

# Planning Committee Meeting

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

**Thursday, 25 April 2019 at 18:00**

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

# Information for Members of the Public

## Access to information and meetings

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

Dates of the meetings are available here:

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

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

## Have Your Say!

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

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

## Audio Recording, Mobile phones and other devices

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

## Access

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

## Facilities

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**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 25 April 2019 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.

### 6.1 **Planning Committee Minutes of 28 February 2019** 7 - 26

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 28 February 2019.

### 6.2 **Planning Committee Minutes of 14 March 2019** 27 - 32

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 14 March 2019.

## 7 **Planning Applications**

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

### 7.1 **180045 Cowdray Centre, Mason Road, Colchester** 33 - 78

Demolish all existing buildings and redevelop the site, creating 262 no. one, two and three bedroom houses and apartments plus associated roads, car parking, landscaping and public open space.

### 7.2 **190217 Homelea, Birch Street, Birch, Colchester** 79 - 100

#### **NOTE: THIS ITEM HAS BEEN WITHDRAWN FROM CONSIDERATION AT THE MEETING**

*The applicants have chosen to advertise the scheme in the Colchester Gazette in an attempt to ascertain the legal owner of the access way referred to in the report. The advert was placed on the 11 April 2019. If the legal owner does not come forward the applicants will then sign certificate C and will formally amend the application form. As this consultation period is currently underway*

*the application cannot be determined at this time. The application has therefore been withdrawn from consideration at this meeting.*  
Proposed new three bedroom bungalow on land to the rear of Homelea. Resubmission of 182077.

7.3	<b>183001 3 Frensham Close, Stanway, Colchester</b>	101 -
	Proposed single storey front addition to existing garage.	108
7.4	<b>183117 18 Gladstone Road, Colchester</b>	109 -
	Single storey detached garage at rear of garden.	116
7.5	<b>190551 Town Hall, High Street, Colchester</b>	117 -
	Listed Building Consent to face bed new ashlar in Portland White Bed Stone to re-establish inscription to Foundation Stone.	126
	<b>Planning Committee Information Pages v2</b>	127 -
		138

## 8 **Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

## **Part B** **(not open to the public including the press)**



# Planning Committee

## Thursday, 28 February 2019

**Attendees:** Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Chris Pearson

**Substitutes:** Councillor Paul Dundas (for Councillor Vic Flores), Councillor Helen Chuah (for Councillor Theresa Higgins), Councillor Gerard Oxford (for Councillor Philip Oxford)

**Also Present:**

### 666 Site Visits

Councillors Barton, Chuah, Dundas, Hazell, Jarvis, Liddy, Loveland, Maclean and G. Oxford attended the site visits.

### 667 Minutes of 17 January 2019

The minutes of the meeting held on 17 January 2019 were confirmed as a correct record.

### 668 Minutes of 31 January 2019

The minutes of the meeting held on 31 January 2019 were confirmed as a correct record.

### 669 182120 Land at Queen Street, Colchester

**Councillor Liddy (by reason of his directorship of Colchester Archaeological Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a planning application for the demolition of the existing buildings/structures and redevelopment to provide purpose-built student accommodation, hotel, commercial space (Use Classes A1, A3, A4, B1(c) and D2), artist studios and associated vehicular access and public realm improvements at land at Queen Street, Colchester. The application had been referred to the Committee because it was a major application to which objections have been received and a Section 106 legal agreement was recommended. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit

in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Alistair Day, Planning Specialists Manager, presented the report and, together with Simon Cairns, Development Manager, Jess Tipper, Archaeological Advisor and Martin Mason, Essex County Council Strategic Development Engineer assisted the Committee in its deliberations.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he had been an observer and participant of the Council for 55 years and he considered this planning application was without precedent. He welcomed the attendance of two Castle ward councillors and that they would be speaking against the application. He was also aware that the local member of Parliament was unhappy with the proposal. He was also aware that the Civic Society had been working on the proposals for some time and he thanked the Chairman for increasing the number of speakers permitted to make representations. He hoped that Planning Committee would reject the application and he reminded the Committee members that they were permitted to decline the advice of officers. He acknowledged that a case could be made for the proposal to be approved but he considered there was a much more convincing case on planning grounds for the application to be refused. He considered that the illustrations contained in the planning officer's presentation demonstrated what an appalling scheme the application was. He questioned who supported the proposal and was of the view that it had been supported by a small number of Cabinet members whilst those in opposition to it comprehensively outnumbered them. He considered Colchester was united against the proposals for the former bus station site. The scale and appearance of the application were not in accordance with best planning principles. He referred to the submission to Cabinet by the applicants of Lego-style pre-fabricated blocks of low quality accommodation. He also stated that student accommodation had not been mentioned in the approved Masterplan for the site. He acknowledged the site was derelict but he advocated an alternative proposal to the current one. He asked the Committee members to inform the applicants that their proposals were not good enough.

