive and realistic alternatives to the motor car.' (page 33). Measures would be expected to support effective access for the different uses programmed for the site.' 'Given the need to accommodate public transport and non-car movement, it is considered a structural imperative to manage the main vehicle movement route into the site as well as accommodate a range of services and facilities.' (page 47)

8.7 These general principles were then translated into specific design solutions, i.e. introduction of bus gates to ensure the ease of making bus journeys was prioritised over car journeys. The rationale for the bus gate at Bartholomew Close is set out on page 54:

The public transport spine and main site access extend southwards through the site, maintaining a 400m bus stop catchment for the main residential zones. A bus-only link at Bartholomew Close ensures that the main spine road cannot function as a through-route for general vehicular traffic. Only buses, cyclists and pedestrians can access Mile End Road from the southern part of the site. All other vehicular traffic from the south must travel northwards on the spine road and egress the site in the north.

It is noted that 'an exception may be made if temporary vehicular access is required to allow for phasing of development and delivery of infrastructure in the most timely manner'. The first application could fall within this category if the length of the temporary period is clarified by a time-limiting condition, while the application for a permanent variation would not.

- 8.8 The NGAUE lies within the area covered by the adopted Myland and Braiswick Neighbourhood Plan and is accordingly covered by its provisions. The Neighbourhood Plan's objective for roads and transport is that developments will be supported by road and transport strategies that provide effective and environmentally friendly travel solutions, through, inter alia, maximising opportunities to walk and cycle; taking into account design documents to enable integration of North Colchester through walking and cycling and multi-use routes between and within neighbourhoods; and ensuring public transport (bus) services are frequent, reliable and clean.
- 8.9 Development of the scheme was covered by specific policies in the adopted Local Plan, so the emerging Local Plan is relevant primarily for its reinforcement of support for sustainable travel measures. The Vision for the plan states that 'new development will be designed and located to ensure that residents are, from the start, able to reach a wide range of destinations using sustainable transport methods.' Policy SG1 states that 'development will be supported where a real travel choice is provided and sustainable travel for different purposes is promoted throughout the day'. Policy DM20 Promoting Sustainable Transport and Changing Travel Behaviour states that 'the Local Planning Authority will work with developers and other partners to increase modal shift towards sustainable modes by improving accessibility of development through the promotion of walking and cycling as an integral part of development, and by further improving public transport'.
- 8.10 The Transport Assessment considers that the result of the revised access arrangements will be a small re-distribution of traffic activity associated with the development (Para 3.4.3). Even if it was agreed that traffic impact would be minimal, this does not cover the effect of the scheme on the willingness of the residents in the car-accessible units to use more sustainable travel methods. Development of the masterplan involved careful thought and incorporation of a range of supporting measures to ensure that new residents would favour sustainable travel methods from day one. Chipping away at selected elements of sustainable transport methods is at odds with the clear policy steer on the importance of their use in the NGAUE and their incorporation into the masterplan.
- 8.11 The applicants addressed this issue in their 14 February letter providing further information to supplement 183077, arguing that the effect on sustainability is at worst de minimis and at best neutral:

The proposed modifications will continue to mean that the majority of the development (1440 of the 1600 dwellings – 90%) will continue to be served by private car access to the north only. Accessibility by sustainable modes to the south is unhindered and will continue to represent an alternative and convenient alternative to the car. For the 10% of residents in the southern part of the site, on-site services at the neighbourhood centre (including schools, shops and community facilities, as well as playing fields) will be more conveniently accessed on foot, by bicycle and bus then by car (which would require a longer

journey via Mile End Road, Mill Road and then back to the neighbourhood centre). The advantages of sustainable journey choices within the site are, if anything, enhanced. Journeys from the limited southern phase of development to the train station will continue to benefit from the proximity and convenience which previously existed (and being the closest phase of development to those facilities, the most likely to be attractive and practical in sustainable transport terms). For example, journeys to the train station or town centre will still be influenced by parking restrictions and costs as they were previously, and over short distances, sustainable modes of travel are at their most attractive and convenient. Cycle, foot and bus connections are unhindered. We consider, therefore, that any dilution of sustainability credential for those travelling south from the scheme is limited and will not fundamentally undermine the sustainability credentials of the scheme as a whole.

- 8.12 The applicants contend that any reduction of sustainability is outweighed by the benefits of maintaining housing delivery rates. They note operational constraints and delays on land release that have led them to pursue an alternative development programme. No other additional options are presented, however, that might also help sustain development rates.
- 8.13 The planning balance in this instance depends on weighing up the potential harm to sustainability aims versus the benefits of facilitating housing delivery, both of which are difficult to quantify.
- 8.14 The general principles at stake are only slightly modified by the further need to consider the merits of a temporary vs. permanent change to the bus gate. A very temporary change might not be deemed to have a lasting effect on travel choices, but a change that is 'temporary' for five years or over would clearly involve the establishment of ingrained resident travel habits that would involve reliance on car use of the southern access.
- 8.15 The delay in the release of land in the central portion of the site has necessitated consideration of an alternative phasing strategy to maintain delivery rates on site. It is considered that the permanent solution conflicts with the Masterplan vision to encourage use of sustainable modes of travel from day one. A temporary solution, limited in time by condition, should ensure that the temporary time period is kept to a minimum. Additional options on delivering the infrastructure to complete the road link as quickly as possible should be considered. It should also be ensured that links are in place (footway/cycle links) that enable residents of the southern end of the site to travel north sustainably to the proposed school and neighbourhood centre.

Environmental Protection (General)

- 8.16 Environmental Protection has no objection to the variation of the condition. However they recommend the bus gate is relocated to the original location in the planning permission once the northern access road is completed.

Environmental Protection (Air Quality)

- 8.17 Environmental Protection have advised that when considering the traffic data and Air Quality forecasts made in the Air Quality Impact Assessment, the proposed changes are acceptable on air quality grounds.

Highway Authority

- 8.18 The Highway Authority has advised that **from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:**

1. No commencement of the development shall take place until a Traffic Regulation Order and all associated works for the Bartholomew Court bus gate has been provided or completed (at the applicant's expense)
Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking
2. No occupation of the development on parcels R17 to R19 and 68 dwellings on parcel R16 (as defined by the Development Framework Plan) shall take place until the following have been provided or completed:
 - a) North Growth Area Urban Extension's Primary Street between parcel R16 and Mile End Road, via Bartholomew Court and;
 - b) The Bartholomew Court bus gate as intended by outline planning permission 121272**Reason:** To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking

Note:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate

9.0 Parish Council Response

- 9.1 The Parish Council have stated that this application is simply to enhance sales momentum in the existing development phases by opening another point of sale. It does not bring any additional support to modal shift which Essex Highways claim as key to enabling north Colchester's transport infrastructure to cope with planned housing development. It can be argued that this application actually undermines that strategy. It further complicates the already problematic situation at Mile End Road's entry into the North Station Roundabout for south bound traffic. There is no recognition within the Application of any impact at the Nayland Road/Mill Road

junction for north bound traffic. There is a danger of increased journeys in this direction e.g. from the 160 dwellings into local routes for Chesterwell Schools. It substantially affects the amenity of Bartholomew Court residents adjacent to the road, particularly during development construction phases. It is the view of MCC that the conditions associated with Outline Planning application 121272 were necessary and sensible and should remain in place.

10.0 Representations from Notified Parties

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

- The original proposal was accepted on the argument that only buses will pass through Bartholomew court.
- Making access by car easier will encourage more car trips while the original proposal (all access via the north of the development) would mean people would give more consideration as to how they make a particular trip.
- It will result in hundreds of new car journeys per day into Mile End Road which will impact on the junction of Mile End Road and the Station roundabout network, which is already difficult to exit at peak periods.
- the exit road will need widening with subsequent loss of pedestrian access.
- Cars will be turning left to access the NAR from Mill Road and as such cause further issues around the school doctors and nursery access
- the parking outside the Church is problematic - there is very little room to pass let alone when buses are there. This has resulted minor accidents; it is only a matter of time before a significant accident occurs
- Car parking for residents of Bartholomew Court will be lost and displaced into Mile End Road which has little space already
- the exit will cross a relatively newly created cycle and pedestrian path that is growing in use as connects to mainline station.
- It will have a negative effect on the living environment of those who live in the area
- The use of a bus gate may stop the road becoming a through road, however until ANPR cameras are switched on this would effectively make a lovely through road from the top of Chesterwell to the bottom
- Mile End is too over developed
- Bartholomew Court was intended as a bus only access route into and out of Mile End Road and this is an example of developers trying to sneak in amendments to the original plan to the detriment of residents already affected by this dreadful development
- One could suggest that using Bartholomew Court for private vehicle access was planned all along and such plan was cynically concealed in their original application.
- There has been no communication from the developers to local residents
- Congestion/ pollution will endanger the health of people living in the "fume canyon"

Ward Councillors

10.2 Cllr Goss comments can be summarised as follows:

- Parking will be removed from Bartholomew Court. Any loss of parking on the road needs to be reinstated elsewhere so these residents suffer no detriment. This hasn't been catered for in the plans.
- The bus gate must absolutely have rising electronically controlled bollards so this route cannot be used as a rat run by all traffic on Chesterwell.
- Peak traffic has issues leaving the bottom end of Mile End Road as no traffic lights exist to control the flow of traffic. Although residents are expected to use the NAR to get via North Station, Mile End Road is a well used route for local traffic and 160 more dwellings will simply increase traffic queues on Mile End Road with no way of getting out at peak times.
- Overall the original conditions should be stuck to and these changes shouldn't go ahead.

10.3 Comments from Cllr King can be summarised as follows:

The proposal does not create an overall impact, but the pressures from this development, when allied with other new housing are already significant. The development access through Bartholomew Court may redistribute some of this pressure. However...

- the change from a bus route only to allow vehicle access for 160 households is highly undesirable as it will mean over 200 extra vehicles using this exit. At peak times the effect will be to add to queuing traffic at North Station.
- The proposals will displace parking around Bartholomew Court. Around 10 cars park here daily and this may bring traffic flow and car parking issues into this new part of the development. Like other new developments car parking space is already insufficient and cars elsewhere in Chesterwell regularly park on yellow lines or the pavements.
- this change departs from undertakings and assurances given to the local Mile End and Mile End Rd community. That is damaging to trust in the developers and the planning process. And it will suggest that other changes to traffic flows may follow (such as access at the south end of Chesterwell).

These concerns need to be raised with the developers. They should consider what they may do to reduce the impact and asked to affirm that this access change is the only one they will seek.

10.4 Comments from Cllr Coleman can be summarised as follows:

- This proposal goes against the initial planning agreement that ensured vehicles did not have access via Mile End Road but onto the newly created A134 and Northern Approach Road.
- The exit road will need widening to accommodate for buses with subsequent loss of pedestrian access.
- Car parking for residents of Bartholomew Court will be lost and displaced into Mile End Road which has little space already.
- The exit will cross a relatively newly created cycle and pedestrian path that is growing in use as connects to mainline station.
- Hundreds of new car journeys per day into Mile End Road will impact on the junction of Mile End Road and the Station roundabout network, which is already difficult to exit at peak periods.

11.0 Parking Provision

11.1 No change from the extant permission 121272

12.0 Accessibility

12.1 Accessibility issues will be considered at the reserved matters (detailed design) stage and will have due regard to the requirement of the Building Regulations and the duties imposed under the Equalities Act

13.0 Open Space Provisions

13.1 No change from the extant permission 121272

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. It was agreed the obligations would mirror the extant planning permission and include an additional obligation to cover the RAMS tariff.

16.0 Environmental Impact Assessment

16.1 The extant outline planning permission was subject to an Environmental Impact Assessment (EIA). A s73 application is considered to be a new application under the EIA Regulations. The NPPG Reference ID: 17a-016-20140306 Paragraph 161 states that an Environmental Statement (ES) must be submitted with a s73 application for development if it is considered to be EIA development. An ES Updated (‘ESU’) is submitted as part of this s73 submission, which the agent

has advised should be read alongside the ES and ES Addendum which supported determination of the extant outline planning application.

- 16.2 It is not considered that the current application would fundamentally alter the conclusions of the original ES i.e. the development would not result in significant effects.

17.0 Report

Background

- 17.1 Outline planning permission was granted in July 2014 for the Chesterwell development (ref 121272). This application proposed a mixed-use development comprising up to 1,600 dwellings, a neighbourhood centre including commercial, residential and community uses, site for primary and secondary schools, strategic landscaping, green infrastructure and areas for outdoor sport facilities, access (in detail where specified) related infrastructure and other works and enabling works. This permission remains extant.
- 17.2 Under the extant permission, the main vehicular access is located at the north of the development, off the A134. A secondary access is to be provided onto Mile End Road; this is formed by the extension of Bartholomew Court into the site and is to be restricted to bus traffic only (by the installation of a 'bus gate'). The Primary Street is to be completed and the bus gate formed prior to the occupation of land parcels R18 to R25.

The Proposal

- 17.3 The submitted s73 application seeks planning permission to provide temporary vehicular access via Bartholomew Court to serve up to 160 dwellings. The supporting information states that this access will remain in place until the completion of the primary street. Once the primary street has been completed, a bus gate is to be installed in the vicinity of Bartholomew Court. The 160 dwellings would then gain access from the north as per the requirements of the extant permission.
- 17.4 To enable the temporary access of Bartholomew Court by all vehicular traffic the application seeks permission to vary the following planning conditions of the original outline planning permission:
- Condition 7: which requires the submission of Reserved Matters in accordance with approved drawings. It is proposed that revised drawing (reference MHC002/DFP/02 Rev G) will be approved and will thereby substitute drawing MHC002/DFP/02 Rev F Movement Network Plan).
 - Condition 8: which requires highway works to be constructed in compliance with specified drawings. It is proposed that revised drawing VD18773/P-100/D will substitute drawings VN20059-706-B (Primary Street Connection to Bartholomew Court Bus Gate) and VN20059-526-A (Bartholomew Court Bus Gate).

- Condition 28: which precludes works starting on residential parcels R18 to R25 unless a scheme has been approved controlling access to Braiswick Lane. This condition has been discharged and does not need to be carried onto any new grant of outline planning permission.
- Condition 62: which precludes occupation of residential parcels R18 to R25 until the Primary Street between parcel R16 and Mile End Road has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R25, but remains for parcels R18 and R19.
- Condition 64: which precludes occupation of residential parcels R18 to R25 until the footpath/cycleway connection to Tuffnell Way has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R22, but remain for parcels R18, R19, and R23 to R25.

- 17.5 The other planning conditions on the original outline planning permission are to be carried over as existing or, where relevant, amended to reflect details that have been approved through the discharge of conditions under application 121272 and remain consistent with the current proposal. Additional conditions are also recommended in the interest of the proper planning of this development.
- 17.6 Approximately 100 letters of objection have been received to this application. Broadly, these objections relate to the principle of the proposal, impacts on highway capacity and safety (including pedestrians and cyclists), parking, air quality and residential amenity.

Reason for the application and Policy Implications

- 17.7 The adopted Site Allocation Plan sets out the framework for transportation matters pertaining to the North Growth Area Urban Extension (now known as the Chesterwell development). The required highway works are elaborated on in the adopted North Colchester Growth Area SPD. In addition to required highway works, the SPD seeks to develop a layout that maximises the potential for modal shift away from the use of the private car. This is to be achieved in part by creating a strong and accessible network of cycleways and footpaths, by promoting accessible public transport services and by having a single point of access for car users located at the northern end of the site.
- 17.8 Objection has been raised on the grounds that the proposal to create a temporary vehicular access point onto Mile End Road via Bartholomew Court would represent a dilution of sustainability principles of the adopted SPD. Comment has also been made that the proposal represents a breach of trust and the reassurances previously provided by the developer.
- 17.9 The agent has explained that the developer has properly planned to continue development in the north but a landowner that provides for that planned delivery is not allowing this to happen. As a consequence of this, legal proceedings are underway to secure the release of this land. It is this change in circumstance that has resulted in need to amend the original access proposals. By their nature, the legal proceedings will delay the delivery of the land and interrupt the supply of housing. Because of the time lags involved, annual completions (which

have been as high as 150 dwelling per annum) are now programmed to reduce to 80 dwellings this year, falling to 60 dwellings in 2020 and then zero dwellings in 2021.

- 17.10 As Members will be aware, the Council is obliged to maintain a five-year housing land supply through a plan-led system. The Council is currently able to demonstrate a five-year supply of housing land and the Chesterwell development is identified as providing 148 units per annum towards this. Due to the issue with the land sale, housing delivery at this site is projected to fall below Borough's requirements in 2019, 2020 and 2021. The applicant owns the land at southern end of the site. The early development of this land will allow for the continuation of the Chesterwell development. Without the release of southern part of the site (which can only be facilitated by allowing Bartholomew Court to be used by all vehicles on a temporary bases) the Council's five-year supply of housing land would be jeopardised. This in turn would make the promotion of unplanned speculative sites more likely and difficult to defend. In view of this, whilst the temporary use of the Bartholomew Court access for general traffic may conflict with the established transportation aspirations for the Chesterwell development, it will enable the continuation of the delivery of housing on an allocated housing site and reduce the potential for unplanned development elsewhere in the Borough. This weighs in favour of the current application.
- 17.11 Objections relating the to the potential for this application to undermine the key accessibility principle of this development are appreciated. The agent states that the accessibility by sustainable modes to the south will continue to represent a convenient alternative to the car. They also opine that it will be more convenient for the residents of the 160 dwellings to access the planned on-site services at the neighbourhood centre (schools, shops and community facilities) on foot or by bike than by car (which will involve a longer journey via Mile End Road, Mill Road, the Northern Approaches and A134 before turning into the neighbourhood centre). Journeys to the train station will continue to benefit from the close proximity and convenience which previously existed. The agent also states that journeys to the train station or town centre will still be influenced by parking restrictions and costs. For these reasons, the agent argues that that any dilution of sustainability credential for those travelling south from the scheme will limited and that the proposal will not fundamentally undermine the sustainability credentials of the scheme as a whole. This point has been discussed Highway Authority and they have advised that they do not share this view. In the opinion of the Highway Authority, future residents would initially be reliant on the off-site provision of services (which would be accessed by car) and this would lead to an entrenched way of life – i.e. occupiers would continue to use the car for short trips.
- 17.12 Irrespective of the weight afforded to the above arguments, it is also important to note that, whilst the adopted SPD promotes a single point of access for general vehicular traffic, it does allow for an exception for temporary vehicular access to be made if this is required for the phasing of development and delivery of infrastructure in a timely manner. The current delays being experienced with the land sale are considered to constitute a legitimate reason to accept a temporary alternative access.

- 17.13 The submitted application does not define how long the temporary access will be required for; the supporting information simply states that Bartholomew Court will be used by the 160 dwellings until the completion of the primary street at which time a bus gate will be installed. Officers have expressed concern to the applicant regarding the potential open-ended nature of this proposal. In response, the applicant has stated that they have reviewed the Phasing Strategy and cannot commit to a fixed timeframe for the installation of a bus gate. The applicant states that the reason for this is that they would not be able to allow occupations of units in case they were unable to deliver to the timeframe for reasons outside their control. Officers remain of the view that the simplest solution would be to have a condition that requires the bus gate to be installed within 5 years of the first occupation of the development. However, officers have sought to work with the approach preferred by the developer, which is to tie the installation of the bus gate to the occupation of units / development parcels. A condition is therefore proposed that prevents the occupation of parcels R17 to R19 and 68 dwellings on parcel R16. This would allow the development of parcels R1 to R3, parcels R11 to R15 and part of parcel R16 (80 units). Using the projected housing delivery figures for this site (148 units per year) this would mean that the bus gate would be delivered in approximately 5.2 years. Members should note that, if housing delivery rates slow, the bus gate would be delivered later, conversely, if housing completion rates increase the bus gate would be delivered earlier.

Highway Safety and Capacity Issues

- 17.14 Under the extant permission, access from the Chesterwell development via Bartholomew Court is to be controlled by installation of a bus gate. Details of the improvements required to Bartholomew Court (widening and incorporation of footpaths) were also approved as a part of the original outline planning application.
- 17.15 Bartholomew Court is an existing road which provides access to the housing in 'Bartholomew Court' from Mile End Road. The existing carriageway is 4.8m wide and 1.5m footways are provided on both sides of the road. It is proposed under the current application to increase the carriageway width of Bartholomew Court to 6.75m and to widen the footways to 2m. These works are consistent with that approved under the extant outline permission.
- 17.16 Objections have been raised by local residents due to concerns about the potential impact that general traffic from the development accessing Bartholomew Court would have on the surrounding highway network (capacity and safety). Objection has also been made on the grounds that the proposal would result in the displacement of existing on-street parking in Bartholomew Court.
- 17.17 The Transport Assessment that accompanied the original outline planning application modelled planned growth up to 2021 and 2023. An updated Transport Statement has been submitted in support of the current application. This notes that there will be no net trip generation resulting from the temporary

use of Bartholomew Court as the overall proposed dwelling numbers will remain the same. Under the original application, the 160 dwellings would have accessed the development via the main site access to the north. Traffic heading south from this access would have previously used the A134 Northern Access Road, whilst traffic heading north from the site would have been made up of two elements – some traffic would head north on the A134 and some to the A12 (via the Northern Access Road). The revised access proposals will result in the traffic associated with the 160 dwellings being re-routed to temporarily use Bartholomew Court. The revised access will see this traffic approaching development from Mile End Road which, as the Transport Statement notes, is generally a much more lightly trafficked route since a 'bus only' restriction was introduced at the northern end of Mile End Road/Nayland Road. With the temporary access proposal, traffic heading north will use Mile End Road and travel east on Mill Lane to reach the Northern Access Road. Traffic heading south would use Mile End and travel through North Station Roundabout. The submitted Transport Statement advises that the impact of the expected traffic rerouting is minor; being a maximum of 30 vehicles in the AM peak south bound direction; this equates to approximately 1 additional car every two minutes. The Transport Consultants states that this increase in traffic would be imperceptible and would not have any material impact on Mile End Road or the 'North Station Roundabout'. It is understood that the Highway Authority do not object to this assessment.

- 17.18 Concern has been raised about the potential for increased risk of accidents. The Transport Statement notes that there have been no traffic collisions recorded on Mile End Road in the vicinity of Bartholomew Court and that the only recorded accident is on the section of Mile End Road towards the junction with Mill Road.

