

# Planning Committee Meeting

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

**Thursday, 02 August 2018 at 18:00**

**The Planning Committee** deals with planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

# Information for Members of the Public

## Access to information and meetings

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

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

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

## Have Your Say!

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

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

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**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 02 August 2018 at 18:00**

**The Planning Committee Members are:**

Councillor Pauline Hazell	Chairman
Councillor Brian Jarvis	Deputy Chairman
Councillor Lyn Barton	
Councillor Vic Flores	
Councillor Theresa Higgins	
Councillor Cyril Liddy	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Chris Pearson	

**The Planning Committee Substitute Members are:**

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

**Councillors:**

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

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

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

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

**1 Welcome and Announcements**

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

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

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

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

## **3 Substitutions**

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

## **4 Urgent Items**

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

## **5 Declarations of Interest**

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

## **6 Minutes**

There are no minutes for confirmation at this meeting.

## **7 Planning Applications**

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

### **7.1 180733 Land adjacent to Armoury Road, West Bergholt, Colchester** 7 - 66

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

### **7.2 180940 Development at Severalls Hospital, Boxted Road, Colchester** 67 - 92

Conversion and alteration of the retained buildings (Larch House, The Administration Building and the Echelon Building) to provide 20 residential units, car parking, landscaping and private amenity space.

### **7.3 180941 Development at Severalls Hospital, Boxted Road, Colchester**

Listed building application for the conversion and alteration of the retained buildings (Larch House, The Administration Building and the Echelon Building) to provide 20 residential units, car parking, landscaping and private amenity space. Listed Building consent is sought for the alteration of the Administration Building into a single dwelling, car parking / garaging, landscaping and private amenity space.

**See report at Agenda Item No 7.2**

- 7.4 **170247 Classic Pot Emporium, 30A Straight Road, Boxted, Colchester** 93 - 116

Demolition of existing buildings and the construction of a new business centre comprising retail, office, general industrial and warehousing units (Use Classes A1, B1, B2 and B8), together with associated car parking, highway works and landscaping.

- 7.5 **181237 59 West Stockwell Street, Colchester** 117 - 124

Erection of shed at rear of property.

- 7.6 **172642 Wakes Hall, Colchester Road, Wakes Colne, Colchester** 125 - 168

Demolish part of existing buildings, extend and convert into 12 dwellings and erect 10 dwellings (22 dwellings in total), including associated car parking.

- 7.7 **172643 Wakes Hall, Colchester Road, Wakes Colne, Colchester**

Alterations and conversion of Wakes Hall to provide residential dwellings.

**See report at Agenda Item No 7.6**

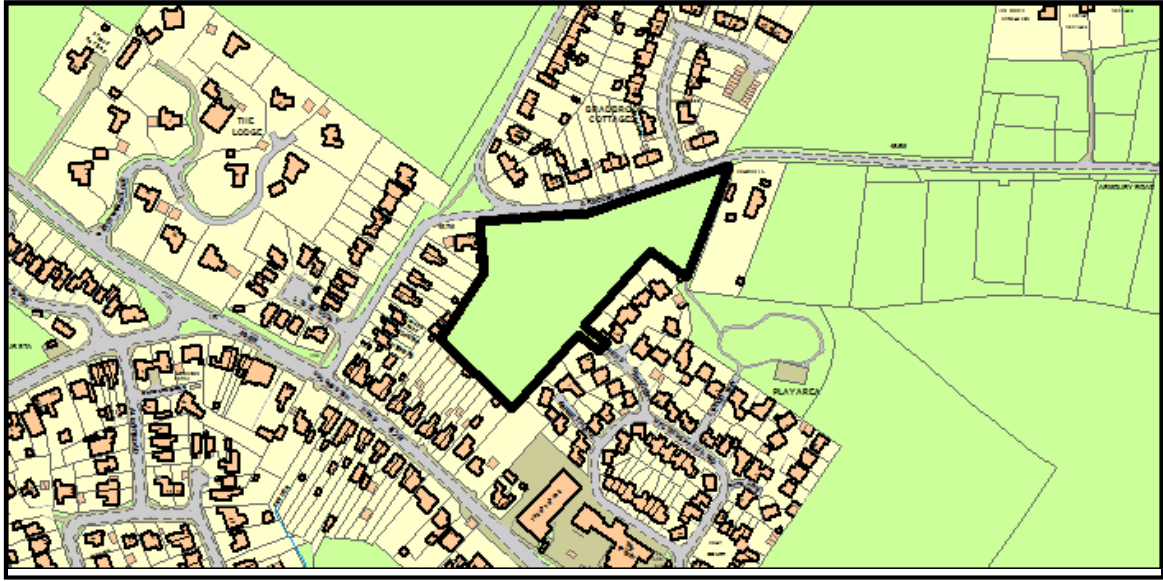
- Planning Committee Information Pages v2** 169 - 180

- 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)**





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## Item No: 7.1

**Application:** 180733

**Applicant:** Mr Roger Raymond, NEEB Holdings Ltd

**Agent:** Mr John Mason, Carter Jonas

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

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

**Ward:** Lexden & Braiswick

**Officer:** Sue Jackson

**Recommendation:** This application was deferred under the DROP procedure

## 1.0 Introduction

- 1.1 Members will recall this application was considered at the last meeting of the Planning Committee on the 5 July. Members invoked the Deferral and Recommendation Overturn Procedure (DROP) and instructed officers to review the harm that would result from the development and to provide a further report.
- 1.2 In accordance with the agreed procedure this report focusses solely on the motion to overturn the recommendation, and relates to the risks and implications as opposed to introducing any new material on the general issues/merits of the case previously discussed.
- 1.3 The previous report to Members is included in appendix 1. The report has been updated to include the matters previously set out in the amendment sheet and the updates to the report described to Members during the presentation. All the updated information is shown **in bold text**.

## 2.0 Further Report

### Introduction

- 2.1 This report sets out material planning considerations, it considers each in turn and then assesses the risk of costs being awarded against the Council at appeal.

### Government Advice

- 2.2 The National Planning Policy Guidance (NPPG) sets out when an award of costs might be made against a local planning authority. The following is an extract from the NPPG.
- 2.3 **“What type of behaviour may give rise to a substantive award against a local planning authority?**  
Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:
  - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
  - **failure to produce evidence to substantiate each reason for refusal on appeal.**
  - **vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.**
  - refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead



- acting contrary to, or not following, well-established case law
  - persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable
  - not determining similar cases in a consistent manner
  - failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances
  - refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage
  - imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations
  - requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the National Planning Policy Framework, on planning conditions and obligations
  - refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal
  - not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management.
  - if the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn
- (This list is not exhaustive.)”

- 2.4 The second and third bullet points (in bold type) make it clear Local Planning Authorities have to produce evidence to substantiate each reason for refusal on appeal and that assertions about a proposal’s impact have to be supported by objective analysis.

#### Highway Matters

- 2.5 The Highway Authority (HA) raised no objection to the application subject to conditions; one of which precluded all vehicular traffic including construction traffic from using Armoury Road. The application originally proposed a through route, so vehicles could access the site from either Colchester Road or Armoury Road. Following the response from the HA the application was revised so all vehicular traffic was from Colchester Road. Access to the site from Colchester Road involves the use of private roads; Maltings Park Road and Coopers Crescent .

- 2.6 Following the deferral the HA has been asked to confirm that the existing roads, Maltings Park Road and Coopers Crescent, are suitable in highway terms for use by the traffic generated by an additional 26 units. The HA has confirmed this is the case. They have also been asked to consider whether Armoury Road could be used for construction traffic and if so what improvements would be required. The HA has commented *“Armoury Road is classified in the s36 register as part Private Road and part Private Street. Public Footpath No 23 runs along its length and it is assumed that the PRow rights exist across the entire width of the road and verges. Paved footways extend along one side for about 150 metres or so one side then change to grass verges further along, both providing safe refuge for pedestrians. Visibility at the junction of Armoury Road with Colchester Road is sufficient when emerging and looking right, slightly less but not hazardous or dangerous when looking left. There are no Personal Injury Accidents (PIA’s) recorded at or in the vicinity of the junction. Junction geometry is adequate for its purpose. With the above in mind as well as the relatively modest increase in traffic flow, it is the Highway Authority’s view that no mitigation works to Armoury Road would be required.*
- 2.7 The HA has confirmed they consider the private roads are suitable for the additional traffic generated by 26 dwellings. They also consider visibility at the Maltings Park Road/Colchester Road junction is acceptable. Members are advised there would be a high risk of costs being awarded against the Council at appeal if a reason for refusal were based on impact on highway safety/capacity matters.

#### Impact on Residential Amenity

- 2.8 Although the application is for outline planning permission the recommendation includes several conditions to protect resident’s amenity both during construction and from the development itself. The conditions include a Construction Method Statement, restricting the number of units, requiring single storey dwellings and the removal of permitted development rights.
- 2.9 Officers have asked the HA whether they would agree to the use of Armoury Road for construction traffic and as noted above they have raised no objection.
- 2.10 Following the committee meeting Environmental Protection were reconsulted and asked to consider whether there were any grounds to refuse the application due to adverse impact, including the use of the existing roads by the additional traffic, on the amenity of existing residents. Environmental Protection have commented, *“We would recommend that the construction traffic enters the site via Armoury Road and that the usual restrictions on construction hours and other controls apply to minimise any disturbance from the construction phase.*

*We would also recommended that the access for residents via existing residential is on a hard surface rather than gravel and if possible, a closed-boarded fence of 2m in height is erected alongside the entrance with*

*existing properties. Vehicular disturbance from residents accessing and leaving the site will be minimal owing to the small number of units and slow vehicular speeds. From an EP perspective there would be no reasons for refusal”.*

- 2.11 Vehicular access is proposed via private roads. Whilst ownership and private rights of way are not planning matters the applicant has submitted Land Registry documents which they consider indicate they have a right of access over these roads. The applicant has also agreed to a clause in the legal agreement which would require the new residents to contribute to maintenance costs.
- 2.12 Officers consider the recommended conditions would protect residents amenity during the construction process, (especially if this traffic used Armoury Road), and from overlooking and loss of privacy from residents of the buildings, Environmental Protection has confirmed disturbance from the new traffic would be minimal.
- 2.13 Members are advised that without the support of Environmental Protection it would be difficult to provide evidence at appeal to support a reason for refusal based on impact on residential amenity. There is therefore a risk of costs being awarded against the Council at appeal.

#### Impact on Landscape

- 2.14 A Landscape Appraisal has been submitted with the application and a “Zone of Theoretical Visibility”
- 2.15 The Landscape Officer has considered this information and has commented as follows *“Whilst the application site lies on the southern edge of Character Area B6 – Great Horkesley Farmland Plateau in the Colchester Borough Landscape Character Assessment, it is not typical of the wider character area; it is not an area of farmland (and has not been farmed for many years) and its character is strongly influenced by the surrounding built development of West Bergholt which largely encloses the application site and all but cuts it off from the surrounding landscape.*

*The proposed development fills in an existing gap in the settlement between Colchester Road and Armoury Road, connecting into the existing settlement both to the south (via Coopers Crescent) and to the north (via Armoury Road). Development in this location would respect the existing settlement pattern of West Bergholt which is nucleated and would be of a similar scale and density as the surrounding areas of the settlement.*

*The Site does not contribute to this wider setting and the introduction of development on it would not alter the character of the setting. Furthermore, the introduction of development on the Site would not cause the village to link with the main Colchester settlement or contribute to a reduction in the gap between the settlement edges of the two settlements”.*

- 2.16 Members are advised there would be a high risk of costs being awarded against the Council at appeal if a reason for refusal was based on adverse impact on the landscape.

#### Archaeology

- 2.17 The Councils Archaeologist considers *“There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. In this case an archaeological condition is recommended.”*
- 2.18 Members are advised there would be a high risk of costs being awarded against the Council at appeal if a reason for refusal were based on adverse impact on archaeological assets.

#### Impact on Heritage Assets

- 2.19 Heritage Officer concludes *“It is considered that the proposed development will not cause further harm to the setting of the identified heritage assets. In view of this, there is not an objection to this application from a heritage standpoint”*. Members are advised there would be a high risk of costs being awarded against the Council at appeal if a reason for refusal were based on adverse impact on heritage assets.

#### Drainage and Flood Risk Issues

- 2.20 The application includes a Flood Risk Assessment and Foul Surface Water Drainage Strategy. Additional information and clarification was requested by Essex County SUDS Team prior to them raising no objection to the granting of planning permission subject to the imposition of conditions. Anglian Water has also raised no objection subject to conditions.
- 2.21 Members are advised there would be a high risk of costs being awarded against the Council at appeal if a reason for refusal were based on drainage/flood risk matters.

#### Ecology

- 2.22 The Ecological Survey and the results of additional survey work submitted during the course of the application indicate that protected species are either not present or appropriate mitigation is proposed; with the exception of hazel dormice where survey work is ongoing.

- 2.23 As set out in the report the application site includes boundary hedgerows which include areas of hazel and other hedgerow species which dormouse will forage within. Areas of bramble scrub also provide suitable nesting habitat as well as foraging. Given the presence of a local record within 1km of the site there is the potential for hazel dormouse to use the site. Whilst some survey work has been carried out further survey work until November is required.
- 2.24 Your officer has consulted EECOS on the application and discussed the application with them. Due to the location of the site and the proximity of residential development the likelihood of hazel dormice being present on the site is low. If they are present it will be within the hedgerow/s and small areas of bramble/blackthorn scrub not the main part of the site which is unmanaged grassland.
- 2.25 Suggested conditions, which EECOS consider appropriate in this instance, require the reserved matters submission to include the results of the continued hazel dormice survey work and appropriate mitigation. Should there be evidence of hazel dormice on the site the mitigation should require the retention, strengthening and protection of hedgerows and scrub which would not preclude development taking place.
- 2.26 It is considered the recommended conditions would protect ecological interests, secure retention and provision of new habitats and require appropriate new tree and hedgerow planting. Your officers therefore could not produce evidence to support a reason for refusal based on the adverse impact of the development on ecological interests and Members are advised there would be a high risk of costs being awarded against the Council at appeal.

#### Impact on Natural Features

- 2.27 The Arboricultural Officer has considered the Arboricultural Survey and Report and has raised no objection to the development subject to conditions to protect existing landscape features during construction. Members are advised there would be a high risk of costs being awarded against the Council at appeal if a reason for refusal were based on adverse impact on landscape features.

#### Other Material Considerations

- 2.28 The Contaminated Land Officer has considered the Phase 1 Desk Study and Preliminary Risk Assessment and considers that based on the information provided, the conclusions and recommendations are considered reasonable. Consequently no objection is raised subject to the inclusion of a condition. Environmental Protection have raised no objection in respect of noise or air quality.

- 2.29 Members are advised your officers consider there are no other material considerations where evidence could be provided to support a refusal at appeal.

#### Planning Obligations

- 2.30 The applicant has agreed to all the obligations requested by the Development Team these include contributions towards Primary Education; Open Space, Sport & Recreation and Community Facilities. 30% affordable housing is proposed which exceeds the current policy requirement. A broadband contribution is also offered although there is no policy requirement for this.
- 2.31 If Members are minded to approve the application a legal agreement will be required to secure these obligations. However if Members are minded to refuse planning permission the lack of a legal agreement to secure these obligations should also form a reason for refusal.

#### Policy

- 2.32 The report sets out the detailed response from Spatial Policy. In summary *“the proposed development site is located outside the West Bergholt settlement boundary as shown on the Proposals Map for the Adopted Local Plan. The proposal is considered to be in contravention of current adopted local policies. The Councils housing supply assessment has been updated for the period from 1.4.18 and a report on this has been published on the Councils website. This demonstrates a 5 year supply of deliverable sites. Furthermore, the proposal conflicts with the emerging Local Plan together with the emerging Neighbourhood Plan, which will plan for the most appropriate additional growth in West Bergholt looking ahead to 2033. It is understood that there are no other grounds for refusal and in a situation such as this the planning balance will need to be applied and permission should only be granted if other material considerations outweigh the presumption against development outside settlement boundaries contained in the development plan”*.
- 2.33 The original report sets out why your Officers consider a refusal based solely on conflict with the Local Plan in respect of the settlement boundary and a 5 year housing land supply are not necessarily sufficient for an appeal to be dismissed if the Local Planning Authority cannot also demonstrate harm.

### **3.0 Conclusion**

- 3.1 To summarise, following the deferral of the application your Officers have carefully considered the harm that might result from the development, the Highway Authority and Environmental Protection have also been reconsulted and asked to comment on potential harm. The material planning considerations are set out above. The comments from the in-house specialists and external consultees are set out in detail in the original report and summarised above. Members will note that no objection is raised by

any of the specialists or consultees. Should planning permission be refused for reasons relating to any of these matters the specialists and consultees would not be able to provide any evidence to support the Council at appeal. The Council would therefore not be able to substantiate these reason/s for refusal and the likelihood of costs being awarded against the Council would be high.

- 3.2 However if Members conclude that having applied the planning balance the benefits of the development are outweighed by the conflict with the Local Plan and resolve to refuse planning permission for these reasons alone; they could be evidenced at appeal. Whilst a subsequent appeal might be allowed the award of costs against the council is unlikely.

#### **4.0 Recommendation to the Committee**

- 4.1 The Officer recommendation to the Committee is that if Members are minded to refuse planning permission the following reasons are suggested;

##### **Reasons for Refusal**

1. Colchester Borough Council's current Development Plan consists of the Core Strategy (adopted in 2008 and subject to a Focused Review in 2014), Site Allocations DPD (adopted 2010), and Development Policies DPD (adopted 2008 and reviewed 2014). The Development Plan informs development within the Borough up to 2023 including the allocation of new housing sites as detailed in the Proposals Maps. The proposal is for new residential development which is not allocated through the Site Allocations DPD in accordance with the settlement hierarchy and is therefore contrary to Colchester Borough Core Strategy Policy SD1 (spatial strategy), found sound in 2014 following a Focussed Review carried out after the publication of the National Planning Policy Framework (NPPF) and underpinning other development plan policy. Policy SD1 does however contain reference to an out of date housing target so although part of the policy can be afforded full weight, part is inconsistent with the NPPF and should only be afforded limited weight (housing requirement and approach to PDL). Policies which flow from the strategic nature of SD1, will need to be considered using the same weighting. The application also proposes development outside the settlement boundary for West Bergholt as defined in the Core Strategy. The proposal is therefore contrary to Core Strategy Policy ENV1 (unallocated greenfield sites outside settlement boundaries) and H1 (housing delivery). Policy ENV1 states that unallocated greenfield sites outside of settlement boundaries will be protected and where possible enhanced. Policy ENV1 has application beyond limiting isolated residential development in the countryside; by restricting development to within settlement boundaries. Given that the proposed site is outside of the settlement boundary it is contrary to this Policy. The Core Strategy sets out how the Council would manage the delivery of at least 19,000 new homes between 2001 and 2023. The overall distribution of new housing is set out in Policy H1 and Table H1a, guided by the Settlement Hierarchy. Since adoption of the Core Strategy the Council has

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continued to update its evidence base and has taken into account policy changes at a national level. The Council has continued to deliver new homes, over a prolonged period. Since the beginning of the current Plan period (2001), the Council has exceeded its housing requirements by 939 new dwellings, with a continued good track record of delivery. Whilst there has been a small shortfall since 2013 (the base date of the emerging local Plan) this will be addressed in the next 5 years. An updated 5-year housing land supply report (June 2018) show a 5-year supply can be delivered without including emerging allocations.

The Council is preparing a new Local Plan for the Borough to replace the adopted Local Plan and guide development over the period 2017 to 2033. It will include new housing allocations to meet predicted growth of the Borough over that period. The Local Plan process ensures that potential development locations are the subject of thorough assessment, consideration of alternatives and meaningful engagement with residents, service providers and other key stakeholders. As well as preparing a new Local Plan for Colchester, the Council are also currently supporting a number of Parish Councils, to develop Neighbourhood Plans for their respective parishes. The West Bergholt Neighbourhood Plan group are actively progressing their Neighbourhood Plan and Regulation 14 consultation on the draft plan commenced on June 4 2018. West Bergholt Parish Council and Neighbourhood Plan Group indicated a preference for allocating sites through their emerging Neighbourhood Plan. The emerging Local Plan therefore identifies a broad area of growth for West Bergholt, located to the north-east of Colchester Road, and the Neighbourhood Plan has identified sites within this broad area and this approach is supported by Policies contained in the emerging Local Plan. The allocation of housing sites through the Local Plan and Neighbourhood Plan process ensures that new development has been thoroughly assessed for all of its potential impacts so that effective mitigation measures can be prepared. The Local Plan and Neighbourhood Plan process also ensures that potential development locations are the subject of meaningful engagement with residents, service providers and other key stakeholders and that a comprehensive strategic approach to site allocations is undertaken, including sustainability appraisal and consideration of alternatives. The proposed site is not located within the identified broad area of growth and is therefore contrary to the emerging Colchester Local Plan. Both the Local Plan and the West Bergholt Neighbourhood Plan are subject to Examination before Adoption so therefore do not carry full weight in determining this application. However, it should be acknowledged that the Local Plan is at an advanced stage; it has been submitted and examination has commenced on Section 1. The Neighbourhood Plan is at Regulation 14 stage following significant work, evidence gathering and engagement with a programme to proceed expediently to Regulation 16 / Submission before Adoption of the Local Plan. Neither emerging Plans lend policy support for the proposed development. Approval of a planning application outside and circumventing the Local Plan process would undermine proper strategic planning, prejudice the formulation



and adoption of the emerging Local Plan and Neighbourhood Plan and is considered to be premature.