Dorian Kelly addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He said that he addressed the committee on behalf of 107 local people. He did not consider the proposed commercial development was the best use of the land and was of the view it should be dismissed. He was of the view that the proposal was the opposite of what Colchester wanted and needed, it did not conform with many plans and policies and was disliked as unnecessary, unwanted, unviable, unsustainable and in the wrong place. He considered that acceptance of the proposal would set a precedent and impact on the whole of the town centre. He considered there was huge unexploited potential for tourism, heritage, the arts, leisure and retail. He asked the Committee members to overturn the recommendation of the planning officer on the grounds of multiple material planning



considerations, including non-conformity to local planning policies, design, bulk, scale and visual appearance. He referred to the three criteria of the sustainability test and considered the application failed in each regard. He considered the application could be refused on strong sustainability grounds and was of the view that any appeal would fail. He also asked for it to be refused on economic grounds as there would be very little benefit to the Borough as a whole. He was concerned about the loss of public land for very little short-term gain, the absence of a financial viability study, the negative viability report commissioned by the Council and traffic issues and sought assurance for the protection of local residential amenities.

John Burton, on behalf of the Civic Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He commented that the Civic Society usually worked with the Council in relation to planning matters, but he was supporting the views expressed by the objectors to the application for reasons of non-compliance with the National Planning Policy Framework due to lack of consultation. He explained that the Civic Society had not been consulted on the application and requests from residents' groups had been refused. He was of the view that the revised application was essentially the same as the original, subject to height being added. He was Chairman of the Georgian Group Casework Panel and considered the proposal to be of significant poor quality with many contradictions making it difficult to determine what was being proposed. He was concerned that the public realm scheme, opening in the wall and detailed design matters would fall outside the Council's control and the scale envisaged in the approved Masterplan would be greatly exceeded by the four and five storey student accommodation. He was concerned about the transport and parking proposals and the problem of enforcement as well as the use of Priory Street car park which was already at capacity. He referred to the car-free access proposals but considered many journeys would be undertaken along the spine road and he questioned who would fund the public realm improvements proposed. He referred to disability access which had been an over-riding issue in the approved Masterplan whilst the proposed scheme included one disabled parking space, serving up to 34 accessible rooms as well as staff, the Curzon cinema and the hotel. He considered the proposed use of Priory Street car park for additional disabled parking would be too distant from the site. He was of the view that the proposal would be harmful to the conservation area, to archaeology, the Town Wall and the priory whilst views from the castle and the walls would be destroyed. He also referred to the spine road being uninviting, and was concerned about an absence of visual richness, fine detailing and articulated roof forms expected in an historic environment. He was concerned about the relationship of the proposal to Firstsite and was concerned that the elevations were not sympathetic to the surrounding Victorian architecture. He asked the Committee members to refuse the application which was of poor design and whose characteristics would not deliver the regeneration necessary to that part of the town.

Kathryn Oelman, on behalf of OMC Investments, Greyfriars Hotel, Victor Batte-Lay Foundation, Friends of the Minorities, St Thomas More's Primary School, Greyfriars

Court, Priory Area Residents Association, Dutch Quarter Residents Association, Rosebery and Smythies Residents Association and Sip and Tuck, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that a high standard of design was demanded for the site to deliver the regeneration envisaged. She considered a well-integrated, high quality and inclusive development was required with enhanced public realm. She considered buildings with inappropriate height, scale, size, form, massing, density and materials should be refused. She referred to the St Botolph's Masterplan having a visitor-based mix of uses on the site with a culture and leisure focussed development at its heart together with a correct balance of uses. She was of the view that the commercial uses proposed in the scheme would be dictated by the student component whilst local education establishments had not indicated their need for the development. She considered the site would become a student quarter and was concerned about the impact of the length of the proposed development on Firstsite and the safeguarding issue for the local school. She referred to the circular walk originally envisaged being realigned through a student courtyard and being closed for most of the year. She was concerned about the absence of links from the old bus depot, the design of the student block and potential anti-social behaviour. She questioned the proposed height and bulk of the hotel building adjacent to Queen Street and the harm caused to heritage assets and impact on the views from Castle Park East Hill as a consequence. She was of the view the proposal failed to improve the character, quality and functioning of the area and considered it to be refusable and defensible at appeal on the grounds listed in her objection letter.