- 17.19 The loss of ancillary on-street parking along Bartholomew Court is also raised as an objection. Allocated parking is provided for residents at Bartholomew Court and the applications (both extant and proposed) do not affect these arrangements. With regard to the loss of on-street parking from Bartholomew Court, Members are advised that this was agreed under the extant permission and the proposals remain alternated under this application. Given the past approval, it would not now be considered reasonable to seek an amendment in respect of this matter.

- 17.20 Objection to the application has been raised on the grounds that an increased number of cyclists are using Mile End Road and that this will give rise to conflict at the Bartholomew Court junction. Concern has also been expressed that the ability to drive from the southern part of the development onto Mile End Road (rather than via the northern access to the development) will dissuade would-be cyclists from cycling. The potential for conflict between motorists and cyclists has been raised with the Highway Authority. Should the Highway Authority consider that traffic calming and/or further junction improvements are necessary, then they can recommend additional conditions to ensure that pedestrian and cycle safety is maintained. Members are advised that the Highway Authority has not indicated that they have any concerns regarding the design of the previously agreed Bartholomew Court junction with Mile End Road. It is also understood that the developer has submitted an application (s278

works) to the Highway Authority to implement the agreed junction improvement works. The supporting information notes that the proposed development makes provision for cycle facilities into the site (including direct route to the station) and residents in the southern part of the site will still be able take advantage of these. In the light of this, the agent argues that potential for sustainable transport choices is undiminished.

- 17.21 The Highway Authority has verbally advised that the use of the temporary use Bartholomew Court for general vehicular traffic will not have a severe impact on the surrounding highway network in terms of highway capacity or have an adverse impact of Highway safety.

Enforceability of the Bus-gate

- 17.22 Concern is raised as to the enforceability of the bus gate. This is not a new consideration and it applies equally to the proposals for which planning permission has already been granted. The agent states that the form of the bus gate is not presently for determination but notes that whilst there are a number of possible measures which could be implemented, in-principle agreement with ECC indicates that highway cameras would be used to enforce the restriction as used elsewhere in the Borough. Objectors raise concerns that, in their view, other similar bus gate provisions have either been delayed in implementation or are ineffective. The agent has advised that provision will be made in a planned and timely way, controlled as necessary under planning condition or obligation.

Air Quality

- 17.23 Objection has been raised on the grounds that the proposal to allow all vehicles to access Bartholomew Court will have an adverse impact on air quality. An updated Air Quality report has been submitted in support of this application. The report notes that the predicted pollutant concentrations identified in the 2012 Environmental Statement were all well below the air quality objectives. The updated report considers it highly unlikely that the changes associated with the revised access strategy will affect the outcome and conclusions of the 2012 assessment. Environmental Protection note the conclusions of the report are based on revised traffic data which indicates that an amended access would allow for a further 679 vehicles per day on Mile End Road. Environmental Protection note that the AQIA forecasts a negligible impact for all locations / pollutants other than for NO₂ at a receptor within Bartholomew Court where a slightly adverse impact has been identified. They have however advised that the annual mean is predicted to be just 23.6ug/m³. Environmental Protection conclude that, when considering the traffic data and air quality forecasts made in the AQIA, the proposed changes are acceptable based on air quality grounds.

Impact on Residential Amenity

- 17.24 Local residents have raised an objection to the current application on the grounds of adverse impact on residential amenity. The Noise Assessment submitted as part of the application demonstrates that either low or no impacts are likely to arise as a consequence of the revised access arrangements. Environmental Protection has not raised an objection to this application on the grounds of potential adverse impacts on residential amenity. It is accepted that construction works and associated traffic can cause noise and disturbance; however conditions are proposed that will adequately address this issue.

Other matters

- 17.25 As noted above, the s73 application proposes the variation of conditions 7, 8, 28, 62 and 64. These conditions are discussed in turn below:
- Conditions 7 and 8: it was requested that the selected drawings were updated to reflect a permanent use of Bartholomew Court by general traffic. Through negotiation, this application has been amended to provide a temporary access solution. In view of this, it is not now considered necessary to change the drawings as originally approved these show the bus gate in the vicinity of Bartholomew Court. It is therefore recommended that Conditions 7 and 8 will remain unchanged from the extant planning permission.
 - Condition 28: this condition currently precludes works starting on residential parcels R18 to R25 unless a scheme has been approved controlling access to Braiswick Lane. The agent notes that this condition has been discharged (under the extant permission) and opines that this does not need to be carried onto any new grant of outline planning permission. Officers disagree with this view. Whilst the details of controlling the access have been agreed, a condition is still required to ensure that the agreed details are implemented at an appropriate stage. It is therefore to reword this condition.
 - Condition 62: this condition currently precludes the occupation of residential parcels R18 to R25 until the Primary Street between parcel R16 and Mile End Road has been completed. As discussed above, it is proposed reword this condition to allow the occupation of parcels R20 to R25 and to prevent the occupation of R18 and R19 (as per the existing permission) and extended the no occupations to include parcels R11 to R17.
 - Condition 64: this condition currently occupation of residential parcels R18 to R25 until the footpath/cycleway connection to Tuffnell Way has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R22, but remain for parcels R18, R19, and R23 to R25.

- 17.26 In addition to the above, the following new conditions are recommended:

- A condition to prevent no more than 160 dwellings being occupied on parcels R20 to R25 until the Primary Street between parcel R16 and Mile End Road has been completed.
- A condition to reflect the mitigation measures set out in Chesterwell Information Towards a Habitats Regulations Assessment Report
- A condition to prevent the possibility of this permission and the extant permission (ref 121272) being jointly implemented

18.0 Conclusion

18.1 The application to permit 160 dwellings to use Bartholomew Court as a temporary access will enable the continuation of the Chesterwell development and contribute positively to the Council's five year housing land supply. This weighs in favour of the application. There is also sufficient evidence to demonstrate that the proposal will not have detrimental impact on air quality, residential amenity and/or parking. The use of Bartholomew Court by all vehicles on a temporary basis is also not considered to have a severe impact on highway capacity or be to the detriment of highway safety. A key principle of the Chesterwell development is the promotion of public transport and non-car modes of transport as a realistic alternative to the car. To this end, the Council's adopted guidance notes the structural imperative the main vehicular movement into the site (from the north) and prioritise bus journeys over car journeys by the introduction of a bus gate at Bartholomew Court. The proposed use of Bartholomew Court as a temporary access will undermine a key principle of the development as it will harm the scheme's sustainability and accessibility credentials. Having given careful consideration to application, the submitted representations and local and national planning policy and guidance it is considered, on balance, that the current application can be accepted. This conclusion is on the basis that this application will enable the continued delivery of this strategically important development site and that the Bartholomew Court access is used by all vehicles as a short term temporary measure. The application is therefore recommended for approval subject to conditions and the completion of a s106 agreement.

19.0 Recommendation to the Committee

19.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Assistant Director of Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement. The S106 agreement is to mirror the completed agreement for application 121272 and include clauses to cover RAMS contribution, a TRO in relation to the bus gate (to be in place before the commencement of development) and the potential for joint implementation of this application and application 121272. On the completion of the legal agreement the planning permission is issued subject to the following conditions:

1. Approvals of the details of the layout, scale, landscape and appearance of any part of the residential development (R1 to R25 as defined on the Development Framework Plan) within each phase of the development hereby permitted (including G1 to G25 and W1 and W2) ('the residential reserved matters') shall be obtained in writing from the Local Planning Authority before that part of the residential development is commenced within that phase. The development shall not be carried out otherwise than in accordance with the approved details.
Reason: To comply with the provision of section 92 of the Town and Country Planning Act as amended
2. Approvals of the details of the layout, scale, landscaping and appearance of any part of the non-residential development (NC1, NC2, EDU and OSF1 and OSF2 (including primary and secondary infrastructure) within each phase of the development hereby permitted ('the non-residential reserved matters') shall be obtained in writing from the Local Planning Authority before that part of the non-residential development is commenced within that phase. The development shall not be carried out otherwise than in accordance with the approved details.
Reason: To comply with the provision of section 92 of the Town and Country Planning Act as amended.
3. Application for approval of all the residential reserved matters in respect of Phase 1 of the development (as defined by Strategic Phasing Strategy) hereby permitted shall be made to the Local Planning Authority before the expiration of 2 years from the date of this permission.
Reason: To comply with the provision of section 92 of the Town and Country Planning Act as amended.
4. Application for approval of all the residential reserved matters and non-residential reserved matters in respect of each subsequent phase of the development (as defined by Strategic Phasing Strategy) hereby permitted shall be made to the Local Planning Authority before the expiration of 12 years from the date of this permission.
Reason: To comply with the provision of section 92 of the Town and Country Planning Act as amended.
5. The first Phase of the development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 1 year from the date of approval of the last of the residential reserved matters (as the case may be) to be approved in respect of that phase, whichever is the later.
Reason: To comply with the provision of section 92 of the Town and Country Planning Act as amended.

6. Subsequent phases of the development hereby permitted shall be begun either before the expiration of 12 years from the date of this permission, or before the expiration of 1 year from the date of approval of the last of the residential reserved matters or the non-residential reserved matters (as the case may be) to be approved in respect of that phase, whichever is the later.
Reason: To comply with the provision of section 92 of the Town and Country Planning Act as amended.

7. Subject to compliance with the requirements of any other conditions, the submission of Reserved Matters for any part of the site or phase shall be carried out in accordance with the following drawings unless otherwise agreed in writing with the Local Planning Authority:

- Location Plan - drawing no. MHC002/PA/001
- Development Framework Plan - drawing no. MHC002/DFP/01 Rev H
- Movement Network Plan - drawing no. MHC002/DFP/02 Rev F
- Residential Density - drawing no. MHC002/DFP/03 C
- Building heights - drawing no. MHC002/DFP/04 C
- Landscape Framework Plan - drawing no. MHC002/DFP/05 Rev C.

Reason: To ensure that the development is carried out in accordance with the Environmental Statement and the Environmental Impact Assessment Regulations and in the interest of proper planning.

8. Unless otherwise agreed in writing by the Local Planning Authority and subject to compliance with the requirements of any other conditions the highway works shall be carried out in accordance with the following plans:

- VN20059-555-C - A12 Junction 28 Southern Roundabout (potential changes to road markings and signage)
- VN20059-702-B - Nayland Road Diversion Link
- VN20059-704-C - NAR3 / Mill Road Junction Improvements
- VN20059-705-C - NAR3 / Boxted Road Link Junction Improvements
- VN20059-712-C - Nayland Road Diversion Link and Eastern Access Road link
- VN20059-706-B - Primary Street connection to Bartholomew Court Bus Gate
- VN20059-526-A - Bartholomew Court Bus Gate
- VN20059-707-B - Pedestrian / Cycle Connection to Bergholt Road
- VN20059-708-B - Potential Bergholt Road / Tufnell Way Cycle Link Connection

Reason: To ensure that the development is carried out in accordance with the Environmental Statement and in the interest of efficient operation of the highway network and proper planning.

9. The development hereby permitted authorises the erection of no more than 1600 dwellings.
Reason: For the avoidance of doubt as to the scope of this permission and to ensure that the development is carried out in accordance with the Environmental Statement and the Environmental Impact

Assessment Regulations.

10. The Neighbourhood Centre shall be developed in conjunction with residential development hereby permitted and a minimum 200 units shall be constructed prior to work starting on the non-residential development unless otherwise agreed in writing by the Local Planning Authority.
Reason: The retail and associated uses on their own would represent an isolated development out of character with the surroundings and in order not to prejudice the shopping hierarchy of Colchester.

11. Prior to the submission of the first residential reserved matters a detailed programme of phasing of the Development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority (herein referred to as 'the Strategic Phasing Strategy'). The Strategic Phasing Strategy shall include;
- A plan defining the extent of the area of each phase;
 - Details of the approximate number of residential units to be accommodated within each phase;
 - Details of the quantum and type of open space (both strategic and local) and outdoor sports facilities to be provided in each phase and a timetable for its provision for use by the public; and
 - An approximate timetable for the implementation of works within each phase. The development shall be implemented in accordance with the approved Strategic Phasing Strategy unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is comprehensively designed and phased and to ensure that there is maximum practical integration between the different landuses both within and beyond the site.

12. **The development hereby permitted shall be implemented in accordance with the Colchester North Statement of Design Principles prepared by DLA dated December 2104** ~~Save for the areas covered by Design Briefs in condition 13, prior to commencement of development or the determination of the first residential reserved matters application, a Statement of Design Principles shall be submitted to and approved in writing by the Local Planning Authority. The Statement of Design Principles shall demonstrate how the objectives of the Design and Access Statement will be met. The Statement of Design Principles shall cover the following:~~
- ~~Built form (including block structure, building forms, building lines and set backs).~~
 - ~~Public realm (including landscape design principles, protection of views and street types).~~
 - ~~Private spaces~~
 - ~~Character areas~~

On the substantial completion of each character area the approved Design Principles shall be reviewed and amended as necessary to take account of changing circumstances. The development shall be carried out in accordance with the approved Statement of Design Principles.

Reason: To ensure that high standards of urban design and that the development is comprehensively planned and that there is appropriate integration between both the different parts of the development and the land surrounding the site achieved.

13. Prior to the submission of reserved matters application(s) in relation to: i) the Neighbourhood Centre (as defined on the Development Framework Plan) and; ii) the EDU1 (the Early Years, Primary and Secondary Schools sites) Design Briefs shall have been submitted to and approved in writing by the Local Planning Authority for these identified parts of the site. In bringing forward the Neighbourhood Centre and Early Years Primary and Secondary School Design Briefs, details shall be provided to the Local Planning Authority of the following:

(a) The Neighbourhood Centre Design Brief shall (as a minimum) cover the following principles:

- i. individual tranche boundaries, land use and access, footpath and cycleway networks including links outside the site boundary;
- ii. proposed landscape framework, including the retention of existing trees and hedges and new structural planting;
- iii. general layout, arrangement of land uses, urban form and design principles,
- iv. public realm strategy (including the urban plaza)
- v. a strategy to accommodate bus services indicating, as appropriate, bus only lanes, bus shelters and bus turning facilities;
- vii. details of parking including parking/dropping off areas for schools; and
- viii. details of the timing of provision of the proposed uses.

(b) The Early Years, Primary and Secondary School Design Brief shall cover the following principles:

- i. boundaries, land use, parking and access and footpath and cycleway networks including links outside the site boundary
- ii. proposed landscape framework, including the retention of existing trees and hedges and new structural planting; and
- iii. general layout, arrangement of land uses, built form and design principles The reserved matters submission shall be made in accordance with the agreed Design Briefs.

Reason: To ensure that high standards of urban design and that the development is comprehensively planned and that there is appropriate integration between the different parts of the development and the land surrounding the site achieved.

14. Each application for Reserved Matters incorporating residential units shall be accompanied by a schedule of residential accommodation proposed within that phase(s) together with an updated schedule of residential units to be delivered by further phase(s) of development.

Reason: To ensure that the dwellings numbers are appropriately distributed

between the various phase of the development and that the total number of dwellings does not exceed 1600 units.

15. Applications for the approval of reserved matters submitted pursuant to condition 1 above shall be in accordance with the Statement of Design Principles as approved. In addition to the Design and Access Statement previously referred to, the Statement of Design Principles and the reserved matters submitted for approval shall also accord with the principles set out in the following submitted documents: Flood Risk Assessment; Energy Statement, Sustainability Statement. A statement shall be submitted with each reserved matters application(s) which demonstrates that the application proposals comply with the Design and Access Statement and with the Statement of Design Principles, or (where relevant) explaining why they do not. The reserved matters application(s) shall also be accompanied by a detailed design statement explaining the architectural and landscaping design rationale for the relevant phase or part thereof. The development shall be carried out in accordance with all matters approved pursuant to this condition.
Reason: To ensure that high standards of urban design and that the development comprehensively planned and that there is appropriate integration between the different parts of the development and the land surrounding the site achieved.
16. As a part of the reserved matters planning submission detailed plans showing the number, size, location, design and materials of secure and weather protected cycle parking facilities to serve that part of the development shall be submitted to and approved in writing by the Local Planning Authority. (The cycle parking provision shall accord with the Parking Standards Design and Good Practice adopted 2009 (or superseding guidance) and in the case of residential development may include provision within associated garages where appropriate). The cycle parking facilities as approved shall be installed on site prior to the occupation of the building(s) they serve and shall thereafter be retained for their intended purpose.
Reason: To ensure the satisfactory provision of cycle parking facilities and to limit the reliance on the private car.
17. All applications for residential development (including those within the Neighbourhood Centre) shall be accompanied by a 'Scheme for Noise Insulation' which shall accord with the Noise Impact Assessment accompanying the outline application. All residential units shall be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below, save in the case of the properties that address the Primary Street and where it is demonstrated to the satisfaction of the Local Planning Authority that it is not practical for these properties to achieve the criterion set out in 4th bullet point below; in such circumstances an Alternative Noise Scheme shall be submitted to the Local Planning Authority which shall

include a statement of the measures taken to minimise the adverse effects from external noise.

World Health Authority Community Noise Guideline Values

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAmax).

There shall be no residential development undertaken on any phase or part thereof until a Scheme for Noise Insulation or an Alternative Noise Scheme has been submitted to, and approved in writing by, the Local Planning Authority. The agreed measures shall be incorporated in the manner detailed prior to the occupation of the residential units to which the mitigation is specified and such measures shall thereafter be permanently retained in the approved form.

Reason: To ensure that the residential properties are designed to minimise the potential adverse effects from external noise and that the adopted design solutions accord with the design principles established by the Design and Access Statement the Statement of Design Principles referred to in condition 12 and 1 of this permission.

18. No part of the development shall take place until details of the existing and proposed levels of that part of the development, the levels of the surrounding area and adjoining buildings (where applicable) and the finished floor level of the building(s) hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed and known datum point and shall be submitted concurrently with the reserved matters application(s). The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the work is carried out at suitable levels in relation to adjoining properties, having regard to amenity, landscape, biodiversity, access, highway and drainage requirements.

19. Prior to the commencement of residential development in any Phase (as defined by the Strategic Phasing Strategy) or part thereof, full details of the proposed refuse and recycling storage facilities to be provided to serve that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a method statement indicating how the communal facilities (if provided) will be managed and serviced. The approved facilities in conjunction with the approved method statement shall be implemented prior to the occupation of each building they are intended to serve and the approved facilities shall be retained thereafter.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection and that they will be maintained to a satisfactory condition in order to avoid any potential adverse impact on the

quality of the surrounding environment and to avoid bin blight.

20. No commencement of construction of a building shall start on the non-residential development until details of the facilities to be provided for the storage of refuse at the premise(s) in question together with details of their management have been submitted to and approved in writing by the Local Planning Authority. The facilities, which shall include the provision of wheeled refuse bins, shall be provided in accordance with the approved details prior to the occupation of the building(s) that they are intended to serve and thereafter permanently retained.
Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection and that they will be maintained to a satisfactory condition in order to avoid any potential adverse impact on the quality of the surrounding environment.
21. No commencement of construction of a building shall start on the non-residential development until details for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of the development and shall thereafter be retained unless otherwise subsequently agreed, in writing, by the Local Planning Authority.
Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment
22. Prior to the commencement of development, evidence that the development is registered with either an accreditation body under the Code for Sustainable Homes or to the relevant superseding nationally required standards shall have been submitted to and agreed, in writing, by the Local Planning Authority.
Reason: To ensure that the development is designed to be sustainable and will make efficient use of energy, water and materials.
23. Within 3 months of the first occupation of any dwelling within a phase or part thereof hereby approved, a post-construction confirmation certificate issued by an accredited body confirming that the dwellings have either achieved a Code for Sustainable Homes rating of Code Level 3 or have been approved to the nationally required standard shall be submitted and agreed, in writing, by the Local Planning Authority.
Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.
24. No works shall start on the non-residential development until evidence that the development is registered with a BREEAM certification body (or the relevant superseding body) and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.
Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

25. **The development hereby permitted shall be undertaken in accordance with the Stage 2 Archaeological Evaluation prepared by CAT (ref Report 786) dated August – September 2014** ~~No works shall take place on any phase or part thereof that is not covered by the archaeological evaluation submitted as a part of the outline planning application until a supplementary archaeological evaluation of that area has been carried out by a suitably qualified competent person in accordance with a specification previously submitted to and approved in writing by the Local Planning Authority. Such~~ **The** evaluation shall be to be undertaken prior to any operations which may disturb or alter the level or composition of the land from its state at the date of this permission. For the purposes of this condition, the specification shall include proposals for a programme of further archaeological excavation and recording if archaeological remains are identified.
Reason: The investigation is required to ensure that any archaeological remains on the site are recorded and preserved where possible.
26. **The development shall be undertaken in accordance with drawing No. 4212-726 Rev C Alternative Boxted Road Junction.** ~~Notwithstanding the details submitted, no works shall commence on site until an alternative design for the junction off Boxted Road (located north of the former Severalls Hospital site access and which co-ordinates with emerging proposals at Severalls Hospital) has been submitted to and approved in writing by the Local Planning Authority. Land parcels R1, R2 and R3 (as defined by the Development Framework Plan) shall not be occupied until the new junction off Boxted Road has been constructed in accordance with the agreed details.~~
Reason: To secure a more appropriate design of junction In the interest of highway safety and the efficient operation of the highway network
27. ~~Prior to the commencement of development of land parcels~~ **the occupation of R5 and R6 (as defined by the Development Framework Plan) a scheme showing details of a priority junction from the A134 Nayland Road shall be submitted to and approved in writing by the Local Planning Authority. The priority junction shall include but not be** **shall be built with** ~~limited to a minimum 70 x 2.4 x 70 metre visibility splay and shall be maintained clear to the ground at all times. Land parcels R5 and R6 shall not be occupied until a priority junction from the A134 Nayland Road has been constructed in accordance with approved drawing.~~
Reason: In the interest of highway safety and the efficient operation of the highway network.
28. **No works shall start on residential parcels R18 or R19 (as defined by the Development Framework Plan) until the works to prohibit motorised traffic from the application site using Braiswick Lane as shown on drawing numbers 15342/PS2-100A, 15342/PS2-102A, 15342/PS2-103A, 15342/PS2-LPA and MMA13642/001R1 have been implemented. A scheme for the long term management and maintenance for these works shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of these works. The works shall be**

implemented in accordance with the approved details (whilst maintaining existing access rights along Braiswick Lane) and the works shall be maintained in perpetuity in accordance with the approved details.