The Council has assessed the public benefits that the application would deliver, including those set out in the application Planning Statement and the proposal for 30% affordable housing. However the Council can demonstrate in excess of a five- year housing land supply and considers that in this case, the public benefits are outweighed by the conflict with the Local Plan, emerging Local Plan and the West Bergholt Neighbourhood Plan.

2. The application fails to include a legally binding mechanism to secure a range of planning obligations (30% affordable housing and financial contributions towards Open Space, Sport and Recreation; Community Facilities; Primary Education and Broadband) that a major development of the scale proposed requires. The proposed development is therefore contrary to: the sustainable development principles at NPPF paragraphs 7, 17, 50, 70, 73; Core Strategy (adopted 2008 revised 2014) Policy SD2 (Delivering Facilities and Infrastructure) and Policy H4 (Affordable Housing) (revised July 2014); and adopted Development Policies (adopted 2010 revised 2014) Policy DP3 (Planning Obligations and the Community Infrastructure Levy). It is also contrary in this context to the following adopted guidance adopted by the Council: Supplementary Planning Document Affordable Housing (adopted 15th August 2011); Provision of Community Facilities (adopted 28th September 2009 updated July 2013) and Supplementary Planning Document Provision of Open Space, Sport and Recreational Facilities (adopted 24 July 2006). It is contrary, finally, to Supplementary Guidance issued by Essex County Council (Developers' Guide to Infrastructure Contributions (revised 2016).



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

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

### **2.0 Synopsis**

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

### **3.0 Site Description and Context**

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

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

#### **4.0 Description of the Proposal**

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

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

## **5.0 Land Use Allocation**

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

## **6.0 Relevant Planning History**

- 6.1 There is no relevant planning history

## **7.0 Principal Policies**

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

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

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

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

SA H1 Housing Allocations

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

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

## **8.0 Consultations**

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

### **8.2 Spatial Policy comments**

Colchester Local Plan

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

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

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

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

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

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

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



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

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

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

#### Strategic Land Availability Assessment

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

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

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

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

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

#### Conclusion

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

### 8.3

#### Anglian Water

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

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

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

#### 8.4 Lead Local Flood Authority (Essex County Council SUDs)

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

#### 8.5 Highway Authority

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

## 8.6 Landscape Officer

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

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

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

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

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

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

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

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

Having considered all the submitted information the landscape officer concludes

Comments in conclusion:

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

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

References:

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

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

8.8 Natural England has no comments to make on this application

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

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

8.9 Urban Design Officer

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

*Officer Comment: A through route is no longer proposed.*

8.10 Heritage Officer

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

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

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

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

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

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

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

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

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

#### Analysis of Impact Upon Heritage

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

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

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

#### Conclusions

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

#### 8.11 Archaeologist

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

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

In this case an archaeological condition is recommended:

#### 8.12 Environmental Protection

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



### 8.13 Contaminated Land Officer

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

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

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

## 9.0 **Parish Council Response**

### 9.1 The Parish Council have stated that,

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

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

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

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

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

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

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

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

## **10.0 Representations from Notified Parties**

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

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

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

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

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

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

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

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

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

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

## **11.0 Parking Provision**

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

## **12.0 Open Space Provisions**

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

### 13.0 Air Quality

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

### 14.0 Planning Obligations

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

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

## 15.0 Report

15.1 The main issues in this case are:

### **The Principle of Development**

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

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

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



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

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

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





Does the proposal constitute sustainable development?

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

1. Economic Role

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

2. Social Role

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

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

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

### 3. Environmental Role

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

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

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

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

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

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

## Emerging Local Plan/Neighbourhood Plan

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

### Policy SS15:West Bergholt states

#### “Policy SS15: West Bergholt

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

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

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

## **Conclusion: The Principle of Development**

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

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

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

## **Design and Layout**

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

### **Scale, Height and Massing**

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

### **Impact on the Surrounding Area**

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

### **Impacts on Neighbouring Properties**

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



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

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

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

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

### **Landscape and trees**

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

### **Ecology**

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



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

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

#### **Heritage including Archaeology**

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

#### **Drainage and Flood risk**

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

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

## **Other Matters**

### **Land Contamination**

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

### **Noise**

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

Environmental Protection has raised no objection subject to conditions.

## **16.0 Conclusion**

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

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

## **17.0 Recommendation to the Committee**

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

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

17.3 The legal agreement is required to secure the following;

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

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

## **18.0 Conditions**

### **1. Non Standard Condition - Submission of Reserved Matters**

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

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

### **2. Non Standard Condition - Submission of Reserved Matters**

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

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

### **3. Non Standard Condition - Outline Time Limit**

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

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

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

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

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

### **5. Non Standard Condition - Clarification of Approved Plans**

The site location plan Drawing No;LP\_02 is approved, whereas drawings PA02 rev A and SK04A are excluded from this permission.

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

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

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

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

## **7. Non Standard Condition - Construction Method Statement**

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

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

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

## **8. Non Standard Condition - Cross Sections**

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

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

## **9. Non Standard Condition - Materials**

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

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

**10. Non Standard Condition - Removal of Permitted Development Rights**

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

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

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

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

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

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

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

Reason: To protect the privacy of adjacent dwellings.

**13. Non Standard Condition - Landscape Management Plan**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**18. Non Standard Condition - Tree Canopy Hand Excavation**

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

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

**19. Non Standard Condition - Provision of Play Area**

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

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



## **20. Non Standard Condition - Light Pollution for Major Development**

Prior to the first Occupation/Use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity) shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

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

## **21. Non Standard Condition - Wildlife Survey**

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

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

## **22. Non Standard Condition - Ecological Scheme**

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

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

## **23. Non Standard Condition - Landscape Scheme**

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

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

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

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

Recommended informative:

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

#### **24. Non Standard condition - Archaeology**

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

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

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

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

**25. Non Standard Condition - Air Quality**

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

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

**26. Non Standard Condition - Surface Water Management Strategy**

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

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

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

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

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

**28. Non Standard Condition - No Use of Public Footpath**

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

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

**29. Non Standard Condition - Highway Details**

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

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

### **30. Non Standard Condition - Highway Details**

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

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

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

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

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

### **32. Non Standard Condition - Off Street Car Parking**

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

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

### **33. Non Standard condition - Garages**

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

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

### **34. Non Standard Condition - Bicycle Storage**

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

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

### **35. Non Standard Condition - Residential Travel Plan**

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

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

### **36. Non Standard Condition - Highway Access Surface Treatment**

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

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

### **37 Non Standard Condition - Communal Bin/Recycling/Refuse**

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

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

### **38. Non Standard Condition - Visibility Splays**

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

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

### **39. Dwelling Visibility Splays**

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

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

#### **40. Non Standard Condition - Carriageway Dimensions**

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

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

#### **41. Non Standard condition - Footway Dimensions**

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

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

#### **42. Non Standard condition - Provision of New Bus Stop**

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

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

#### **43. Non Standard Condition - Surface Water Drainage**

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

- Limiting discharge rates to the Greenfield 1 in 1 for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

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

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

#### **44. Non Standard Condition - Minimise Off-Site Flooding**

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

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

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

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

#### **45. Non Standard Condition - Drainage Maintenance Plan**

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

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

#### **46 – Non Stand Condition - Maintenance Plan Logs**

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

#### **47. Non Standard Condition - Unexpected Land Contamination**

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

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

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

### **19.0 Informatives**

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

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

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

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



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

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

**(4) ZTG - Informative on Section 106 Agreements**

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

**(5) ZTM - Informative on Works affecting Highway Land**

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

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

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

**(7) ZTX - Informative on Public Rights of Way**

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

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

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

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

**(8) ZUJ - Informative on Archaeology**

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

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

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

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

**(10) Non Standard Informative - Highway Design Informatives:**

**Informative 1**

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

**Informative2:**

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

**Informative 3:**

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

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

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



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**Item No:** 7.2 / 7.3

**Application:** 180940

**Applicant:** East Anglian Restoration Group

**Agent:**

**Proposal:** Conversion and alteration of the retained buildings (Larch House, The Administration Building and the Echelon Building) to provide 20 residential units, car parking, landscaping and private amenity space.

**Location:** Development at, Severalls Hospital, Boxted Road, Colchester, CO4 5HG

**Ward:** Mile End

**Officer:** Alistair Day

**Recommendation:** Approval

**Application:** 7.3 - 180941 (Listed Building)  
**Applicant:** East Anglian Restoration Group  
**Agent:**  
**Proposal:** Conversion and alteration of the Administration to a single dwelling house with associated car parking, landscaping and private amenity space.  
**Location:** Development at, Severalls Hospital, Boxted Road, Colchester, CO4 5HG  
**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 a legal agreement is required to link the proposed development to the outline planning approval for the redevelopment of the former Severalls Hospital site (ref 151401) and its associated legal agreement(s).

## **2.0 Synopsis**

- 2.1 The key issues explored are land-use, the effect of the proposed development on the character and appearance of the surroundings, the impact on the special interest of the listed and locally listed buildings and whether the proposal represents sustainable development in terms of the National Planning Policy Framework (NPPF).

## **3.0 Site Description and Context**

- 3.1 The former Severalls Hospital site was formerly characterised by the following key features:
- A central complex of vacant hospital buildings built to a broadly symmetrical echelon plan and surrounded by a kidney-shaped service path;
  - a series of detached villas scattered in the outer grounds, each of which is surrounded trees; and
  - large areas of informal parkland and woodland;
- 3.2 In 2016 reserved matters planning approval (ref 152733) was granted for the redevelopment of the Phase 2 of the former Severalls Hospital site (excluding the retained buildings). The retained buildings are:
- The Administration Building;
  - Larch House;
  - Part of the western section of the main Echelon Building; and
  - The water tower

- 3.3 The Administration Building is listed Grade II for its special architectural or historic interest. The water tower, Larch House and the echelon building constitute non-designated heritage assets – i.e. they are buildings of local significance. A large proportion of the trees within the Severalls Hospital grounds are protected by a tree preservation order.
- 3.4 The original access to the former hospital was from Boxted Road and will continue to serve the site. A new access on the east side of the site has been constructed and will provide the new housing, the primary school and the sites of the proposed community centre and mixed use area with direct access onto the A1341 Via the Urbis Romanae (VUR). Tower Lane, which runs along the northern boundary of the site, is a PRoW.
- 3.5 To the north of the Severalls Hospital site, between Tower Lane and United Way, is the David Lloyd Centre. To the south of the hospital site is the Northern Approach, which connects the VUR and Boxted Road. The VUR bisects the southern part of the former hospital parkland and now creates the eastern boundary of the main part of the former Severalls Hospital site; Boxted Road forms the west boundary of the former hospital site.

#### **4.0 Description of the Proposal**

- 4.1 The current application seeks planning permission for the conversion of three of the retained former Severalls Hospital buildings to residential use with car parking, landscaping and private amenity space. The following units of residential accommodation are proposed:
- Larch House: 1 x four bedroom and 1 x 3 bedroom units
  - Administration Building: 1 x 4 bedroom unit
  - Echelon Building: 10 x 3 bedroom units and 7 x 4 bedroom units

A concurrent listed building application has been submitted in respect of the alteration works to the Administration Building.

#### **5.0 Land Use Allocation**

- 5.1 The site is allocated for residential development reflecting the longstanding planning permission on the site.

#### **6.0 Relevant Planning History**

- 6.1 The relevant planning history for the former Severalls Hospital site is set out below:
- O/COL/01/1624 – outline planning permission approved for up to 1500 dwellings (including conversion of some retained hospital buildings), mixed uses including community and education facilities, retail, and public open space and associated highway infrastructure.
  - 100035 (approved March 2011): Variations to amend the pre-occupation triggers for the delivery of the Northern Approach Road.

- 100502 Reserved Matters for the delivery of 248 homes on Phase 1 was granted by the Council on 4 August 2011. Phase 1 is being developed by Crest Nicholson and construction has commenced.
- 112401 (approved March 2012): This approved an updated Masterplan
- 131221 (approved November 2013): Variation to condition 8a to increase the number of dwellings which can be occupied prior to completion of the Northern Approach Road from 75 to 125 dwellings.
- 151401 (approved November 2015): This sought to regularise a number of conditions and was supported by a deed of variation to the original agreement to allow inclusion of a financial contribution of £2m for the Busway.
- 152733 – (approved April 2016) Reserved matters application for Phase 2 of the former Severalls Hospital comprising 730 new-build residential dwellings, open space, landscaping, parking, access and associated infrastructure. The proposal also re endorsed the demolition of the majority of the existing hospital buildings
- 160147 Refurbishment of retained buildings (Larch House, Administration Building, Water Tower and part of the Echelon Building) to provide 20 residential units, car parking, landscaping and private amenity space.
- 173234 Full planning consent is sought for the refurbishment and change of use of the Water Tower to provide a single office, together with car parking and ancillary amenity space. Works to include a porch extension, alteration to fenestration, erection of maintenance balcony and privacy screen, and boundary enclosures.

6.2 Two further applications have been approved at the site.

101527 Full planning permission was granted for the erection of a child and adolescent mental health unit. The mental health unit falls within Phase 2 of the Severalls Hospital site adjacent to Boxted Road. The mental health unit is now operation.

A Regulation 3 application for education development was made to Essex County Council (CC ref. CC/COL/52/14 (CBC ref 146500)) on 28 November 2014 for the construction of a two-storey, two-form entry Primary School with associated hard and soft play space, vehicle access and parking, hard and soft landscaping, drainage, lighting and fencing. The application was approved by Essex County Council in April 2015. The School is currently under construction.

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must also be taken into account in planning decisions. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

- SD1 - Sustainable Development Locations
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP11 Flat Conversions
- 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
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

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

- SA NGA1 Appropriate Uses within the North 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 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. (1) the stage of preparation of the emerging plan;

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

The Emerging Local Plan is at an advanced stage and may therefore be taken into consideration in the determination of this application. In the context of this application proposal there are no fundamental unresolved objections to the aforementioned policies in the emerging plan and it is considered, at this stage, that the relevant policies in the emerging Local Plan are consistent with the Framework. The Emerging Local Plan is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo 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 The Myland and Braiswick Neighbourhood Plan is also part of the local plan and carries statutory weight..

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

- Community Facilities
- Vehicle Parking Standards
- Open Space, Sport and Recreation
- The Essex Design Guide
- External Materials in New Developments
- Cycling Delivery Strategy
- Myland Village Design Statement

## 8.0 Consultations

### Landscape Officer

8.1 The Landscape Officer has advised that the following revisions are required:

- the proposed landscape management plan should be amended to fully accord with standard design requirements (landscape guidance sheet LIS/C clause 6.1)
- details of the type & manufacturer's reference or detail illustrative drawings of all artefacts, enclosure and structures (including railings, walls, fences & bollards) needs to be clearly identified on the proposal drawing
- the proposed rear enclosure to the Echelon Building needs to be reconsidered in a more communal garden design, this to better complement the historic character of the landscape.
- the rear gardens to Larch House should be enclosed with brick walling in order to help protect public amenity.

In conclusion, taking into account all relevant considerations and for the reasons set out above, this application cannot currently be supported on landscape grounds.



### Tree Officer

- 8.2 The Tree Officer has advised that he is in agreement with the information provided. The small amount of access pruning required will not be of significant detriment to the trees shown to be retained.

### Urban Design Officer

- 8.3 The comments from the Urban Design Officer are summarised as follows:

Further information on the Admin Building demonstrates an appropriate response to the building. I am also happy to accept the view of the historic buildings officer on a number of other previously raised concerns for this and other retained properties. I do still however have some outstanding urban design priority concerns which I would object to unless addressed as follows or evidence is provided that the design principle has already been approved:

- The front facing private amenity space for Unit 4 of the Echelon will be treated as a highly screened rear space, i.e. a fundamental urban design flaw which would blight the visual appeal and clean legibility of the public green (kidney) corridor framed by building frontage. Furthermore this conflicts with secure by design thinking by reducing visibility of the public realm and leaving rear gardens vulnerable to unwanted access and damage. Notwithstanding this concern, I would be surprised if such a confined enclosed garden would appeal to the resident, i.e. rather than what I would instead suggest is a front spill-out space with front boundary treatment (not 1.8m fencing) and benefitting from views over the kidney corridor.
- The southern boundary wall to the Admin Building should be curved as in previously approved drawings in response to and positively emphasising the importance of the neighbouring feature tree designed to attractively landmark the north-south boulevard at its northern convergence with the east-west boulevard.

### Archaeological Officer

- 8.4 The Archaeological Officer states that no material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

### Environmental Protection (General)

- 8.5 Environmental Protection has no comment.

### Highway Authority

- 8.6 The Highway Authority has advised that from a highway and transportation perspective they have no comments to make on the proposal

#### Local Lead Flood Authority (LLFA)

- 8.7 No comments received. The LLFA has advised on the previous application for the conversion of the retained buildings that this element of the Severalls development will not greatly increase impermeable areas within this part of the site and is therefore unlikely to have a significant impact on flood risk.

#### Historic England

- 8.8 Historic England do not wish to offer any comments and recommend that you seek the views of your specialist conservation and archaeological advisers, as relevant.

#### Anglian Water

- 8.9 The comments from Anglian Water can be summarised as follows:
- The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows.
  - Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. We request a condition requiring the drainage strategy covering the issue(s) to be agreed.
  - From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority.
  - The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

#### *Officer Comment:*

*Officers have subsequently been advised by email that the condition requested above is not considered necessary in the light of the wider drainage approval for the Severalls Hospital site.*

#### Environmental Protection (Contamination)

- 8.10 Planning Statement, East Anglian Group, Ref. 008, Issue 01, dated March 2018, Appendix 7, Environmental/Contamination - Letter Report from RSK to Ian Newman, East Anglian Group, Ref. 29893/L01/bhw, dated 27/03/18 includes a specific risk assessment of these buildings references the previously submitted RMS and considers a clean capping system to be required in soft landscaped areas (450mm). Note that private gardens are not specifically discussed in this letter - it will be expected that all occupiers of private residential gardens will have access to the minimum of 600mm of clean cover soils, as detailed in the RSK Revised Remedial Plan for Area D1. Contamination resistant drinking water pipe is also recommended and a watching brief for any unexpected contamination encountered during the refurbishment works, also as identified in the RSK Revised Remedial Plan for Area D1. Consequently, should this application be approved, Environmental Protection would recommend inclusion of the following *non-standard conditions*:

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

## **9.0 Parish Council Response**

- 9.1 The Parish Council have stated that they have "studied this application thoroughly and would support it".

## **10.0 Representations**

- 10.1 None received

## **11.0 Parking Provision**

- 11.1 See Paragraph 15.44-46

## **12.0 Open Space Provisions**

- 12.1 See Paragraph 15.36-39

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is classed as a "Major" application and, as such, there was a requirement for it to be considered by the Development Team. The Development Team has been advised that this application is directly linked to the proposals approved under the outline planning application for the redevelopment of the Severalls Hospital site. For this reason, it was agreed that this application should be linked to the s106 agreement signed as a part of the Severalls Hospital outline planning approval.

## **15.0 Report**

### The Policy Context and Planning Background

- 15.1 It is a statutory requirement for a planning application to be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has a suite of fully adopted Development Plan Documents, including a Core Strategy (CS), Site Allocations (SA) and Proposals Maps and Development Plan Policies (DPD). The Council has also adopted a Supplementary Planning Document in respect of the Severalls Hospital site.
- 15.2 The Council's CS provides the overarching policy direction for the local plan and for the delivery of development, infrastructure, facilities and services in Colchester to 2021 and 2023 for housing. Policies SD1 and H1 promote sustainable development and identify broad locations for growth. The application site forms part of the identified regeneration area in the Northern Growth Area. Other CS policies that are relevant to this application are: Policy UR2 which seeks to secure high quality and

inclusive design in new development and ENV1 which seeks to protect and enhance the Borough's natural and historic environment.