Catherine Francis addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she was a prospective student and young creative, living and working in the area. She referred to the site's prime location in terms of history and culture and the conception, development, design and investment of Firstsite which would be significantly undermined by the proposal. She considered public enjoyment of the public amenity would be harmed and this constituted a material consideration not previously identified. She referred to the conclusions of the light studies and the detrimental impact on the enjoyment of the space and designing out crime. She was concerned about the unique design of the Firstsite building being undermined by the development, the viability of the proposed commercial units not taking into account the current economic climate and the greatly exaggerated spending power of the student population. She regretted that Colchester's culture and history was not being adequately acknowledged and questioned whether the proposed development satisfactorily adhered to the existing covenants on the land.

David Campbell, Managing Director of the Alumno Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He welcomed the debate about his proposals for the site. He believed the scheme would provide a new vibrant community for the town and contribute to the

renewal of an important area of the town. He considered Alumno was the right partner for the site and the town. The company had been established for 13 years, strived to be a good neighbour and place making was at the heart of what the company was about. The company also had a special focus on student housing and the building of communities for students as well as artists, creatives and the wider community. They were part of the Places for People Group, the largest Housing Association in the UK, sharing a commitment to attention to detail and delivering long lasting and sustainable cultural enhancements. They were committed to collaboration and partnership, seeking to blend investment into the fabric of the community. They made a positive contribution socially, economically, culturally and architecturally. The company had delivered over 8,000 bed spaces in St Andrew's, Birmingham and Norwich. They had built nurseries, children's theatres, sculpture park and community parkland and worked with Space Studios on two projects. The company was mindful of the unique character of Colchester and had worked hard with officers to follow the blueprint set out in the Masterplan and he considered the requirements had been matched rigorously. He hoped they were given the chance to establish further rapport within the community.

Ben Wrighton, on behalf of Turley Planning Consultants, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He highlighted the comprehensive consultation which had been undertaken to ensure compliance with Council's policies and complementary to the historic environment. He referred to the allocation of the site for redevelopment within the adopted Local Plan and for student accommodation within the emerging Local Plan, without objection. He explained that the pre-application process had started in February 2018, many meetings had taken place with officers of the Council and Historic England and the scheme had been adapted throughout this period to accommodate comments from all parties, where possible. The application had been submitted in August 2018 and following this the consultation continued as well as after the first round of changes. The application had been amended and submitted again in December 2018, with significant changes including stepping the building back from the Town Wall and lowering building heights. Support had then been gained from Historic England. He was of the view that the applicants had listened and adapted and were confident that the scheme was in-keeping with the historic character of the area and local plan policies. He acknowledged concerns about archaeology and confirmed that extensive work had been undertaken and close contact had been made with the Archaeological Advisor to ensure there would be minimal impact on remains and that the pile layouts would not damage remains across the site. In addition, conditions had been proposed to ensure these issues would be properly enforced. He also referred to the economic benefits of the scheme which included spending from hotel guests and students, additional jobs for construction and operational phases and the payment of business rates by the operators. He confirmed the scheme was highly sustainable, with a Building Research Establishment Environmental Assessment Method (BREEAM) performance rating of very good being offered, although it not being a requirement, and a blue roof to deal with surface water run-off. He concluded that the proposal had been a collaborative scheme and urged the

Committee members to approve the application in accordance with the development plan and the planning officer's recommendation.