~~R25 (as defined by the Development Framework Plan) of the development hereby permitted, until a scheme to prohibit motorised traffic from the application site using Braiswick Lane (whilst maintaining existing access rights along Braiswick Lane) together with details for the long term management and maintenance of the proposed scheme shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to occupation of any dwelling on parcels R18 to R25 and shall be maintained in perpetuity thereafter in accordance with the approved details.~~

Reason: In the interest of highway safety and the efficient operation of the highway network.

29. No works shall take place on any phase (as defined by the Strategic Phasing Strategy) of the development hereby permitted until details of the design, layout, levels, gradient, materials and method of construction of the proposed road(s) and highway for that phase of development have been submitted to and approved in writing by the Local Planning Authority. This information shall include details of all traffic calming necessary to ensure that the primary street, the highway link between the A134 Nayland Road Diversion and Boxted Road and the residential parcels (R1 to R25) adhere to vehicle speeds of 20mph or less. No dwelling or building within any phase of development shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved details to base course level. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months from the occupation of such dwelling(s). All roads and footways providing access to non-residential development shall be completed in accordance with the approved details before the first occupation of that development.

Reason: To ensure that all proposed roads and highway are satisfactory in terms of highway capacity, safety, design, quality of materials and finished work.

30. Notwithstanding the details accompanying the application, the design and layout of the Primary Street, the diverted A134 and the new link road between Nayland Road and Boxted Road shall be amended as necessary to accommodate an avenue of trees. The additional details shall either be submitted as a single submission or concurrently with the reserved matters for each Phase that includes these roads / streets or parts thereof. The development shall be implemented in accordance with agreed details prior to their adoption.

Reason: In the interest of visual amenity, to enhance the biodiversity and to ensure that the development integrates satisfactorily within its surrounding context.

31. **Condition deleted: the works have been built under application 121272**
~~No works shall commence on land parcels R5 and R6 (as defined by the Development Framework Plan) of the development hereby permitted until details of the new access arrangements to existing properties on Nayland Road have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details and brought into operation concurrently with the opening of the A134 Nayland Road Diversion to general public use.~~
~~Reason: To ensure that the existing properties in Nayland Road have appropriate vehicular access arrangements following the diversion of the A134 Nayland Road and the implementation of this development.~~
32. **Condition deleted: the works have been built under application 121272**
~~No works shall commence on land parcels R7 and R8 (as defined by the Development Framework Plan) of the development hereby permitted until details of the new access arrangements to Fords Lane and Howards Croft have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details prior to the closure of the existing Fords Lane junction onto Nayland Road.~~
~~Reason: To ensure that the existing properties in Fords Lane and Howards Croft have appropriate vehicular access arrangements following the closure of existing Fords Lane junction onto Nayland Road and the implementation of this development.~~
33. No commencement of any phase or part thereof of the development shall take place until details of the layout, construction specification and materials of the following for that phase or part thereof have been submitted to and approved in writing by the Local Planning Authority:
- a. footpath, cycleways or shared surfaces with each phase
 - b. footpaths and cycleways connections to adjacent phases of the development hereby permitted;
 - c. footpaths and cycleways connections from any phase of the development hereby permitted to existing and/or proposed Public Rights of Way, Bergholt Road, Mile End Road, Nayland Road, Boxted Road and Boxted Road Link; and
 - d. any improvements required to existing Public Rights of Way and;
 - e. any new Public Rights of Way required either within or adjacent to the application site.
- No occupation of any phase of the development or part thereof shall take place until the agreed details have been implemented and made available to the general public unless the Local Planning Authority first gives written approval to any variation.
- Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking
34. No phase of the development hereby permitted or part thereof shall commence until the following details for that phase or part thereof have been submitted

for that to and approved in writing by the Local Planning Authority:

- a. details of the bus service or services intended to serve that part of the development;
- b. the locations and specification of bus stops (the maximum distance between bus stops shall be 400m);
- c. any required new off site and/or improved existing off site bus stops; and d. any required on site bus turn round and/or layover facilities (temporary and/or permanent).

No occupation of that phase of the development shall take place until the agreed details have been provided.

Reason: To protect highway efficiency of movement and safety.

35. No equipment, machinery or materials shall be brought onto the site for the purposes of any phase of the development hereby permitted or part thereof until a detailed Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837 have been submitted to and approved in writing by the Local Planning Authority. No equipment, machinery or materials shall be brought onto any phase of the development for the purposes of the development until fencing for the protection of retained trees, hedges and/or shrubs has been erected in accordance with the approved details, and the fencing shall be retained in place until all equipment, machinery and surplus materials have been removed from a phase of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority.

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

36. No works including the routing of services shall take place under the crown spreads of existing trees or the root protection area as defined by BS5837 (which ever is greater), or within 2 metre of any retained hedgerow unless a detailed Construction Specification / Method Statement for their protection, has been submitted to and approved in writing by the Local Planning Authority. The installation of any underground service shall not take place other than in complete accordance with the approved Construction Specification/ Method Statement.

Reason: To ensure that no underground utility services have an adverse impact on the health of trees and mature hedgerows that are an intrinsic part of the landscape character and are identified as being retained within the development site.

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

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

38. No works permitted by reserved matters application(s) shall commence until

full details of both hard and soft landscape proposals for that phase or part thereof have been submitted to and approved in writing by the Local Planning Authority. These details shall include, as appropriate, proposed finished levels or contours, means of enclosure, pedestrian and cycle access and circulation areas, hard surfacing materials, water features, minor artifacts and structures (e.g. furniture, play equipment, dog litter bins, litter bins, boardwalks, signs, street lighting, external services, etc), and proposed functional services above and below the ground. Soft landscape details shall include planting plans, construction specifications (including cultivation and other operations associated with plants and grass establishment), schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetable and monitoring programmes. The landscaping scheme shall be carried out in accordance with the agreed details, the implementation timetable and monitoring programmes.

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.

39. Prior to the commencement of any development permitted under reserved matters application(s), a Landscape Management Plan for that phase or part thereof 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 complied with 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.

40. Within each Phase (as defined by the Strategic Phasing Strategy) of the development hereby permitted, at least 10% of the land shall be laid out for use as local open space in accordance with a scheme that shall have been submitted to and approved in writing by the Local Planning Authority. No works shall start on any phase of the development or part thereof until such a scheme (which shall include a timetable for delivery of open space) has been submitted to the Local Planning Authority.

Reason: In order to ensure that the development provides an adequate provision of open amenity space within the residential land parcels that is usable for public enjoyment after the development is completed.

41. **The development hereby permitted shall be implemented in accordance with the Ecological Design Scheme Supplementary Ecological Information Rev A received on 5 March 2015.** ~~Prior to the commencement of development, a specification for supplementary ecological surveys (including birds, bats, newts and reptiles) on the development site to be carried out by a suitably qualified independent ecologist shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include the methodology and timetable for the checking surveys~~

~~and submission of a report detailing the results of the surveys. The report shall also identify any mitigation measures required as a result of the surveys for any construction works or clearance of vegetation. The specification and mitigation measures shall be implemented as approved.~~

~~Before development commences an Ecological Design Scheme (EDS) shall be submitted to and approved in writing by the Local Planning Authority for the ecological mitigation, compensation and enhancement measures proposed within the development site incorporating the principles set out in the Environmental Impact Assessment. The scheme, as approved, shall be implemented throughout the construction and operational phases of the development.~~

Prior to the commencement of the development **on the relevant phase** a post construction monitoring scheme for the monitoring of protected species on the development site for a minimum period of five years from commencement of the bringing into operation the development, including provision for annual reports of that monitoring, and details of any further works required to mitigate any undue adverse effects found shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented as approved.

Reason: To ensure the protection of wildlife during the course of this development and to ensure that there is appropriate mitigation for any ecological interest on the site.

42. The submission of the reserved matters applications shall demonstrate that they have taken full account of the relevant requirements and measures specified within the EDS and will implement all measures in accordance with the EDS.

Reason: To ensure that there is appropriate mitigation for any ecological interest on the site.

43. The long-term management of the mitigation, compensation and enhancement areas identified on the site-wide plan in the EDS shall be set out within an Ecological Management Plan (EMP). The EMP shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The EMP shall include details of the mechanisms by which the long term implementation of the EMP will be secured. The EMP shall be implemented as approved.

Reason: To ensure the long term management of the proposed mitigation works.

44. Prior to the commencement of any phase or part thereof a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that light spillage from that part of the development into the areas designed primarily as Green Infrastructure would not be detrimental to wildlife and in particular bats. Thereafter the lighting scheme shall be implemented and retained in accordance with the approved details.

Reason: To protect the habitat and areas of foraging for bats.

45. **The development shall be undertaken in full accordance with the**

Colchester North Green Infrastructure Strategy prepared by LDA and dated October 2014. ~~No phase of the development (as defined by the Strategic Phasing Strategy) shall commence until a Green Infrastructure Strategy (covering a period of 15 years or until completion of the development hereby permitted, whichever is the later) for that phase has been submitted to and approved in writing by the Local Planning Authority. The Green Infrastructure Strategy shall take into full account of the relevant requirements and measures specified within the EDS and shall set out how the development contributes to multi-functional Green Infrastructure (G1 to G25 and W1 and W2) with reference to (but not limited to) the following areas:-~~

- ~~• Phasing of Implementation of Green Infrastructure;~~
- ~~• Linkages between different phases~~
- ~~• Landscape character, setting and management;~~
- ~~• Biodiversity and access to nature;~~
- ~~• Water management;~~
- ~~• Climate change adaptation;~~
- ~~• Healthy, cohesive communities;~~
- ~~• Green travel;~~
- ~~• Green specifications;~~
- ~~• Standards and facilities; and~~
- ~~• Measures to ensure the Green Infrastructure towards the specific GI projects and objectives described in the Colchester GI Strategy, and the Haven Gateway GI strategy.~~

~~The development shall be carried in accordance with the approved Green Infrastructure Strategy.~~

Reason: To ensure that the development provides adequate Green Infrastructure across the site that delivers a range of multiple benefits for the local community and that help protect the environment.

46. Applications for the approval of each reserved matters submitted pursuant to conditions 1 and 2 shall be in accordance with the Green Infrastructure Strategy as approved. In addition reserve matters applications shall provide site specific details for each Green Infrastructure area (G1 to G25 and W1 and W2) as and when they come forward which shall include as a minimum:

- Details of ground modelling;
- Planting / sowing plans;
- Hard surface materials
- Minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, lighting, etc)
- Proposals for restoration
- Schedules of plants, noting species noting planting sizes and proposed numbers/densities where appropriate;
- Written specifications (including cultivation and other operations associated with plant and grass establishment;
- Implementation timetable and monitoring programmes for new species and/or habitat creation areas.
- Details of existing and proposed footpaths and cycleway, their surface

treatment proposed;

- Where appropriate details of children's play provision including play equipment and associated fencing/means; and
- Details of Sustainable Drainage (SUDs) measures, including water features.

The development shall be carried out in accordance the agreed details.

Reason: To ensure that the development provides adequate Green Infrastructure across the site that delivers a range of multiple benefits for the local community and that help protect the environment.

47. No works shall take place until a ~~detailed~~ surface water drainage strategy (the Drainage Strategy) for each phase (as defined by the Phasing Strategy) has been submitted to approved in writing by the Local Planning Authority. The Drainage Strategy shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The Drainage Strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 annual probability critical storm (including climate change allowances over the lifetime of the development) will not exceed the run-off from the undeveloped site following the corresponding rainfall event and that any surface water volumes exceeding these rates can be attenuated within control measures constructed within the site. **Following the approval of the Drainage Strategy, a detailed Surface Water Scheme for each phase, which shall accord with the details set out in the Drainage Strategy, shall be submitted to and approved in writing by the Local Planning Authority.** ~~The Drainage Strategy for each phase shall be constructed in accordance with the approved details before each phase is commenced.~~ The drainage scheme shall also include:

- Details of the location and sizing of the drainage systems to dispose of the surface water;
- Details of pollution prevention measures to be installed;
- The off-site discharge of surface water to existing watercourses, will be restricted to existing greenfield rates;
- Attenuation storage shall be provided to cater for the 1 in 100 year critical storm plus allowance for climate change;
- Details of how surface water will be conveyed to the proposed system and calculations demonstrating that conveyance networks are appropriately sized;
- Details of how any system exceedance and flood flow routes will be managed within the site;
- Details of the future adoption and maintenance of the proposed surface water scheme for the lifetime of the proposed development.

The development shall be implemented in accordance with the Drainage Strategy / Surface Water Scheme prior to the occupation of the properties and ~~The scheme shall be fully implemented and subsequently maintained,~~ in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To prevent the increased risk of flooding, both on and off site.

48. No works shall start on any development granted reserved matters approval until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

49. No works shall start on any development granted reserved matters approval until an investigation and risk assessment for that Phase 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.

50. No works shall start on any phase or part thereof of the development granted reserved matters approval until a detailed remediation scheme to bring that phase or part thereof 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 must be prepared, and is subject to the approval in writing of 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.

51. No works shall start on any phase or part thereof of the development granted reserved matters approval other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved, unless otherwise agreed, in writing, by the Local Planning Authority. 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.

52. 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 49 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 50 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 51.

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.

53. Prior to the implementation of any phase or part thereof of the development permitted by this application or development granted approval under reserved matters application(s) pursuant to conditions 1 or 2, a Construction Management Plan for the relevant phase or part thereof of the development shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with each approved Construction Management Plan(s). Each Construction Management Plan shall include the following matters:

- Site compound position, parking, site parking and turning for vehicles of site personnel, operatives and visitors;

- Loading and unloading of plant and materials
- Storage of plant and materials;
- A Construction Traffic Management Plan (to include routing of heavy construction vehicles to and from the site, details of the construction access arrangements, details of signage to be provided at the site entrance and at locations along specified routes and measures for traffic management).
- Details of any temporary hardstanding
- Piling techniques and hours and duration of any piling operations;
- Provision of boundary hoarding and lighting;
- Method for the control of noise with reference to BS5228 together with a monitoring regime details of proposed means of dust suppression and noise mitigation;
- Measures to reduce vibration and mitigate the impacts on sensitive receptors together with a monitoring regime
- Details of measures to prevent mud from vehicles leaving the site during construction.
- Dust and air quality mitigation and monitoring (to have regard to the measures outlined in the Environmental Statement)
- Water management including waste water and surface water discharge
- Method statement for the prevention of contamination of soil and groundwater and air pollution, including the storage of fuel and chemicals,
- A Site Waste Management Plan.
- Community liaison including a method for handling and monitoring complaints, contact details for site managers, arrangements for the display of site contact details and the nature of the proposed development in each area.

Reason: To minimise the environmental impacts of the construction process for local residents and users of the adjacent highway network and to prevent the risk of pollution (noise, air and dust and of the water environment).

54. No phase of development or part thereof shall be occupied until a scheme for the provision of fire hydrants (or any other suitable alternative water supply), together with details of their location, specification and a programme for their provision has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: In the interest of fire safety.

55. Prior to the commencement of development on the Neighbourhood Centre (as defined by the Development Framework Plan) details of fast electric charging points (including numbers and location) shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of this part of the development.

Reason: in order to promote more sustainable modes of transport.

56. No development shall be occupied/brought into use until the final report of the results of the archaeological evaluation for that part of the site has been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that there is an appropriate record of any archaeological remains on the site.
57. No part of the development hereby permitted shall be occupied until the Northern Approaches Road between Mill Road and Axial Way is open for use by general traffic.
Reason: In the interest of highway safety and the efficient operation of the highway network and to accord with the terms of the Environmental Statement.
58. No more than 250 dwellings in total shall be occupied until the works at Junction 28 on the A12 have been completed as shown on drawing number VN20059-555-C and made available for general public use.
Reason: In the interest of highway safety and the efficient operation of the highway network.
59. No more than 460 dwellings in total shall be occupied until the works shown drawing number VN20059-702-B have been completed in accordance with detailed designs that shall have previously been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt works these works shall include creation of the A134 Nayland Road Diversion, the Primary Street junction with the A134 Nayland Road Diversion and a new access to Fords Lane, Howards Croft and the former A134 Nayland Road. The development shall be implemented in accordance with the agreed drawings.
Reason: In the interest of highway safety and the efficient operation of the highway network.
60. No more than 460 dwellings in total shall be occupied until the works shown on drawing number VN20059-704-C and VN20059-705-C have been completed and made available for general public use. For the avoidance of doubt these works shall include the widening of the Northern Approaches Road southbound approach to its junction with Mill Road and a dedicated left-turn lane between the Northern Approaches Road northbound carriageway and the Boxted Road Link.
Reason: In the interest of highway safety and the efficient operation of the highway network and in order that the development promotes public transport, walking and cycling and limits the reliance on the private car.
61. No more than 920 dwellings in total shall be occupied until the works shown drawing number VN20059-712-C (with the exception of the junction off Boxted Road located north of the former Severalls Hospital site access which is subject to condition 26) have been completed and brought into general use. For the avoidance of doubt works these works shall include the creation of a highway link between the A134 Nayland Road Diversion and the agreed junction off Boxted Road located north of the former Severalls Hospital site access and a toucan crossing on the Boxted Road Link, east of the Fords Lane

Roundabout.

Reason: In the interest of highway safety and the efficient operation of the highway network.

62. **Residential Parcels R17 to R19 and 68 dwellings on parcel R16 (as defined by the Development Framework Plan) of the development hereby permitted shall not be occupied until the Primary Street between Parcel R16 and Mile End Road, via Bartholomew Court has been completed in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.**

Reason: In the interest of highway safety and the efficient operation of the highway network and in order that the development promotes public transport, walking and cycling and limits the reliance on the private car.
~~Residential Parcels R18 to R25 (as defined by the Development Framework Plan) of the development hereby permitted shall not be occupied until the Primary Street between Parcel R16 and Mile End Road, via Bartholomew Court as shown on drawing number VN20059-706-B has been completed in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.~~

~~Reason: In the interest of highway safety and the efficient operation of the highway network and in order that the development promotes public transport, walking and cycling and limits the reliance on the private car.~~

63. Residential parcels R18 to R25 (as defined by the Development Framework Plan) of the development hereby permitted shall not be occupied until the layout of Bartholomew Court has been amended in accordance with additional drawings that shall have previously been submitted to and approved in writing by the Local Planning Authority. The additional drawings shall accord with the principles shown on drawing number VN20059-526-A and shall provide a minimum 6.75 metre wide carriageway, 2no. 2 metre (minimum) wide footways and details of the bus gate (including its location, design, construction, operation method, management; and emergency vehicle protocol). The development shall be implemented in accordance with the agreed details and thereafter retained as such.

Reason: In the interest of highway safety and the efficient operation of the highway network and in order that the development promotes public transport, walking and cycling and limits the reliance on the private car.

64. Residential parcel R18 to R25 (as defined by the Development Framework Plan) of the development hereby permitted shall not be occupied until a shared footpath/cyclepath has been completed between Parcel R16 and the existing Tufnell Way to Colchester Railway Station footpath/cyclepath and brought into general public use. The route of footpath/cyclepath shall utilise the land coloured yellow on drawing number VN20059-707-B and include removal of the existing zebra crossing and provision of a toucan crossing in Bergholt Road as shown on drawing number VN20059-708-B.

Reason: In the interest of highway safety and the efficient operation of the

highway network and in order that the development promotes public transport, walking and cycling and limits the reliance on the private car.

65. **The development shall be implemented in accordance Framework Travel Plan dated September 2015 ref VN50453 and Residential Travel Plan dated September 2015 VN50453. The approved travel plans shall be implemented upon first occupation of each part of the development.**

~~No part of the development shall be brought into beneficial use until a Framework Travel Plan (FTP) for the development hereby approved has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highways Agency and the local highway authority. No individual building or phase of development hereby approved shall be brought into beneficial use until a Tenant Travel Plan (TTP) has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highways Agency. The approved Travel Plans shall be implemented upon first occupation of each part of the development and shall provide for / include the following:—~~

- ~~• the appointment of a Travel Plan Co-ordinator • the collection and recording of baseline data on travel plan patterns~~
- ~~• agreed targets to be achieved for modal share~~
- ~~• details of the specific measures to be implemented to promote the use of suitable modes of transport and details of the ways in which these will be implemented in order to meet the identified targets;~~
- ~~• details of the means by which the Travel Plan will be reviewed and the corrective measures to be employed in the event that the identified targets are not met.—~~

Monitoring shall be carried out in accordance with **the Framework Travel Plan and Residential Travel Plan** ~~the approved details~~ and the results of the monitoring shall be submitted to the Local Planning Authority within one month of the end of each monitoring period. Where the targets are not achieved, the Travel Plan co-ordinator will be notified in writing by the Local Planning Authority and the Travel Plan shall then be reviewed and updated and submitted to the Local Planning Authority for approval within three months of receipt of the Local Planning Authority notification. The updated Travel Plan shall be implemented within three months of the date of the Local Planning Authority's approval.

Reason: In the interest of highway safety and the efficient operation of the highway network and in order the development promotes public transport, walking and cycling and limits the reliance on the private car.

66. The buildings on the land to which the reserved matters application(s) relate for the development hereby permitted shall not be occupied until the associated parking areas and manoeuvring areas have been drained and surfaced in accordance with the details approved in writing by the Local Planning Authority. The facilities so provided shall not thereafter be used for any purpose other than the parking and manoeuvring of vehicles, unless

otherwise agreed in writing by the local planning authority.

Reason: To ensure the satisfactory provision of parking facilities in the interest of highway safety and the amenity of the area, and to maximise the efficient use of land.

67. a) No development shall be occupied within the relevant phase, as approved under Condition 11, that includes the provision of playing fields until the following documents have been submitted to and approved in writing by the Local Planning Authority:
- i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could affect playing field quality; and
 - ii) Based on the results of the assessment to be carried out pursuant to (i) above, a detailed scheme for the laying out and construction of the football pitches and cricket squares. The scheme shall include a written specification of soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation as well as details for the provision of car parking and changing facilities.
- b) The approved scheme shall be carried out in accordance with the timeframe approved under Condition 11 of this permission or prior to the opening of the community centre whichever is earlier unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose.