- 15.3 The policy approach to the North Growth Area, which includes the Severalls Hospital site, is subject to specific policies in the SA (policies NGA1 to NGA5). These reflect that the site has been a long term allocation for residential development.
- 15.4 The DPD provides more detailed planning policies and supports those of the CS. A total of 25 policies are set out addressing a variety of issues including sustainable development, protection of the historic environment, public realm, highways and ecology.
- 15.5 At the national level the NPPF supported by the Planning Practice Guidance is a material consideration. The NPPF reaffirms the requirement that planning applications should be determined in accordance with development plans, unless materials considerations indicate otherwise. The NPPF also states that where sites are allocated for housing they should be approved without delay.
- 15.6 Outline planning permission (O/COL/01/1624) was granted for the redevelopment of the former Severalls Hospital site on 21 March 2006. This application proposed up to 1500 dwellings (including conversion of some retained hospital buildings), mixed uses including community and education facilities, retail, public open space and associated highway infrastructure.
- 15.7 The outline planning permission has been formally varied a number of times, most recently in November 2015 when Members approved changes to selected outline planning conditions and the s106 agreement (ref 151401). Condition 4 of application 151401 requires Phase 2 of the Severalls Hospital development to accord with the approved 2011 Broadway Malayan Masterplan and Design Code.
- 15.8 The Masterplan identifies the buildings that are to be retained and key areas of landscape. The buildings identified for retention are:
- The Administration Building
  - The Water Tower
  - The Echelon wing to the west of the Kidney
  - Larch House; and
  - Airing Shelters in the airing courts

Key areas of landscape that are to be retained are:

- The external and internal air courts
- Myland Villa Gardens
- The part of the former cricket pitch to the south the main echelon building; and
- Two areas of woodland to the north of kidney

- 15.9 In December 2015 a reserved matters planning application was submitted pursuant to outline planning permission 151401 for 730 residential dwellings, open space, landscaping, parking, access. On 17 March 2016 the Planning Committee resolved to grant reserved matters planning approval subject to various conditions; this permission was issued on 28 April 2016. This permission is currently being implemented
- 15.10 In 2016 planning and listed building applications were submitted by the Severalls Consortium for the conversion and alteration of the retained buildings to create 20 units of residential accommodation. The planning application was approved subject to various conditions and the completion of a legal agreement to link the development back to the main Severalls legal agreement. The listed building was also approved.
- 15.11 In 173234, planning permission was granted for the conversion of the water tower to B1 office use. This permission is currently being implemented.

### The Proposal

- 15.12 The current application seeks planning permission for the alteration and conversion of the Administration Building; Larch House; and the western section of the echelon wing to residential use. The proposal to convert these buildings to residential use accords with the land use planning policies for the Severalls Hospital site and the guidance set out in the approved 2011 Master Plan. Given this, there is not an objection in principle for the retained buildings being converted to residential use.

### Heritage and Design

- 15.13 The Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 (Listed Building Act) places a duty on the Local Planning Authority to pay special regard to the desirability of preserving listed buildings and their setting. CS Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. DPD DP14 states that development will not be permitted that will adversely affect a listed building, a conservation area, historic park or garden or important archaeological remains. CS Policy UR2 seeks to promote and secure high quality design. DPD DP1 sets out design criteria that new development must meet and include the requirement to respect the character of the site and enhancing its surroundings. Government guidance on the historic environment is set out in paragraphs 126 to 141 of the NPPF. Paragraph 133 deals with substantial harm to a designated heritage asset. Paragraph 134 deals with less than substantial harm. Harm in this category has to be weighed against the public benefits of the proposal.
- 15.14 The relevant heritage designations within the Severalls Hospital site are the grade II listed Administration Building. Section 66 of the Listed Building Act is engaged insofar as the Administration Building is concerned. Larch House, the former ward block and the former grounds of the Severalls Hospital site constitute non-designated heritage assets and also need to be considered in the light of the guidance set out in the NPPF.

- 15.15 The application seeks permission to convert the buildings to residential use. Listed building consent is also sought for the alteration of the Administration Building. The scope and impact of the proposed works to the retained buildings is discussed in further detail below:

#### Administration Building

- 15.16 The Administration Building makes a handsome architectural statement, announcing the former hospital. The front (north) elevation has a central entrance bay flanked by a five window bay range. These have multi-pane sashes and dominant 2-storey bow windows of 3 bays. A deep cornice follows the bows to the slightly advanced central entrance bay which has a prominent stone portal with a deep overhanging segmental arch canopy. Above the first floor windows is a deep stone segmental pediment with central clock behind. The rear of the building has a more utilitarian appearance. The List descriptions states that the interior includes plastered beamed ceilings, tall wood fireplaces, a wide stair framed by tall ionic columns with metal balusters in Art Nouveau style with a central dome to first floor with glazed oculus. The building has been vacant for many years and its condition has deteriorated over the years; this has been further exacerbated by vandalism and theft. Since acquiring the Administration Building, the new owner has undertaken essential repairs to the building and made the building wind and weather proof.
- 15.17 The Administration Building is set in front of flanking buildings and this, combined with its relationship with the original approach drive, means that it stands out as the principal building of the former asylum complex. These aspects, along with the now mature landscaping contribute positively to the building's setting.
- 15.18 It is proposed to convert the Administration Building to a single four bedroom dwelling. On the ground floor, the scheme retains the principal rooms in their existing form. The stairs and hall are shown retained and it is proposed to restore the central dome to first floor. At the first floor, the plan form and room proportions room are again retained insofar as practical. Partitions are proposed within the bedrooms to create en-suite bathrooms / dressing rooms. The design of the partitions will need to be carefully designed to ensure that the spatial qualities of the rooms are not adversely affected and it is recommended that they take the form of independent 'pods' that are set into the room.
- 15.19 A new rear extension is proposed (designed in a contemporary style) which will be attached to the existing modern flat roofed addition. The works will not involve the loss of historic fabric and the size, scale and design of the proposed extension are such that the proposal remains subordinate to the host building. It is also proposed to make good the rear elevation of the building where original linking corridors to the main hospital have been removed. Unfortunately the extent of scarring is such that it is not practical to repair the original brick; the decision has therefore been taken to clad the scared brickwork so that the works are clearly read as a 'modern' intervention.
- 15.20 To the north of the Administration Building the circular lawn is being retained as a part of the reserved matters planning approval. The original flanking structures either side of the Administration Building are to be replaced by new houses which have been positioned so as to retain the prominence of the listed building. The proposed rear garden to the Administration Building is shown enclosed in part by a 2.1m brick wall An

in / out vehicular access is proposed on the south boundary with a three bay garage built behind the wall. The comments made by the Urban Design Officer regarding desire for a curved wall to the 'public square' are noted. It is however considered that the current 'straight' wall be equally complementary to the setting of the public realm and by setting the alignment of the wall back from the original position, greater space will be provided for the proposed specimen trees, which is an important feature proposed for this part of the development. The applicant has also confirmed their willingness to erect a plaque in the wall to commemorate the centenary of the Great War and/or the history of Severalls.

- 15.21 A viable long-term use needs to be found for the Administration Building that is sympathetic to its special architectural and historic character. The proposal to convert the building into a single dwelling house is considered to provide an appropriate solution.

#### Larch House

- 15.22 Larch House is located in the north west corner of the "kidney route" and was originally built for Male Attendants. It is a three storey building designed in an Arts and Crafts style. At ground floor, the principal west facing elevation has a colonnade of stone columns creating a veranda above which are set multi pane sash windows. The rear elevation of the building is quite plain. The roof is covered in plain tiles and takes the form of a mansard roof with decorative (modified Dutch) gables. Internally the upper floors are divided into ten smaller rooms served off a central corridor and a staircase is located in the projecting bay at the west end. To the east of the main building is a single storey billiard room. Whilst the eclectic Arts and Craft design of Larch House is somewhat unusual in the Severalls context, it does nevertheless constitute a positive and locally distinctive feature of this site.
- 15.23 It is proposed to convert Larch House into one three bedroom dwelling and four bedroom dwelling. Externally the front elevation will remain virtually unaltered. On the rear elevation, it is proposed to adapt the window to the billiard room to provide a door, to reinstate roof lantern to this room and add bi-fold doors within a contemporary metal surround. The unsightly steel fire escape staircase that wraps around the side and rear elevations is also proposed for removal
- 15.24 It is considered that the proposed changes to Larch House are limited and would not materially affect its unusual design or its architectural integrity.

#### The Ward Block

- 15.25 The ward blocks are two storey in height and designed in Neo-Georgian style. The ward block feature bays on the southern elevation add to its character and visual interest. The rear elevations are more austere, with little variation to the repetitive fenestration pattern. The building is of heritage value as a typical example of an early twentieth century hospital building.

- 15.26 It is proposed to convert the former wards into 17 units, comprising ten x 3 bedroom dwellings and seven 4 bedroom units. The conversion of the ward blocks to dwellings is to be achieved by the internal vertical subdivision of the building and by following existing structural subdivisions where possible. On the (west) elevations overlooking the parkland, it is proposed to modify selected ground floor window openings to form the entrance doors for the new dwellings. Where new door openings are required, the doors are to be incorporated into existing window openings and that the upper part of the openings will be retained as a feature sash panel (fanlight). This will retain the proportions and rhythm of the elevation and will cause minimum disruption to the elevations. Features such as the existing veranda on the south elevation are also to be retained. To the rear of the building the ablution blocks and other rear ancillary structures are to be removed and walling made good. The existing roof lines, slopes, coverings soffits, fascia, and chimneystacks detailing and features are to be retained in their existing form. It is considered that the proposal to convert the buildings to residential use would not significantly harm the architectural or historic character of the ward blocks.
- 15.27 The majority of the buildings at the Severalls Hospital have been vacant since the closure of the hospital. The buildings have suffered from a lack of maintenance and vandalism. It is important that these buildings find an appropriate new use. The application proposes the conversion of the listed building and the locally listed buildings to residential use. It is considered that this constitutes an appropriate end use that will secure their long future. Paragraph 134 of NPPF advises that any harm to a heritage asset should be weighed against the public benefits of a proposal. In this instance the public benefits of increasing the supply of housing and securing their long-term future is considered to demonstrably outweigh any harm caused. Conditions are recommended to ensure materials and architectural detailing (new or replacement) are appropriate to the character of the buildings.
- 15.28 For the reasons given above, it is considered that the current application accords with Policies ENV 1 and DPD DP 14 and the NPPF objectives that seek to conserve heritage assets.

#### Residential Amenity

- 15.29 DPD DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity.
- 15.30 The buildings that are the subject of this application are located centrally within the grounds of the former hospital site and as such do not have any direct interaction with existing residential properties. The layout of the new housing proposed under reserved matters application 152733 was designed having due regard to the need to safeguard the private residential amenity of the new build housing and those formed through the conversion of the retained buildings. To safeguard the future amenity of adjacent residents (and to safeguard the historic character of the buildings), conditions have been recommended removing a range of permitted development rights.



- 15.31 The construction works associated with the conversion of the retained buildings has the potential to impact on the amenity of local residents. A condition has therefore been proposed requiring the development to be undertaken in accordance with submitted construction method statement.
- 15.32 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 or Paragraph 17 of the Framework insofar as they seek to secure a good standard of amenity for all occupants of land and buildings

#### Trees and Landscape

- 15.33 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline.
- 15.34 The Council's Tree Officer and Landscape Officer have been involved throughout the evolution of the design of this scheme (and that for the Severalls development as a whole) and their advice has been instrumental in shaping the landscape features that are to be preserved and enhanced. The Tree Officer has confirmed that he is content with the information contained in the arboricultural report. The comments made by the Council's Landscape Officer that the rear gardens to Larch House are enclosed with brick wall to help protect public amenity are noted. The scheme as currently proposed is intended to ensure that nearby trees are not adversely affected. It is accepted that it is normal practice to enclose side and/or rear gardens that front a public space by a brick wall. In this case, the need to provide a robust boundary enclosure needs to be balanced against the need to ensure that trees are not adversely affected by the development. A condition is there proposed to enable further discussion as regards to the most appropriate form of boundary treatment. The request made by the Landscape Officer that the proposed rear enclosure to the Echelon Building are amended to provide a more communal garden design is not considered appropriate. The nature of the space to the rear of these buildings will fundamentally change as result wider redevelopment proposals and it is considered important this development relates sympathetically to this layout rather than the original hospital layout. The applicant has also advised that communal gardens in a freehold vertically divided properties are not desirable and would adversely affect the commercial value of the properties rendering the project unviable. The scheme for the rear gardens of the echelon building as proposed is broadly considered acceptable subject to minor amendments to the type of boundary enclosures proposed.
- 15.35 It is considered that the repair and conversion of the retained buildings will have a positive impact on the setting of the former Severalls Hospital grounds. For this reason, It is considered that the proposed development would not have an unacceptable impact on the character and appearance of the surrounding area and would therefore not be at odds with the development plan policies DP1, ENV1 and the NPPF.

### Public Open Space, Play Areas and Private Amenity Space

- 15.36 CS Policy PR1 states that the Council aims to provide a network of open spaces, and recreational opportunities that meet local community needs. DPD Policy DP16 sets down criterion (size of gardens) that should be provided within new residential developments. In addition to private amenity space, DP16 requires all new residential development to provide new public areas of accessible strategic or local open space.
- 15.37 With regard to private amenity space, the Administration Building and the two units proposed in Larch House have private gardens that are in excess of 100sqm, the minimum area required for a 4 bedroom + house. The Echelon Building, due to the constraints and configuration it built form, are provided with varied garden sizes. The majority of the units are provided with policy compliant garden sizes; however units nos. 9 and 14 (corner units) are provided with 36.7sqm and 22.5sqm respectively. Unfortunately is not possible to increase the size of these gardens without either significantly reducing the size of the adjacent gardens, creating overlooking issues and/or compromising the architectural integrity of the retained buildings. Unit 4 is provided with 77sqm; however this amenity space is provided to the front of the echelon building. The Council's Urban Design Officer objects to the enclosure of this space as it would create a lack of ground floor windows overlooking the adjacent public open space. The Urban Design Officer has been asked to provide advice as to how to resolve the treatment of this part of the building (which has been unsympathetically altered in the past) and provide appropriate private amenity space for this unit. At the time of writing this report, a response from the Urban Design Officer has not been received.
- 15.38 The public open space (parkland, woodland, play areas and allotments) for the Severalls Hospital development is being provided as a part of the reserved matters planning approval of this site. The various types of public open space are secured by the main Severalls Hospital s106 agreement.
- 15.39 It is considered that this development is acceptable in terms of the policy requirement for the provision of private amenity space, public open space and play and recreation provision.

### Ecology and Biodiversity

- 15.40 CS Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. DPD Policy DP21 seeks to conserve or enhance biodiversity.
- 15.41 An extended habitat survey was included as a part of the outline planning application and ecology was a topic covered by the Environmental Statement. An updated ecological assessment and mitigation strategy was submitted with the reserved matters application (152733). It is clear from the ecological survey work that the site has high ecological significance in the local context.

- 15.42 An Ecological Mitigation and Management Strategy has been submitted in support of the current application and complements the ecological proposals for the wider Severalls site. The submitted strategy proposes seven void spaces within the retained buildings for bats. The report also recommends that two swift boxes and two sparrow nest boxes are provided on the Echelon building and two Deep Nest Boxes are provided on Larch House and/or the Administration Building. Bug boxes are also recommended. The submitted Strategy also sets out ongoing monitoring and management proposals.
- 15.43 Taken as whole, the Severalls Hospital development has the potential for the significant ecological and biodiversity enhancement of the site. The current planning application is considered to accord with CS ENV1, DPD Policies DP1 and DP21 and paragraph 118 of the Framework which requires planning application to conserve or enhance biodiversity interest.

### Parking

- 15.44 Policy TA5 of the CS 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. The adopted guidance states that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this, visitor parking at a ratio of 0.25 spaces per unit is required. In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling.
- 15.45 The Administration Building is provided with three covered parking spaces, plus informal parking in the driveway and Larch house is provided with 2 spaces per unit. With regard to the echelon building, 14 units are provided with two spaces and three of the units are provided three spaces. Visitor parking is provided as a part of the wider redevelopment proposals for the Severalls Hospital site. Cycle parking is to be provided in accordance with the adopted standards, namely for houses without garages these will be located within a shed (with a garden accessible by a gate to the rear or side). The provision of cycle parking will need to be secured by a condition for those units that are not provided with garages.
- 15.46 The proposed parking provision is considered to accord with the requirements of Policy DP19 and the adopted parking standards.

### Hydrology and Drainage

- 15.47 CS policy ENV1 sets out the strategic policy approach to safeguard people and property from the risk of flooding. ENV1 seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk. DP20 supports development proposals that include flood mitigation/attenuation measures as well as flood resilience measures.

- 15.48 The issues of drainage and the potential for flood risk were fully considered as a part of the outline application and a Drainage Strategy for Phase 2 of the Severalls Hospital site was also submitted in support of the recently approved reserved matters application. The LLFA previously advised that the retained buildings will not greatly increase impermeable areas within the overall Severalls Hospital site and, as such, the proposal is not considered to have a significant impact on flood risk.
- 15.49 The submitted evidence indicates that the current proposal would not result in an increase in flood risk and, as such, the development will not conflict with the intentions of the development plan or the Framework in respect of flood risk

#### Contamination

- 15.50 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 15.51 The desk top based contamination report accompanying this application concludes that there is potential for the site to contain contamination. The Council's Contamination Land Officer agrees with the conclusions of the submitted report and has recommended conditions to provide a framework for remediation works and validation.

#### Planning Obligations

- 15.52 Under normal circumstances, a development of the scale being proposed by this application would be expected to make contributions towards the provision of sports and recreation facilities, community facilities, affordable housing and education facilities. In this instance, the conversion of the retained hospital buildings form an integral part of the overall proposals for the redevelopment of the Severalls Hospital site and for which mitigation has been secured under the outline planning application and associated s106 agreement. In view of this, it is proposed to link this development to the obligations secured under the s106 agreement that was signed as a part of the outline planning approval 151401.

### **16.0 Conclusion**

- 16.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the relevant policies contained in the Council's adopted development plan. The NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 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. 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. In respect of the third dimension (environmental), the proposal will secure the long-term future of the listed and locally listed buildings. The proposals would cause some harm to these buildings but this harm would not be significant. There also is sufficient evidence to be confident that overall the development would not cause significant harm to ecology,

flood risk, noise pollution or have a severe impact upon the highway network; in terms of capacity or safety. Overall it is considered the positive environmental effects of the proposal would weigh in favour of this scheme.

- 16.2 In conclusion, it is considered that the benefits of the scheme significantly outweigh any adverse impacts and, as such, Members are recommended to resolve to grant planning permission and listed building consent subject to the conditions set out below and the an appropriate unilateral (s106) agreement be signed to link this development to the main Severalls Hospital agreement .

## **17.0 Recommendation**

- 17.1 APPROVE subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six 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 Head of Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

- to link this application to the s106 agreement signed as a part of outline planning application for the redevelopment of the Severalls Hospital site (151401).

## **18.0 Conditions**

### **Planning - 180940**

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

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers

- SH/17/F03C – Echelon Wing Elevations
- SH/17/F01E - Echelon Wing Ground Floor Plan
- SH/17/F023 - Echelon Wing Detail Sheet 1
- SH/17/ F024 – Echelon Wing Detail Sheet 2
- SH/17/F025 - Echelon Wing Detail Sheet 3
- SH/17/F026 - Echelon Wing Detail Sheet 4
- SH/17/F027A - Echelon Wing Detail Sheet 5
- SH/17/F028 - Echelon Wing Detail Sheet 6
- SH/17/F029 - Echelon Wing Detail Sheet 7
- SH/17/F030 - Echelon Wing Detail Sheet 8
- SH/17/F031A - Echelon Wing Detail Sheet 9
- SH/17/F032 - Echelon Wing Detail Sheet 10
- SH/17/F033 - Echelon Wing Detail Sheet 11
- SH/17/F034 - Echelon Wing Detail Sheet 12
- SH/17/F035 - Echelon Wing Detail Sheet 13
- SH/17/F10A - Larch House Elevations

- SH/17/F09A – Larch House Floor Plans
- SH/17/F19C – Larch House Detail
- SH/17/F08C – Administration Building Elevation
- SH/17/F07C – Administration Building Floor Plans
- SH/17/F020A – Administration Building Details Sheet 1
- SH/17/F022 – Administration Building Detail Sheet 3
- SH/17/021 – Administration Building Detail Sheet
- CSA/3583/102 – Proposed Landscaping Administration Building
- CSA/3583/101 – Proposed Landscaping Larch House
- CSA/3583/103 – Proposed Landscaping Echelon Building

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

### **3 Non Standard Condition – Materials**

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types, colours and detailing / specification 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 and that the materials are appropriately detailed

### **4 Non Standard Condition - Additional Detail**

Prior to the commencement of any works (excluding underground enabling works or works of repair) and notwithstanding the details submitted, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure that the architectural detailing safeguards special character of the historic buildings.