Sarah Simpson, Transport Planning Consultant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that the approach to transport for the scheme was to make sure it operated safely and efficiently and the St Botolph's areas was enhanced. She explained that the scheme had been designed to ensure that students' arrival at the start of the year and departure at the end of term would be in a controlled manner, with the least impact on people in the area. Discussions had taken place with the Parking Partnership as a result of which small changes had been proposed to the Priory Street car park to create a temporary drop off arrangement each year. Access to the St Botolph's area for disabled people would be improved and a ramp at the wall would provide a more accessible route to the site, avoiding narrow footpaths. Improvements to Queen Street had been included in the proposals, following discussions with Essex County Council, which would increase the width of footpaths, improve the bus stop area, increase the amount of cycle parking and realign the Queen Street carriageway.

Anna Harding, on behalf of Space Studios, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that Space Studios occupied the premises of the former Police Station in Queen Street. She supported the scheme as she had first hand experience of the quality of Alumno's work, using great design and creative friendly developments. She considered them to be considerate and imaginative and would be a great partner for Colchester. She was of the view that the architects had given consideration to heritage and historical assets and they had experience of other student accommodation schemes in Oxford, Cambridge and Norwich. She confirmed that Space Studio had worked with Alumno on a similar scheme in Southwark and in Stratford. She considered it to be an opportunity to build on the success of 37 Queen Street and to continue the development that it had initiated and she was happy that they had been asked to create some additional workspace.

Michal Kotowski addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained he had lived in Colchester for three years and he was of the view that the Queen Street area was in great need of regeneration. He welcomed the wide variety of uses and he considered it continued the improvements undertaken in the High Street. He referred to the change in look between the High Street and Queen Street and considered them to be two different communities with Queen Street being of lesser quality. He considered the scheme would be an attractive development, contributing to improvements in the town centre, the redevelopment of the former bus station and urged the Committee members to support the proposal.

Councillor Crow attended and, with the consent of the Chairman, addressed the

Committee. He explained that he was one of the Castle ward councillors and acknowledged the time and effort taken by the planning officers working on the application. He had previously advocated the need for more investment in the town centre but was unable to support the application. He did not oppose the principle of students living in the town centre and accepted the business model that proved their success of managed student accommodation. However, he did not believe the site was the right place for the proposal because of layout, density and overshadowing of the accommodation buildings which would block the neighbouring buildings, including Firstsite. He considered that Firstsite had been designed to be looked at, admired and enjoyed due to the way the outside copper and aluminium cladding caught the sunlight. He considered all views of Firstsite would disappear as a consequence of the development and light would be blocked. In terms of economic impact, he was of the view that the scheme would not revitalise this part of the town centre or make any significant impact to the town's economy. He was of the view that students spent much of the day on campus and would not use the town. He considered many of the windows to the student accommodation would be overlooked by the Curzon cinema and part of the development would be close to and overlook the playing field to St Thomas More's primary school which would be a safeguarding issue for the children. He also considered the parking provision to be inadequate, given Priory Street car park was already full and some students would break the tenancy contract precluding car ownership. He was concerned about the impact on nearby on-street parking facilities. He had met with Alumno and acknowledged their intentions to be genuine and they had an impressive portfolio. However, he considered the Council's expectations for the site had not been made clear at the outset. He was of the view the site required something of substantial benefit, creating a lasting legacy and destination for residents and visitors. He was also concerned that the proposals did not include provision to relocate the Visitor Information Centre. He speculated whether Alumno could be have been assisted to locate a more suitable site for this investment and he was concerned that the proposals had been progressed without any direct consultation with two of the ward councillors. He was of the view that, if the application was approved, residents would feel cheated of the Cultural Quarter they felt they had been promised. Likewise, if it was refused, Alumno would rightly feel they had been misled.

Councillor Laws attended and, with the consent of the Chairman, addressed the Committee. He explained that he was one of the three Castle ward councillors and he was a member of the opposition party on the Council which he considered the reason he had not been directly consulted on the proposals. He had received numerous representations in opposition to the scheme. He was of the view that student living in town centre could provide a positive impact in terms of freeing up of houses in multiple occupation, increase in mid-week spending power, the lack of need for cars and on-site welfare support. However, he opposed the student aspect of the scheme being considered on grounds of scale and massing of design and economics. He referred to the use the architectural design and height of the Curzon building on which to base the concept of the proposal. He was of the view that a taller more architecturally interesting

building would have been more acceptable in complementing Firstsite. This would also have a smaller footprint and therefore more public realm. He was considerably concerned about the amount of piling for the proposed building and the impact this was likely to have on the site's archaeological remains. He acknowledged that the development would improve the existing condition of the site, however, from looking at the 2003 Masterplan it was clear that a significant cultural offering was intended for the site as well as including the relocation of the Visitor Information Centre. He referred to the wider Masterplan and was of the view that the proposal was a piecemeal development, with Berryfields and land owned by Essex County Council being excluded. He also referred to the potential need to look for additional sites for residential development in the town centre, whilst he considered the student accommodation would not contribute to the Council's Objectively Assessed Housing Needs figures.