68. No development shall be occupied within the relevant phase as approved under Condition 11 until a schedule of playing field maintenance (including a programme for implementation for a minimum period of 3 years) has been submitted to and approved in writing by the Local Planning Authority. The sport pitches shall be maintained in accordance with the agreed playfield field maintenance scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the playing field is first established as a functional playing field to an adequate standard and is fit for purpose.

69. The playing fields and pitches shall be constructed and laid out in accordance with approved details and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011).

Reason: To ensure the quality of pitches is satisfactory for their intended purpose.

70. No development within the Neighbourhood Centre (as defined by the Development Framework Plan) shall be occupied or brought into use until a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the

current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

71. All lighting installed within the development hereby permitted (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 rural, small village or dark urban areas, and shall thereafter be retained and maintained in accordance with these guidelines.

Reason: to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

72. All residential properties located more than 400m from a bus stop (as agreed under condition 34 and measured along the most direct footpath link) shall be provided with charging points for electric / battery operated cars. The details and locations of the charging points shall be agreed in writing by the Local Planning Authority prior to the commencement of construction of the relevant properties and shall be installed in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that all parts of the proposal site is accessible by more sustainable modes of transport.

73. The public realm serving the secondary school and the Neighbourhood Centre (as shown on the Movement Network Plan) shall be used for pedestrian and cyclist only (except in a case of an emergency). Vehicular access to the secondary school site shall be via residential land parcel R4 and R9 (as defined on the Development Framework Plan) unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety and to ensure that it part of the site is fully accessible by cycling and walking.

74. The car parking arrangements for the residential and non-residential development shall accord with the Council's adopted guidance on parking standards (Parking Standards Design and Good Practice 2009 or relevant succeeding guidance). The car parking arrangements agreed as a part of reserved matters applications shall be permanently kept available for their intended purpose.

Reason: To ensure the satisfactory provision of car parking facilities in the interest of highway safety and the amenity of the area, and to maximise the efficient use of land.

75. Until the landscape scheme for each Phase (as defined by the Strategic Phasing Strategy) of the development hereby permitted or parts

thereof has been submitted to, and approved in writing by, the Local Planning Authority, all existing trees, shrubs and hedgerows on the site shall be retained and shall not be felled, lopped or topped without the prior written consent of the Local Planning Authority. If any existing trees, shrubs or hedgerows are removed without such consent or if any become dead or dying or seriously diseased or are severely damaged, they shall be replaced with others of a species, number, size and in positions to be agreed in writing with the Local Planning Authority, such replacement to take place within the first planting season after the Local Planning Authority's written agreement. Any works to existing trees, shrubs and hedgerows which may prove necessary shall be carried out in strict accordance with a written scheme to be submitted to and approved in writing by the Local Planning Authority prior to the carrying out of those works.

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

76. No construction works on any part of the development hereby granted shall take place before 07:30 hours or after 18:00 hours on any weekday, nor before 8:00 hours or after 13:00 hours on any Saturday nor at all on any Sunday or Bank or Public Holiday.

Reason: To protect the amenity of local residents.

77. The uses hereby permitted within the Neighbourhood Centre as shown on parcel NC1 and NC2 of the Development Framework Plan shall not exceed the following for those specific uses below:

- The total gross internal area (GIA) of the food store shall not exceed 2,500 square metres (sqm);
- Other than the food store, the combined GIA of Class A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes) A4 (drinking establishments), and A5 (hot food takeaways), and B1 (office) shall not exceed 1,000sqm GIA in total and no single unit shall exceed 300sqm GIA.

The development shall be implemented in accordance with above floor size unless otherwise agreed in writing by the Local Planning Authority.

Reason: To define the terms of the permission and to ensure that the development has an appropriate mix of retail uses at the right scale to comply with the town's retail hierarchy and future employment provision.

78. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re enacting that Order with or without modification), no mezzanine floors shall be inserted into the food store.

Reason: In order not to prejudice the primary shopping role of the town centre and the shopping hierarchy of Colchester.

79. The Neighbourhood Centre shall contain no more than two A5 (hot food takeaways) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development has the right mix of uses and is not dominated by fast food takeaways.

80. All doors allowing access and egress to the non-residential buildings shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site.

81. All ventilation of steam and cooking fumes to the atmosphere shall be suitably filtered to avoid nuisance from smell, grease or smoke to local residents. Details of the nature and location of such filtration equipment, which will be required for any units, shall be submitted to and approved in writing by the Local Planning Authority. This equipment shall thereafter be installed in accordance with the approved details before the first occupation of the building/unit to which it relates.

Reason: To avoid undue loss of amenity from smells, fumes or noise.

82. No plant or machinery including condensers, compressors, ducting or other equipment shall be installed unless the details of such equipment have been agreed in writing by the Local Planning Authority. The plant and machinery shall thereafter be retained in accordance with the agreed details.

Reason: To avoid undue loss of amenity from smells, fumes or noise.

83. The Community Building hereby permitted shall be used as a Community Centre (i.e. where members of a community gather for group activities, social support, public information and other purposes) and for no other purpose (including any other purpose in Class D2 'Assembly and Leisure' of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: For the avoidance of doubt as to the scope of this consent.

84. The Neighbourhood Centre uses shall not be open outside the following hours 07.00 hours to 23.00 hours, Mondays to Saturday and 08.00 hours to 22.00 hours on Sundays and bank holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the residential and general amenity of the area from any harmfully polluting effects, such as noise and vibration.

85. The Community Building shall not be open outside the following hours 08.00 hours to 23.00 hours, Mondays to Saturday and 08:00 hours to 22.00 hours on Sundays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the residential and general amenity of the area from any harmfully polluting effects, such as noise.

86. No deliveries shall be taken at or despatched from the neighbourhood centre

or activities within service yards shall take place outside of the hours of 7.00 to 22.00 Mondays to Saturday and 8:00 to 18:00 on Sundays and Bank Holidays.

Reason: To protect the residential and general amenity of the area from any harmfully polluting effects, such as noise and vibration.

- 87 **No works permitted by reserved matters application(s) for residential development shall commence until full details of a scheme to mitigate the likely effects to nearby European sites in terms of increased recreational disturbance has been submitted to and approved in writing by the Local Planning Authority. These details shall be substantially in accordance with the Chesterwell, Colchester, Information Towards a Habitats Regulations Assessment dated 03 June 2019. The scheme of mitigation shall be carried out in accordance with the agreed details and implemented prior to the occupation of the units that it is intended to serve / mitigate the impact of.**

Reason: To ensure that there is a suitable scheme to to mitigate the likely off-site effects to European sites in terms of increased recreational disturbance.

- 88 **This permission shall not be exercised in addition to the extant outline planning permission (ref 121272) in respect of land parcels R1, R2, R3, R11 to R25, OSF1, OSF2, G1, G2, G3, G4, G12, to G25, W2 (as defined by the Development Framework Plan) but shall be an alternative to that permission in respect of these land parcels. Should one of the permissions be implemented in respect of the aforementioned land parcels (with the exception on the primary road proposed under application 191358), the other permission shall not be implemented in respect of those particular parcels.**

Reason: In order to ensure that planning permissions 121272 and the development permitted by this permission are not jointly implemented.

- 89 **No more than 160 dwellings shall be occupied on Residential Parcels R20 to R25 (as defined by the Development Framework Plan) until the Primary Street between parcel R16 and Mile End Road via Bartholomew Court as shown on drawing no VN20059-706-B and VN20059-526-A - Bartholomew Court Bus Gate has been constructed and made available to bus use.**

Reason: In the the interest of promoting sustainable modes of transport, the efficient operation of the highway network and proper planning.

Informatives

(1) Informative on Noise and Sound Insulation Competent Persons

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

(2) Informative on Conditions Stating Prior to Commencement Occupation

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

(3) 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.

(4) Non Standard Informative

Written approval is required for the variation of the approved plans and/or drawings. Approval for amendment may not be given if, in the opinion of the Local Planning Authority, the proposed variation creates new environmental impacts which exceed the range or scale of those assessed and measured in the Environmental Statement and which the Local Planning Authority considers may require further or additional mitigation measures.

(5) Non Standard Informative

The development of the land parcel NC1 (as shown by the Development Framework Plan) shall include a pedestrian / cycleway of a minimum 3m width along the west edge of the land connecting land parcel R9 and/or R10 to the public realm serving the secondary school and neighbourhood centre (as defined by the Movement Network Plan).

(6) Informative on Tree Planting within the Highway

PLEASE NOTE that the applicant is advised by Essex County Council Highway Authority that all proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance of that tree by them. The Local Planning Authority is unlikely to agree to any planting within the highway until they receive confirmation that this sum has been agreed and secured by the Highway Authority

(7) Informative on Public Rights of Way

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

- (i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.
- (ii) The granting of planning permission does not authorise the undertaking of

any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

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

(8) Informative on Tree Preservation Orders

PLEASE NOTE: This site is the subject of a Tree Preservation Order.

(9) Non Standard Informative Highways

The Primary Street and highway link between the A134 Nayland Road Diversion and Boxted Road shall, with the exception of any traffic calming/management features, have a minimum carriageway width of 6.75 metres. The whole of the proposal site, including the Primary Street and highway link between the A134 Nayland Road Diversion and Boxted Road shall be subject to a 20 mph speed limit and laid out and constructed to ensure all vehicles adhere to the 20 mph speed limit.

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. Access to existing properties should be retained at all times during construction of the highway works. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

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

(10) Non Standard Informative

Environment Agency: Any culverting or works affecting the flow of a watercourse requires the prior written Consent of Essex County Council under

the terms of the Land Drainage Act 1991 & the Flood & Water Management Act 2010. The applicant is advised to consult with Essex County Council prior to developing detailed proposals for the modification of any watercourse on this site. Any culverting or works affecting the flow of a watercourse requires the prior written Consent of Essex County Council under the terms of the Land Drainage Act 1991 & the Flood & Water Management Act 2010. The applicant is advised to consult with Essex County Council prior to developing detailed proposals for the modification of any watercourse on this site.

(11) Non Standard Informative

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

Trade Effluent

An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

(12) Non Standard Informative

Ecology

Where any species listed under Schedule 2 or 4 of the Conservation of Habitats and Species Regulations 2010 is present on the site (or part thereof) in respect of which this permission is hereby granted, no works of site clearance or construction shall take place in pursuance of this permission unless a licence to affect any such species has been granted in accordance with the aforementioned Regulations. A copy of the licence should be sent to the local planning authority.

(13) Non Standard Informative

The development permitted may be carried out in a phased manner such that there may be submission and approval of reserved matters for each phase of development or part thereof shown on the Strategic Phasing Strategy and such reserved matters submissions and approvals may be obtained in a staggered timeframe for each phase or part thereof. Other details, schemes and management plans referred to in the planning conditions may as a

consequence also be obtained on a phased basis.

(14) Non Standard Informative

Prior to the confirmation that educational facilities will be constructed on site, the developer shall make no reference to any on site education facilities within their marketing materials.

(15) Non Standard Informative

Three conditions have been removed since the committee resolution to ensure conformity with the Section 106 Agreement and due to a duplication; and have been re-ordered and re-numbered accordingly, in line with NPPG good practice guidance.

(16) Non Standard Informative

PLEASE NOTE: 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.

(17) Non Standard Informative

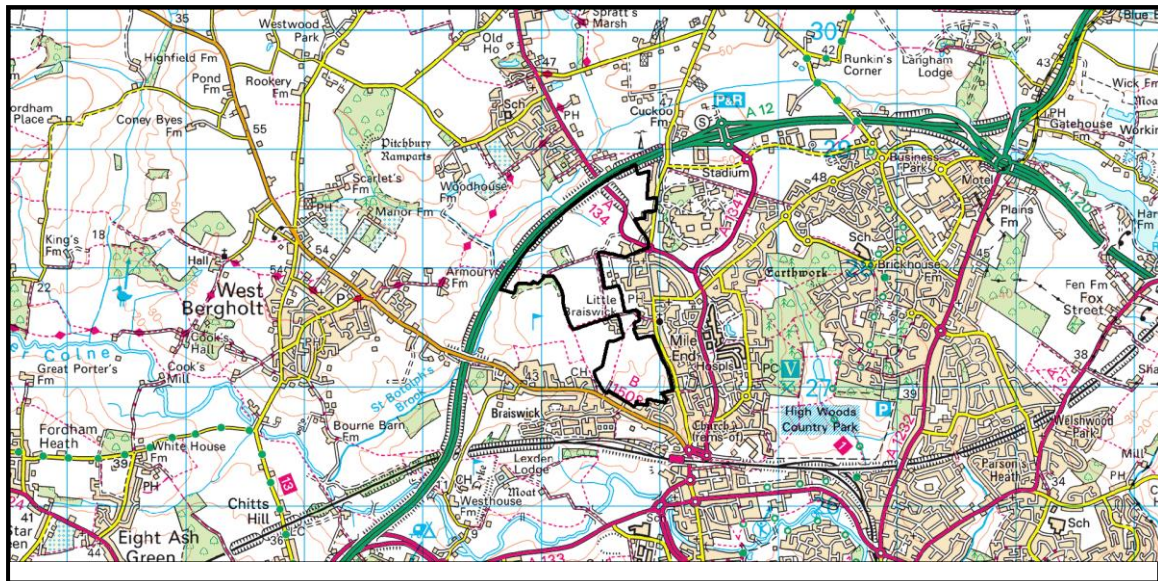
Colchester Borough Council is seeking to work with developers on all major development projects to deliver a living memorial to commemorate the centenary of the Great War. As part of the landscaping proposals associated with this development, the Council wishes to see a specimen tree or trees planted together with a commemorative plaque in dedication to all those lost in the Great War. Please contact the Council's landscape Planning Officer in Planning Projects on 01206 282472 to discuss how we can work together to deliver this appropriate and worthy project. We look forward to hearing from you.

(18) 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.

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

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



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Item No:	7.3
Application:	191581
Applicant:	Mersea Homes
Agent:	DLA
Proposal:	Application for removal or variation of a conditions 7, 8, 28, 62 following grant of planning permission. (121272)
Location:	North Colchester Urban Ext, Mile End Road, Colchester
Ward:	Mile End
Officer:	Alistair Day
Recommendation:	Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because of its association with application 183077 (called in by Cllr Goss) which is recommended for approval.

2.0 Synopsis

- 2.1 The key issue for consideration is whether the principle of serving 160 dwellings from Bartholomew Court on a permanent basis is acceptable. The report sets out the reasons for the amendment and the planning policy implications (including the potential impact on the five-year supply of housing land), the impacts on highway capacity and safety, accessibility, parking, air quality and residential amenity. The report concludes that the provision of the permanent access is not acceptable, and Members are recommended that this application is Refused.

3.0 Site Description and Context

- 3.1 The application site covers an area of approximately 103.74 hectares. In 2014 outline planning permission (ref 121272) was granted for a mixed-use development comprising up to 1,600 dwellings, a neighbourhood centre including commercial, residential and community uses, site for primary and secondary schools, strategic landscaping, green infrastructure and areas for outdoor sport facilities. This development has commenced with approximately 330 dwellings being built in the northern part of the site. The remainder of the site consists of farming and grassland defined by hedgerows and trees.
- 3.2 The site is bounded to the north by the A12, beyond which the landscape has a predominantly rural character. The eastern boundary of the site is mainly formed by the rear boundaries of the properties fronting Mile End Road, Nayland Road, Fords Lane and Boxted Road; part of the eastern boundary of the site is formed by the Mile End recreation ground. The southern boundary of the site is primarily formed by the rear boundaries of the properties along Bergholt Road, Prior Road, Golden Dawn Way and Hugh Dickson Road. The site excludes land at Braiswick Farm. The southern boundary of the site is some 550m from Colchester's main railway station and some 2km from the town centre. The western boundary of the site is formed by the Colchester Golf Club.
- 3.3 The new dwellings are served from the realigned A134 and the primary street (the development's main estate road) that will eventually run from the A134 in the north to Bartholomew Court in the south. Access via Bartholomew Court is currently proposed to be controlled by a bus gate. In addition to this, there are several points of access into the site that predate the Chesterwell development; these include Public Rights of Way.
- 3.4 The site is covered by a Tree Preservation Order (Order reference 87/10).

- 3.5 There are no international or national ecological, landscape designations within the application site. Braiswick Farm, which lies outside but immediately adjacent to the site, is listed grade II for its special architectural interest.

4.0 Description of the Proposal

- 4.1 The purpose of this S73 application is to secure an alternative permanent access to the southern part of the site (serving up to 160 dwellings). This is due to a delay in the transfer of the land in the northern part of the site.

- 4.2 The applicant proposes that the following planning conditions attached to the original outline planning permission are varied:

- Condition 7: which requires the submission of Reserved Matters in accordance with approved drawings. It is proposed that revised drawing (reference MHC002/DFP/02 Rev G) will be approved and will thereby substitute drawing MHC002/DFP/02 Rev F Movement Network Plan).
- Condition 8: which requires highway works to be constructed in compliance with specified drawings. It is proposed that revised drawing VD18773/P-100/D will substitute drawings VN20059-706-B (Primary Street Connection to Bartholomew Court Bus Gate) and VN20059-526-A (Bartholomew Court Bus Gate).
- Condition 28: which precludes works starting on residential parcels R18 to R25 unless a scheme has been approved controlling access to Braiswick Lane.
- Condition 62: which precludes occupation of residential parcels R18 to R25 until the Primary Street between parcel R16 and Mile End Road has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R25, but remains for parcels R18 and R19.
- Condition 64: which precludes occupation of residential parcels R18 to R25 until the footpath/cycleway connection to Tuffnell Way has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R22, but remain for parcels R18, R19, and R23 to R25.

- 4.3 The effect of the change is to permanently allow all vehicles associated with the construction of 160 dwellings to access Mile End Road via Bartholomew Court. The purpose of this amendment is to allow for the continuation of the Chesterwell development which would otherwise be stalled due to the existing land owner delaying the sale of the land to Mersea Homes.

5.0 Land Use Allocation

- 5.1 Predominantly residential

6.0 Relevant Planning History

- 6.1 121272 - Outline Planning Permission for a mixed use development comprising up to 1,600 dwellings, a neighbourhood centre including commercial, residential and community uses, site for primary and secondary schools, strategic landscaping, green infrastructure and areas for outdoor sport facilities, access

(in detail where specified) related infrastructure and other works and enabling works – Approved, subject to conditions and a s106 legal agreement.

- 6.2 Various reserved matters and discharge of condition applications (pursuant to the outline permission) have been approved for Phases 1 and 2 of the Chesterwell development.
- 6.3 183077- S73 application for removal or variation of a conditions 7, 8, 28, 62 following grant of planning permission. (121272) - pending.
- 6.4 191358 – reserved matter application for the details of the southern section of the Primary Street - pending

7.0 Principal Policies

- 7.1 In determining the planning applications regard has to be had to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 In this case, the development plan comprises the adopted Colchester Borough Core Strategy (adopted December 2008, amended 2014), adopted Colchester Borough Development Policies (adopted October 2010, amended 2014) and the Site Allocations (adopted 2010).
- 7.3 The Core Strategy provides strategic policies for the Borough; particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE2c - Local Centres
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

- 7.4 The Development Plan Policies provide more detailed planning policy guidance. The most relevant policies are:

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP7 Local Centres and Individual Shops
DP10 Tourism, Leisure and Culture
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP15 Retention of Open Space and Indoor Sports Facilities
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP25 Renewable Energy

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

SA CE1 Mixed Use Sites
SA H1 Housing Allocations
SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area
SA NGA1 Appropriate Uses within the North Growth Area
SA NGA2 Greenfield Sites in the North Growth Area
SA NGA3 Employment Uses in the North Growth Area
SA NGA4 Transport measures in North Growth Area
SA NGA5 Transport Infrastructure related to the NGAUE

- 7.6 The National Planning Policy Framework (2019) is a material consideration and sets out the national planning principles that guide the decision taking process. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

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

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

North Colchester Growth Area
Community Facilities
Vehicle Parking Standards

Sustainable Construction
Open Space, Sport and Recreation
The Essex Design Guide
External Materials in New Developments
Affordable Housing
Cycling Delivery Strategy

- 7.9 The Council is developing a new Local Plan (Submission Colchester Borough Local Plan 2017-2033). The whole of the emerging Local Plan was submitted to the Secretary of State in October 2017; however, the examination of the sections is taking place separately. The Section 1 examination hearing sessions were held in January and in May 2018. The Inspector had concerns with the plan's evidence base and the examination process has paused in order to allow additional work to be undertaken that would make the plan sound. Further hearing sessions are expected to take place at the end of the year. The examination of Section 2 of the emerging Local Plan is estimated to go ahead in the spring/summer of 2020 that has been submitted to the Planning Inspectorate (October 2017).

The NPPF states that decision makers may give weight to relevant policies in emerging plans according to:

The stage of preparation of the emerging plan;

The extent to which there are unresolved objections to relevant policies in the emerging plan; and

The degree of consistency of relevant policies to the policies in the Framework.

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

8.0 Consultations

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

Spatial Policy Team

- 8.2 Planning applications 183077 and 191581 both involve removal of a planning condition requiring provision of a bus gate at Bartholomew Close to restrict access by car to the Chesterwell development, also known as the Northern Growth Area Urban Extension (NGAUE). Application and details of the bus gate to control access between Bartholomew Court and the primary street. Access by car for 160 units at the southern end of the site is intended to enable early development of that area. The remainder of the 1,600 dwellings consented by the 2014 approved permission for the scheme would retain access solely via the main access to the north, with the bus gate relocated further into the southern end of the site. Application 183077 proposes that the bus gate relocation would

be temporary, while application 191581 followed 6 months later to propose an alternative option for permanent closure.