### **5 Non Standard Condition – Existing trees to be retained**

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

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

### **6 Non Standard Condition – Tree works**

The works to the Lime tree (T025) and Silver Birch (T026) shall be undertaken in accordance with the Tree Works Specification prepared by Hayden's Arboricultural Consultants letter dated 5 February 2017.

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

## **7 Non Standard Condition – Landscape works**

Notwithstanding the details submitted, further details of all landscape works shall be submitted to and agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Means of enclosure
- The interpretation panel
- Car Parking Layout and means of demarcation
- Hard Surfacing Materials
- Proposed and existing functional services above and below ground (e.g. drainage power communication cables pipelines etc indicating lines, manholes)
- Planting plans
- Written specification (including cultivation and other operations associated with plant and grass establishment)
- Schedule of plants, noting species plant sizes and proposed number / densities where appropriate
- Implementation timetables and monitoring programs

The agreed landscaping scheme 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.

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 – Construction Method Statement**

The development shall be implemented in accordance with the Construction Method Statement set out in Appendix 5 of the Planning Statement.

Reason: To ensure that the health and safety of future users of the site is not prejudiced and to protect the health and safety of local residents.

## **9. Non Standard Condition – Ecology Mitigation**

Development shall be implemented in accordance with the drainage strategy as set out in the Planning Statement unless otherwise agreed in writing by the Local Planning Authority.

Reason: To minimise the risk of flooding.

## **10 Non Standard Condition – Ecology Mitigation**

The development shall be implemented in accordance with the details set out in the Ecology Mitigation and Management Strategy Refurbished building prepared by SES and dated 6 April 2018. The bat voids, bird boxes and bug boxes (as set out in the Strategy) shall be provided prior to the occupation of the relevant building(s) and monitoring and management of the ecological mitigation proposals shall be undertaken strictly in accordance with the details set out in the Strategy.

Reason: In the interest of safeguarding bats, which are a protected species.

### **11 Non Standard Condition – Refuse and Recycling Storage Facilities**

Prior to the commencement of the development (excluding underground enabling works or works of repair) hereby permitted, details of the refuse and recycling storage facilities shall be submitted to and approved in writing, by the Local Planning Authority. The refuse and recycling facilities shall be provided in the approved form prior to the first occupation of the building that they are intended to serve and shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

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

### **12. Non Standard Condition - Lighting**

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 Colchester Borough Council's 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.

### **13 Non Standard Condition – Parking spaces**

Prior to the first occupation of any dwelling, parking spaces that are intended to serve that dwelling (as shown on approved plans) shall be made available for use of the occupants of that dwelling and their visitors. The garages and/or parking spaces shall thereafter be used solely for the benefit of the occupants of that dwelling or their visitors for the parking of vehicles and for no other purpose

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.

### **14 Non Standard Condition – Cycle parking facilities**

Prior to the commencement of the development, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facilities 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 and in the interest creating a development that exploits opportunities for the use of sustainable transport modes for the movement people.

### **15 Non Standard Condition – Scheme of Travel Packs**

No part of the development shall be occupied until a scheme of travel packs has been submitted to and approved in writing by the local planning authority. The travel plan shall thereafter be implemented in accordance with the approved details

Reason: To ensure that a development takes place which exploits opportunities for the use of sustainable transport modes for the movement of goods and people.

### **16 Non Standard Condition - Remediation**

No works shall take place other than that required to carry out remediation. The approved remediation scheme, RSK '*Severalls Hospital - Area D1: Revised Remedial Action Plan*', Ref. 27753-D1-RAP(01), dated 9/02/18 (insofar as it relates to this application) and as referenced in the Planning Statement, East Anglian Group, Ref. 008, Issue 01, dated March 2018, Appendix 7, Environmental/Contamination - Letter Report from RSK to East Anglian Group, Ref. 29893/L01/bhw, dated 27/03/18, 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.

#### **17 Non Standard Condition – Land contamination**

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

Reason: The site lies on or in the vicinity of a former hospital where there is the possibility of contamination.

#### **18 Non Standard Condition – Signed 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 16.

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 Non Standard Condition – Alternative scheme to design and enclosure**

Notwithstanding the details submitted an alternative scheme to the design and enclosure of the frontage to unit 4 of the Echelon Building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details

Reason In order to secure a satisfactory standard of development.

#### **20. ZDC - Removal of PD for All Residential Extensions & Outbuildings**

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) 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 protecting the setting of designated and non-designated heritage assets, in the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

## **21. Non Standard Condition - Removal of PD for Open Plan Fences/Walls**

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of protecting the setting of designated and non-designated heritage assets, in the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

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

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

Reason: In the interest of protecting the setting of designated and non-designated heritage assets and in the interest of protecting the privacy of adjacent dwellings.

## **23 Non Standard Condition – No Satellite Dish**

Notwithstanding the provisions of Class H of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no satellite dish shall be erected on the buildings unless otherwise approved, in writing, by the Local Planning Authority.

Reason: In the interest of protecting the setting of designated and non-designated heritage assets and in the interest of protecting the privacy of adjacent dwellings.

## **24 Non Standard Condition – No microgeneration Solar PV or Solar Thermal Equipment**

Notwithstanding the provisions of Part 14 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no microgeneration solar PV or solar thermal equipment shall be erected on the buildings unless otherwise approved, in writing, by the Local Planning Authority.

Reason: In the interest of protecting the setting of designated and non-designated heritage assets and in the interest of protecting the privacy of adjacent dwellings

## **Listed building - 180941**

### **1. ZAB - Time Limit for LBCs**

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **2. ZLA - Only Works Shown 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.

### **3 Non Standard Condition - Materials**

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types, colours and detailing / specification 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 and that the materials are appropriately detailed.

### **4. Non Standard Condition - Additional Detail on Windows & Doors etc.**

Prior to the commencement of any works (excluding those required by condition 3), additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: Reason: To protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **5. Non Standard Condition – Details of Partition**

Prior to the commencement of any works, full details of the partition proposed to subdivide existing rooms (include their height) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the agreed details.

Reason: Insufficient information has been submitted to ensure that the proposed works do not have a detrimental impact on the special interest of this grade II listed building which includes the internal spatial quality of existing rooms.

## **19.0 Informatives**

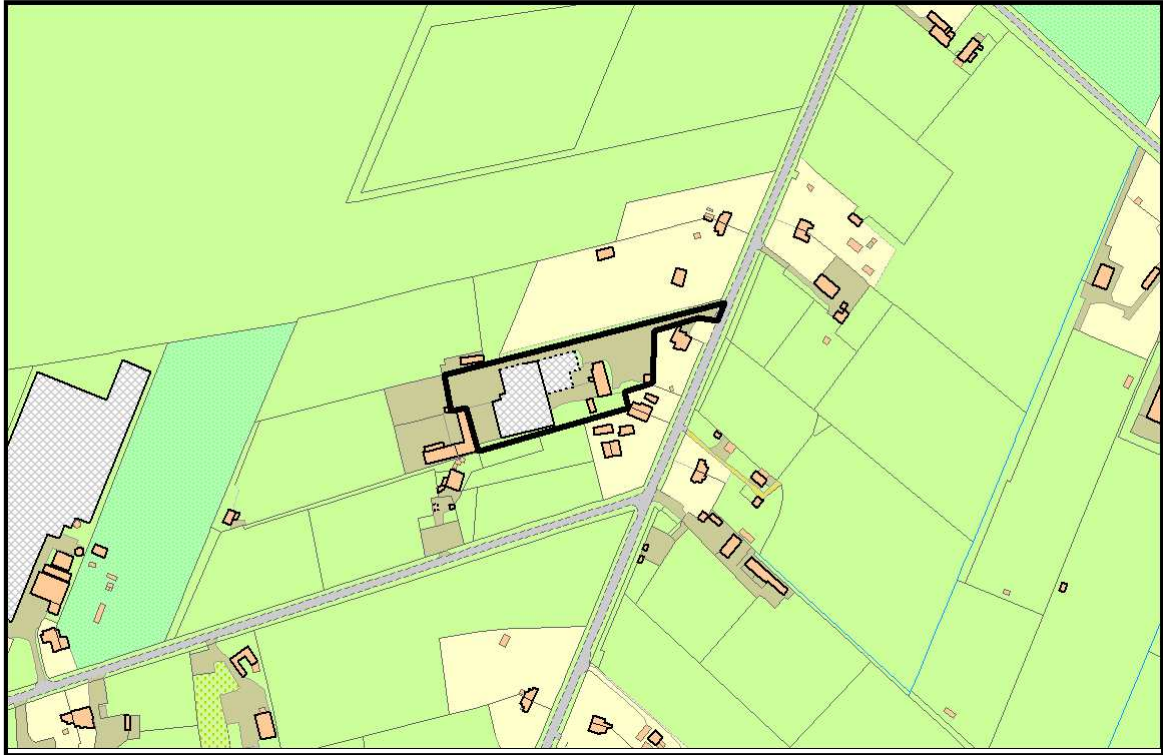
### **(1) ZT0 – Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works. (2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

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

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





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**Item No: 7.4**

**Application:** 170247

**Applicant:** Mr & Mrs G Wallace

**Agent:** Mr Matthew Letten

**Proposal:** Demolition of existing buildings and the construction of a new business centre comprising retail, office, general industrial and warehousing units (Use Classes A1, B1, B2 and B8), together with associated car parking, highway works and landscaping.

**Location:** Classic Pot Emporium, 30A Straight Road, Boxted, Colchester, CO4 5HN

**Ward:** Rural North

**Officer:** Eleanor Moss

**Recommendation:** Approval subject to conditions

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

- 1.1 This application is referred to the Planning Committee because the application is classified as a major and objections have been received.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of development, impact upon neighbouring amenity, landscape and highway network is held to be acceptable
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site comprises a roughly rectangular parcel of land and extends to approximately 0.71ha in area. The site is located to the rear of no. 30a Straight Road, a detached residential dwelling within ownership of the applicants.
- 3.2 The application site is access via Straight Road, along with a number of residential properties. Directly to the rear of the site is another commercial business which utilises the same access as the application site.
- 3.3 The application site is located within the countryside, however the site is not within an isolated position and is well screened from the public realm by existing vegetation.

## **4.0 Description of the Proposal**

- 4.1 This application seeks Planning permission is sought for the following:
- 211sqm of retail and office floor space (Use Classes A1/B1);
  - 1,681sqm of general industrial and warehousing floor space (Use Classes B2/B8);
  - The retention and enhancement of existing sales office and retail shop building;
  - 57 car parking spaces, including 10 disabled 10 spaces;
  - Highway works including an upgraded access road and new internal roads; and
  - New hard and soft landscaping.
- 4.2 The proposal entails the demolition of all existing buildings on site with the exception of the existing sales office/retail shop which is associated with the existing business on site. Four new buildings are proposed. Three new buildings are to be located to the west of the retained building and would provide for a mix of Class B2 and B8 uses ranging in unit size from 65.9sqm to 177.4sqm.

- 4.3 A smaller new building is proposed to the east of the retained building which accommodates three units, two with a floor area of 67.9sqm and one with a floor area of 76sqm. This would provide for a mix of Class A1 or B1 purposes.
- 4.4 Access into the site would continue to be taken from Straight Road, with an improved access junction.

## **5.0 Land Use Allocation**

- 5.1 Employment Zone with lawful use of A1 and B8

## **6.0 Relevant Planning History**

- 6.1 COL/96/0563 - Change of use of workshop for use by cabinet maker/model maker, Sign writer and manufacture of concrete products (slabs and posts) and additional use of Garden Centre site for the sale of ceramic kitchen/bathroom tiles alongside terracotta tiles used in the construction of gardens and conservatories – Approved 19<sup>th</sup> December 1996
- 6.2 COL/98/0991 - Additional use of workshop currently used for manufacture of concrete slabs and pots for production of timber fence panels – Application withdrawn 17<sup>th</sup> August 1998
- 6.3 COL/98/1151 - Continued use of workshop for use by cabinet maker/modelmaker, sign writer and manufacture of concrete products (slabs and posts) and additional use of garden centre site for the sale of ceramic kitchen/bathroom tiles alongside terracotta tiles used in construction of gardens and conservatories without compliance with condition 1 of planning permission COL/06/0563. Additional use if workshop for the manufacture of timber fence panels – Approved 8th October 1998
- 6.4 144920 – Application for a Lawful Development Certificate for existing use as storage, distribution and sale of pots under a mixed use class or B8 and A1 – Certificate granted 10th July 2014.

## **7.0 Principal Policies**

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

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

SD1 - Sustainable Development Locations  
CE1 - Centres and Employment Classification and Hierarchy  
CE2 - Mixed Use Centres  
CE2b - District Centres  
CE2c - Local Centres  
CE3 - Employment Zones  
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  
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  
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses  
DP9 Employment Uses in the Countryside  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes  
DP25 Renewable Energy

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

SA CE1 Mixed Use Sites

- 7.5 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 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

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



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

The Emerging Local Plan is at an advanced stage and may therefore be taken into consideration in the determination of this application. In the context of this application proposal there are no fundamental unresolved objections to the aforementioned policies in the emerging plan and it is considered, at this stage, that the relevant policies in the emerging Local Plan are consistent with the Framework. The Emerging Local Plan is, therefore, considered to carry some weight in the consideration of the application.

- 7.6 In terms of the Emerging Local Plan, the Local Economic Areas are defined on the policies maps and listed in policy tables SG3 and SG4. Boxted – Classic Pot Emporium is defined as a Local Employment Area under Table SG4 and is demonstrated on the Place Policy Reference SS2. Objections have not been received in relation to the Classic Pot Emporium employment zone and as such this allocation is consistent with the current allocation and this can be given weight.
- 7.7 The Neighbourhood Plan for Boxted 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 Documents (SPD):

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Cycling Delivery Strategy  
Sustainable Drainage Systems Design  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
Boxted Parish Plan incorporating Village Design Statement

## **8.0 Consultations**

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

### SuDs

- 8.2 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, SuDs do not object to the granting of planning permission subject to mitigation and conditions which will be imposed upon any planning consent.

#### Highway Authority

- 8.3 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to mitigation and conditions which will be imposed upon any planning consent.

#### Natural England

- 8.4 No comments to make

#### Environment Agency

- 8.5 No comments to make

#### Tree Officer

- 8.6 Requests an AIA

#### Urban Designer

- 8.7 If the planning officer was minded to recommended approval a number of design suggestions were proposed.

#### Environmental Protection

- 8.8 No objection to the scheme subject to recommended conditions which will be imposed upon any planning consent.

#### Contamination Officer

- 8.9 The Officer notes that some intrusive investigation is recommended to further assess the contamination risks to the proposed development. Consequently, should permission be granted for this application, Environmental Protection would recommend inclusion of conditions.

#### Archaeological Advisor

- 8.10 No objection to the scheme

#### Landscape Officer

- 8.11 No objection to the scheme subject to the recommended condition being imposed upon any planning consent.

### **9.0 Parish Council Response**

- 9.1 BOXTED PARISH COUNCIL - wish to object to the application as issues with drainage have not been resolved and with regards to Highways matters there is insufficient turning space to provide proper access.

## **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.

- Inappropriate location
- Unsustainable area
- Impact upon highway safety
- Noise pollution
- Light pollution
- Traffic increase
- Drainage
- SuDs
- Impact upon residential amenity
- No infrastructure
- Conflict with Neighbourhood Plan

## **11.0 Parking Provision**

11.1 57 car parking spaces are proposed, development proposal also includes cycle stores containing a total of 88 cycle parking spaces this is considered to comply with the adopted parking standards.

## **12.0 Open Space Provisions**

12.1 N/A

## **13.0 Air Quality**

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

## **14.0 Planning Obligations**

14.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should not be sought.

## **15.0 Report**

### Principle of Development

15.1 Paragraph 28 of the NPPF advises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy Local Planning Authorities are encouraged to support the sustainable growth and expansion of business and enterprise in rural areas. In terms of the

principle of development, the Core Strategy states, in policy CE1, that the Council will encourage economic development and will promote and maintain an employment classification and hierarchy to coordinate the use and scale of developments in the Borough.

- 15.2 The Site Allocations DPD identifies those sites that make up Strategic and Local Employment Zones, Mixed Use Areas and Neighbourhood Centres. These sites reflect the approach and provide sufficient land to deliver the job targets set out in the Core Strategy. In this instance, the application site is allocated as an Employment Zone in the Site Allocations DPD.
- 15.3 The use hierarchy for employment zones is set out in policy table CE1b. Within this table, B1, B2 and B8 uses are shown as an acceptable primary and secondary land use. However it is noted the Site Allocations DPD notes B8 uses are not considered to be appropriate for this site.
- 15.4 In terms of the Class A1 and B8 use, the site already benefits from a certificate of lawfulness for these uses and these use have clearly been operating from this site for a number of years. On balance and with due consideration of the lawful uses of the site, the proposed change of use to A1, B1, B2 and B8 uses within an existing Employment Zone is therefore considered to be acceptable in principle.

#### Design and Impact upon Surrounding Area

- 15.5 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.
- 15.6 The existing site contains a large expanse of former commercial glasshouses which are in a poor condition and have a dilapidated appearance. Due to the way that the use of the glasshouses has changed over time, the existing use of the site does not make good use of the available space. Responding to the designation of the site as a Local Employment Zone, the proposed development seeks to deliver a new business centre which makes better use of the site. The proposals also seek to enhance the sites appearance through the provision of new landscaping and buildings of appropriate design which respect the rural location of the site. The proposed built form is also single storey in height, which will help to reduce the impact upon the countryside. As such, the proposal is considered to comply with the aforementioned policies.

#### Residential Amenity

- 15.7 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning

Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

- 15.8 In this instance, concerns have been raised in regard to impact upon amenity and these have been noted. There are residential properties within close proximity of the application site. The majority of new built form will be located to the west, away from the residential properties and as such this is considered to be acceptable. There is new built form proposed to the north of the closest residential properties, however the proposal is single storey in height and as such this reduces the potential impact upon overlooking and overshadowing. Environmental Protection has also recommended hours of construction and operation conditions which will help to mitigate the impact upon the nearby residential properties. On balance, the impact upon residential amenity is considered to be acceptable.

#### Landscaping and Trees

- 15.9 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within section 11 of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 15.10 In this instance, the Tree Officer has recommended an AIA to be submitted in support of the scheme. However, it is not considered that the lack of an AIA can be supported at appeal. In this instance, the site is already in use for A1 and B8 uses with the access already in heavy vehicle use. There are a number of trees surrounding the site which would be beneficial to be retained however the retention of these can be secured via condition. The Case Officer has discussed this approach with the Tree Officer who has provided conditions in order to adequately safeguard the trees on site.
- 15.11 The Landscape Officer does not raise any concerns with the scheme and recommended a landscaping condition is imposed in order to ensure the proposal is adequately screened and softened by landscaping in this countryside location. On balance, the proposal is considered acceptable in this regard.

#### Ecology

- 15.12 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.

15.13 The application has been supported by a Preliminary Ecological Appraisal Report. The report provides an ecological appraisal of the site within the context of the surrounding area. It outlines the habitat features on the site, the likelihood of protected species being present and any potential effects of the proposed development on protected species. The report notes that the site contains potential bird nesting habitat and other habitats which may support bats and hedgehogs. A number of mitigations and enhancements were recommended to be incorporated, as encouraged by the NPPF. During the determination of the application, the Ecology Report expired, however the Agent has confirmed that an updated Ecology Report can be provided via condition. For these reasons, it is considered that the proposed redevelopment of this site would not have a significantly adverse effect on protected species and that any impact could be suitably moderated through ecological enhancement and mitigation measures.

#### Parking and Highway Safety

15.14 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. Paragraphs 29 to 41 of 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.

15.15 Given that proposal will provide for the required visibility splays, 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 objections in relation to the proposal, and as such is considered to be acceptable in terms of highways safety. All of the recommended conditions from the Highways Authority will be imposed on any planning consent in order to ensure the proposal is acceptable.

15.16 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 SPD does not have any minimum car parking standards for the proposed uses and as such the scheme is considered to comply with the aforementioned SPD.

### Flood risk

15.17 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures 0.71 hectares. A FRA and supporting documentation has been provided during the determination of this application. Essex County Council SuDS team are the Local Lead Flood Authority and they are satisfied with the latest submitted FRA and supporting documentation and recommends conditions to be imposed. Given the proposal can adequately safeguard against a harmful impact upon surface water drainage within the locality via the suggested conditions from SuDS which will be imposed upon any planning consent.

### Contamination

15.18 Development Policy DP1 requires all development to avoid unacceptable environmental impacts. The application has been supported by a Contamination Survey which confirms the level of risk assessed is unlikely to have an adverse effect on the property and would not be designated "contaminated land" within the meaning of Part IIA of the Environmental Protection Act 1990. Further to this, Environmental Protection has not raised an objection and recommends further reports are submitted. This can be controlled via condition as recommended by Environmental Protection and therefore these conditions will be imposed as part of any planning. As such, the proposal is considered to comply with the aforementioned policy.