The Planning Specialists Manager explained that student accommodation was compatible with the land use allocation for this site, confirming the adopted Local Plan promoted residential accommodation as being appropriate in town centres, reinforced by the Masterplan which showed retail and residential uses in the area. The emerging Local Plan also promoted student accommodation on the site, with no objections. He referred to the relevance of emerging policy DP10 and he confirmed that the student accommodation did count towards the Council's housing figures. He explained that the uses proposed for the site corresponded with the uses set out in the adopted and emerging Local Plans and the Masterplan and the flexible commercial uses would accommodate the specialist retail uses included in the Masterplan. He also confirmed that the Masterplan referred to development of three and four storeys and potentially higher and the proposal corresponded with these criteria. He explained that the footprint taken by the building proposed was less than that envisaged in the Masterplan and that existing piles at St James' House would be re-used, whilst piling on the remainder of the site was in accordance with Historic England guidance. He referred to the proposed size of rooms for the student accommodation, confirming these were typical of rooms in other developments in Colchester and elsewhere. He also confirmed that a potential future change of use was not a matter which the Committee should take into consideration when determining this application. He explained that it was not unusual for planning approvals to include a significant number of associated conditions to ensure matters were appropriately controlled and architectural quality assured. Concerns regarding the public realm work not being delivered would be addressed by the inclusion of trigger points to ensure delivery within a set timeframe. He confirmed that Essex County Council had been consulted on the proposal who had indicated that there was no specific guidance in relation to the safeguarding concerns regarding school pupils, however he also explained that it was not unusual for residential housing to be situated in close proximity to school premises, as such, he did not consider this to be a reason for refusal of the application. The developer had also offered to work with the school to secure adequate security arrangements. He referred to concerns about the consultation process and lack of engagement and explained that a consultation exercise had been run prior to the submission of the application and the application had been subject to two rounds of

consultation since submission, with all comments being taken into account during the course of the application. He referred to the access arrangements for Berryfields which was currently used by the local school in term time and the proposal provided public access along the Town Walls whilst preventing anti-social behaviour at night time, which would be secured by legal agreement.

The Development Manager affirmed that the proposed development was in close conformity to adopted plans and policies in terms of uses, scale and massing with the adopted 2005 Masterplan and the proposed uses conformed with both adopted and emerging Local Plans whilst, in terms of concerns regarding over-development, the proposal involved less site coverage and a lesser impact on the setting of Firstsite than envisaged in the adopted Masterplan. He also explained that the proposed building would be situated considerably further south than envisaged in the adopted Masterplan, allowing more space and lesser shading for Firstsite Square. He explained, therefore, that from the Committee's point of reference which was the adopted Policy Framework, the proposal compared more favourably than the current adopted Masterplan would deliver. In terms of detailed design considerations, these were subjective matters, however statutory consultee, Historic England, had not objected to the proposed design, the impact of the development on the character and appearance of the conservation area or the setting of adjacent listed buildings. He explained that the piling proposals conformed with adopted national policy and, as such, no excessive harm to the heritage of the site could be identified. He explained that the proposals did not preclude access through the bus depot site, this site was outside the scope of the proposal and the intention was to give public access when the site came forward for development.

Initial comments by the Committee members referred to conformity of the proposal with the development plan and adopted guidance, particularly in terms of the public consultation which had been undertaken by the applicant. Concern was expressed regarding the adequacy of the engagement process and clarification was sought as to whether the Council had any responsibility to facilitate this.

The Planning Specialists Manager confirmed it was for the developer to consult prior to the submission of the application as they felt appropriate. Accordingly, a public consultation exercise had been undertaken before the application was submitted and he assumed local residents had been invited and had the opportunity to participate. He was also aware that discussion had taken place between Alumno and the local school.