- 8.3 In the Adopted Plan, Policy SD1 Sustainable Development is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the LPA working proactively with applicants. It is noted, however, that the housing and jobs target provided in SD1 and in policy H1 Housing no longer remain current. Whilst the supply figure itself may be out of date the principle of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded to those elements of both policies. Transport policies TA1 Accessibility and Changing Travel Behaviour, TA2 Walking and Cycling and TA3 Public Transport, all support the shift to more sustainable transport modes and are considered able to be given full weight as they are compliant with the NPPF.
- 8.4 The NGAUE, is covered by Policies SA NGA1 Appropriate Uses within the North Growth Area and SA NGA2 Greenfield Sites in the North Growth Area and are also considered NPPF compliant. NGA2 refers to the requirement for the NGAUE to increase sustainability and minimise dependence on the private car through the provision of the following transport-related measures:
- On and off-site sustainable transport and highway improvements including continuous links through the site for public transport, cycling and pedestrians
 - Comprehensive travel planning to reduce the need to travel by private motor car
 - Provision of a convenient, cohesive, safe and attractive walking and cycling network to ensure local facilities are accessible
 - Provision of public transport infrastructure and services to meet local needs and link into the wider network.

Paragraph 5.120 of the 2010 Site Allocations document notes a Supplementary Planning Document (SPD) was being prepared to inform the layout of development, general planning requirements and transportation improvements. The North Colchester Growth Area SPD was subsequently adopted in June 2012. The SPD states that 'In producing this Masterplan the Council has ensured that regard to good urban design principles is what shapes structure and layout and not the traditional highway first approach...The development... will make the use of public transport and non-car modes of transport attractive and realistic alternatives to the motor car.' (page 33). Measures would be expected to support effective access for the different uses programmed for the site.' 'Given the need to accommodate public transport and non-car movement, it is considered a structural imperative to manage the main vehicle movement route into the site as well as accommodate a range of services and facilities.' (page 47).

- 8.5 These general principles were then translated into specific design solutions, i.e. introduction of bus gates to ensure the ease of making bus journeys was prioritised over car journeys. The rationale for the bus gate at Bartholomew Close is set out on page 54:

The public transport spine and main site access extend southwards through the site, maintaining a 400m bus stop catchment for the main residential zones. A bus-only link at Bartholomew Close ensures that the main spine road cannot function as a through-route for general vehicular traffic. Only buses, cyclists and pedestrians can access Mile End Road from the southern part of the site. All other vehicular traffic from the south must travel northwards on the spine road and egress the site in the north.

It is noted that 'an exception may be made if temporary vehicular access is required to allow for phasing of development and delivery of infrastructure in the most timely manner'. The first application could fall within this category if the length of the temporary period is clarified by a time-limiting condition, while the application for a permanent variation would not.

- 8.6 The NGAUE lies within the area covered by the adopted Myland and Braiswick Neighbourhood Plan and is accordingly covered by its provisions. The Neighbourhood Plan's objective for roads and transport is that developments will be supported by road and transport strategies that provide effective and environmentally friendly travel solutions, through, inter alia, maximising opportunities to walk and cycle; taking into account design documents to enable integration of North Colchester through walking and cycling and multi-use routes between and within neighbourhoods; and ensuring public transport (bus) services are frequent, reliable and clean.
- 8.7 Development of the scheme was covered by specific policies in the adopted Local Plan, so the emerging Local Plan is relevant primarily for its reinforcement of support for sustainable travel measures. The Vision for the plan states that 'new development will be designed and located to ensure that residents are, from the start, able to reach a wide range of destinations using sustainable transport methods.' Policy SG1 states that 'development will be supported where a real travel choice is provided and sustainable travel for different purposes is promoted throughout the day'. Policy DM20 Promoting Sustainable Transport and Changing Travel Behaviour states that 'the Local Planning Authority will work with developers and other partners to increase modal shift towards sustainable modes by improving accessibility of development through the promotion of walking and cycling as an integral part of development, and by further improving public transport'.
- 8.8 The Transport Assessment considers that the result of the revised access arrangements will be a small re-distribution of traffic activity associated with the development (Para 3.4.3). Even if it was agreed that traffic impact would be minimal, this does not cover the effect of the scheme on the willingness of the residents in the car-accessible units to use more sustainable travel methods. Development of the masterplan involved careful thought and incorporation of a range of supporting measures to ensure that new residents would favour sustainable travel methods from day one. Chipping away at selected elements

of sustainable transport methods is at odds with the clear policy steer on the importance of their use in the NGAUE and their incorporation into the masterplan.

- 8.9 The applicants addressed this issue in their 14 February letter providing further information to supplement 183077, arguing that the effect on sustainability is at worst de minimis and at best neutral:

The proposed modifications will continue to mean that the majority of the development (1440 of the 1600 dwellings – 90%) will continue to be served by private car access to the north only. Accessibility by sustainable modes to the south is unhindered and will continue to represent an alternative and convenient alternative to the car. For the 10% of residents in the southern part of the site, on-site services at the neighbourhood centre (including schools, shops and community facilities, as well as playing fields) will be more conveniently accessed on foot, by bicycle and bus then by car (which would require a longer journey via Mile End Road, Mill Road and then back to the neighbourhood centre). The advantages of sustainable journey choices within the site are, if anything, enhanced. Journeys from the limited southern phase of development to the train station will continue to benefit from the proximity and convenience which previously existed (and being the closest phase of development to those facilities, the most likely to be attractive and practical in sustainable transport terms). For example, journeys to the train station or town centre will still be influenced by parking restrictions and costs as they were previously, and over short distances, sustainable modes of travel are at their most attractive and convenient. Cycle, foot and bus connections are unhindered. We consider, therefore, that any dilution of sustainability credential for those travelling south from the scheme is limited and will not fundamentally undermine the sustainability credentials of the scheme as a whole.

- 8.10 The applicants contend that any reduction of sustainability is outweighed by the benefits of maintaining housing delivery rates. They note operational constraints and delays on land release that have led them to pursue an alternative development programme. No other additional options are presented, however, that might also help sustain development rates.
- 8.11 The planning balance in this instance depends on weighing up the potential harm to sustainability aims versus the benefits of facilitating housing delivery, both of which are difficult to quantify.
- 8.12 The general principles at stake are only slightly modified by the further need to consider the merits of a temporary vs. permanent change to the bus gate. A very temporary change might not be deemed to have a lasting effect on travel choices, but a change that is 'temporary' for five years or over would clearly involve the establishment of ingrained resident travel habits that would involve reliance on car use of the southern access.
- 8.13 The delay in the release of land in the central portion of the site has necessitated consideration of an alternative phasing strategy to maintain delivery rates on site. It is considered that the permanent solution conflicts with the Masterplan vision to encourage use of sustainable modes of travel from day one. A temporary solution, limited in time by condition, should ensure that the temporary time period is kept to a minimum. Additional options on delivering

the infrastructure to complete the road link as quickly as possible should be considered. It should also be ensured that links are in place (footway/cycle links) that enable residents of the southern end of the site to travel north sustainably to the proposed school and neighbourhood centre.

Environmental Protection (General)

- 8.14 Environmental Protection has no objection to the variation of the condition.

Environmental Protection (Air Quality)

- 8.15 Environmental Protection have advised that when considering the traffic data and Air Quality forecasts made in the Air Quality Impact Assessment, the proposed changes are acceptable on air quality grounds.

Highway Authority

- 8.16 From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reason:

Policy DM9 (Accessibility and Transport Sustainability) of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 states:

"The Highway Authority will ensure that the developer will minimise the number of trips by the private vehicle through the provision of alternative transport modes and/or associated infrastructure by ensuring that:

i. alternatives to private car use are considered as a first principle in assessing travel impacts on the transportation network and mitigation will be required through the application of comprehensive travel planning options, where impact is identified.

ii. all development proposals are assessed and determined against the Essex Road Passenger Transport Strategy, or its subsequent replacement, and mitigation will be required where impact is identified;

iii. all development proposals are assessed and determined against the Essex Cycling Strategy, or its subsequent replacement, and mitigation will be required where impact is identified including connection to the existing network;

iv. all development proposals are assessed and determined against the Essex Walking Strategy, or its subsequent replacement, and mitigation will be required where impact is identified including connection to the existing network;

v. all development proposals are assessed and determined against the Essex Rail Strategy, or its subsequent replacement, and mitigation will be required where impact is identified;

vi. all development proposals are assessed and determined against the Essex Schools and Colleges Sustainable Modes of Travel Strategy, or its subsequent replacement, and mitigation will be required where impact is identified;

vii. all development proposals are assessed and determined against the Essex Workplace Sustainable Business Strategy, or its subsequent replacement, and mitigation will be required where impact is identified.”

The North Growth Area Urban Extension (NGAUE) was allocated for development as part of Colchester Borough Council's Local Development Framework in 2008. Outline planning permission was subsequently granted in 2014.

- 8.17 One of the key reasons the NGAUE was allocated and subsequently granted outline planning permission is because the site is located such that those travelling to and from it would have good access to existing and proposed public transport, cycling and walking services and infrastructure.
- 8.18 To reinforce this, it was also agreed all general traffic would only be able to access the site to and from the north (via the A134 Wildeve Avenue) with access via Bartholomew Court controlled by a bus gate. By making access for general traffic as inconvenient as possible it was hoped this would encourage residents and visitors to make a trip or trips by public transport, cycling and walking, as this would be more convenient.
- 8.19 Accessibility by public transport, cycling and walking was and remains one of the key principles to the success of the site in meeting Government and local planning policy to minimise the need to travel and maximise the number of trips made by public transport, cycling and walking.
- 8.20 By allowing general traffic access via Bartholomew Court would undermine this key principle. As it would be more convenient, it is likely this would lead to more trips being made by private vehicle and less by more sustainable modes of transport such as public transport, cycling and walking.
- 8.21 Also, the outline planning permission requires the Bartholomew Court carriageway to be widened to 6.75 metres with 2 x 2 metre footways. Given that access via Bartholomew Court is to be controlled by a bus gate then it would be reasonable to expect cyclists to be in the carriageway for what will be a relatively short distance between the Mile End Road cycleway and the footway/cycleway which would be provided as part of the NGAUE's Primary Street.
- 8.22 If the bus gate is not provided as intended by the outline planning permission and therefore general traffic would have access via Bartholomew Court, given the likely significantly higher volumes of traffic and differing types of vehicles which would then be present, there should be a footway/cycleway alongside the Bartholomew Court carriageway to link the Mile End Road cycleway and the footway/cycleway which would be provided as part of the NGAUE's Primary Street. The applicant does not control enough land to deliver this, which would deter trips being made by cycle, further undermining the key principle of accessibility.
- 8.23 The proposal is therefore contrary to policy DM9 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

9.0 Parish Council Response

- 9.1 The Parish Council have stated that this application is simply to enhance sales momentum in the existing development phases by opening another point of sale. It does not bring any additional support to modal shift which Essex Highways claim as key to enabling north Colchester's transport infrastructure to cope with planned housing development. It can be argued that this application actually undermines that strategy. It further complicates the already problematic situation at Mile End Road's entry into the North Station Roundabout for south bound traffic. There is no recognition within the Application of any impact at the Nayland Road/Mill Road junction for north bound traffic. There is a danger of increased journeys in this direction e.g. from the 160 dwellings into local routes for Chesterwell Schools. It substantially affects the amenity of Bartholomew Court residents adjacent to the road, particularly during development construction phases. It is the view of MCC that the conditions associated with Outline Planning application 121272 were necessary and sensible and should remain in place.

10.0 Representations from Notified Parties

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

- The original proposal was accepted on the argument that only buses will pass through Bartholomew court.
- Making access by car easier will encourage more car trips while the original proposal (all access via the north of the development) would mean people would give more consideration as to how they make a particular trip.
- It will result in hundreds of new car journeys per day into Mile End Road which will impact on the junction of Mile End Road and the Station roundabout network, which is already difficult to exit at peak periods.
- the exit road will need widening with subsequent loss of pedestrian access.
- Cars will be turning left to access the NAR from Mill Road and as such cause further issues around the school doctors and nursery access
- the parking outside the Church is problematic - there is very little room to pass let alone when buses are there. This has resulted minor accidents; it is only a matter of time before a significant accident occurs
- Car parking for residents of Bartholomew Court will be lost and displaced into Mile End Road which has little space already
- the exit will cross a relatively newly created cycle and pedestrian path that is growing in use as connects to mainline station.
- It will have a negative effect on the living environment of those who live in the area
- The use of a bus gate may stop the road becoming a through road, however until ANPR cameras are switched on this would effectively make a lovely through road from the top of Chesterwell to the bottom
- Mile end is too over developed

- Bartholomew Court was intended as a bus only access route into and out of Mile End Road and this is an example of developers trying to sneak in amendments to the original plan to the detriment of residents already affected by this dreadful development
- One could suggest that using Bartholomew Court for private vehicle access was planned all along and such plan was cynically concealed in their original application.
- There has been no communication from the developers to local residents
- Congestion/ pollution will endanger the health of people living in the "fume canyon"
- Poor Quality Homes
- Northern Approaches Road was designed to alleviate high volume traffic from Mile End road; this is a retrograde step.
- The problem is of Mersea Homes' own making.
- This does not bode well for an 'infrastructure first approach'
- The proposal could affect bus routing.
- The Highway data is not properly evidenced.
- The Transport Statement predict 2 extra vehicles every two minutes; this is unrealistic; at rush hour this will be greater.
- Additional loading will not be imperceptible as claimed
- A permanent access was not acceptable as a part of the outline; there has been no change in circumstance and remains unacceptable.
- It is the developers responsibility to ensure that they have all the land within their control
- It may be advantageous for the developer but not for the residents.

Colchester Cycling Campaign

- 10.2 Support the bus gate as this will encourage alternative modes of transport. The benefits of the bus gate include increased walking and cycling, improved health, accident reduction, safer routes to school and a general reduction in car traffic via modal shift. Mile End Road is designated as Primary Strategic Corridor in ECC's Cycling and Walking Infrastructure plan.

Ward Councillors

- 10.3 Cllr Goss comments can be summarised as follows:

- The whole premise of this development was one road in and one out. 15% modal shift was supposed to be achieved. Opening the road breaks the principle of this development.
- The housing market has slowed. The five-year supply agreement is not going to hold water; sales will also be affected by the removal of the Help to Buy which has underpinned the housing market
- Parking will be removed from Bartholomew Court. Any loss of parking on the road needs to be reinstated elsewhere so these residents suffer no detriment. This hasn't been catered for in the plans.
- Peak traffic has issues; leaving the bottom end of Mile End Road as no traffic lights exist to control the flow of traffic will be problematic. Although residents

are expected to use the NAR to get via North Station, Mile End Road is a well-used route for local traffic and 160 more dwellings will simply increase traffic queues on Mile End Road with no way of getting out at peak times.

- Let an Inspector decide the application.

10.4 Comments from Cllr King can be summarised as follows:

- The proposal does not create an overall impact, but the pressures from this development, when allied with other new housing are already significant. The development access through Bartholomew Court may redistribute some of this pressure. However...
- The change from a bus route only to allow vehicle access for 160 households is highly undesirable as it will mean over 200 extra vehicles using this exit. At peak times the effect will be to add to queuing traffic at North Station
- The proposals will displace parking around Bartholomew Court Around 10 cars park here daily and this may bring traffic flow and car parking issues into this new part of the development. Like other new developments car parking space is already insufficient and cars elsewhere in Chesterwell regularly park on yellow lines or the pavements. Lastly
- This change departs from undertakings and assurances given to the local Mile End and Mile End Rd community. That is damaging to trust in the developers and the planning process. And it will suggest that other changes to traffic flows may follow (such as access at the south end of Chesterwell).

10.5 Comments from Cllr Coleman can be summarised as follows:

- This proposal goes against the initial planning agreement that ensured vehicles did not have access via Mile End Road but onto the newly created A134 and Northern Approach Road.
- the exit road will need widening to accommodate for buses with subsequent loss of pedestrian access.
- Car parking for residents of Bartholomew Court will be lost and displaced into Mile End Road which has little space already.
- the exit will cross a relatively newly created cycle and pedestrian path that is growing in use as connects to mainline station.
- Hundreds of new car journeys per day into Mile End Road will impact on the junction of Mile End Road and the Station roundabout network, which is already difficult to exit at peak periods.

11.0 Parking Provision

11.1 No change from the extant permission 121272

12.0 Accessibility

12.1 Accessibility issues will be considered at the reserved matters (detailed design) stage and will have due regard to the requirement of the Building Regulations and the duties imposed under the Equalities Act

13.0 Open Space Provisions

13.1 No change from the extant permission 121272

14.0 Air Quality

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

15.0 Planning Obligations

15.1 Should Planning permission be granted it is recommended that the proposed that the obligations mirror the extant planning permission and include clauses covering obligations in respect of RAMS tariff and to prevent the implementation of this permission, the extant permission and/or application 183077.

16.0 Environmental Impact Assessment

16.1 The extant outline planning permission was subject to an Environmental Impact Assessment (EIA). A s73 application is considered to be a new application under the EIA Regulations. The NPPG Reference ID: 17a-016-20140306 Paragraph 161 states that an Environmental Statement (ES) must be submitted with a s73 application for development if it is considered to be EIA development. An ES Updated ('ESU') is submitted as part of this s73 submission, which the agent has advised should be read alongside the ES and ES Addendum which supported determination of the extant outline planning application.

16.2 It is not considered that the current application would fundamentally alter the conclusions of the original ES i.e. the development would not result in significant effects.

17.0 Report

Background

17.1 Outline planning permission was granted in July 2014 for the Chesterwell development (ref 121272). This application proposed a mixed-use development comprising up to 1,600 dwellings, a neighbourhood centre including commercial, residential and community uses, site for primary and secondary schools, strategic landscaping, green infrastructure and areas for outdoor sport facilities, access (in detail where specified) related infrastructure and other works and enabling works. This permission remains extant.

17.2 Under the extant permission, the main vehicular access is located at the north of the development, off the A134. A secondary access is to be provided onto Mile End Road; this is formed by the extension of Bartholomew Court into the site and was to be restricted to bus traffic only (by the installation of a 'bus gate'). This access was to be constructed only when the development reached the southern part of the site.

The Proposal

- 17.3 This s73 application seeks planning permission to provide permanent vehicular access via Bartholomew Court to serve up to 160 dwellings. (A further S73 application has also been submitted to allow Bartholomew Court to serve up to 160 dwellings on a temporary basis (ref 183077). Under this application it is proposed to install the bus gate in the vicinity of Bartholomew Court once the primary street has been completed. The 160 dwellings would then gain access from the north as per the requirements of the extant permission)
- 17.4 To enable the permanent access of Bartholomew Court by all vehicular traffic the applicant is seeking to vary the following planning conditions of the original outline planning permission:
- Condition 7: which requires the submission of Reserved Matters in accordance with approved drawings. It is proposed that revised drawing (reference MHC002/DFP/02 Rev G) will be approved and will thereby substitute drawing MHC002/DFP/02 Rev F Movement Network Plan).
 - Condition 8: which requires highway works to be constructed in compliance with specified drawings. It is proposed that revised drawing VD18773/P-100/D will substitute drawings VN20059-706-B (Primary Street Connection to Bartholomew Court Bus Gate) and VN20059-526-A (Bartholomew Court Bus Gate).
 - Condition 28: which precludes works starting on residential parcels R18 to R25 unless a scheme has been approved controlling access to Braiswick Lane. This condition has been discharged and does not need to be carried onto any new grant of outline planning permission.
 - Condition 62: which precludes occupation of residential parcels R18 to R25 until the Primary Street between parcel R16 and Mile End Road has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R25, but remains for parcels R18 and R19.
 - Condition 64: which precludes occupation of residential parcels R18 to R25 until the footpath/cycleway connection to Tuffnell Way has been completed. It is proposed that restrictions are lifted in relation to parcels R20 to R22, but remain for parcels R18, R19, and R23 to R25.
- 17.5 Approximately 50 letters of objection have been received to this application. Broadly, these objections relate to the principle of the proposal, impacts on highway capacity and safety (including pedestrians and cyclists), parking, air quality and residential amenity.

Reason for the application and Policy Implications

- 17.6 The adopted Site Allocation Plan sets out the framework for transportation matters pertaining to the North Growth Area Urban Extension (now known as the Chesterwell development). The required highway works are elaborated on in the adopted North Colchester Growth Area SPD. In addition to required highway works, the SPD seeks to develop a layout that maximises the potential for modal shift away from the use of the private car. This is to be achieved in part by creating

a strong and accessible network of cycleways and footpaths, by promoting accessible public transport services and by having a single point of access for car users located at the northern end of the site.

- 17.7 Objection has been raised on the grounds that the proposal to create a permanent vehicular access point onto Mile End Road via Bartholomew Court would represent a dilution of sustainability principles of this development and would be contrary to the adopted SPD. Comment has also been made that the proposal represents a breach of trust and the reassurances previously provided by the developer.
- 17.8 The agent has explained that the developer has properly planned to continue development in the north but a landowner that provides for that planned delivery is not allowing this to happen. As a consequence of this, legal proceedings are underway to secure the release of this land. It is this change in circumstance that has resulted in need to amend the original access proposals. By their nature, the legal proceedings will delay the delivery of the land and interrupt the supply of housing. Because of the time lags involved, annual completions (which have been as high as 150 dwellings per annum) are now programmed to reduce to 80 dwellings this year, falling to 60 dwellings in 2020 and then zero dwellings in 2021.
- 17.9 As Members will be aware, the Council is obliged to maintain a five-year housing land supply through a plan-led system. The Council is currently able to demonstrate a five-year supply of housing land and the Chesterwell development is identified as providing 148 units per annum. Due to the issue with the land sale, housing delivery at this site is projected to fall below Borough's requirements in 2019, 2020 and 2021. The applicant owns the land at southern end of the site and if this land is brought forward, it will allow for the continuation of the Chesterwell development. Without the release of southern part of the site (which can only be facilitated by allowing Bartholomew Court to be used by all vehicles) the Council's five-year supply of housing land would be jeopardised. This in turn would make the promotion of unplanned speculative sites more likely and difficult to defend. In view of this, whilst the permanent use of the Bartholomew Court access for general traffic may conflict with the established transportation aspirations for the Chesterwell development, it will enable the continuation of the delivery of housing on an allocated housing site and reduce the potential for unplanned development elsewhere in the Borough.
- 17.10 Objections relating to the potential for this application to undermine the key accessibility principle of this development are appreciated. The agent states that the accessibility by sustainable modes to the south will continue to represent an alternative and convenient alternative to the car. They also opine that it will be more convenient for the residents of the 160 dwellings to access the planned on-site services at the neighbourhood centre (schools, shops and community facilities) on foot or by bike than by car (which will involve a longer journey via Mile End Road, Mill Road, the Northern Approaches and A134 before turning into the neighbourhood centre). Journeys to the train station will continue to benefit from the close proximity and convenience which previously existed. For example, journeys to the train station or town centre will still be influenced by parking restrictions and costs. For these reasons, the agent argues that any dilution of sustainability credential for those travelling south from the scheme will be limited and

that the proposal will not fundamentally undermine the sustainability credentials of the scheme as a whole.