## **16.0 Conclusion**

16.1 To summarise, this scheme proposes rural commercial and employment based development via the expansion of an existing and allocated Local Employment Zone. The impact it will have on the neighbouring amenity, landscape and highway network is held to be acceptable and therefore the scheme is held to be in line with the NPPF, PPG and Development Plan. Therefore an approval is warranted.

## 17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

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

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

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 279-01-01-A, 279-01-02-B, 279-01-03-B, 279-01-04, 279-01-101-L, 279-01-102-D, 279-01-103-I, 279-01-104-E, 279-01-105-D, 279-01-106-C, IT898\_SK01B, IT898\_SK02A and IT898\_SK03B

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

### 3. ZBC - 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.

### 4. ZED - \*Removal of PD - Clarifying Approved Use & Restricting Changes of Use\*

The DEVELOPMENT HEREBY APPROVED shall be used solely for A1, B1, B2, B8 uses and for no other purpose including any other purpose 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: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.



#### **5. ZEF - Removal of PD Industrial/Warehouse Extensions**

Notwithstanding the provisions of Classes A and B of Part 8 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no building shall be extended or altered and no further plant or machinery shall be installed outside any building on the site unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and the amenities of the surrounding area.

#### **6. ZEG - Removal of PD for Industrial Machinery**

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, no further plant or machinery shall be erected on the site under or in accordance with Part 8 of Schedule 2 to that Order without planning permission from the Local Planning Authority.

Reason: Any further plant or machinery on site could generate additional noise that would need to be given detailed consideration at such a time as it were to be proposed.

#### **7. ZES - Car Sales/Repairs**

No repairs to vehicles other than minor repairs to prepare vehicles for sale shall be carried out on the site.

Reason: For the avoidance of doubt as to the scope of the permission and in order to ensure a reasonable level of protection to the amenities of neighbours and the surrounding area in general where works that were unusual in typical residential areas could be harmful and would require further consideration at such a time as they were to be proposed.

#### **8. ZET - No Vehicle Sales**

No vehicles of any description, including caravans, shall be displayed on the site for sale.

Reason: For the avoidance of doubt as to the scope of the permission and in order to ensure a reasonable level of protection to the amenities of neighbours and the surrounding area in general where customer visits could be harmful and would require further consideration at such a time as they were to be proposed.

#### **9. Non Standard Condition – Highways**

Prior to the first occupation of the proposed development, the access / connection to Straight Road shall be improved in accord and to accommodate the tracking drawings shown in Intermodals Drawing Numbered IT898/SK/02 dated May 2017.

Reason: To ensure that all vehicles using the site do so in a controlled manner, in the interests of highway safety.

**10. Non Standard Condition – Highways**

Prior to the first occupation of the proposed development, the proposed internal layout of junctions, carriageways and footways shall be provided in accord with the revised Drawing Numbered 279-01-101 REV L to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the site do so in a controlled manner, in the interests of highway safety.

**11. Non Standard Condition – Highways**

Prior to commencement of the proposed development, the vehicular turning facility for service and delivery vehicles approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

**12. Non Standard Condition - Highways**

Prior to first occupation of the proposed development, communal recycling/bin/refuse collection points shall be provided within 20m of the carriageways and additionally clear of all visibility splays at any accesses and retained thereafter.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

**13. Non Standard Condition – Highways**

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 20m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

**14. Non Standard Condition – Highways**

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

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

**15. Non Standard Condition – Highways**

The development shall not be occupied until such time as all of the car parking and turning area has been provided in accord with the details shown in Drawing Numbered 279-01-101 REV L. The car 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 related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

**16. Non Standard Condition – Highways**

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

Reason: To promote the use of sustainable means of transport.

**17. Non Standard Condition**

Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Business Travel Plan including the initial commitments; and amended and supplemented under the provisions of a yearly report including a £5000 monitoring fee. The Business Travel Plan shall include a commitment to provide a Travel Plan co-ordinator within the site to give advice to the new occupiers of the development.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

**18. Non Standard Condition – Highways**

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

**19. Non Standard Condition – Highways**

Prior to the first occupation of any of the proposed development the applicant shall provide 2 No bus stops, one in the immediacy of the junction /connection to Straight Road (northbound) and the second opposite the proposed development site and adjacent to the junction /connection to Straight Road (southbound) which shall include the provision of level entry kerbing, new posts and flags, timetables, passenger hardstanding for waiting purposes, any adjustments in levels, surfacing and any accommodation works to the footways and carriageways channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development.

**20. 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 approved in writing by the local planning authority. The scheme should include but not be limited to:

- Run-off from the site should be restricted to a maximum of 2.1l/s for all events up to the 1 in 100 inclusive of climate change storm event.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason:

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

**21. Non Standard Condition – SuDs**

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

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

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability

of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

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

**22. 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.

**23. Non Standard Condition - 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.

**24. ZGG - Site Boundary Noise Levels**

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of [or 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.

**25. 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.

**26. ZGB - \*Restricted Hours of Delivery\***

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

Weekdays: 07.30 – 21.00

Saturdays: 09.00 – 21.00

Sundays and Public Holidays: not at all

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

**27. ZGA - \*Restriction of Hours of Operation\***

The use hereby permitted shall not OPERATE or BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 07.00 – 21.00

Saturdays: 07.00 – 21.00

Sundays and Public Holidays: 09.00 – 13.00

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

**28. ZGN - Industrial Processes (Control of Fumes, Odours, Dust etc)**

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme devised by a competent person for the control of fumes, smells and odours, and dust that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. The control measures shall thereafter be retained and maintained to the agreed specification and working order.

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

**29. 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

**30. 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.

**31. 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.

**32. 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 28, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 29, 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 30.

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

**33. ZG3 - \*Validation Certificate\***

Prior to the first 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 31.

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



**34. Non Standard Condition – Landscaping**

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

- 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; AND
- IMPLEMENTATION TIMETABLE.

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.

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

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

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

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

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise

defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

**37. ZFT - 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.

**38. Non Standard Condition – Ecology Survey**

Prior to the commencement of development, an updated ecological survey of the site shall be undertaken with a detailed assessment of the impact of the proposed development thereon and the survey which shall have special regard to bats and birds (together with any intended remedial measures and timetable for implementation) and any other species specific report recommendations, shall have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

**18.0 Informatives**

18.1 The following informatives are also recommended:

**1. ZT0 – Advisory Note on Construction & Demolition**

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

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

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

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your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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

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

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

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.

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

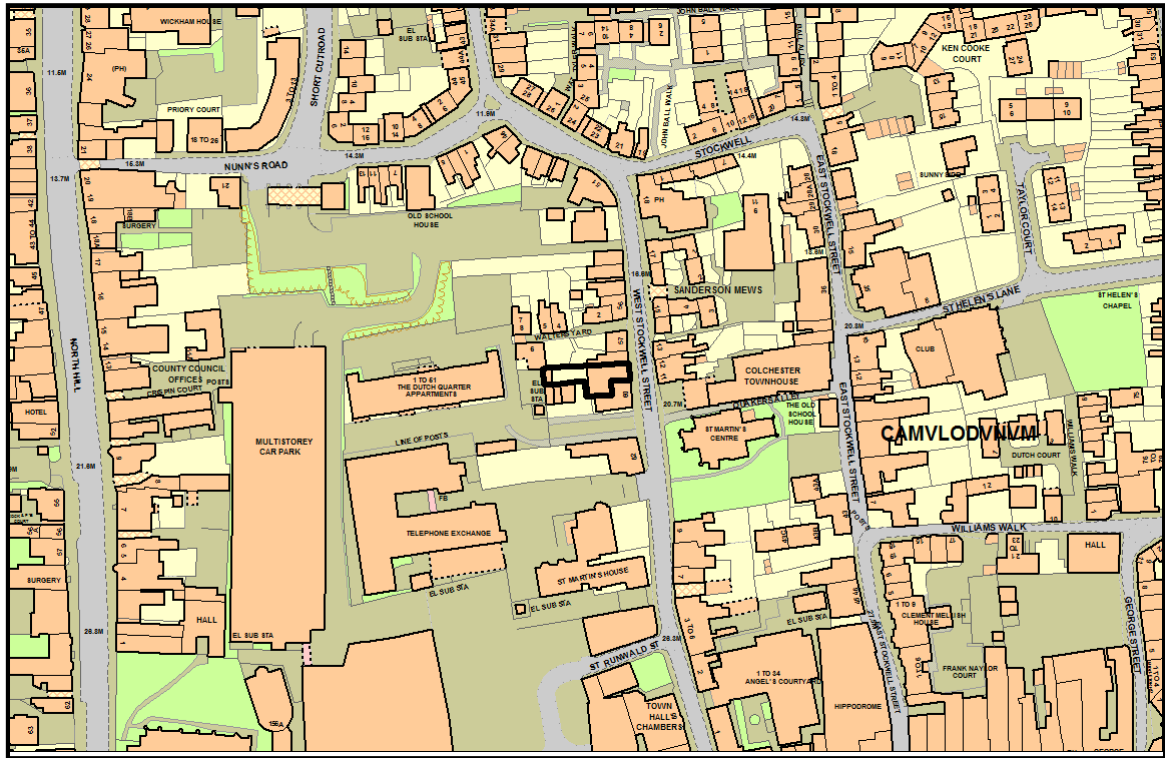
### **5. Non Standard Informative - Highways**

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](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

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



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**Item No:** 7.5

**Application:** 181237

**Applicant:** Mr & Mrs Cutler And Crossley

**Agent:**

**Proposal:** Erection of shed at rear of property.

**Location:** 59 West Stockwell Street, Colchester, CO1 1HE

**Ward:** Castle

**Officer:** Eleanor Moss

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because the applicant is an employee of Colchester Commercial (Holdings) Ltd.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact upon the special interest of the heritage assets. In this instance, the impact of a shed within the rear garden is not considered to be harmful.
- 2.2 The application is subsequently recommended for approval

## **3.0 Site Description and Context**

- 3.1 The application site relates to a Grade II listed building, listing is as follows:

Mid C18, for Samuel Wall, attorney. Red brick, 2 storeys and attics, the roofs tiled and hipped north and south one dormer to the front. Parapet front with angle pilasters and centre (3 bay) breaking forward slightly under pediment. Modillioned cornice, also carried over pediment, 2:3:2 window range of double hung sashes with glazing bars, the central window on both floors Venetian. The upper one has Tuscan columns and moulded brick head, the lower one flat brick mouldings. 2 doorcases either side of ground floor Venetian window, open wood pediments, panelled reveals, semi-circular fanlights. The division into 2 houses may date from the later C19.

- 3.2 The site lies within the Colchester Number 1 Conservation Area.

## **4.0 Description of the Proposal**

- 4.1 The proposal seeks retrospective planning permission for a garden shed.

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 None relevant to this planning application.

## **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  
CE2a - Town Centre  
UR2 - Built Design and Character

- 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  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets

- 7.4 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 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

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

The Emerging Local Plan is at an advanced stage and may therefore be taken into consideration in the determination of this application. In the context of this application proposal there are no fundamental unresolved objections to the aforementioned policies in the emerging plan and it is considered, at this stage, that the relevant policies in the emerging Local Plan are consistent with the Framework. The Emerging Local Plan is, therefore, considered to carry some weight in the consideration of the application.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
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 Archaeological Advisor - No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

## **9.0 Parish Council Response**

- 9.1 Non-Parished

## **10.0 Representations from Notified Parties**

- 10.1 The application has not resulted in a number of notifications to interested third parties including neighboring properties. The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

- 11.1 No change to parking provision

## **12.0 Open Space Provisions**

- 12.1 N/A

## **13.0 Air Quality**

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

## **14.0 Planning Obligations**

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

## **15.0 Report**

### Principle of Development

- 15.1 The shed will be located on the rear elevation of the dwelling, where alterations and additions are acceptable in principle and the impact on the character and appearance of the surrounding area will be minimal.
- 15.2 The retrospective proposal accords with CS Policy SD1 and the Framework which promote development in sustainable locations.



### Heritage and Design

- 15.3 Under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (P(LBCA)A) there is a statutory duty to protect from harm listed buildings and their settings and to preserve or enhance the character or appearance of a conservation area. The Core Strategy Policy ENV 1 and Development Plan Policy 14 seek to protect the historic environment and thus reflect the provision of the P(LBCA)A. The aims of the Framework are also generally consistent with the requirement of the P(LBCA)A. With regard to design, Core Strategy Policy UR2 and Development Plan Policy DP1 seek to promote and secure high quality design. Section 12 (paragraphs 126 to 141) of the Framework deals with conserving and enhancing the historic environment.
- 15.4 Paragraph 133 and 134 of the Frameworks relates to substantial harm and less than substantial harm. The proposals put forward as a part of this application are not considered to constitute substantial harm. Where a proposal would result in less than substantial harm, paragraph 134 requires the harm to be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 15.5 In this instance, the proposal relates to an existing garden shed which is located at the rear of the property. At the rear of the property, and a number of other properties, are later additions which are of varying design merit, all in quite a close gain resulting in an appearance of embedded and subsidiary character at the rear. The proposed shed is considered to be acceptable in terms of design merit as it is fairly typical in design and covering the yard area. The floor area covered by the proposal is minor and is located within an area where other detached outbuildings are existing and as such would not have a harmful impact upon the character and appearance of the area. The proposal therefore is considered satisfactory on its own merits. The development is visually acceptable and would not detract from the appearance of the listed heritage asset. Consequently the design and layout do not harm the surrounding heritage assets either

### Trees and Landscaping

- 15.6 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 Section 11 of the Framework.
- 15.7 In this instance, the proposal is located on an area of existing hardstanding with no digging or foundations required. As such, the proposal is not considered to result in a harmful impact upon the root protection area of the tree within the rear garden.

### Residential Amenity

- 15.8 DPD Policy DP1 states that all development must be designed to avoid unacceptable impacts on amenity. Part III of this policy seeks to protect existing public and residential amenity, particularly with regard to (amongst other things) noise and disturbance, pollution (including light and odour pollution).
- 15.9 Given the proposal is single storey and height and contains windows which face solely towards the host property, it is not considered the proposal will create any harmful overlooking.
- 15.10 There is an existing outbuilding within the neighbouring property which overlooks the application site. The proposal is located within close proximity to this outbuilding. While a small section of side facing window is blocked by the proposal, this does not result in the harmful loss of light given the proposals low ridge height. In terms of loss of outlook, the neighbouring outbuilding is not likely to be permanently occupied as such it is not considered the proposal would result in a harmful loss of outlook.

### Archaeology

- 15.11 The proposal is within an area of archaeological importance. The Archaeological Officer has confirmed that no material harm will occur. On the basis of this, the proposal would not have a detrimental impact upon the area of archaeological importance.

## **16.0 Conclusion**

- 16.1 To summarise, the proposal accords with local and national planning policies. The application is therefore recommended for a conditional approval

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

### **1. 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 References Elevation Drawing received on 8 June 2018.

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

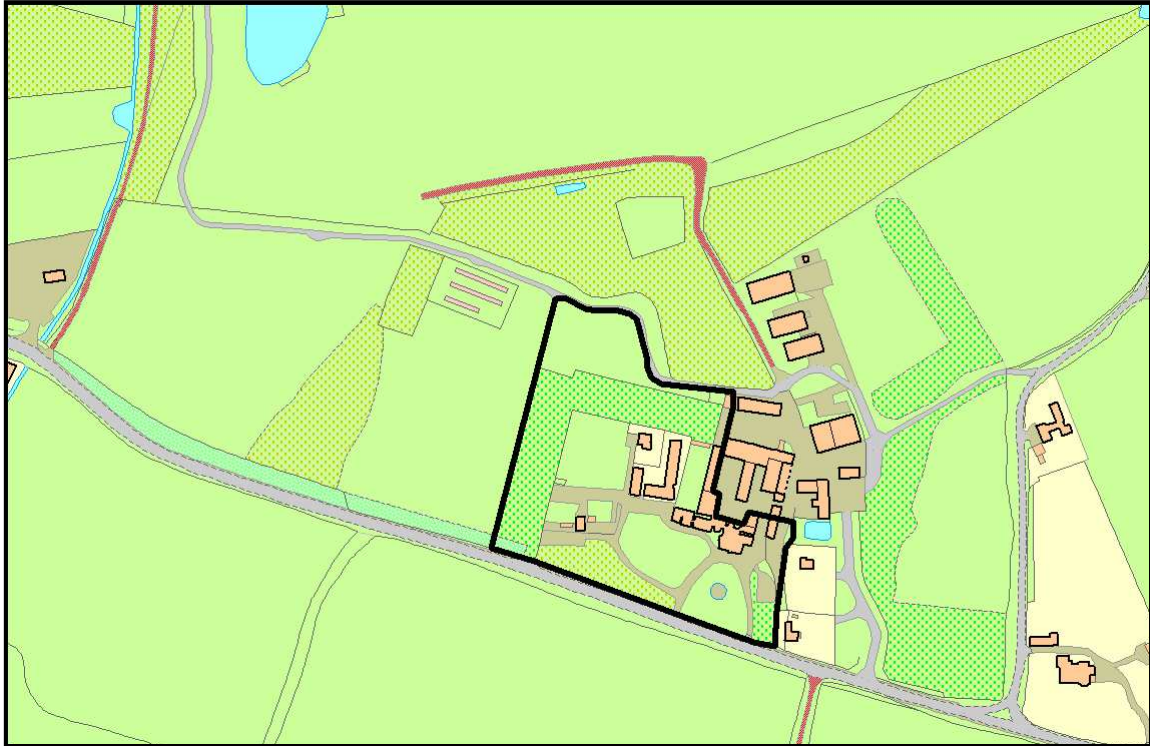
## **18.0      Informatives**

18.1      The following informatives are also recommended:

### **1.   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:** 7.6/7.7

**Applications:** 172642 and 172643

**Applicant:** Mr N Percival

**Agent:** Mr Phillip McIntosh

**Proposal:** 7.6 172642: Demolish part of existing buildings, extend and convert into 12 dwellings and erect 10 dwellings (22 dwellings in total), including associated car parking.

7.7 172643: Alterations and conversion of Wakes Hall to provide residential dwellings.

**Location:** Wakes Hall, Colchester Road, Wakes Colne, Colchester, CO6 2DB

**Ward:** Rural North

**Officer:** Lucy Mondon

**Recommendation:** Approval subject to signing of Section 106 agreement

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

- 1.1 The applications are referred to the Planning Committee because planning application 172642 constitutes a major application which requires a S106 legal agreement. The accompanying Listed Building Consent application (172643) is also referred to Planning Committee for completeness as the applications are mutually dependent.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are:
- Principle of development
  - Design and impact on the character of the area
  - Impact on the setting and special interest of Wakes Hall (Grade II listed building)

Other matters for consideration include: private amenity; highway matters; flood risk and drainage matters; and impact on biodiversity. S106 requirements are also discussed within the report.

- 2.2 The above matters are considered within the report as part of an overall planning balance, leading to the application being subsequently recommended for approval subject to a number of conditions.

## **3.0 Site Description and Context**

- 3.1 The site is located within the countryside, approximately 260 metres from the nearest settlement boundary (itself a small settlement area comprising a cluster of fifteen properties and All Saint's Church) and approximately 850 metres from the main Wakes Colne settlement boundary. The site fronts onto, and is visible from, Colchester Road and there are areas of woodland to the remaining north, east, and western sides of the site. Wakes Hall Business Centre lies immediately north of the site and is made up of a number of farm buildings (some contemporary with Wakes Hall) with office, and some light industrial, use.
- 3.2 Records indicate that the site is classified as Grade 2/3 Agricultural Land, is within an SSI Impact Risk Zone, and has potentially contaminated land. Public Right of Way 152\_26 is in close proximity to the front of the site, running south from Colchester Road. Public Right of Way 152\_25 runs northwards from Colchester Road and is located approximately 470 metres west of the site.
- 3.3 Wakes Hall sits within the centre of the site. It is a Grade II listed building that was, up until 2016, used as a care home. The building has undergone a number of alterations and additions. Most notably, comprising an extensive 1960s extension to the west and a 1970s two-storey extension and lift shaft to the north (rear). A number of internal alterations have also taken place in connection with the use of the building as a care home. Seven independent care units (referred to as 'bungalows' in the current applications) were built to the north-west of the hall in the late 1980s/early 1990s. There is also a

detached house on site to the north-west of the 'bungalows' (referred to as the 'former warden's house'), as well as an outbuilding immediately east of Wakes Hall (referred to as 'former warden's flat'). To the south-west corner of the site are some large outbuildings, understood to have previously been used as workshops and a garden centre in connection with the care home, but now largely overgrown.