One member of the Committee referred to plans for the redevelopment of the St Botolph's Quarter dating back to 2006, the aspirations of the 2005 Masterplan for the area, the contents of the emerging Local Plan and the principles contained in the National Planning Policy Framework and was of the view that the proposals being considered fell short of these guidelines in terms of the residential element, the type of commercial content and the establishment of a sustainable community which would enhance the area. Concern was expressed about the need for the right development to

be diligently considered and that student accommodation would not engender a growing community, investment would be lacking and new jobs may be of poorly paid.

Other Committee members referred to the archaeology potentially contained on the site, the importance of heritage assets to the history of the town and previous developments in the town where historic remains had been lost whilst concern was expressed about the suggestion that a multiple storey building may be appropriate for the site, on the basis that development needed to be in-keeping with the town generally. Support was expressed for the long overdue regeneration of the area and the very poor condition of the site currently which was significantly detracting the look of the area generally, whilst it was acknowledged that the ambitious investment plans for the site proposed by the developer had been met with virtual universal opposition from residents. Concern was also expressed about the intention for parts of the site to have restricted access at certain times of the day, that this may detract from the site being a shared space for all and could potentially lead to the area being deemed a student quarter. Support was expressed for a cultural centre for Colchester, whilst recognising opportunities to expand this community had already been taken where possible. Proposals for transport improvements to Queen Street following approval of the application were noted and assurances were sought regarding the mechanism to ensure these would be delivered.

Extreme concern was voiced by a number of members of the Committee in relation to the adequacy of the accessibility proposals, particularly in relation to people with mobility disabilities, given the provision of up to 34 accessible rooms within the student accommodation, notwithstanding potential hotel visitors and the intention for the development to deliver only one disabled parking space in addition to the seven existing disabled parking spaces in Priory Street car park which were already very well utilised and clarification was sought that the provisions for people with disabilities would be satisfactory given the requirements of the Disability Discrimination Act (DDA). In this regard, reference was also made to the proposed ramp from Priory Street car park which was not fully DDA compliant in terms of the steepness of its gradient as it was not possible to provide sufficient length to the ramp due to the location of Priory Street itself. Questions were raised about the principle of providing a ramp which was known to be non-compliant with existing legislation and whether other proposals, such as a lift, which would be compliant with DDA requirements should be considered for that location. The proposed method of managing the disabled parking provision for the student accommodation and the hotel was considered to be woefully inadequate, particularly given the provision of 17 adapted rooms for students, with potential for a total of 34 and the likelihood of accessible rooms in the hotel. Views were also expressed that disabled parking proposals which were known to be non-compliant with DDA requirements should be deemed unacceptable.

References were also made by other members of the Committee to the student accommodation and the extent of its economic contribution to the town and the intention for the occupancy of the rooms during the academic holiday period. Clarification was



sought on the need for additional student accommodation in Colchester, especially in the light of other similar applications having gained approval; whether the Section 106 obligations included contributions towards additional clinicians as well as health services generally; more detail about Colchester Travel Plan and the sustainability of the employment proposals.

Very serious concerns were expressed about the scale, design, visual impact and density of the student accommodation and its likely significant impact on the setting of Firstsite and the substantial harm to the setting of the Town Wall. Strong misgivings were expressed regarding the quality and design of the proposal, which were considered poor, unattractive and oppressive, and whether the proposal would enhance the area given its acknowledged special character and significance and the high aspirations for the regeneration of that part of the town. It was also argued that views of the Town Wall and the Firstsite building should be a key consideration. Comments were also made about the building design being generic in character, of its time and that it would date quickly.

Clarification was sought regarding the need for student accommodation and whether this had been formally confirmed by the University of Essex itself or whether assumptions had been made on the University's behalf; whether student numbers had been based on the total number of University of Essex students at Colchester and Southend campuses or Colchester campus only; what enforcement measures would be used to prevent students bringing cars, motorbikes and mopeds to the site, given the likelihood of student car ownership and car leasing potential; whether the economic benefit of the development could be quantified and assurances regarding the long term sustainability of the business developing the site and what would happen to the development if the company went out of business in the future.