17.11 Adopted policies Transport policies TA1 (Accessibility and Changing Travel Behaviour), TA2 (Walking and Cycling) and TA3 (Public Transport) support the shift to more sustainable transport modes. Development Plan Policy DP17 seeks all development to enhance accessibility for sustainable modes of transports by prioritising pedestrians, cyclists and public transport access. The Chesterwell development is also covered by Policies SA NGA1 Appropriate Uses within the North Growth Area and SA NGA2 Greenfield Sites in the North Growth Area. NGA2 refers to the requirement for the Chesterwell development to increase sustainability and minimise dependence on the private car through the provision of the following transport-related measures:

- On and off-site sustainable transport and highway improvements including continuous links through the site for public transport, cycling and pedestrians;
- Comprehensive travel planning to reduce the need to travel by private motor car;
- Provision of a convenient, cohesive, safe and attractive walking and cycling network to ensure local facilities are accessible; and
- Provision of public transport infrastructure and services to meet local needs and link into the wider network.

The above policies are reinforced through the Council's adopted SPD for North Colchester which states that the development will make the use of public transport and non-car modes of transport attractive and realistic alternatives to the motor car.' Measures would be expected to support effective access for the different uses programmed for the site. The SPD goes on to explain that, given the need to accommodate public transport and non-car movement, it is considered a structural imperative to manage the main vehicle movement route into the site as well as accommodate a range of services and facilities. These principles have been translated into specific design solutions, i.e. introduction of bus gates to ensure the ease of making bus journeys was prioritised over car journeys. The rationale for the bus gate at Bartholomew Close is set out on page 54 of the adopted SPD:

The public transport spine and main site access extend southwards through the site, maintaining a 400m bus stop catchment for the main residential zones. A bus-only link at Bartholomew Close ensures that the main spine road cannot function as a through-route for general vehicular traffic. Only buses, cyclists and pedestrians can access Mile End Road from the southern part of the site. All other vehicular traffic from the south must travel northwards on the spine road and egress the site in the north.

17.12 The prioritisation of alternative modes of transport to the private car is therefore a key principle of the Chesterwell development and the installation of a bus gate at Bartholomew Court is fundamental to this. The proposal to relocate the bus gate and allow 160 dwellings to permanently use Bartholomew Court would seriously undermine a key principle of this development. It is noted that the applicant contends that any reduction of sustainability is outweighed by the benefits of maintaining housing delivery rates; however, as the Policy Team note, this balance

is difficult to quantify and from a sustainable transport perspective a different conclusion is likely to be reached. In this instance, whilst officers acknowledge that it is the operational constraints and delays on land release that have resulted in the applicant pursuing an alternative development programme, the proposal to allow permanent general traffic access via Bartholomew Court would undermine this key principle of the Chesterwell development and, as such conflict with the aforementioned adopted planning policies and guidance. Moreover, officers are also mindful that an alternative solution has been proposed and recommended for approval (ref application 183077) which will enable the continuation of the delivery of housing at this site and its contribution towards the Council's five-year supply of land.

Highway Safety and Capacity Issues

- 17.13 Under the extant permission, access from the Chesterwell development via Bartholomew Court is to be controlled by installation of a bus gate. Details of the improvements required to Bartholomew Court (widening and incorporation of footpaths) were also approved as a part of the original outline planning application.
- 17.14 Bartholomew Court is an existing road which provides access to the housing in 'Bartholomew Court' from Mile End Road. The existing carriageway is 4.8m wide and 1.5m footways are provided on both sides of the road. It is proposed under the current application to increase the carriageway width of Bartholomew Court to 6.75m and to widen the footways to 2m. These works are consistent with that approved under the extant outline permission.
- 17.15 Objections have been raised by local residents due to concerns about the potential impact that general traffic from Bartholomew Court would have on the surrounding highway network (capacity and safety). Objection has also been made on the grounds that the proposal would result in the displacement of existing on-street parking in Bartholomew Court.
- 17.16 The Transport Assessment that accompanied the original outline planning application modelled planned growth up to 2021 and 2023. An updated Transport Statement has been submitted in support of the current application. This notes that there will be no net trip generation resulting from the permanent use of Bartholomew Court as the overall proposed dwelling numbers will remain the same. Under the original application, the 160 dwellings would have accessed the development via the main site access to the north. Traffic heading south from this access would have previously used the A134 Northern Access Road, whilst traffic heading north from the site would have been made up of two elements – some traffic would head north on the A134 and some to the A12 (via the Northern Access Road). The revised access proposals will result in the traffic associated with the 160 dwellings being re-routed via Bartholomew Court. The revised access will see this traffic approaching development from Mile End Road which, as the Transport Statement notes, is generally a much more lightly trafficked route since a 'bus only' restriction was introduced at the northern end of Mile End Road/Nayland Road. With the permanent access proposal, traffic heading north will use Mile End Road and travel east on Mill Lane to reach the Northern Access Road. Traffic heading south would use Mile End and travel through North Station Roundabout. The

submitted Transport Statement advises that the impact of the expected traffic rerouting is minor; being a maximum of 30 vehicles in the AM peak in the south bound direction; this equates to approximately 1 additional car every two minutes. The Transport Consultants states that this increase in traffic would be imperceptible and would not have any material impact on Mile End Road or the 'North Station Roundabout'. This view is not shared by some objectors. In discussion with the Highway Authority, they have advised that they do not object to the conclusions of the Transport Statement.

- 17.17 Concern has been raised about the potential for increased risk of accidents. The Transport Statement notes that there have been no traffic collisions recorded on Mile End Road in the vicinity of Bartholomew Court and that the only recorded accident is on the section of Mile End Road towards the junction with Mill Road.
- 17.18 The loss of ancillary on-street parking along Bartholomew Court has been raised as an objection. Allocated parking is provided for residents at Bartholomew Court and the applications (both extant and proposed) do not affect these arrangements. With regard to the loss of on-street parking from Bartholomew Court, Members are advised that this was agreed under the extant permission and the proposals remain unaltered under this application. Given the past approval, it would not now be considered reasonable to seek an amendment in respect of this matter.
- 17.19 Objection to the application has been raised on the grounds that an increased number of cyclists are using Mile End Road and that this will give rise to conflict at the Bartholomew Court junction. Concern has also been expressed that the ability to drive from the southern part of the development onto Mile End Road (rather than via the northern access to the development) will dissuade would-be cyclists from cycling. The potential for conflict between motorists and cyclists on Mile End Road has been raised with the Highway Authority. Should the Highway Authority consider that additional traffic calming and/or further junction improvements are necessary, then they can recommend additional conditions to ensure that pedestrian and cycle safety is maintained. The Highway Authority has not raised any concerns regarding the design of the Bartholomew Court junction and has not requested any traffic calming to Mile End Road. It is understood that the developer has submitted an application (s278 works) to the Highway Authority to undertake the upgrading of Bartholomew Court in accordance with the details approved under the extant permission. Officers have raised with the Highway Authority that the extant approval do not provide for a combined pedestrian / cycleway and that the highway within Bartholomew Court appears constrained and not wide enough to accommodate such a facility. The inability to accommodate a combined pedestrian / cycleway would create a 'gap in the cycle network' and mean that cyclists would have to transition from the cycleway to road at either end of Bartholomew Court. The failure to fully integrate existing and proposed cycleways on strategic development site, where non car modes of transport are being heavily promoted weighs against this application.
- 17.20 The Highway Authority has advised that the permanent use Bartholomew Court for general vehicular traffic will not have a severe impact on the surrounding highway network in terms of highway capacity and will not create a highway safety issue.

Enforceability of the Bus gate

- 17.21 Concern is raised as to the enforceability of the bus gate. This is not a new consideration and it applies equally to the proposals for which planning permission has already been granted. The agent states that the form of the bus gate is not presently for determination but notes that whilst there are a number of possible measures which could be implemented, in-principle agreement with ECC indicates that highway cameras would be used to enforce the restriction as used elsewhere in the Borough. Objectors raise concerns that, in their view, other similar bus gate provisions have either been delayed in implementation or are ineffective. The agent has advised that provision will be made in a planned and timely way, controlled as necessary under planning condition or obligation.

Air Quality

- 17.22 Objection has been raised on the grounds that the proposal to allow all vehicles to access Bartholomew Court will have an adverse impact on air quality. An updated Air Quality report has been submitted in support of this application. The report notes that the predicted pollutant concentrations identified in the 2012 Environmental Statement were all well below the air quality objectives. The updated report considers it highly unlikely that the changes associated with the revised access strategy will affect the outcome and conclusions of the 2012 assessment. Environmental Protection note the conclusions of the report are based on revised traffic data which indicates that an amended access would allow for a further 679 vehicles per day on Mile End Road. Environmental Protection note that the AQIA forecasts a negligible impact for all locations / pollutants other than for NO₂ at a receptor within Bartholomew Court where a slightly adverse impact has been identified. They have however advised that the annual mean is predicted to be just 23.6ug/m³. Environmental Protection conclude that, when considering the traffic data and air quality forecasts made in the AQIA, the proposed changes are acceptable on air quality grounds.

Impact on Residential Amenity

- 17.23 Amenity issues are also raised by objectors to this application. The Noise Assessment submitted as part of the application demonstrates that either low or no impacts are likely to arise as a consequence of the revised access arrangements. Environmental Protection has not raised an objection to this application on the grounds of potential adverse impacts on residential amenity. It is accepted that the construction works and associated traffic can cause noise and disturbance; however it is considered that this could be adequately controlled by condition.

18.0 Conclusion

- 18.1 The Chesterwell development is located in a sustainable and accessible location. It is for this reason an underlying principle is that the development is designed to ensure that residents, from the outset, are encouraged to use a range of alternative modes of transport to the car. Key to this is the incorporation of a bus only link at Bartholomew Court to promote walking, cycling and bus journeys over the car. The

application to allow 160 dwellings to use Bartholomew Court on a permanent basis will enable to the continuation of the Chesterwell development and contribute positively to the Council's five-year land supply. The delivery of housing weighs in favour of this application. There is also sufficient evidence to demonstrate that the proposal will not have a detrimental effect on air quality, residential amenity or have a severe impact on highway capacity or be to the detriment of highway safety. The proposal to allow 160 dwellings to permanently access Bartholomew Court would however undermine a key principle of this development, namely that walking, cycling and bus journeys should be promoted over the use of the private car. This was and remain a key principle of this development. The permanent opening of Bartholomew Court to general traffic will undermine this fundamental principle and, as such, is considered to conflict with adopted local plan policies relating to transportation and the promotion of sustainable mode of transport and the Council's adopted SPD for North Colchester. Whilst the current difficulties being experienced by the developer are acknowledged, the permanent use of Bartholomew Court by all vehicles is considered unnecessary as the applicant is promoting a temporary access solution to overcome the current issue of land availability (ref application 183077). In view of this and having given careful consideration to all documents submitted in respect of this application, it is recommended that, on balance, that this application is refused.

19.0 Recommendation to the Committee

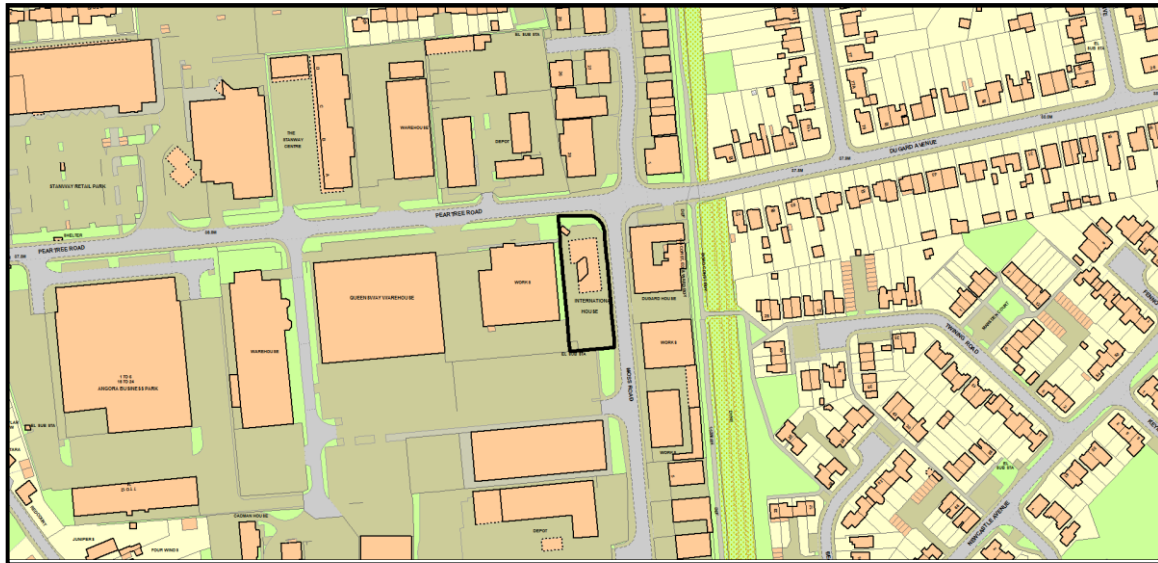
19.1 The Officer recommendation to the Committee is that this application is Refused for the following reason(s):

Planning policy TA1, TA2 and TA3 of the Core Strategy (adopted 2008 amended 2014), Policy DP17 of the Development Plan Policies (adopted 2010, amended 2014) and Policy NGA2 of the Site Allocation Plan (adopted 2010) seek to manage public transport, walking and cycling to promote a change in travel behaviour by encouraging the use of more sustainable modes of transport and thereby minimising dependence on trips by the private car. Policies PR2 and UR2 of the Core Strategy seeks to promote inclusive design in all developments. The adopted North Colchester Growth Area SPD seeks to make use of public transport and non-car modes of transport attractive and realistic alternative to the motor car. The SPD also requires a bus only link at Bartholomew Court to encourage the use of sustainable modes of transport for short journeys. The adopted Myland and Braiswick Neighbourhood Plan reflects the above policies in seeking to promote effective and environmentally friendly travel solutions through, inter alia, maximising opportunities to walk and cycle; the integration of routes between and within neighbourhoods and ensuring that public transport services are frequent and reliable. The NPPF also seeks to promote sustainable modes of transport and avoid adverse impacts through taking opportunities to maximise sustainable transport solutions at paragraphs 102, 103, 108 and 110. Bearing the above in mind the Council considers that this proposal to use Bartholomew Court on a permanent basis for general traffic would remove the existing deterrant to the use of the car for short journeys and, as such, would conflict with the aforementioned local plan policies and guidance that seek to promote sustainable transport solutions and avoid adverse impacts where possible.

Informatives

ZTB - Informative on Any Application With a Site Notice

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



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Item No: 7.4

Application: 190274

Applicant: D G Rose Limited

Agent: The Johnson Dennehy Planning Partnership

Proposal: Application for approval of reserved matter following outline approval 180886 - Residential use of former car park to international house following change of use from B1a (offices) to C3 (dwellings) of international house.

Location: International House, Moss Road, Stanway, Colchester, CO3 0JL

Ward: Stanway

Officer: Eleanor Moss

Recommendation: Approval with conditions

1.0 Reason for Referral to the Planning Committee

1.1 This reserved matters application is referred to the Planning Committee because when the outline planning permission was approved, Committee resolved *inter alia* that:

(i) The reserved matters be submitted to Committee for determination.

1.2 This reserved matters application is referred to Committee in accordance with its resolution.

2.0 Synopsis

2.1 Following the grant of planning permission under 180886, this submitted reserved matters application seeks planning permission for the appearance and landscaping. The application is considered to be acceptable in these regards.

2.2 The application is subsequently recommended for approval subject to recommended conditions.

3.0 Site Description and Context

3.1 The vicinity of the application site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park.

4.0 Description of the Proposal

4.1 This reserved matters application seeks planning permission for the appearance and landscaping of the residential development of a former car park which used to serve International House but is now surplus to requirements.

5.0 Land Use Allocation

5.1 Mixed

6.0 Relevant Planning History

6.1 162649 - The host building, International House, submitted an application for prior approval to convert the office building into residential properties.

6.2 170259 – Proposed block of flats in former car park of International House. This application was refused due to the impact upon street scene, poor standard of amenity for future occupiers and impact upon the occupiers of International House. The application was dismissed at appeal for the following reason:

Whilst I have found that the proposal would not have harmful effects with regard to privacy, the provision of external space, the living conditions of the occupiers of International House or the character and appearance of the area, that does not outweigh my concern regarding the impact of noise on future occupiers. For that reason, the appeal should be dismissed.

It should be noted the previous application was dismissed on the grounds of a lack of noise assessment alone

- 6.3 180886 - Residential use of former car park to international house following change of use from B1a (offices) to C3 (dwellings) of international house (resubmission of planning permission 170259). Approved by Planning Committee on 22 November 2018.

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
CE2b - District Centres
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

- 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
DP7 Local Centres and Individual Shops
DP12 Dwelling Standards

DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

- 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 CE1 Mixed Use Sites
SA H1 Housing Allocations
SA STA1 Appropriate Uses within the Stanway Growth Area

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

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

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

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

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Construction
Managing Archaeology in Development

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Environmental Protection – No objection subject to recommended conditions.

8.3 Highway Authority – No objection subject to recommended conditions.

8.4 Landscape Advisor – No objections subject to recommended conditions.

9.0 Parish Council Response

9.1 The Parish Council have stated the following: “I refer to the above application and can confirm that Stanway Parish Council OBJECTS to this proposal. Moss Road is an industrial site and the proposal does not meet the minimum parking requirements.”

9.2 Officer comment: Highways safety and parking have previously been considered at the outline stage.

10.0 Representations from Notified Parties

10.1 None received at the time of writing.

11.0 Parking Provision

11.1 Complies with Parking Standards

12.0 Accessibility

12.1 The proposal is considered to comply with the requirements of DP17. Access to the proposal is at street level without stepped access. Access arrangements have previously been considered and approved at outline stage.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

The Principle of Development

16.1 The principle of residential development has been established by the outline planning permission. This application is for the approval of the matters reserved

by the outline application, in this instance the reserved matters comprise appearance, layout and landscaping. These are discussed below.

Design, Appearance and Layout

- 16.2 CS Policy UR2 and DPP DP1 seek to promote and secure high quality design. The Framework also seeks to promote high quality design.
- 16.3 The Appeal Inspector did not raise a concern to the proposed development in terms of character and appearance, the relevant paragraph is provided below:

13. The vicinity of the appeal site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park. Taking into account that the proposal does not seek to establish the scale or layout of the building, I see no reason why any proposed building should necessarily be over-dominant, oppressive or disrupt the balance of the street scene... Therefore I find that the proposal would not have a detrimental effect on the character and appearance of the area and so would not conflict with DP Policy DP1 or Policy UR2 of the Council's Core Strategy 2008 insofar as they require development to achieve a high standard of design which respects and enhances the character of the site and its surroundings in terms of height, size, scale and massing."

- 16.4 The proposal has been designed to reflect the characteristics of the area and the adjacent International House. The layout is orientated to ensure that the front of flats address the streets and public spaces.
- 16.5 Given the Inspector's findings, it is considered to proposal is acceptable. The design, appearance and layout of the proposed development is considered to conform with the aforementioned development plan policies and the guidance set out in the framework.

Landscaping

- 16.6 CS Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in the Framework.
- 16.7 In this instance, the site relates to a former car park and is formed of hardstanding and railings. There is little in terms of landscaping in the vicinity of the site. The submitted proposed site plan demonstrates landscaping which is beyond what the site currently provides. Further to this, the Appeal Inspector did not raise a concern to the proposed development in terms of character, appearance and landscaping which needs to be given due weight.
- 16.8 The recommended landscaping conditions are considered to be suitable in order to ensure an acceptable landscaping scheme on site. The current planning application is therefore considered to accord with relevant CS ENV1, DPD Policies DP1 and DP21 and the Framework which requires planning application to conserve or enhance biodiversity interest.

17.0 Conclusion

17.1 To summarise, this reserved matters application satisfies the appearance, layout and landscaping policy requirements and it is recommended reserved matter consent is granted.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAF – Reserved Matters Application

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference

180886 relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of 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 4097 221 and 4097 222.

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

3. Non Standard Condition - Windows

Windows to habitable rooms (bedrooms) on the western (rear) elevation shall be non-opening with mechanical ventilation provided. Windows to habitable rooms on the southern elevation shall have restricted opening only to 20cm.

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

4. Non Standard Condition - Noise

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed. Maximum internal noise levels at night in bedrooms shall not exceed 45dBA on more than 10 occasions a night. The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

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

5. 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 washing facilities;
measures to control the emission of noise, dust and dirt during construction; and
a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

6. ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

7. ZCG - Communal Storage Areas

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

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

8. ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

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

9. Non Standard Condition - Electric vehicle charging points

Electric vehicle charging points shall be provided at a rate of one per dedicated private parking space and one per ten communal spaces.

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

10. 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.

11. Non Standard Condition – Landscaping

No groundworks 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.).
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables.

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

19.1 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3. Non Standard Informative – External communal amenity area

This is located adjacent to an industrial dust extraction system identified by the acoustic survey as the dominant noise source in the immediate area. The measured noise levels in the survey previously submitted show a negligible exceedance over WHO guidance when averaged over a 16-hour day. However, noise from the dust extraction plant will have a significant impact on this area when it is operating. It is likely that the business concerned has a legal defense against noise nuisance action so that no future controls can be enforced in the event of complaints.