- 3.4 Although not part of the application site, there are additional listed buildings in close proximity to Wakes Hall that form part of its immediate and wider setting. These include the 'Cart Lodge and Granary' (Grade II), currently located in the Wakes Hall Business Centre, but would have originally formed part of the Wakes Hall estate. To the south-east of the site is Wakes Hall Lodge, also a Grade II listed building. The listing descriptions are set out below.

Wakes Hall - Listed 1982

WAKES COLNE TYBURN HILL 1. 5214 Wakes Hall TL 82 NE 6/8 II 2. Early C19 house of gault brick in Flemish bond, of 2 storeys and 3 bays. The ground storey has a central portico with fluted Tuscan columns and entablature with one small pane double-hung sash each side, 3 sash windows on the first storey all beneath straight stucco heads. Four gault brick chimney stacks. A semi-circular bow window on the north-west flank wall has 3 double hung sashes at ground and first floors. Plan: square roof hipped and slated with wide eaves soffit. Tower block of 3 storeys on east flank with sashes with marginal panes, 2 to each storey. The tower has a hipped slate roof on modillioned cornice, and a central gault brick chimney stack.

Wakes Hall Cartlodge and Granary Listed 1982

WAKES COLNE TYBURN HILL 1. 5214 Cart lodge with granary over, south-west of Wakes Hall TL 82 NE 6/6 II 2. C18. A long range of red brick 2 storeys high, the first storey with 5 Diocletian windows, now blocked. The ground storey is open and carried on a double row of Samson posts, heavy pine floor joists. Roof hipped and slate clad.

Wakes Hall Lodge - Listed 1982

WAKES COLNE TYBURN HILL 1. 5214 Gate Lodge to south-east of Wakes Hall TL 82 NE 6/7 II 2. Early C19 gate lodge of gault brick, single storey with hipped slate roof and central gault chimney stack. Front door of 6 panels to left in wide pedimented case and small pane sash window in a 4 centred head to right. Similar sash windows in flank walls. Eaves with troughing, lead flashed ridge and hips.

## **4.0 Description of the Proposal**

- 4.1 The applications seek planning permission and listed building consent (as appropriate) for the creation of 22 No. dwellings on the site, comprising the following:
- The demolition of structures (including the existing outbuildings, 1960s extension, and lift shaft at Wakes Hall);
  - The conversion of Wakes Hall to 4 No. dwellings with a communal gym and media room (involving some demolition and new build);

- The conversion of the existing 'bungalows' to 6 No. dwellings;
  - The conversion of the existing 'former warden's house' and 'former warden's flat' (2 No. dwellings); and
  - The erection of 10 No. new dwellings.
- 4.2 The proposal also includes the provision of tennis courts and allotments (on site), as well as a link to footpath 152\_25 (located approximately 470 metres west of the site) across land within the applicant's ownership.
- 4.3 As well as the necessary planning drawings, the applications are supported by the following documents:
- Planning Statement
  - Arboricultural Impact Assessment
  - Contamination Report
  - Design and Access Statement
  - Development Appraisal
  - Ecological Assessment (Phase 1)
  - Faunal Surveys
  - Flood Risk Assessment
  - Heritage Statement (amended)
  - Highway Access Design Statement
  - Landscape and Visual Impact Assessment
  - Landscape Strategy
  - Noise Assessment
  - Schedule of Works (amended)
  - Viability Assessment

## **5.0 Land Use Allocation**

- 5.1 None; countryside.

## **6.0 Relevant Planning History**

- 6.1 There are a number of permissions dating from the late 1950s to the late 1990s in connection with the site being used as a care home. The seven independent care units (the 'bungalows') currently on site were granted planning permission in 1987 (ref: 87/1064/A).
- 6.2 More recently, there have been a number of planning and listed building consent applications concerning repairs, alterations, and extensions to Wakes Hall such as:
- LB/COL/02/2077 Internal alterations to create kitchen, dining room, and lounge (approved);
  - LB/COL/05/1652 Redecoration and associated minor repairs to all buildings, strip, retile and overhaul slate roofs, new membrane and re-slate to match existing (withdrawn);
  - LB/COL/05/1688 Works to soft brick garden wall and addition of Tyvek felt to roof under slates (approved);



- F/COL/05/1810 Construction of two buttresses to support existing garden wall (approved);
  - 130009 Proposed conservatory (approved);
- 6.3 A planning application for the change of use of the seven independent care units falling within use class C2 (residential institution) to seven dwellings within Class C3 (dwelling houses) was withdrawn in 2017 (ref: 163002).
- 6.4 The proposal was subject to a preliminary enquiry in 2017. The advice given was that the Council was likely to be supportive of a proposal that delivers improvements to the setting of the listed building, as well as the removal of later additions that are uncharacteristic of the building (i.e. the large flat roof rear extension and single-storey side extensions). Provided that additional residential development is required to secure the improvements to the listed building, as well as provide other benefits to the wider community, the application could be viewed favourably. The Council's Historic Buildings and Areas Officer generally focused on the detailed design of the proposals in their advice. The Council's Urban Designer had concerns regarding the height of the proposed new build and recommended that the massing be reduced, preferably to single-storey (or demonstrate exceptional architectural qualities that may justify two-storey), as well as better integrate the parking serving the new build. This advice was included in a letter to the Agent in July 2017.

## **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
  - UR2 - Built Design and Character
  - PR2 - People-friendly Streets
  - TA1 - Accessibility and Changing Travel Behaviour
  - TA2 - Walking and Cycling
  - TA3 - Public Transport
  - 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
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP11 Flat Conversions
- 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):

- Sustainable Drainage Systems Design Guide
- Street Services Delivery Strategy
- Cycling Delivery Strategy
- Affordable Housing
- Sustainable Construction
- Backland and Infill Development
- Provision of Community Facilities
- Vehicle Parking Standards
- Provision of Open Space, Sport, and recreational Facilities
- External Materials Guide for New Development
- Essex Design Guide

#### 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. The following emerging policies are considered to be relevant:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Strategy for North Essex
- SP3: Meeting Housing Needs
- SP5: Infrastructure and Connectivity
- SP6 - Place Shaping Principles
- SG1: Colchester's Spatial Strategy
- SG2: Housing Delivery
- SG7: Infrastructure Delivery and Impact Mitigation
- ENV1: Environment

- ENV5: Pollution and Contaminated Land
- PP1: Generic Infrastructure and Mitigation Requirements
- NC4: Transport in North Colchester
- OV1: Development in Other Villages
- OV2: Countryside
- DM1: Health and Wellbeing
- DM2: Community Facilities
- DM3: Education Provision
- DM4: Sports Provision
- DM5: Tourism, Leisure, Culture and Heritage
- DM8: Affordable Housing
- DM9: Development Density
- DM10: Housing Diversity
- DM12: Housing Standards
- DM15: Design and Amenity
- DM16: Historic Environment
- DM18: Provision of Public Open Space
- DM19: Private Amenity Space
- DM20: Promoting Sustainable Transport and Changing Travel Behaviour
- DM21: Sustainable Access to Development
- DM22: Parking
- DM23: Flood Risk and Water Management
- DM24: Sustainable Urban Drainage Systems
- DM25: Renewable Energy, Water, Waste and Recycling

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

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

7.7 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 examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies 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.

## 8.2 Anglian Water

No objections, subject to condition for a foul water strategy, as well as an informative regarding assets owned by Anglian Water. Confirmation of the following:

- The foul drainage from this development is in the catchment of Earls Colne Water Recycling Centre that will have available capacity for these flows.
- The sewerage system at present has available capacity for these flows.

## 8.3 Arboricultural Officer

The Arboricultural Impact Assessment submitted is acceptable. The proposal only requires the loss of one moderate quality tree and the rest of the removals are low value. The proposal does have potential impacts on retained trees, but this can be addressed/mitigated via an Arboricultural Method Statement (required by condition).

## 8.4 Archaeological Advisor

The site has not been the subject of previous systematic archaeological investigation and there is a high potential for encountering below-ground archaeological remains in this landscape setting, which is topographically favourable for early occupation of all periods, being above the floodplain of the River Colne and at the confluence with a small tributary.

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

## 8.5 Building Control No comments received.

## 8.6 Contaminated Land Officer

The Phase 1 Desk Study and Preliminary Risk Assessment has identified some potential contamination risks and recommend an intrusive investigation, including ground gas and groundwater monitoring in order to better assess the risks. Environmental Protection will expect the additional investigation to also include further assessment of risks associated with the Anglian Water reported spill of heating oil, location unknown. Appropriate asbestos surveys will need to be undertaken, prior to any refurbishment or demolition. Recommended conditions relating to site characterisation, submission of remediation scheme, implementation of remediation scheme, reporting of any unexpected contamination, and a remediation validation certificate.

## 8.7 Environment Agency No comments received.

8.8 Environmental Protection

No objections. Recommended informative regarding control of pollution during demolition and construction.

8.9 Essex Bridleway Association No comments received.

8.10 Essex County Fire and Rescue No comments received.

8.11 Essex Police

Satisfied that the proposal appropriately addresses paragraphs 58 and 69 of the NPPF (Case Officer Note: these paragraphs relating to creating 'safe and accessible environments').

8.12 Essex Wildlife Trust No comments received.

8.13 Highway Authority

No objections, subject to recommended conditions relating to access requirements; vehicular access surface treatment; visibility splays; vehicular parking and turning facilities; recycling/bin/refuse collection points; Construction Method Statement; provision of bus stops; pedestrian footways; and vehicular access gate requirements.

8.14 Heritage Advice

Heritage advice has been provided by the Specialist Planning Manager. There has been extensive negotiation relating to heritage matters during the course of both applications that has resulted in some amendments to the proposals. Concluding remarks from the Specialist Planning Manager are that there is a public benefit in the prospect of bringing the listed building back into a beneficial use which would ensure its renovation and long-term survival. Whilst some elements of the alteration works would result in some negative impacts, overall it is considered that these are outweighed by the positive aspects of the scheme. The design of the new housing block is considered to constitute a flawed approach, but, given the unique circumstances of the site and type of development proposed, there is a desire to support the broad concept of the scheme. In view of this, it is considered important to secure design detailing and materials of the highest order; the drawings submitted are ambiguous and lack sufficient details to ensure that this will be the case. The materials and design detailing of architectural features will therefore need to be appropriately conditioned.

8.15 Historic England

On the basis of the information available, do not wish to offer any comments. Advised to seek the views of specialist conservation and archaeological advisers as relevant.

8.16 Landscape Officer

The proposed allotments and tennis court area are located within an area of higher grade (2/3) agricultural land. In the absence of any agricultural land classification report, if the proposed development of the agricultural land is considered to be within the setting of a heritage asset and considered as 'significant development', an agricultural land classification report is required along with a justification of the necessity of the development, in order that the impact on the agricultural land can be fully assessed.

Once proposals are agreed, recommended condition to require detailed landscape proposals.

8.17 Natural England

Confirmed that they have no comments to make on this application. Standing advice regarding protected species and ancient woodland provided.

8.18 Planning Policy

Factual commentary provided on relevant Local Plan Policies and Emerging Plan Policies in relation to the proposals. Concluding comments as follows:

The site is brownfield land, which is one of the core land-use planning principles set out in the NPPF and will provide housing for older persons. Elements of the proposal go some way to addressing the issue of the site being functionally isolated relative to services and facilities. However, as a countryside location, remote from the settlement boundary, the proposal is contrary to policies SD1, ENV1 and ENV2 of the adopted Local Plan and policies SG1 and OV2 of the submitted Local Plan.

The NPPF does however include examples of exceptions where proposals for isolated dwellings in the countryside may be acceptable (paragraph 55). For the proposal to meet the second special circumstance: "where such development would represent the optimal viable use of a heritage asset or where appropriate enabling development to secure the future of heritage assets" the viability report must clearly demonstrate and justify that the 10 new dwellings are necessary, in addition to the 12 dwellings from converting existing buildings, to secure the future of the heritage asset and a historic buildings specialist must be of the view that the proposal does indeed represent the optimal viable use of this heritage asset. If this special circumstance can be met the viability report must also demonstrate that the provision of affordable housing would render the development unviable, otherwise the proposal would be contrary to policy H4.

8.19 Street Services No comments received.

8.20 SUDs

No objections, subject to conditions requiring detailed surface water drainage scheme; scheme to minimise surface water run-off during construction; and maintenance and management plan.

8.21 The Ramblers Association No comments received.

8.22 Transport Policy No comments received.

8.23 Urban Design

No objection subject to Historic Buildings Officer satisfaction. Previously raised concerns regarding the height and form of the main new building in a way that would inappropriately dominant the rural setting, if not the historic building, leading to a sense of the countryside being excessively eroded. Parking to the front of the new building is inappropriate (although accepted that it has to go somewhere). Design quality is key to overcoming these concerns.

Recommended conditions to ensure high quality design in order to mitigate sensitivities. Conditions to require architectural details and materials, with samples provided as appropriate (including hard surfacing).

## **9.0 Parish Council Response**

9.1 The Parish Council have stated that they ‘fully support this application.’

## **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 The Colne Stour Countryside Association supports the application as ‘making appropriate use of this Heritage Asset, whilst having no or minimal impact on the surrounding countryside. The site has good road access and when developed should make a positive contribution to housing needs.’

## 11.0 Parking Provision

- 11.1 All of the proposed properties have at least two spaces (the majority have three) bedrooms. In terms of parking provision, the Vehicle Parking Standards SPD require the following for residential properties of two or more bedrooms:

Vehicle (minimum)	Cycle (minimum)	PTW (minimum)	Disabled (minimum)
2 spaces per dwelling	1 secure covered space per dwelling.  None if garage or secure area is provided within curtilage of dwelling	N/A	N/A if parking is in curtilage of dwelling, otherwise as Visitor/unallocated

- 11.2 The proposal provides two car parking spaces per dwelling (a total of 44 car parking spaces) and there would be an informal visitor parking arrangement on the driveway within the site.

- 11.3 Cycle stores provide formal cycle parking for the 'bungalow' conversion and new build, with a total of 16 spaces equating to 1 space per dwelling. No formal cycle parking is proposed for the remaining development (i.e. Wakes Hall conversion, Former Warden's flat, or Former Warden's House).

## 12.0 Open Space Provisions

- 12.1 The proposal includes communal open space, such as landscaped courtyards, parkland (to the front of the site), a woodland (to the western side of the site), and allotments and tennis courts (to the north-western corner of the site).

## 13.0 Air Quality

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

## 14.0 Planning Obligations

- 14.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that would be agreed as part of any planning permission would be (with additional explanation in brackets):

- That the development is for the over-55's (as this is the basis on which the application has been made and has a bearing on the contributions being sought);



- That the on-site facilities (tennis courts, allotments, communal gym and lounge area) are provided and maintained for use by the residents (as the provision of on-site facilities has resulted in no community facilities or open space contributions being sought);
- A review mechanism for the viability review (in order to ascertain whether there is any monetary surplus from the development that can be contributed towards affordable housing, as no affordable housing is being provided); and
- A clause to ensure that the works to the listed building are carried out as part of the development (as the premise of the application is that the overall development of residential units will fund additional works to the listed building in order to improve its character and setting).

14.2 Contributions have not been sought for education given the nature of the development being for the over 55's who are less likely to have school-age children. No contribution request was received from the NHS.

14.3 Affordable Housing: Core Strategy policy H4 emphasises the Council's commitment to improving housing affordability in Colchester. At least 20% of new dwellings (including conversions) should be provided as affordable housing. In terms of the proposed development, the affordable housing requirement would be 4 No. dwellings. In this case, the Agent has argued that 'Vacant Building Credit' should apply which is a mechanism whereby national policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace. In using this mechanism, the affordable housing requirement would reduce to 1 No. dwelling. The Council's Affordable Housing Officer has, however, determined in accordance with recent appeal decisions that Vacant Building Credit does not have to be automatically applied without regard being paid to the full circumstances, namely where the Borough has an acute unmet affordable housing need. [Caselaw examples include Secretary of State v West Berkshire District Council and Reading Borough Council Judgment 2016; and Appeal APP/N1920/W/16/3162337 Patchetts Equestrian Centre, Aldenham]. The Affordable Housing Officer has confirmed that Colchester does indeed have an unmet affordable housing need; the Strategic Housing Market Assessment December 2015 identifies a need of 278 affordable dwellings a year (266 affordable rent and 12 shared ownership) but delivery is not meeting this need. In 2015/16, 106 affordable dwellings were delivered, in 2016/17 100 affordable dwellings were delivered and in 2017/2018 there are 184 dwellings anticipated. The Viability Assessment has demonstrated that any affordable housing on this scheme is not viable, but it is considered necessary to reassess the viability of the scheme (when actual costs and sales figures are known) so that the Council can capture any surplus income (over developer profit) towards affordable housing. The commuted sum for 4 No. dwellings has been calculated as £984,915.79. It is therefore recommended that the viability is reassessed (see bullet point 4 above).

## 15.0 Report

15.1 The main issues in this case are:

- The Principle of Development
- Design and impact on the character of the area (including landscaping)
- Heritage matters (in particular, the impact on the setting and special interest of Wakes Hall (Grade II listed building))
- Private amenity
- Amenity space and public open space
- Highway safety and parking provisions (including cycling)
- Flood risk and drainage
- Ecology
- Other matters
- Planning Balance

### Principle of the Development

15.2 In terms of the principle of development, there are four key Borough Council Core Strategy policies that require consideration: SD1 (Sustainable Development Locations); ENV1 (Environment); H1 (Housing Delivery); and TA1 (Accessibility and Changing Travel Behaviour). Core Strategy policy SD1 establishes that, throughout the Borough, growth will be located at the most accessible and sustainable locations in accordance with the settlement hierarchy, with Core Strategy policy H1 seeking the majority of housing to be on previously developed land. Core Strategy policy ENV1 (Environment) states that unallocated greenfield land outside of settlement boundaries will be protected and where possible enhanced, with development being strictly controlled. Finally, Core Strategy policy TA1 requires future development in the Borough to be in highly accessible locations, such as centres, to reduce the need to travel.

15.3 The application site is an unallocated site located outside the settlement boundaries of Wakes Colne. The site does not, therefore, fall within any of the settlements identified in the hierarchy of policy SD1 and proposed development in the countryside would, by its very nature, not protect nor enhance the landscape as required by policy ENV1. Whilst there are some services and facilities in Wakes Colne (a school, pub, church, convenience store) these are not readily accessible by means other than private car which is essentially a requirement of policy TA1. Development in this location would, therefore, be contrary to the provisions of the aforementioned Core Strategy policies.

15.4 It is recognised, however, that the site is a former care home with associated workshops and can therefore be classified as Previously Developed Land by virtue of the NPPF. The NPPF encourages the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. It should also be noted that Core Strategy policy H1 also seeks to direct residential development to previously developed land. The reuse of this land would not, therefore, be a fundamental conflict in land use policy terms.

15.5 In considering the environmental sensitivities of the site, the presence of a listed building (the Grade II Wakes Hall) and classification as Grade 2/3 Agricultural Land (i.e. best and most versatile agricultural land) is relevant.

15.6 Dealing with the agricultural land classification first, paragraph 112 of the NPPF states that *'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality'*. Whilst some raw hydrological, geological, and land use data has been submitted with the application, no assessment of the site, in the form of an Agricultural Land Classification Report has been provided. It is therefore uncertain as to whether the site is indeed Grade 2/3 Agricultural Land as the Government data is set at a high level rather than being site specific. The Council's Landscape Officer has requested that an Agricultural Land Classification Report be submitted by the applicant so that the grade of the land can be determined and the impact upon the agricultural land fully assessed. This has not, however, been pursued by the Case Officer following an assessment of the 'sequential' approach set out in paragraph 112 of the NPPF: the site is previously developed land (which is preferable for development over greenfield land), the area of land in question (essentially the north-western corner of the site as the remainder has been developed) is relatively small, and there is no realistic alternative site of lower quality land as the majority of the Borough, other than urban areas and non-agricultural areas, is Grade 2/3.

15.7 Turning to the heritage value of the site, the special circumstances for housing in the countryside (set out in paragraph 55 of the NPPF) is relevant and set out below.

1. The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
2. Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
3. Where the development would re-use redundant or disused buildings and lead to an enhancement of the immediate setting; or
4. The exceptional quality or innovative nature of the design of the dwelling. Such a design should be truly outstanding or innovative (helping to raise standards of design more generally in rural areas); reflect the highest standards in architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area.

