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<b>Item No:</b>	7.3
<b>Application:</b>	191581
<b>Applicant:</b>	Mersea Homes
<b>Agent:</b>	DLA
<b>Proposal:</b>	Application for removal or variation of a conditions 7, 8, 28, 62 following grant of planning permission. (121272)
<b>Location:</b>	North Colchester Urban Ext, Mile End Road, Colchester
<b>Ward:</b>	Mile End
<b>Officer:</b>	Alistair Day
<b>Recommendation:</b>	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 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 NO<sub>2</sub> 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/m<sup>3</sup>. 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.