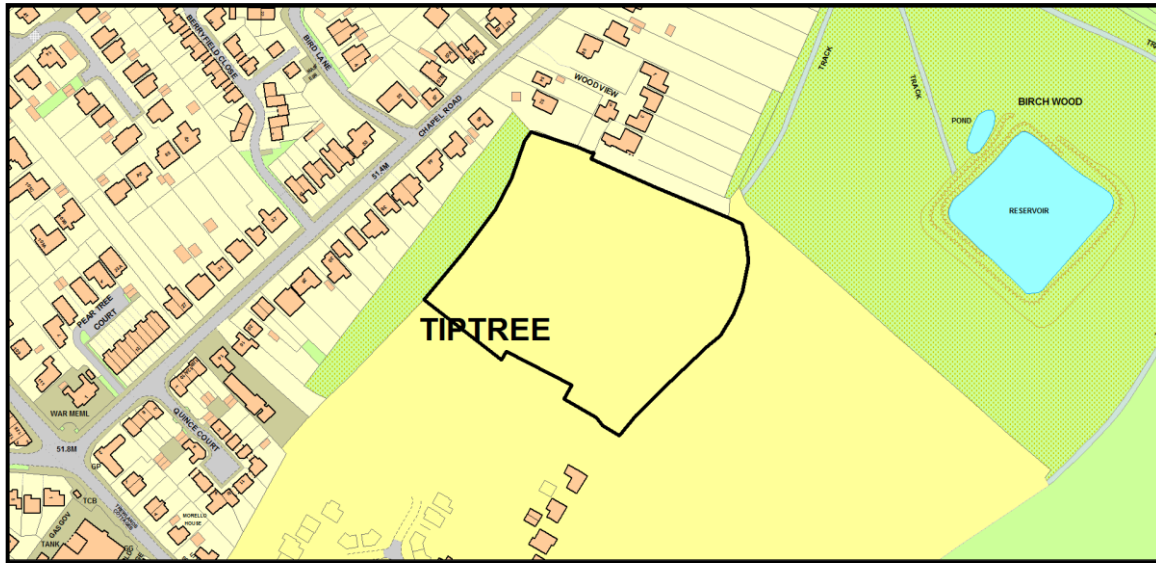
As the dust extraction plant is at height an acoustic fence on the boundary will not provide any meaningful attenuation.

4. Non Standard Informative – Landscaping

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

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

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



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Item No: 7.5

Application: 191414

Applicant: Mr Andrew Owen, Crest Nicholson

Proposal: Erection of 49 dwellings and associated parking and landscaping (Modifications and reduction in built footprint of last phase for 40 units of approved planning application 130245). Please see Planning Statement and Design Statement for more information.

Location: former Wilkins & Sons Ltd, Wilkin And Sons Ltd, Factory Hill, Tiptree, Colchester, CO5 0RF

Ward: Tiptree

Officer: Eleanor Moss

Recommendation: Approval subject a legal agreement being signed.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because This application is referred to the Planning Committee because it is a major application and material objections have been received.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of residential use, access arrangements and highway impact and impacts on the amenity enjoyed by adjoining residential occupiers.
- 2.2 The scheme provides an uplift of 9 no. dwellings from a previously approved scheme (130245) which is currently under construction. This is in order to replace larger homes with smaller units on site. Given this, there is an overall reduction in the overall built form footprint.
- 2.3 This report concludes that the proposed development represents sustainable development' as promoted in the National Planning Policy Framework (NPPF) and as such the application is subsequently recommended for approval subject to a S106 Agreement to secure the specific mitigation of development impacts and appropriate conditions.

3.0 Site Description and Context

- 3.1 The Wilkin & Sons landholding is on the south-eastern edge of Tiptree, 10 miles south-east of Colchester. This application site is to the north-east of Factory Hill. Planning permission has previously been granted for this site under 130245, this permission is currently under construction. The remainder of the site consists of Birch Woods with a reservoir in the middle.
- 3.2 To the north and west of the site are existing residential properties. Across Factory Hill is the existing Wilkin & Sons factory complex, whilst the remainder of the surroundings comprises open country (for the most part agricultural, but also comprising fruit trees and plants.
- 3.3 In addition to this, it is important to state that the land at the southern edge is between five and ten metres lower than the land at the top.

4.0 Description of the Proposal

- 4.1 Erection of 49 dwellings and associated parking and landscaping (Modifications and reduction in built footprint of last phase for 40 units of approved planning application 130245).
- 4.2 Despite the uplift in unit numbers, the overall built footprint has been reduced when compared to the approved layout, as a result of the changes.

5.0 Land Use Allocation

5.1 Residential

6.0 Relevant Planning History

6.1 The most relevant planning permission relates to 130245. This granted permission for 126 units. The mixture was broken down into:

- 119 houses (4 x 1-bed, 8 x 2-bed, 55 x 3-bed, 52 x 4-bed) and
- 8 flats (5 x 1-bed, 2 x 2-bed).

6.2 The submitted scheme will result in a net addition of 9 no. units when compared with the extant planning permission for the site. The addition of these dwellings would result in minor alterations to the layout of the final phase

6.3 The proposed development will comprise:

- The construction of 49 no. dwellings and associated parking and landscaping;
- A mix of 2, 3 and 4 bed houses.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

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

ENV2 - Rural Communities

ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP22 Dedham Vale Area of Outstanding Natural Beauty
DP23 Coastal Areas
DP25 Renewable Energy

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

SA H1 Housing Allocations
SA TIP1 Residential sites in Tiptree
SA TIP2 Transport in Tiptree

- 7.5 The Draft Neighbourhood Plan for Tiptree is also relevant.

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

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

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

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

7.7 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
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future
Planning Out Crime

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 **Landscape Advisor** - there are no objections to this application on landscape grounds. The following condition(s) is/are recommended.

Standard:

ZFE – Landscape management plan

Bespoke:

Z00 – No groundworks 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.).
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables 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.

8.3 **Archaeological Advisor** - There will be no requirement for any archaeological investigation as there was no condition relating to archaeology attached to the outline planning consent (no. 130245).

8.4 **Contamination Officer** – It is noted that a contamination report has been submitted in support of this application. This report has previously been reviewed in connection with an earlier application. This report concludes that further intrusive investigation was required and a proposed scope was submitted (see emails, attached). No further information has been received with respect to the outcome of these proposed investigations.

In addition, given that 7 years has now elapsed since the submitted report was drawn up, we would expect to be in receipt of additional assessment of risks associated with any new uses of the site with the potential to be contaminative.

However, based on the informative provided to date, it would appear that the site could be made suitable for the proposed use. Consequently, should this application be approved, Environmental Protection would recommend inclusion of the following conditions:

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

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

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

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

ZG3 - *Validation Certificate*

- 8.6 **Arboricultural Officer** - There does not appear to be any change that impacts trees. The tree protection plan should be updated to reflect the current proposal and then conditioned as such.
- 8.7 **SuDs** – No objection subject to recommended conditions.
- 8.8 **Highway Authority** – Provided the development is carried out in accordance with planning application drawing number 19-2880-002 Rev. L and that were planning permission to be granted it would be linked to the S106 agreement and conditions for planning permission 130245, from a highway and transportation perspective the Highway Authority has no comments to make on the proposal.
- 8.9 **Environmental Protection** –
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 washing facilities;
measures to control the emission of dust and dirt during construction; and
a scheme for recycling/disposing of waste resulting from demolition and construction works.
Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.
ZPD - Limits to Hours of Work
No demolition or construction work shall take outside of the following times;
Weekdays: 08:00-18:00
Saturdays: 08:00-13:00
Sundays and Bank Holidays: No working.
Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

8.10 EV Charging points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated)

8.11 North East Essex Badger Group -

We can confirm that there is a large well established badger sett locally placed to the site location area and therefore it is possible that badgers use the land for foraging. Should this Application be approved we would ask, in the first instance, care should be taken when clearing the whole of the area before building work commences and secondly, would suggest that once work begins, any open excavations are covered at night to avoid badgers falling in and becoming trapped

8.12 Forestry Commission -

Thank you for consulting the Forestry Commission on this application as non-statutory consultees on developments within 500 metres of a development, we are aware that this is only regarding the modifications however, the impact on Birch Wood is of interest to us. As far as we can determine Birch Wood the Ancient Woodland to the North east of the development has been considered and the modifications do not affect the wood we also welcome the proposal to develop a management plan. We take this opportunity to reiterate the need to consider impacts of the construction phase and remind developers that whilst direct impact is unlikely (construction materials and equipment should be kept out of the wood during development) dust and light may still have an impact so how the construction is managed is important. Potential impacts can be assessed using the assessment guide on the Standing Advice page on the Government website, <https://www.gov.uk/guidance/ancient-woodland-andveteran-trees-protection-surveys-licences>, protection of Ancient Woodlands was strengthened last year in the NPPF.

9.0 Parish Council Response

9.1 Tiptree Parish Council has stated the following:

Tiptree Parish Council objects to this application on the grounds that there is a requirement for more 1 and 2 bedroomed properties to create a better balance and that the properties should be set back from the road in order to reflect the village landscape.

10.0 Representations from Notified Parties

10.1 The application resulted two letters of objection being received. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- Impact upon residential amenity
- Impact upon covenant
- General objection against additional housing due to lack of infrastructure.

11.0 Parking Provision

11.1 All dwellings are provided with car parking in line with the Essex Planning Officers' Association Vehicle Parking Standards SPD, providing a total of 128 spaces within the Site. Cycle storage provision will also be provided for each dwelling.

12.0 Accessibility

12.1 The submitted Design & Access Statement sets out how duties under the Equalities Act are addressed

13.0 Open Space Provisions

13.1 The open space provision has been addressed in the originally approved application and there is no change to this. An area of 2.78 ha for informal outdoor use is proposed in the south-eastern half of the site, this will also contain a children's play area. In addition, a further area of 0.74ha is "available on an informal basis for the public to have access to" although the applicant will maintain ownership.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. The original application agreed the following contributions:

- Affordable Housing (16 units);
- Open space provision (land to the south of the housing site subject to application 130245, parcels on the housing site subject to application 130244, allotments, access to Birch Woods, play equipment provision);
- Monies to the Health Authority (£83,657);
- Transfer of the Factory Hall to the Parish Council;
- A site for a dentist surgery;
- A travel plan (for the factory)

15.2 The Obligations that would be agreed as part of this planning permission would be:

- One affordable dwelling as an offsite contribution, this to be a three bed as the majority of dwellings out of the additional 9 are family dwellings (3 x three bed and 2 x four bed). A commuted sum will be provided.

16.0 Report

Principle of Development

- 16.1 In accordance with Core Strategy policies SD1, H1 and ENV1 development within the Borough is directed to sites within existing settlement development boundaries. The application site is identified within the defined settlement boundary of Tiptree and is identified in the Site Allocation Plan as predominately residential use. Given this, the proposal is considered to be acceptable in principle.

Design and Layout

- 16.2 Core Strategy policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy policy UR2 seeks to promote and secure high quality design. Development Policies DP1 and DP12 set out design criteria that new development must meet. These require new development to be of a high quality and respect the character of the site and its context.
- 16.3 The site comprises three distinct parcels: To the north west is the housing, to the south-south east the open space and children's play area and allotments, and to the far north-east is Birch Wood.
- 16.4 The housing scheme retains the existing layout of the previously approved scheme (130245), there is a main spine road snaking through north-eastwards from Factory Hill and breaks down into four definable areas punctuated by an avenue of development mainly along the north-western edge.
- 16.5 The scheme has undergone revision over the course of the planning application in order to achieve good design in terms of creating connectivity, improved layout, appropriate scale, form and architectural detailing. The revised scheme is considered to be consistent with the previously approved development which has now begun construction.
- 16.6 The chosen materials follow the palette of materials from the original permission, with coloured smooth render white cement fibre boarding red multi clay stock bricks, plain tiles and pantiles and blue/black reconstituted slates.
- 16.7 Street frontages have been revised to achieve continuity of frontage and avoid a formulaic approach in order to create interesting street scenes. Architectural detailing, such as (but not limited to) depths of reveals to windows and depth of reveals of doors and exposed rafter feet are all required to be conditioned to ensure acceptable finishing, as are facing and roofing materials.
- 16.8 The proposed development meets the Council's adopted amenity, privacy and parking standards and policy DP 12 and DP16 are met.

Scale, Height and Massing

- 16.9 The development comprises residential dwellings of traditional domestic design, scale and massing. The majority of the units are houses comprising detached, semi-detached or small rows of linked units. The houses are all 2 storeys in height. Garages are all proposed as single storey in height. This retains the design rationale of the originally approved development.

Impact on the Surrounding Area

- 16.10 Given the originally approved development is under construction, the proposed dwellings on site would not have a materially harmful impact upon the character of the surrounding area. An existing line of hedgerow (on the majority of the south-eastern boundary of the proposed open space) together with additional proposed planting will assist in a softer transition between the built form and open country.

Impacts on Neighbouring Properties

- 16.11 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 16.12 Given the location, the effect on residential amenity is negligible in terms of overshadowing, lost outlook and privacy. The proposed houses are oriented and fenestrated such that no first-floor habitable room windows are facing other dwellings in a way that is held to be unsatisfactory.

Highway Issues

- 16.13 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access. The NPPF provide guidance on transportation matters, including that application should only be refused on highway grounds if the impact (on safety or capacity) is severe.
- 16.14 Given that proposal will provide for the required visibility splays (these do not vary from the originally approved scheme), the proposed scheme is not considered to have a severe impact on the local highway either in terms of highway safety or capacity and accords with planning policies which seek to improve accessibility and changes in travel behaviour. The Highways Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.

- 16.15 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedrooms.
- 16.16 The revised scheme provides parking in accordance with the aforementioned policy and SPD and as such the proposal is considered to accord with the requirements.

Drainage SUDS

- 16.17 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of the site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.
- 16.18 A Flood Risk Assessment and Drainage Strategy Report has been submitted with the application and both Essex County Council SUDs (as Lead Local Flood Authority) and Anglian Water have been consulted. Essex County Council SUDs have confirmed that they have no objection to the proposal subject to conditions to secure a detailed surface water drainage scheme and a surface water drainage maintenance and management plan. This is considered appropriate in order to mitigate any impacts in terms of surface water run-off and flooding and accords with the previously approved scheme (currently being constructed).

Landscape/Ecology

- 16.19 Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.20 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to

demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.

- 16.21 The ecological report concludes no part of the proposed development site has any type of statutory or non- statutory conservation designation. The proposal retains the approved road layout and pedestrian accesses with an integrated public square and associated landscaping which will respond to the character of the area. Tree protection measures remain the same as the previously approved application. The proposed development site is within a zone of influence for Abberton Reservoir S.P.A. - RAMSAR site, Essex Estuaries Special Area of Conservation, and Colne Estuary S.P.A. The proposed development will not reduce the size or conservation status of these designated sites, nor affect their management regimes or future ecological potential. The proposed development area does not create new access to these Natura 2000 sites.
- 16.22 The proposed development could however have some minor recreational/disturbance impact alone or when considered alongside other new developments within the same zone of influence for these Natura 2000 Sites and so is subject to a Habitat Regulations Assessment (H.R.A.). Natural England advise that a suitable contribution to the emerging Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) would enable the local authority to be able to reach a conclusion of “no likely significant effect” - and addressing the need for the suggested H.R.A. The legal agreement will secure the RAMS contribution.

17.0 Conclusion

- 17.1 The NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as establishing new residential development where residents can readily utilise and support nearby businesses, services and facilities. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high-quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. Members are recommended to resolve to grant planning permission subject to the conditions set out below.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

18.2 APPROVAL of planning permission subject to:

- Agreement with the Agent/Applicant to the pre-commencement conditions under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and delegated authority for officers to make changes to the wording of conditions as necessary;
- 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 to deliver the obligations set out at paragraph 15.3. 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; and

18.3 The Permission being subject to the following conditions:

1. Time Limit for Full Permissions

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

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

2. *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:

19-2880-017 951 REV D
19-2880-001 REV A
19-2880-002 REV L
19-2880-003 REV C
19-2880-004 REV D
19-2880-005 REV D
19-2880-006 REV E
19-2880-009 REV E
19-2880-010 1287 REV C
19-2880-011 1287 REV D
19-2880-012 1178 REV C
19-2880-013 1171 REV C
19-2880-014 976 REV D
19-2880-015 976 REV B
19-2880-016 951 REV D
19-2880-018 895 REV D
19-2880-019.5 895 REV C
19-2880-020 698 REV D
19-2880-021 1384 REV C

19-2880-021.5 1384
19-2880-030 REV C
19-2880-031 REV A
19-2880-032 REV B
19-2880-033 REV A
19-2880-034 REV B
19-2880-035
2031-14 REV C

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3 – Non Standard Condition - Construction Method Statement

Prior to the commencement of development, including any works of demolition, a Construction Method Statement shall have been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

4 – Non Standard Condition - Limits to Hours of Work

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

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays and Bank Holidays: No working.

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

5 - Non-Standard Condition/Reason - Lighting

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

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

6 – Non Standard Condition - Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance

schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

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

7 – Non Standard Condition - Landscaping

No groundworks 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.).
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables 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 – Non Standard Condition - SuDs

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

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- It should be demonstrated that water quality treatment is sufficient for all water leaving the site as outlined by the simple index approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.

- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason:

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

9 – Non Standard Condition - SuDs

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.

10 - SuDs

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.

11. 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.

12. 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

13. 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.

14. 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 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

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

15. 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 14.

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

16 - Non Standard Condition - Retention of garages

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.

17 – Non Standard Condition - Boundary Walls/Fences

Prior to the commencement of development a scheme of boundary walls and fences at least 1.8 metres in height to screen rear gardens shall be submitted to and approved in writing by the local planning authority. The approved walls and fences shall be erected prior to the occupation of any residential unit and shall thereafter be maintained.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise.

18 - Non Standard Condition - Materials To Be Agreed

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

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

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

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

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

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

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

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

21. Non Standard Condition - Tree Canopy Hand Excavation

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

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

22. Non Standard Condition - Vehicle Parking

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

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

23 - Non Standard Condition - Cycle parking

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

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

24 - Non Standard Condition - Ecological Mitigation and Management Plan (EMMP)

Prior to the commencement of development an Ecological Mitigation and Management Plan (EMMP) including an Implementation Timetable shall be submitted to and approved in writing by the local planning authority. The EMMP shall include, but not be limited to, the proposed mitigation detailed in the submitted Ecological Assessment including the additional survey work identified in the document. The development shall then be carried out and maintained in accordance with the approved EMMP.

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

25. Non Standard Condition - Car Electric Charging Points

The development hereby approved shall be provided with at least 1 No. electric vehicle (EV) charging point per dwelling with dedicated parking and at a rate of at least 10% provision for unallocated parking spaces. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

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

26. Non Standard Condition - Architectural Detailing

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include but not be limited to window detailing (including details of the depth of reveal and any dormer features); rooflights to be used; recessed/projecting brickwork and cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high-quality design in the interests of visual amenity.

27. Non Standard Condition - Refuse and Recycling Facilities

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

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

28. Non Standard Condition - RAMS Mitigation

Prior to the commencement of development a detailed mitigation scheme to demonstrate the development secures full adherence with the Essex Coast RAMS shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with an agreed timetable.

DC0901MWeV9.3

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

29. Z1A – Street Name Signs

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

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

4. Non Standard Informative – SuDs

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

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

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

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

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.

The LLFA 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.

5. Non Standard Informative – Landscaping

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



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Item No: 7.6

Application: 191525

Applicant: Mr I Jaycock

Agent: Mr Edward Thuell

Proposal: Barn Conversion

Location: Lane Farm, Lane Road, Wakes Colne, CO6 2BP

Ward: Rural North

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the site is outside the adopted settlement boundaries in an area defined as countryside and relates to the creation of a dwelling. The proposal is therefore a Departure from the Local Plan.

2.0 Synopsis

- 2.1 The key issue for consideration is the principle of development; in particular the location of the site outside the settlement boundary. The proposal has accordingly been advertised as a Departure from the Local Plan as the scheme relates to the creation of a dwelling in the countryside. Matters explored within this report are the optimal viable use of a heritage asset, impact on the landscape character of the area and a wildlife mitigation payment.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable, a Departure from Policy is justified and that approval is recommended.

3.0 Site Description and Context

- 3.1 The site lies in the countryside outside of the settlement limits for Wakes Colne.
- 3.2 At its closest the settlement boundary of Wakes Colne is 800m from the barn, a distance of approximately 1500m by road.
- 3.3 The barn is in the same ownership as Lane Farm although sits across from the dwelling separated by Lane Road. It has been resolved that the barn is not within the curtilage of Lane Farm. The barn in question is served by two access's off the highway. The barn is considered to be a non-designated heritage asset.
- 3.4 Lane Farm is listed at Grade II. It is a C16 house, timber framed and plastered, with a C19 front of gault brick.

4.0 Description of the Proposal

- 4.1 The proposal is to convert the barn into a single 4-bedroom dwelling.

- 4.2 The barn comprises a range of single storey former farm buildings arranged in a 'U' shape. The buildings were constructed over time. However, based on the appellant's Heritage Statement, the most recent structure, the main building, was in place by 1897. Whilst there is some evidence of alterations, much of the original fabric of the buildings is intact.
- 4.3 The heritage significance of the buildings lies in their visual and historic functional association with the listed Farmhouse and their historic and architectural interest as an attractive, largely unaltered, group of rural buildings whose vernacular forms, layout and appearance sit comfortably within a countryside setting.
- 4.4 The application site includes sufficient residential private amenity space to be separated from the wider field with an Estate fence. The majority of the private amenity space is in the courtyard created by the arrangement of the building. There is also sufficient parking provided.

5.0 Land Use Allocation

- 5.1 Countryside

6.0 Relevant Planning History

- 6.1 163151 – previous application to convert the barn was refused.

Although a refusal the officer's delegated report stated the following:

Given its value, the loss of the application premises over time would be regrettable. In this particular location, off an unclassified road, any alternative uses for commercial, leisure or tourism would not be supported, given the unsustainable location and the difficulty the highway network would have upon commercial traffic generation. Furthermore, given the public views of the site from the footpath to the south, any alternative type of use may have negative environmental impacts, and would not harmonise with the local character and surrounding natural environment.

Having regard to all of the above, the principle conversion to residential use is accepted and would assist in retaining the building for future generations.

Having accepted the principle of the change of use to a residential dwelling, the scheme of conversion needs to be sympathetic to the character and appearance of the building, and the proposed use would need to be acceptable in highway safety terms. Other concerns would include the impact of the conversion works upon protected species.