- 15.8 The planning application has been made on the basis that the conversion and new build would enable and include the re-use of the Grade II listed Wakes Hall and include works to enhance its setting (points 2 and 3 of the NPPF special circumstances). A Viability Report has been submitted with the application and has been independently assessed by the District Valuer Service, with the conclusion that the proposed development would be necessary to fund the works to the listed building and surrounding grounds.
- 15.9 The Case Officer view, however, is that the proposal does not represent enabling development. This is because enabling development relates to development that is contrary to planning policy and this site, being brownfield land, has the potential for redevelopment without a fundamental conflict in land use policy terms subject to material planning considerations. The Agent disputes this assessment, but it remains the Case Officer position. The remainder of the report will therefore concentrate on relevant material matters and the benefits of the scheme (in relation to paragraph 55 of the NPPF), in order to reach a balanced planning judgement.

#### Heritage matters

- 15.10 The starting point for the consideration of the proposals is Section 16(2)/66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special regard is had to the desirability of preserving the building (Wakes Hall in this case), or its setting, or any features of special architectural or historic interest it possesses. Government policy guidance set out in the NPPF confirms the great weight in favour of conservation of designated heritage assets. The particular significance of any heritage asset likely to be affected by a development proposal needs to be identified and assessed. Any harm requires clear and convincing justification.
- 15.11 Adopted local plan policies Core Strategy policy ENV1 and Development Plan policy DP14 reflect the statutory provisions and the guidance set out in the NPPF in terms of the need to safeguard the special interest of listed buildings and their settings. In particular, Development Plan policy DP14 states that development will not be permitted that will adversely affect (inter alia) a listed building, or important archaeological remains. The policy goes on to state that development affecting the historic environment should seek to enhance the heritage asset in the first instance.
- 15.12 The proposals involve works to Wakes Hall (including demolition, extensions, and internal and external alterations to enable conversion to 4 No. dwellings with a communal gym and media room); the conversion of existing buildings; new purpose built residential accommodation; and site layout and landscaping works. Each of these elements of the proposals have heritage impacts that are assessed in turn. The main heritage issues raised by the applications are:
- The effect that the proposal will have on the special interest of the listed building and the associated curtilage structure;
  - The effect that the proposal will have on the setting of Wakes Hall and other nearby listed buildings;

- The balance of any harm against the public benefits of the proposal

Works to Wakes Hall:

- 15.13 Wakes Hall has been altered and extended over time and the sequence of changes are for the most part evident in the standing archaeology of the building. Notwithstanding the changes, externally the main house remains relatively unchanged and the original plan form of the building form can still be discerned. Wakes Hall represents a typical C19 country house and its significance lies in both its historic and architectural interest.
- 15.14 The Heritage Statement accompanying the application provides a detailed assessment of the evidential values of Wakes Hall, although the Statement provides a less detailed analysis of the impact that the proposed alteration works would have on the building's significance. The Case Officer has therefore made an assessment of the impact based on a number of site visits to the property, the information submitted with the applications, and specialist heritage advice.
- 15.15 Historic England guidance explains that the best way to conserve a building is to keep it in use, or to find it an appropriate new use. The supporting information submitted with the planning application is that the building is not well suited for continued care use. Given this, returning the building back to residential use (a dwelling or dwellings) would seem logical. The ideal solution would be return Wakes Hall to a single dwelling house and remove the various modern accretions, but the Viability Report submitted has demonstrated that this would not be financially viable.
- 15.16 Wakes Hall dates from the early to mid C19 and has been greatly extended and adapted. These works are not considered to have been respectful to the architectural or historic character of the building. To the south of the main house (and wrapping around the rear of the house) is a 1960s single storey accommodation block. This building obscures part of the ground of the south elevation and much of the north elevation. The accommodation block is considered to detract from special interest of the listed building. To the east of the C19 tower, is a three storey extension, which the applicant states was added in the 1970s prior to the building being listed in 1981. The extension has a flat roof with cut back upper storey and dormers. This extension detracts from the setting of the main house by virtue of the fact that it obscures the north elevation main house / tower and due to its poor design and detailing. In addition to the above extensions, a modern lift tower further obscures and clutters the north elevation.

- 15.17 Internally the building has suffered from substantial alterations; the majority of the alterations stem from when the building operated as a care home. These alterations are unsympathetic and detract from the original plan form of the house.
- 15.18 In addition, the building is also showing some signs of deterioration, with areas of damp and localised failure of interior finishes. The possibility of the building further deteriorating is increased by it remaining vacant.
- 15.19 The current proposal has been put forward as a solution to providing the long term conservation and repair of this important listed building. The proposals provide the opportunity to revert many of the unsympathetic additions and reinstate the original plan of the building.
- 15.20 The removal of the 1960s extension and lift shaft is considered to be a positive element of the scheme given that these additions do not reflect the historic character of Wakes Hall in both their form and detailed design.
- 15.21 The 1970s rear extension is included in the proposals as being retained and extended (upwards). The existing extension has been identified in the Heritage Statement as having a negative impact on the special interest of the listed building. Given this, it is unfortunate (and unclear) why the opportunity has not been taken to remove this element of the building. Whilst the proposed scheme improves the aesthetic appearance of the extension, the extension will nevertheless still visually compete with the historic building. Ultimately, the proposed works seek to improve the appearance and offer a marginal gain over the existing. The detailing of the alterations will, however, need to be heavily conditioned.
- 15.22 The proposal includes extensive internal alterations, the majority of which undo the unsympathetic alterations and go towards returning the building back to its original plan form which is positive. Amendments to the scheme, as a result of negotiation with the Agent, have secured further improvements with regards to the historic character of the building. There remains, however, two elements of the proposed alterations that are considered to have a detrimental impact on the historic interest of the building.
- 15.23 Firstly, the removal of a service staircase is not considered to be acceptable. The stairs provide evidence of the historic development of the building (when a service corridor and access to the second floor of the building was added in the 19<sup>th</sup> century). The Agent has stated that the removal of the stair is required in order to reinstate the main bedroom. This is, however, disputed as the staircase can be retained (enclosed by a door) within the existing room subdivisions; the retention would involve some amendments to the size of the proposed en-suites only. Heritage advice is that the removal of the staircase constitutes the unnecessary removal of historic fabric with particular significance. The retention of the staircase can be conditioned so that there is no objection to the proposal in this aspect.

- 15.24 Works are proposed to convert the Coach House (a red brick building attached to the rear of Wakes Hall) to residential accommodation which would involve cutting some part of the original roof structure. The Coach House is listed as a curtilage structure and, although the works required to convert the building are undesirable they are not considered a reason for refusal when considering the scheme as a whole and the level of benefit achieved from the remaining internal alterations.

Conversion of 'bungalows', Warden's House, and Warden's Flat:

- 15.25 The complex of single storey almshouse-style bungalows and the former Warden's house are shown to be retained and upgraded. These buildings are not ideally located in terms of the setting of Wakes Hall, but as existing buildings, their conversion to residential use would not materially impact (i.e. change) the setting of the listed building. Similarly, the conversion of the former Warden's flat would not change its current relationship or influence on the setting of Wakes Hall. The conversion of these buildings is, therefore, considered to be acceptable. Details of any external alterations (such as new windows and doors) will be required in order to ensure that these are appropriate in respect of the historic character of the site.

New Build:

- 15.26 Wakes Hall constitutes a modest C19 country house with farmstead of a similar date to the rear. Heritage advice is that the proposed new development constitutes a disproportionate response to historic built form at Wakes Hall; the scale of the proposal is more befitting that of a stately home than that of modest C19 country house. This is further exasperated by the long unbroken frontage of the new development and its pastiche neoclassical design. The development, by virtue of its scale and mass, cannot be described as mews style development (heritage statement 4.3) and is not considered to enhance the setting of identified heritage assets or the rural character of the site. In addition to this, the new building could also have a harmful impact after nightfall, when the light pollution would invade the characteristic ambience of this isolated house and its setting.
- 15.27 The proposed development, albeit landscaped, would be harmful to the setting and the contribution that the setting makes to the significance of the designated heritage asset (listed building); this is accepted by the agent in their updated justification. It is agreed, however, that this harm would be less than substantial. Having regard to s66 of the Planning (Listed Building and Conservation Areas) Act 1990 and the various court judgements that relate to the concept of harm, considerable importance and weight should be attached to this harmful impact. The development would not accord with one of the core planning principles of the NPPF which seeks to conserve heritage assets in a manner appropriate to their significance so that they may be enjoyed for their contribution to the quality of life of this and future generations.

- 15.28 Harm to the significance of a designated heritage asset must be given considerable weight in the planning balance, creating a strong presumption against the grant of planning permission where such harm is found. In striking the balance, it is not enough simply to ask whether the advantages of the scheme outweigh the harm in a loose or general sense, but whether they outweigh harm in a manner sufficient to rebut that strong statutory presumption.
- 15.29 In this instance less than substantial harm has been identified. Paragraph 134 of the NPPF is therefore relevant and requires that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. A viability assessment has been submitted in support of this application and the Council's consultant has concluded the new build element constitutes the minimum necessary to facilitate the repair and reuse of the listed building. The public benefits derived from this scheme are the repair of the principal listed building (including the reinstatement of some historic elements) and the selected removal of modern additions that detract from the special interest of the building. Ultimately, these benefits are considered to outweigh the harm that would result from the proposed new build.

Layout and Landscaping:

- 15.30 The removal of the existing modern buildings (stores / workshops) to south west of the main house would serve to improve the general setting of the listed building. This is considered to be a positive aspect of the proposal.
- 15.31 Concerns were raised with the Agent in respect of the proposed car parking to the front of the new build. It is considered that the car parking to the front of the new build would dominate the development; extensive frontage curtilage parking would not be considered acceptable in an urban development, let alone in a rural site of heritage value. It was suggested that the car parking be relocated to the rear of the new build, but this was not taken up by the Agent. Instead, the proposal has been revised so that the area for car parking is lowered by 300mm. Lowering the ground levels could help to mitigate the appearance of the car parking, in addition to planting to filter views, although 300mm is not considered to be particularly substantive. Further details of the ground levels and car parking arrangement can be sought for approval via condition.
- 15.32 Heritage advice has also raised a concern with the principle of the proposed tennis courts in that they have a negative impact on the setting of the listed building which would have originally been surrounded by parkland and farmland. The Case Officer view is that the tennis courts are sited in a discreet location to the rear of the site and would not detract from the setting of the listed building. It is also notable that the tennis courts would be in close proximity to an area of existing solar panels, as well as an access road to holiday lodges; the site for the tennis courts is not, therefore, considered to be open countryside where development may appear incongruous. A condition would be required to restrict the erection of floodlighting as lighting would have a marked and detrimental impact on the countryside setting.

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- 15.33 The proposals also include regrading the main driveway and entrance to the building, reverting the inappropriate tarmac driveway from the use of the site as a car home. The regrading of the main driveway is considered to be a positive benefit of the scheme as it will better reflect the original layout of the site. The Agent has confirmed that a resin bonded gravel is now proposed as opposed to tarmac which is supported. The use of resin bonded gravel does, however, need to be extended to the remaining driveways within the site (currently shown to be tarmac). This can be conditioned.
- 15.34 In conclusion, heritage advice is that there is significant benefit in the prospect of bringing this important listed building back into a beneficial use which could ensure its renovation and long-term survival. Subject to the amendment regarding the service staircase, it is considered that whilst there would be some negative aspects, these are far outweighed by the positive aspects of the scheme which involve the removal of some unfortunate elements. The works to Wakes Hall would have an overall positive effect on its own setting; similarly the openness created by the removal of the modern single storey extension would have a positive effect on the wider landscape setting of the building. The conversion of existing buildings on site are considered to have a neutral impact on the setting of the listed building. As the new build is necessary to fund improvements to the buildings and its immediate surroundings it is ultimately considered acceptable.
- 15.35 In terms of archaeology, the Council's Archaeological Adviser has confirmed that the site has not been the subject of previous systematic archaeological investigation. There is, therefore, a high potential for encountering below-ground archaeological remains, although this factor should not restrict planning permission being granted. In accordance with paragraph 141 of the NPPF, in order to advance the understanding of the significance of any heritage asset (i.e. archaeological remains) that may be lost (wholly or in part) the asset should be recorded, hence a condition is required to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 15.36 It should be noted that Historic England have not provided any comments on the application. They have advised that the Local Planning Authority should instead seek the views of specialist conservation and archaeological advisers as relevant.

#### Design and impact on the character of the area

- 15.37 In considering the wider design impacts 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. Core Strategy policies H2 and H3, relating to housing density and housing diversity are also relevant.

- 15.38 The proposal can be sub-divided into four main elements:
1. Conversion of Wakes Hall
  2. Conversion of existing buildings (bungalows, Former Warden's House, and Former Warden's Flat)
  3. New Build
  4. Associated layout and landscaping
- 15.39 The first two elements involve the conversion of existing buildings. The conversion of the bungalows, Former Warden's House, and Former Warden's Flat would not result in significant external changes and do not, therefore, have a direct impact on the character of the area. The conversion of Wakes Hall would include the removal of some later additions, namely the single-storey glazed extension, and lift shaft. These parts of the building are publically visible, from Colchester Road or the Wakes Colne Business Park, and their removal would have some public benefit in exposing and emphasising the original form of the listed building. This would better reveal the significance of the heritage asset.
- 15.40 The new build element of the proposal would extend into the countryside setting which is a harmful aspect of the proposal. The Council's Urban Designer has, however, recommended that conditions to secure high quality architectural detailing, materials, and surface treatments would help to mitigate sensitivities in terms of the impact of the proposal on the character of the surrounding area. The Council's Landscape Officer has not objected to the proposals subject to detailed landscape proposals being submitted and agreed. It is considered necessary that the condition is accompanied by an informative to clarify certain requirements in terms of heritage considerations (e.g. bound gravel driveways in lieu of the tarmac proposed).
- 15.41 The character of the area is undeniably rural, with sporadic development and houses set in spacious plots in the main. The proposal is not considered to disrupt this character as there would still be a feeling of spaciousness around the properties by virtue of the retained and managed woodland and parkland. The proposal is, therefore, considered to be compatible with its surroundings in terms of housing density.
- 15.42 In terms of housing diversity, Core Strategy policy H3 seeks to secure a range of housing types across the Borough, with housing development providing a mix of housing types to suit a range of different households. The policy goes on to state that housing developments will also need to contribute to the provision of affordable housing and homes that are suitable to the needs of older persons, persons with disabilities and those with special needs.

- 15.43 The proposal is for housing for those aged over 55 years. The proposal therefore provides housing for older persons as per policy H3. This is considered to be important as the Council's Planning Policy team have provided updated information from the submitted emerging Local Plan which explains that Colchester is expected to record a 60.6% increase in its population of those aged 65 years and over. The Strategic Housing Market Assessment (SHMA) identifies a requirement for 2,147 specialist units, in addition to the requirement for housing suitable for the needs of older people which allows people to live in their own home for as long as possible.
- 15.44 In terms of creating a safe environment, Essex Police have confirmed that they are satisfied that the proposal is appropriate in terms of creating a safe and accessible environments.

#### Amenity

- 15.45 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. These principles are emphasised in Development Plan policy DP12 which relates to dwelling standards and focuses on the avoidance of adverse overshadowing, ensuring acceptable levels of daylight to all habitable rooms (with no single-aspect north-facing homes), acceptable levels of privacy, continued maintenance of buildings and external spaces, the adaptability of internal layouts, parking standards, and accessible bin and recycling storage areas.
- 15.46 The proposal is not in close proximity to existing residential properties so there are no concerns regarding its impact on the private amenity of existing residents. There may be some instances of overlooking within the development itself, with some units within the bungalow conversion and new build being closer than the 25 metres set out in the Essex Design Guide. The nature of the proposal is, however, a development for the over-55s where the majority of the site (woodland, gardens, allotments, tennis courts) being communal. Levels of privacy are therefore considered to be somewhat lower than in a standard private residential development. That being said, instances where overlooking could occur between properties is limited to two or three instances and is not considered to be a significant issue to justify refusal of planning permission.
- 15.47 In terms of impacts on further residents from the existing business park, a noise Assessment was submitted with the planning application and, following consultation, Environmental Protection have confirmed that they have no objections to the proposal. The Noise Assessment concludes that no significant noise is generated by business activities or service vehicles on business park and that, despite the single-glazed windows in the listed building, noise levels would remain within WHO guidelines with windows closed (with only a slight increase above guidelines with windows open). There is not, therefore, considered to be an adverse impacts to the proposed development from the existing business park.

- 15.48 In terms of the remaining requirements of Development Policy DP12, it is considered that the proposed dwellings would be afforded adequate levels of daylight and sunlight. Maintenance of the buildings and external space can be secured via condition, as can the bin and recycling storage areas. Parking standards are discussed in the subsequent section 'Highway safety and parking provisions'.
- 15.49 Please note that, whilst Development Plan policy DP11 relates to flat conversions, its focus is on conversions within defined settlement boundaries, hence it has not been considered for this proposal given its countryside location.

#### Amenity space and public open space

- 15.50 Development Plan policy DP16 requires all new residential development to provide private amenity space to a high standard which has a sufficient level of privacy and is secure and usable. Standard garden sizes are set out in the policy, with two and three bedroom houses requiring garden sizes of at least 50sqm 60sqm respectively, and flats requiring a minimum of 25sqm per flat to be provided communally. In terms of public open space, policy DP16 requires all new development to provide at least 10% of the gross site area as usable open space.
- 15.51 Whilst the proposal includes some private amenity space for the converted bungalows, new build, and Former Warden's House, the space afforded is below policy standard in some instances. This is not, however, considered reason to refuse the application given the 'communal' nature of the proposed development. Communal space is generous, such as the formal gardens and walled gardens, as is the more 'public' open space (parkland and woodland) which equates to well-over 10% of the site area.
- 15.52 When read as a whole, the proposal is considered to provide sufficient amenity space.

#### Highway safety and parking provisions (including cycling)

- 15.53 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).

- 15.54 The Highway Authority has confirmed that they have no objections to the proposal on highway safety grounds subject to conditions that ensure that the highway is kept clear of obstructions and hazards, that there is safe pedestrian access, and that the development promotes sustainable means of transport. The Highway Authority requirements can be accommodated as conditions.
- 15.55 In terms of parking, the proposal provides adequate (i.e. policy compliant) car parking for the development. Adequate cycle parking is provided for the bungalow conversion and new build in the form of covered communal cycle stores. No dedicated cycle parking is provided for the Former Warden's House, Former Warden's Flat or the Wakes Hall conversion, although the Former Warden's House is provided with a garden where it is considered that safe cycle storage can be accommodated as necessary. Although the Wakes Hall conversion does provide generous storage areas for each flat (in the basement) this is only accessible via stairs so may not be suitable for cycle storage. There are, therefore, five units within the development that would not have cycle parking facilities.

#### Flood risk and drainage

- 15.56 Development Plan policy DP20 states that development will only be supported where it minimised the risk of increased flooding both within the development boundary and off site in Flood Zones 2 and 3. Sustainable Drainage Systems (SuDS) are identified as being important to manage surface water runoff rates.
- 15.57 The site is located within Flood Zone 1 which as a very low risk of flooding from rivers or the sea (less than 0.1%) according to Environment Agency Long Term Flood Risk Information. The site is also outside any areas at risk of flooding from reservoirs. The site is not, therefore, considered to be susceptible to flooding.
- 15.58 In terms of surface water flooding, the proposed development would remove some impermeable elements (the existing outbuildings, single-storey glazed extension, and lift shaft), but would result in an overall increase in structures and hard surfacing (the new build and associated pathways/driveways). Essex County Council, as Lead Local Flood Authority, have confirmed that they have no objections to the proposal in terms of surface water flood risk, subject to conditions requiring a detailed surface water drainage scheme; a scheme to minimise surface water run-off during construction; and a maintenance and management plan for the surface water drainage scheme. The proposal is therefore considered to be acceptable in terms of flood risk subject to the aforementioned conditions.
- 15.59 Following consultation with Anglian Water, foul drainage for the development is considered to be acceptable, subject to a condition for a foul water strategy.

## Ecology

15.60 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 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.

15.61 The site is within an SSSI impact zone and there are areas of potential habitat within the site (woodland, trees, overgrown areas). As such, an Ecological Assessment was submitted with the planning application, along with an associated 'Badger Survey, Great Crested Newt E-D.N.A. Reptile Presence or Absence, Bat Roost Assessment'. A summary of the findings is as follows:

- No part of the proposed development site or adjacent area has any statutory or non-statutory conservation designation or status.
- The proposed development site however is within a designated zone of influence for the Chalkney Wood S.S.S.I. to the South west. The proposed development area is not part of this designated site nor is it required for its integrity or future management. It does not create new access to this site nor will it create any significant disturbance. The proposed development will not reduce the area of the S.S.S.I. its conservation value, management regimes or future ecological viability.
- There is a Priority Habitat (Deciduous Woodland) to the north of the survey area and a flood plain grazing marsh to the south west. The proposed development will not reduce the area of these habitats, their conservation value, or affect their management regimes or future ecological viability.
- The front section of the survey area is the main existing access to the Wakes Hall with formal estate-style, open managed garden areas to the west and east. These areas have limited biodiversity and low conservation value.
- A number of on-site buildings will be removed as part of the proposed development. Although in reasonable condition a bat roost presence is possible and therefore a bat roost assessment is advisable.
- There are a number of localised areas within the proposed development site that have, through natural ecological succession, achieved some mixed vegetative structure. Amongst this successional vegetation are a number of potential reptile refugia. A multi-visit reptile presence or absence survey is required for the relevant habitat areas.
- To the northern site boundary and occasionally to the left flank are a number of characteristic badger field signs. A badger survey is required to determine if there is an active sett within or adjacent to the proposed development site.