6.2 APP/A1530/W/17/3184834 – appeal dismissed

Although the appeal was dismissed, the Planning Inspector agreed that residential use of the appeal buildings may be acceptable in principle although he had concerns that the particular appeal proposal “would harm the significance of the heritage asset.”

6.3 This application is for an alternative scheme which seeks to address the previous reasons for refusal.

6.4 190032 – Approval for independent access to Lane Farm and Cartlodge.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
H5 - Gypsies, Travellers, and Travelling Showpeople
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

7.4 There are no relevant policies within the adopted Borough Site Allocations Policies (adopted 2010, amended 2014).SA EC7 University of Essex Expansion

7.5 There are no relevant Neighborhood Plans.

7.6 Submission Colchester Borough Local Plan 2017-2033:

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

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

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

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

7.7 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
Managing Archaeology in Development.
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 Archaeology:

This proposal concerns the conversion of a group of farm buildings that are of historic interest (undesigned heritage asset), and they are present on the First Edition OS Map dating to the 1880s.

The following condition (**Z00**) relating to historic building recording is recommended in accordance with the *National Planning Policy Framework* (Paragraph 199):

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

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

In this case, a historic building survey should be carried out, by a historic buildings specialist. The objective should be to compile a record of the affected building at Historic England Level 3, as described in *Understanding Historic Buildings: A Guide to Good Recording Practice* (Historic England 2016).

I will, on request of the applicant, provide a brief for the investigation.

8.3 Conservation and Built Heritage:

Comment 1:

1.0_ Heritage Asset: Summary of Significance

1.1 The farmhouse of Lane Farm is listed at Grade II (List UID 1225020) with the following description : “ *C16 house, timber framed and plastered with C19 front of gault brick in Flemish bond. Two storeys and range of 3 windows, gabled front porch. Windows small pane hornless sashes with glazing bars. Roof gabled and pegtiled and 2 red brick chimney stacks, main stack central to the roof. Lean-to full length of the rear, and a white weatherboarded wing extending south from east end, of one storey with attics. Various additions.*”

1.2 The farm today comprises additionally of a group of outbuildings which are situated across Lane Road and serve garage and storage uses. The group consists of the main built at right angles to Lane Road, a smaller barn , two stable blocks and an open-front store built at right angles to the main barn, forming a U-shaped group . Although the buildings are not afforded listed status as curtilage buildings to the farmhouse, they have been historically associated to the farm, they are present in historic maps and have sufficient heritage interest for their age, agricultural character and contribution to the understanding of the farm’s historic development to be regarded as non-designated heritage assets.

2.0 Scope of Works: Summary

- 2.1 The planning application seeks permission for the conversion of the agricultural complex into one dwelling. The proposed works for the conversion involve external and internal interventions to the buildings, including the insertion of a floor over part of the main barn's ground floor.
- 2.2 Another set of proposals for the conversion of the buildings into one dwelling had been submitted in 2017 (planning application 163151) but the application was refused by the Council. The subsequent planning appeal with ref. APP/A1530/W/17/3184834 was dismissed as well. The main concerns for the scheme from a heritage perspective involved the extent and form of the proposed alteration which were deemed unsympathetic to the character of the building and detrimental to its fabric, resulting thus in harm to the significance of the non-designated heritage asset and detrimental for their impact on the relationship with the listed farmhouse and the rural setting.

3.0 Relevant Statutory Duties

- 3.1 The relevant legislation for the review of the application includes Planning (Listed Buildings and Conservation Areas) Act (1990), whose Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 3.2 The National Planning Policy Framework (2018) is an additional consideration. Section 16, Par. 192(a) states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Par. 193 determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Par. 194 determines that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Whereas paragraph 195 deals with substantial harm to a designated heritage asset, Par. 196 states that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Additionally, Par. 197 clarifies that the decision of applications should consider their effect on the significance of a non-designated heritage asset and when applications directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 3.3 The relevant policies from Colchester Local Plan 2001-2021 include CS ENV1 and DP14 which seek to protect and enhance the historic environment, while CS UR2 and DP1 promote high-quality design.

4.0 Analysis of Impact Upon Heritage

- 4.1 The present proposals include revisions to the scheme that was refused in 2017. The Design & Access/ Heritage Statement (pp 10-11) lists the aspects of the proposals that have been modified in order to mitigate the harmful effect to the fabric, appearance and heritage interest of the buildings which provided grounds for the refusal of application 163151.
- 4.2 The proposed changes are welcome as they have limited significantly the impact on the fabric of the complex, while the treatment of the elevations helps to preserve the agricultural character of the buildings to a great degree. Some concerns involve the proposed openings that are inserted to the gable of the south elevation (Barn 1); although the long, full height openings suit the agricultural character of the building, their extension up to eaves level could help the more successful integration in the gable. Similarly, the two windows that are proposed for the east elevation of the Main Barn attribute a domestic character to the building and could benefit from a similar treatment as the windows that are discussed above. Moreover, the glazing of the Main Barn's arched opening on Lane Street should be recessed; this is a common solution for the insertion of glazing in barn doors as it helps preserve the effect of the opening when the timber doors are fixed open.
- 4.3 As for the impact of the proposals to the fabric of the buildings, this scheme has reduced the necessary interventions whereas the proposed floor that is inserted in the Main Barn covers the same number of bays as the version of 163151 but adopts a simpler approach by grouping all first floor level space over the easternmost end of the Barn and omitting elements such as the gallery with the glass balustrade that connects the two first floor areas in the 163151 version. The insertion of the floor, along with other interventions which are necessary for achieving the standards of Building Regulations, requires suitable details, materials and methods of construction in order to ensure that they will not involve any harm to the fabric of the buildings. A programme of building recording is required along with a detailed Schedule of Works which will set out the necessary interventions in detail.
- 5.0 Conclusions and recommendations
- 5.1 The revisions to the scheme that was refused in 2017 have addressed the issues for refusal on heritage grounds to a satisfactory degree. Although there is still margin for certain improvements to the treatment of the elevations, the present solution is more sympathetic to the fabric, character and appearance of the non-designated heritage asset, as well as to the setting of the listed farmhouse and the rural context of the area. According to NPPF's Par. 192(a) the introduction of viable uses consistent with their conservation is desirable for heritage assets. The present set of proposals, subject to potential minor amendments and conditions to the decision, is considered acceptable for the conservation of the building and should this use of the building be considered viable from a planning perspective, there are no objections on heritage grounds to the support of the application.
- 5.2 Recommended conditions include

Comment 2 following revisions:

4.1 The revised drawings 12C:Proposed Ground Floor Plan and 14E: Proposed Elevations include amendments to the treatment of the elevations (South and East elevations), according to suggestions by our previous comment on the application. Therefore, and on the basis of the revised drawings, there are no objections to the support of the application on heritage grounds.

8.4 Landscape:

1.0 Comments:

- 1.1 Regarding the landscape content/aspect of the strategic proposals under drawings 15 lodged on 17/06/19, 09B (not currently lodged on file) and within the Planning Statement:
- 1.2 To accord with the Council's [Landscape strategy for development sites](#) the landscape element of the proposal needs to be cross-checked against the Council's standard generic requirements under Landscape Guidance Note LIS/A (this is available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link); and where applicable amended accordingly to fully comply with them. In particular, it is recommended the clause(s) of LIS/A noted in the Appendix to this document be cross-checked against the current submission.
- 1.3 In support and addition to this/these LIS/A clause(s) and accordance with policy/policies detailed in 3.1 below, the following point(s) should be taken into consideration as part of any revised proposals:
- 1.4 The site lies outside the settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that *'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'*.
- 1.5 The site lies within Colchester Borough Landscape Character Assessment Area A5, this describes the character of the landscape in detail and identifies key characteristic(s) of the Area shared by the site as *'Principal road network consisting of narrow tree-lined (sometimes sunken) lanes traversing the valley sides to the north and south'* and *'Settlement pattern consists of small linear village settlements such as Wakes Colne and Eight Ash Green, adjacent to the north-south roads, which cross the River Valley; small hamlets and farmsteads'*, sets landscape strategy objective(s) to *'conserve and enhance'* the landscape character of the Area. Finally, it gives landscape planning guideline(s) to *'Ensure any new development on valley sides is small-scale, responds to historic settlement pattern, form and building materials'* and landscape management guideline(s) to *'Restore*

hedgerows using hawthorn and plant new hedgerow trees, particularly in areas of arable farmland'.

1.6 The proposal arguably fails to '*conserve and enhance*' the character of the landscape as:

1. Lane Farm is typical of Landscape Character Area A5, in that it shares key characteristics being a historic '*small farmstead*' set either side of a '*narrow tree-lined lane*' which traverses '*the valley sides to the north and south*', as is illustrated in this extract from the 1881 OS map. The proposal would arguably currently fail to '*conserve*' the character of the Area, as it would act to fragment the '*historic settlement pattern & form*' of Lane Farm, where the subservience of the farmstead to the farmhouse is emphasised by them being set either side of the Lane, allowing the Lane itself to form a key linking feature of the farm. The opening-up of domestic fenestration onto the Lane where it passes through the Farm would therefore, on the face of it, fail to '*conserve*' the character of the Area, this as it would allow the buildings to read as other than subservient farm buildings, with a resulting detrimental impact on landscape character and visual public amenity. Consideration might be given to sensitive design proposals that set the proposed fenestration to the large barn door further back into the barn itself, of a depth sufficient to allow the large barn doorway to still read as a door rather than window and maintain the timber half-moon canopy above. Thereby helping maintain the historic integrity of Lane Farm through retaining the sense of subservience of the farmstead to the farmhouse.
2. To help '*enhance*' the character of Landscape Character Area A5 '*hawthorn hedgerows*' and '*hedgerow trees*' should be proposed to both reinstate the historic hedgeline within the site running north from the existing stand of poplars (as illustrated in the 1881 OS map above and ghosted in this aerial view) and any failing elm within the existing hedgerow enclosure within the blue line area.

2.0 Conclusion:

2.1 In conclusion, taking into account all relevant considerations and for the reasons set out above, this application cannot currently be supported on landscape grounds. To fully consider the proposals, the above point(s) will need to be satisfactorily addressed.

8.31 The changes to the door have been made and now satisfies comment made by the Landscape Officer. The field boundaries will be enhanced as per details in plan 09C 'Block Plan'.

8.4 Environmental Protection:

NOTE: Demolition and Construction

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.

ZPD - Limits to Hours of Work

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

Weekdays: 08:00 – 18:00

Saturdays: 08:00 – 13:00

Sundays and Bank Holidays: not at all

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

No fires on site at any time

8.5 Highway Authority states:

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

1. 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.

2. Prior to commencement of the proposed development, details of the provision for the storage of bicycles, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

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.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

- 8.5.1 No new access is proposed and it is considered that there is sufficient space within the outbuildings and the converted barn itself not to require additional details with regards to the bike storage. Therefore neither condition will be recommended by the Planning Officer.

9.0 Parish Council Response

- 9.1 No comment regarding the structure and design but concerns regarding vehicle movements due to the narrow lanes and blind corners.

10.0 Representations from Notified Parties

- 10.1 No representations have been received.

11.0 Parking Provision

- 11.1 There is sufficient parking provision for the proposed dwelling and Lane Farm which currently uses the parking area. However, it is highly likely that planning permission 190032 will be implemented creating a separate access for Lane Farm and separate parking provision.

12.0 Accessibility

- 12.1 The scheme complies with the provision of the Equalities Act and complies with DP17 which covers accessibility and access.

13.0 Open Space Provisions

- 13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Design, scale and form
- Landscape and Impact on the Countryside
- Parking Provisions and Private Amenity Space Provision
- Wildlife Mitigation Payment

Principle of the Development

16.2 The main issue in terms of the principle of the proposal is that the site is located outside the settlement boundary and accordingly the creation of an independent dwelling is a Departure from the Local Plan that needs to be justified. Whilst such development would be acceptable in principle within the settlement boundary (Core Strategy Policy SD1), development outside settlement boundaries is strictly controlled in order to protect and enhance the character of the countryside, as well as safeguard the biodiversity, geology, history, and archaeology of undeveloped sites (Core Strategy Policy ENV1). Accordingly, the application has been advertised as a Departure to the Local Plan as it involves the provision of a new residential unit in the countryside. It is important to note, however, that planning policy does not rule out development in the countryside altogether, but there are tighter controls to development in these locations. The main planning considerations for the principle of development in these cases are: whether the proposal represents sustainable development, having either a positive or negligible impact upon economic, social, and environmental factors; and its impact upon the character of the countryside.

16.3 The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by

- fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

16.4 The NPPF goes on to state that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. It also states that to ensure sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

16.5 Paragraph 79 of the NPPF states the following:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling;
- e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

16.6 At its closest the settlement boundary of Wakes Colne is 800m from the barn a distance of approximately 1500m by road.

16.7 The barn comprises a range of single storey former farm buildings arranged in a 'U' shape. The buildings were constructed over time. However, based on the appellant's Heritage Statement¹, the most recent structure, the main building, was in place by 1897. Whilst there is some evidence of alterations, much of the original fabric of the buildings is intact.

16.8 Paragraph 79 (b) of the NPPF states the following:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets.

16.9 The National Planning Policy Framework (2018) is an additional consideration. Section 16, Par. 192(a) states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Par. 193 determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

16.10 Although the buildings are not afforded listed status as curtilage buildings to the farmhouse, they have been historically associated to the farm, they are present in historic maps and have sufficient heritage interest for their age, agricultural character and contribution to the understanding of the farm's historic development to be regarded as non-designated heritage assets.

16.11 Another set of proposals for the conversion of the buildings into one dwelling had been submitted in 2017 (planning application 163151) but the application was refused by the Council. The subsequent planning appeal with ref. APP/A1530/W/17/3184834 was dismissed as well. The main concerns for the scheme from a heritage perspective involved the extent and form of the proposed alterations which were deemed unsympathetic to the character of the building and detrimental to its fabric, thus resulting in harm to the significance of the non-designated heritage asset and a detriment in terms of their impact on the relationship with the listed farmhouse and the rural setting. The proposals in the current scheme are welcome as they have limited significantly the impact on the fabric of the complex, while the treatment of the elevations helps to preserve the agricultural character of the buildings to a great degree.

16.12 It is therefore considered that the conversion of the barn to a residential dwelling is a suitable use of the heritage asset to secure its future preservation.

16.13 The NPPF requires the economic, social and environmental roles of sustainability to be considered together. The proposal is likely to have a positive or negligible social and economic impact. It is considered to have a positive environmental impact.

16.14 Wakes Colne has a village hall, pub, train station, church, primary school and general store. The expenditure by future occupiers would help to

support local services in Wakes Colne. Also, in the short term the construction works would generate local employment.

- 16.15 The preservation of the heritage asset will have a positive environmental impact. It is also considered that the proposed may have a positive ecological impact due to the enhancement measures set out in the phase 1 ecology survey.
- 16.16 Given the above factors, it is considered that a Departure to Policy has been justified and that the issues raised by the Inspector at appeal have been overcome.

Design, scale and form

- 16.17 It is considered that the design, scale and form of the proposed is of a high standard and preserves the heritage asset, with the use of sympathetic fenestration and retention of fabric, as mentioned above. New openings have been minimised. A void within the barn is also retained, thus preserving another element of the character of the barn. The application has been subjected to a number of amendments as suggested by the Planning Officer, Built Heritage and Landscape Officer. It is considered to be acceptable and compliant with Development Policies DP1, DP12, DP13 and DP14, as well as Core Policy UR2.

Landscape and Impact on the Countryside

- 16.18 The site lies outside the settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that *'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'*.
- 16.19 The site lies within Colchester Borough Landscape Character Assessment Area A5. This describes the character of the landscape in detail and identifies key characteristic(s) of the Area shared by the site as *'Principal road network consisting of narrow tree-lined (sometimes sunken) lanes traversing the valley sides to the north and south'* and *'Settlement pattern consists of small linear village settlements such as Wakes Colne and Eight Ash Green, adjacent to the north-south roads, which cross the River Valley; small hamlets and farmsteads'*, sets landscape strategy objective(s) to *'conserve and enhance'* the landscape character of the Area. Finally, it gives landscape planning guideline(s) to *'Ensure any new development on valley sides is small-scale, responds to historic settlement pattern, form and building materials'* and landscape management guideline(s) to *'Restore hedgerows using hawthorn and plant new hedgerow trees, particularly in areas of arable farmland'*.

- 16.20 The residential curtilage of the dwelling is for the most part contained within the courtyard created by the U shape of the buildings and will be separated from the remaining field by an Estate fence. Therefore, retaining the open countryside and Landscape Character of the area.
- 16.21 The hedges within the applicant's ownership will be enhanced in accordance with the Landscape strategy objectives. The barn door to the Lane has also been amended in accordance with the Landscape Officer comments. It is therefore considered that the proposed will not harm the landscape and that the development will conserve and enhance the landscape character.

Private Amenity Space and Parking Provision

- 16.22 There is also sufficient private amenity space provided in accordance with Policy DP16. There is enough space to provide adequate parking for both Lane Farm and the Barn. Also, it is highly likely that planning permission 190032 will be implemented creating a separate access for Lane Farm and separate parking provision. There would then be extensive parking provided for the Barn. Therefore, the proposed is compliant with policy DP19.

Wildlife

- 16.23 As outlined above, all required ecological surveys have been undertaken and an appropriate condition has been recommended. Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is also required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site.
- 16.24 Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In Colchester we have the Colne Estuary Special Protection Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.

- 16.25 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the Government's advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £122.30, which applies to all residential development within the Zone of Influence (Zoi). The whole of Colchester Borough is within the Zoi. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.
- 16.26 Therefore should the application be granted approval a payment of £122.30 will be required.

17.0 Conclusion

- 17.1 Given the specific circumstances of the proposal described above, the preservation of a heritage asset, the lack of harm to the character and appearance of the area, the proposed development would not conflict with Core Strategy Policy ENV1 which aims to conserve and enhance Colchester's countryside. Overall it would achieve the three dimensions of sustainable development sought by Core Strategy Policies SD1 and H1, and which the Framework promotes.
- 17.2 Whilst the proposal is contrary to Local Plan policy in terms of its location outside the village settlement boundary, planning approval is justified due to the particular site circumstances which would enable a change of use to take place within a building that has some historic value and without any negative impacts. The preservation of the heritage asset is in accordance with national policy and should be given considerable weight. The environmental aspects of the application are considered to be positive and the proposal will also provide limited social and economic benefits by affording a permanent new home for a family. Consequently, a conditional approval is recommended.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

Conditions

1. **Time Limit for Permission**
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. **Development to Accord with Approved Plans**
The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 09 C Block Plan indexed 14 August 2019, 15/A - 2 OF 2 Proposed Elevations indexed 12 September 2019, 12 C Proposed Ground Floor indexed 14 August 2019, 14 E Proposed Elevation 1 of 2 indexed 14 August 2019, Site Location Plan indexed 14 August 2019, Preliminary Ecological Appraisal indexed 3 July 2019 and Bat Survey Report indexed 17 June 2019.
Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.
3. **Materials as Stated in Application**
The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.
Reason: To ensure that materials are of an acceptable quality appropriate to the area.
4. **Removal of PD for All Residential Areas**
Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.
Reason: In the interest of visual amenity, protection of a heritage asset and landscape character.
5. **Non Standard Condition – Archaeology**
Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.
Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

6. **ZLA – Only works within Application**
This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved, in writing, by the Local Planning Authority prior to any works commencing.
Reason: For the avoidance of doubt as to the scope of the permission and to ensure that the historic building is preserved from any other potentially harmful works.
7. **Non Standard Condition – Ecology**
The development shall be carried out in complete accordance the mitigation and enhancement measures set out in the 'Preliminary Ecological Appraisal' indexed 3 July and Bat Survey Report indexed 17 June 2019. Enhancement measures shall be retained thereafter.
Reason: In order to safeguard protected wildlife species and their habitats and in the interests of ecological enhancement.
8. **Non Standard Condition – Fencing**
Before the occupation of the dwelling an estate fence shall be erected on the southern and eastern boundaries of the the curtilage of the dwelling as defined by the red line and indicated on Block Plan 09C. The fence shall be retained thereafter.
Reason: To ensure residential curtilage is separated from the remaining field to retain the landscape character of the area.
9. **NonStandard Condition – Limits to hours of work**
No demolition or construction work shall take outside of the following times;
Weekdays: 08:00 – 18:00
Saturdays: 08:00 – 13:00
Sundays and Bank Holidays: Not at all
Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.
10. **ZLQ – Schedule of Repairs/Works**
Prior to the commencement of any works, a full schedule of repairs shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.
Reason: In the interests of preserving the character of the barn and its setting.
11. **Non Standard Condition – Rooflights**

The rooflights hereby approved shall be of the “conservation” type with a single vertical glazing bar and mounted flush with the roof slope.

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

12. **Non Standard Condition – Details of chimneys etc**
Prior to the commencement of any works, details of all new or replacement external chimneys, flues, extract ducts, vents, grilles and meter housings shall have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interests of preserving the character and appearance of the barn and its setting.
13. **ZLR – Making Good**
Within 4 months of the works being carried out, all adjoining surfaces which have been disturbed by the works (including brickwork, plaster and floor tiles) shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.
Reason: In order to preserve the historic character of the building.
14. **ZMO – External joinery to be painted**
All external joinery shall be of painted timber.
Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.
15. **Non Standard Condition – External boarding**
All external boarding to the development hereby approved shall be timber, featheredged, weatherboarding, finished in black tar varnish.
Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application.
16. **ZMW – Rainwater Goods**
All rainwater goods (gutters, downpipes, hopperheads and soil pipes) shall be finished in either LEAD; CAST-IRON; CAST ALUMINIUM and painted BLACK and shall be of HALF ROUND profile.
Reason: To ensure that the approved works are carried out without detriment to the architectural character and appearance of the building where there is insufficient information within the submitted application.

17. **ZCJ – Foul Sewage Drainage**
Prior to the first occupation of the development, precise details of the foul drainage shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided prior to first occupation of the dwelling and thereafter retained as such.
Reason: In order to avoid unnecessary environmental, amenity and public health problems that could otherwise arise.

Informatives

1. No fires on site at any time.
2. The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.
3. PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.
4. PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either BEFORE you commence the development or BEFORE you occupy the development.
****This is of critical importance****. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. ****Please pay particular attention to these requirements****.
To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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 withstand challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.