- To the right flank of the site is a single open pond. It contains a number of maturing carp which will be a significant restriction to an amphibian presence, however there are a number of pond characteristics that are suitable for an amphibian presence. A Great Crested Newt presence or absence survey is required for the pond.

15.62 The subsequent species surveys concluded the following:

- No active badger sett of any type is present within or adjacent to any part of the proposed development site. There is no badger related constraint to the proposed development.
- There is no reptile presence in any part of the proposed development area, and no field sign of any past reptile presence. There is no reptile related constraint to the proposed development.
- No bat roost or any indicative sign of any past bat use was found within the buildings on site. There is no bat related constraint to the proposed development.
- The E-DNA test confirmed that there is no Great Crested Newt presence in the on-site pond. There is no amphibian related constraint to the proposed development.

15.63 Having consulted the Defra online 'MagicMap', it was established that there was no further requirement to consult on the SSSI given the nature of the proposal as residential and below 50 dwellings. Consultation with Natural England did not generate any comments other than standing advice regarding protected species. The submitted ecological assessment and species surveys have demonstrated that there is no evidence of protected species onsite and, as such, the proposal is not considered to have an adverse impact on the biodiversity or ecology of the site. It is recognised that a large proportion of the site will remain undeveloped as parkland, woodland, or garden. The future management of the parkland and woodland is considered to be important in order to retain habitat features.

#### Other matters

15.64 Contamination: Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. The NPPF (paragraph 109) requires the planning system to contribute to and enhance the natural and local environment by (inter alia) preventing both new and existing development from contributing to or being put at an unacceptable risk from, or being adversely affected by unacceptable levels of soil pollution. Planning decisions should ensure that new development is appropriate for its location and the potential sensitivity of the area or proposed development to adverse effects from pollution should be taken into account.

15.65 The proposal is for residential development, which would be classed as a 'sensitive receptor' should the site be contaminated. The Phase 1 Desk Study and Preliminary Risk Assessment submitted with the application identified some potential contamination risks and recommended an intrusive investigation, including ground gas and groundwater monitoring, in order to

better assess the risk. The Council's Environmental Protection team will expect the additional investigation to be carried out and also include further assessment of risks associated with an Anglian Water reported spill of heating oil (location unknown). Appropriate asbestos surveys will also need to be undertaken, prior to any refurbishment or demolition. These matters, along with any necessary remediation, can be addressed via planning conditions. Adherence to these planning conditions will ensure that the site is suitable for residential use.

## **16.0 Planning Balance and Conclusion**

- 16.1 Whilst the countryside location of the site suggests that the development would be contrary to Core Strategy policies SD1, ENV1, and TA1 it is recognised that the site is Previously Developed Land where development is encouraged by virtue of the NPPF. The reuse of this land would not, therefore, be a fundamental conflict in land use policy terms. Some level of harm from the development has been identified, principally the form and scale of the proposed new build upon the setting of the listed building.
- 16.2 It is necessary to assess whether the benefits of the scheme outweigh the identified harm in terms of the conflict with planning policy and impact on the setting of the listed building.
- 16.3 First, the proposal provides housing for older people that contributes to meeting a growing need for housing for an ageing population. This is considered to be a benefit of the proposal.
- 16.4 Second, the proposal includes a number of uses for future residents (allotments, tennis courts and a gym), improved pedestrian access to the village centre, and a bus stop adjacent to the site. These measures will be important in helping to address the issue of the site being functionally isolated relative to services and facilities. Improvements to accessibility by enhancing sustainable transport links accords with Core Strategy policies TA1 (Accessibility and Changing Travel Behaviour), TA2 (Walking and Cycling) and TA3 (Public Transport). These measures can be conditioned and are considered to be a further benefit of the overall scheme.
- 16.5 Finally, it is considered that there is a public benefit in the prospect of bringing the listed building back into beneficial use which would ensure its renovation and long-term survival. Whilst the alteration works would result in some negative impacts, overall it is considered that these are outweighed by the positive aspects of the scheme which involve the removal of some unfortunate elements. Improvements to the immediate setting of the listed building (i.e. reverting the main driveway and entrance to its original arrangement; and maintaining the surrounding parkland). The benefits of bringing the building back into long-term use and improving its immediate setting is considered to outweigh the less than substantial harm caused by the new build elements and a small proportion of the alterations to the listed building. The 'improvement works' will need to be secured (in this case via a S106 agreement).



16.6 The benefits of the scheme, when taken as a whole, are considered to outweigh the conflict with planning policy and the identified harm to the setting of the listed building.

16.7 Conditions are required in order to ensure that the proposals are acceptable in relation to relevant planning policies as set out in the report.

## **17.0 Recommendation to the Committee**

17.1 The Officer recommendation to the Committee is for:

1. APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (for clauses refer to paragraph 14.1 above), 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.
2. APPROVAL of Listed Building Consent subject to the following conditions.

## **172642 PLANNING PERMISSION**

### **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**

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:

1529-LOC	Location Plan
1529-P001 Rev A	Proposed Site Layout
1529-P002 Rev B	Hard Landscaping (Surfaces)
1529-P003 Rev B	Hard Landscaping (Walls, Fences, Gates)
1529-P004 Rev A	Proposed Layout Building Groups
1529-P005 Rev B	Parking Layout
1529-P006	Buildings to be Demolished
1529-P007	Proposed Footpath Connection
1529-P015	Proposed Main House Basement Plan
1529-P016 Rev B	Proposed Main House GF Plan
1529-P017 Rev A	Proposed Main House FF Plan
1529-P018 Rev A	Proposed Main House SF Plan and Sections
1529-P019 Rev A	Proposed Main House Elevations
1529-P020	New Build GF Plan 1 of 3
1529-P021	New Build GF Plan 2 of 3
1529-P022	New Build GF Plan 3 of 3
1529-P023	New Build FF Plan 1 of 3

1529-P024	New Build FF Plan 2 of 3
1529-P025	New Build FF Plan 3 of 3
1529-P026 Rev B	New Build Elevations 1 of 3
1529-P027 Rev B	New Build Elevations 2 of 3
1529-P028 Rev B	New Build Elevations and Streetscene 3 of 3
1529-P029 Rev A	New Build Sections A-A to E-E
1529-P031	Proposed Former Wardens House
1529-P032	Existing Former Wardens Flat
1529-P036	Proposed Bungalow Floor Plans 1 of 2
1529-P037	Proposed Bungalow Floor Plans and Bin Stores 2 of 2
1529-P040	Bungalows Sections A-A to D-D
1529-P041	Bungalow Walled Garden

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

### **3. Foul Water Strategy**

No development shall commence 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.

### **4. Arboricultural Impact Assessment**

No works or development shall be carried out until an 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.

### **5. Archaeology**

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

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

programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

## **6. 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

## **7. 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

#### **8. 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.

#### **9. Construction Method Statement**

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

#### **10. Landscape Management Plan**

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

- Proposed finished levels or contours;
- Means of enclosure;
- Car parking layouts;
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials;
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.);

- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- Implementation timetables.

Reason: As the details submitted are not satisfactory and 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.

### **11. Surface Water Drainage Scheme**

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

- Limit discharge rates from the site 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.
- 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 and have a suitable half-drain time.
- Sufficiently demonstrate that the location of the proposed outfall of the site will not increase flood risk off site.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy

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; and 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.

### **12. Scheme to minimise offsite flooding during construction works**

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

Reason: In order to prevent excess water being discharged from the site that could result in flood risk or polluted water being allowed to leave the site.

### **13. Surface water drainage maintenance plan**

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

### **14. Materials**

Notwithstanding the details submitted, no works shall take place (except for underground enabling works) until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. 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.

### **15. Cladding**

Notwithstanding the submitted details, no works shall take place (except for underground enabling works) until precise details of the specification of the cladding to be applied to the external walls has been submitted to and approved, in writing, by the Local Planning Authority and the work shall be carried out in complete accordance with the approved specification.

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

### **16. Details of windows, doors, and architectural details**

Notwithstanding the submitted details, no works shall commence (except for underground enabling works) until additional drawings that show details and amended design (as necessary) of any proposed new windows (including the method of opening, reveal, and glazing bars), screens, doors (including fanlights), porches, eaves, verges, cills and arches, plinths, roof features, string courses, console brackets, decorative panels, chimneys, and cupolas to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: In order to ensure suitable detailed design as there are insufficient details within the submitted planning application.

### **17. Provision of bellmouth access**

Prior to commencement of the development, both of the proposed access roads shall be reconstructed to provide a bellmouth junction with Colchester Road, together with 6.0m radius kerbs returned to an access road carriageway width of 6.0m and flanking footways 2m in width returned around the radius kerbs.

Reason: To ensure that the largest type of vehicle using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety.

### **18. Vehicular turning facility**

Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

### **19. Validation Certificate\***

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 7.

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

### **20. Recycling/bin/refuse collection points**

Prior to first occupation of the proposed development, communal recycling/bin/refuse collection points shall be provided within 20m of the circulatory carriageways or adjacent to the highway boundary in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority. The collection points shall be clear of all visibility splays at accesses and retained as approved.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

### **21. Car parking and turning areas**

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Melville Dunbar Associates Drawing annotated Site Layout. The car parking and turning area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

## **22. Cycle Parking**

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

Reason: To promote the use of sustainable means of transport.

## **23. Residential Travel Pack**

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport that shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

## **24. Bus stops**

Notwithstanding the submitted details, prior to the first occupation of any of the proposed dwellings the Applicant/Developer shall provide 2 No. new bus stops, one opposite the proposed development site westbound and one eastbound and adjacent to the vehicular access to Colchester Road (the precise location to be agreed with the Highway Authority) together with the provision of level entry kerbing, new posts and flags, timetables, carriageway markings, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/Developer's expense in accordance with details submitted to and approved, in writing by, the Local Planning Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development.

## **25. Pedestrian footway**

Prior to the occupation of any of the proposed dwellings the footway between the two vehicular access points across the sites northern frontage shall be extended to a minimum of 2.0m in width to connect to the new bus stop and new bellmouth radii and shall also provide a new 2.0m wide footway on the southern side of Colchester Road which shall provide connectivity and accessibility from the proposed development site to the westbound bus stop being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the verge, footway and carriageway channel to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development.

## **26. Management and Maintenance of buildings and external spaces**

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of multi-occupancy buildings and communal external spaces shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.



Reason: The application contains insufficient information to ensure that the development will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment and setting of a designated heritage asset.

### **27. Visibility splays**

Prior to the proposed accesses being brought into use, vehicular visibility splays of 120m by 2.4m by 120m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of each access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

### **28. Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 8.

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

### **29. No unbound materials used in surface treatment of vehicular accesses**

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.

### **30. Requirements for gates at vehicular access**

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6metres from the highway boundary or proposed highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

### **31. Window amendments**

The design of the arched windows shown on drawing no. 1529-P026 Rev B (elevation 1) shall amended to a Diocletian window design.

Reason: To reinforce local distinctiveness and to ensure a satisfactory design having regard to the setting of the listed building.

### **32. Brick Bond**

Notwithstanding the submitted details, all new brickwork shall be constructed in Flemish bond (or such other bond as may be agreed by the Local Planning Authority) and shall use a white mortar mix and a 'bucket handle' joint profile.

Reason: In the interests of ensuring a satisfactory design having special regard to the setting of a listed building.

### **33. Rooflights**

The rooflights hereby approved shall be of the 'conservation' type with a single vertical glazing bar and mounted flush with the roofslope.

Reason: In the interests of the character and appearance of the building having special regard to the setting of a listed building.

### **34. Rainwater goods**

All rainwater goods (gutters, downpipes, hopperheads and soil pipes) shall be finished in cast aluminium and painted black, the profile of which shall be agreed in writing by the Local Planning Authority prior to its installation.

Reason: In the interests of the character and appearance of the building having special regard to the setting of a listed building.

### **35. Joinery**

All joinery comprising doors, windows, eaves and other external architectural features shall be constructed in painted timber.

Reason: In the interests of the character of the development and its impact on the special interest of a designated heritage asset and its setting.

### **36. Floodlighting**

No floodlighting shall be constructed, installed or illuminated at any time.

Reason: To ensure that there are no undesirable effects of light pollution in this countryside location.

### **37. Removal of PD**

Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A-H of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of extensions, alterations, buildings, enclosures, swimming or other pool shall be erected.

Reason: The site is already heavily constrained and developed and any further development on the site would need to be considered at such a time as it were to be proposed.

## **18.0 Informatives**

18.1 The following informatives are also recommended:

### **1. Associated Listed Building Consent**

Please note that there is an associated Listed Building Consent to this permission: planning reference 172643.

## **2. Informative on Section 106 Agreements**

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

## **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. Informative on Conditions Stating Prior to Commencement/Occupation**

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

## **5. 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.

## **6. Anglian Water Informative**

"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."

## **7. 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-andtheplanningprocess>

## **8. Highway Informative 1**

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](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester.  
CO4 9YQ.

## **9. Highway Informative 2**

The applicant should be advised to contact the Essex County Council travel plan team on [travelplanteam@essex.gov.uk](mailto:travelplanteam@essex.gov.uk) to make the necessary arrangements for the provision of the Residential Travel Information Packs.

## **10. Highway Informative 3**

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

## **11. Landscape Informative**

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

## **12. Design and Heritage Informative**

In relation to conditions 10; 14-16; and 31-35, please be advised of the following:

- Details are required for the main driveway and entrance to Wakes Hall. The details should include existing and proposed levels, grading, and surfacing materials.
- The driveways (including those serving the converted bungalows and new build) should be a resin bound gravel and not tarmac as shown on the submitted drawings.
- The 'great doors' indicated on drawing no. 1529-P026 Rev B (elevation 2) shall be omitted from the scheme.
- The screen/great openings should be set back to provide a deep shadow (recommended set back of 500mm).
- Windows – all to be constructed of timber; where set in masonry the windows should have an off white finish (avoid pure white); where set in weatherboarding, the colour of the joinery needs to be relate to the weatherboarding colour (and avoid a stark contrast).
- Windows – the window detailing is unclear; the 'standard' windows in elevation 1 & 8 should be sliding sash (due to their height); the design of arched windows

(elevation 1) should be amended to Diocletian windows (this will assist with opening); porthole windows are set excessively high. Casement windows should flush fitted; glazing should be slimlite (or similar) and through glazing bar should be used. Details of gauged arches and cills required.

- Screen / great openings – detailing required / design requires simplifying. The glazing should be set back to provide a deep shadow (and therefore imply a former opening). The implied doors (elevation 2) should be omitted; The vertical cladding between floors should also be omitted / redesigned.
- Dormer windows – further details required; dormer windows (elevation 3) require amending (they have excessively wide cheeks) and dormer windows (elevation 6 and 7) should have lead cheeks and roofing).
- Doors - door surround detail required; material to be stone. Details of the fanlight are required.
- Porch – details required
- Plinth – detail required; the plinth should employ a canted (splayed) brick.
- Decorative panel (elevation 3) – details required
- String course - detail required
- Eaves detailing – details of console brackets and depth of eaves required
- Chimney / cupola etc, - details required

## **172643 LISTED BUILDING CONSENT**

### **1. Time Limit for LBCs**

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **2. Approved Drawings**

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.

### **3 Building Recording**

Prior to the commencement of any works, an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the building concerned. This record shall be carried out by an archaeologist or building recorder, or an organisation with acknowledged experience in the recording of standing buildings who shall have previously been agreed, in writing, by the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has previously been agreed, in writing, with the Local Planning Authority.

Reason: To secure the proper recording of the listed building.

#### **4 Unexpected evidence of historic character**

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority

Reason: To secure the proper recording of the listed building.

#### **5 Measures to protect interior features during development works**

Prior to the commencement of any works, details of measures to be taken to secure and protect interior features of the building for the duration of the development works shall be submitted to and approved, in writing, by the Local Planning Authority and shall be fully implemented. No such features shall be disturbed or removed temporarily or permanently except as indicated on the approved plans/drawings or as may be required by the measures approved in pursuance of this condition without the prior written approval of the Local Planning Authority. In particular provision shall be made for the security and protection of the staircase, balustrades, handrails, decorative plaster work, doors and windows.

Reason: In order to ensure that there is sufficient protection to these features where there is insufficient information within the submitted application.

#### **6 Specification of render**

No rendering works shall take place until a render specification (including the number of coats, mix, finish, backing material and relationship to existing finishes) has been submitted to and approved, in writing, by the Local Planning Authority. All rendering work shall be carried out in accordance with the approved specification.

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

#### **7 Brick Bond**

All new brickwork shall match the adjacent brickwork in terms of brick type, bond and mortar unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of ensuring a satisfactory design having special regard to the setting of a listed building.

#### **8 Details of new windows, doors, eaves, verges, cills, and arches**

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **9. Rooflights**

The hereby given consent shall be of the 'conservation' type with a single vertical glazing bar and mounted flush with the roofslope.

Reason: In the interests of the character and appearance of the building having special regard to the setting of a listed building.

### **10 Details of new or replacement internal joinery**

Prior to the commencement of any works, details of all new or replacement internal joinery, including doors, door linings, architraves, skirtings shall have been submitted to and approved, in writing, by the Local Planning Authority. All joinery shall be constructed of timber and any new doors shall have recessed panels. The works shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

### **11 Details of fire protection, sound proofing, and insulation**

Prior to the commencement of any upgrading works, details of the methods of fire protection, sound proofing and insulation for the walls, floors, ceilings and doors, (including 1:5 sections through walls and ceilings, 1:20 elevations of doors and 1:1 scale moulding sections) shall have been submitted to and approved in writing by the Local Planning Authority. The works of fire protection, sound proofing and insulation shall be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

### **12. Retention of first floor service staircase**

Notwithstanding the submitted details, the stair access to the tower on the first floor of the building shall be retained and the bathrooms / ensembles to rooms F.05 and F.06 (as shown in the submitted Schedule of Works) re-ordered as necessary in accordance with details that shall have previously been submitted to and approved, in writing, by the Local Planning Authority.

Reason: The removal of this staircase would compromise the understanding of the evolution of heritage asset to the detriment of its special interest.

### **13. Subdivision of rooms**

Notwithstanding the submitted details, no works to subdivide rooms G.05 and F.06 (as shown in the submitted Schedule of Works) shall be undertaken until full details of the method of subdivision has been submitted to and approved, in writing, by the Local Planning Authority. The subdivision of these rooms shall then be carried out as approved.

Reason: In order to ensure that the original form of the building can still be understood in consideration of its special interest as a designated heritage asset.

### **14. Chimney retention**

Notwithstanding the submitted details, the chimney in room P.26 (as shown in the submitted Schedule of Works) shall be retained in its original form.

Reason: As the proposed alteration to the chimney would have a detrimental impact on the character of the designated heritage asset and for the avoidance of doubt as to what has been consented.

**15. Door detail**

Notwithstanding the details submitted, additional drawings shall be submitted to and approved in writing by the Local Planning Authority that show the infilling of door to stairs / blocking of door to G.01.

Reason: To ensure that the works are carried out without detriment to the special interest of the listed building.

**16. Retention of nibs**

Notwithstanding the details submitted, where internal walls are to be removed or altered, additional drawings showing the dimensions of nibs and downstands to be retained shall be submitted to and approved in writing by the Local Planning Authority. The alteration works shall be implemented in accordance with the details subsequently approved.

Reason: to ensure that the historic plan form of the building remains discernible and thereby safeguarding the special interest as a designated heritage asset

**17. Making Good**

Within one month of the alteration works being carried out, all adjoining surfaces which have been disturbed by the works 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 listed building

**Informatives:**

**1. Associated Planning Permission**

Please note that there is an associated Planning Permission to this consent: planning reference 172642. This consent should be read in conjunction with the associated planning permission.

**2. Informative on Section 106 Agreements**

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



## Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

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

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

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

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

## Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

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

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

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

Use for the provision of —

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

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

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

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

## **Class A4. Drinking establishments**

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

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

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

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

## **Class B2. General industrial**

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

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

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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



**Sui Generis Uses**

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

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

***Interpretation of Class C3***

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

***Interpretation of Class C4***

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

## **Supreme Court Decision 16 October 2017**

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

*If Councillors require more information, or minor amendments to be explored, then the item should be deferred.*

*If no more information or amendment is desired Councillors will proceed to propose a motion.*