Reference was made to the need for student accommodation in the town and the associated viability of the scheme. It was mentioned that, in the previous 12 months, the Committee had approved applications for student accommodation at five sites which would total 1,918 beds whilst there was provision of 4,788 beds existing on campus which totalled 6,706 dedicated student bed spaces in Colchester. There were currently 14,000 students enrolled at the University of Essex and, as such, it could be argued that there was a demonstrable demand for additional dedicated accommodation. Comment was also made about the meticulous recording of artefacts which had been undertaken during the recent excavation of the archaeological site at the Mercury Theatre and that this would give confidence that a similar degree of attention to detail would be provided to protect any archaeological remains during this proposed development. It was also remarked that the current proposal was the first one to come forward to develop the site and that lost opportunities had occurred elsewhere, such as in relation to the proposal to transform the Jumbo water tower and to give it a new lease of life. It was argued that there was potential for the Queen Street site to decline should it remain undeveloped but the view was also expressed that it would be better to wait for a different proposal to

come forward which would have a better vision for the site. Further clarification was sought regarding the potential for more land to be developed on campus for student accommodation and for renewable energy criteria to be considered such as vehicle charging points.

The Planning Specialists Manager responded to the various comments made. In terms of impact on the historic environment and setting of the wall, it was explained that Historic England had been heavily involved and had concluded that the proposal would not cause harm to the setting of the wall, St Botolph's Priory, or the town centre conservation area. He confirmed that the Committee members could take a different view but requested that the full extent of concerns regarding harm and adverse impact are clearly articulated. In terms of scale and mass of the development, he explained that the adopted guidance set out the parameters for heights, layout and footprint of buildings. He explained that the proposed heights did follow the guidance and it would be helpful for an explanation to be given as to why the guidance was considered inappropriate should there be concerns in respect of this matter. Regarding the occupation of the building and alternative uses should the business fail, he explained that a 48 or 51 week tenancy arrangement was proposed and, as such, the site would not be empty for large parts of the year. A condition had also been proposed to control the use of the building, together with a legal agreement to provide for occupation by those enrolled in tertiary education. In relation to NHS financial contributions, the NHS had been consulted and engaged throughout the application process and the contribution set out in the report was what had been requested as being necessary to mitigate the impact of the development. He also explained that, in terms of long-term sustainability of the proposal, the guidance contained in the National Planning Policy Framework that developments complying with policy, were to be assumed to be viable and therefore not required to submit a Viability Assessment.

The Development Manager referred to questions about need for supply of student housing and confirmed there was a very significant shortfall between the student numbers attending the university already and the level of purpose-built student accommodation in the town, the shortfall currently being met through the private rented sector which was often unmanaged. However, in addition to the University of Essex and its planned trajectory of growth, there was also the needs of Colchester Institute to take into account, which demonstrated a clear and continuing need for further student accommodation. There was also no perceived risk of redundancy or under-occupation. In relation to heritage impacts, he explained that the adopted Masterplan had provided for three storey development adjacent to the Town Wall whilst the current proposal had a stepped two storey form in this location and was, arguably, more respectful than that which was required under the adopted Masterplan. He also emphasised that Historic England had no objection to the proposal and the wall had a large and unattractive shed appended to it which would be removed as part of the proposals.

The Archaeological Advisor confirmed that a comprehensive archaeological evaluation

had been undertaken on the site with large test pit evaluation by Colchester Archaeological Trust, followed by a ground penetrating radar survey, followed by a further series of large test pits on the site of St James' House and the site as a whole. The evaluation found heavily robbed out remains, including of the Roman walls, with no evidence for show stopper finds which was assumed to be true of the entire site. He confirmed there had been a Roman mosaic on the site but there was no evidence of this remaining. The piling proposals were entirely in accordance with national standards and guidance produced by Historic England, which meant that 98% of the buried archaeology would survive. He confirmed that much of the buried archaeology was preserved over a metre in depth which would not be impacted by much of the development. He also confirmed that the piles would be re-used at St James' House thus minimising the damage in that locality and all other groundworks would be subject to intensive archaeological investigation through recording that excavation. There was also a very comprehensive and robust scheme of identification for the archaeological investigation which would deal with all eventualities. He also confirmed that the investigation would be consistent with that undertaken at other major redevelopment schemes at Fenwick's and at the Mercury Theatre. In terms of the setting, he referred to Historic England's guidance and he was of the view the scheme would not adversely impact the setting of the scheduled monuments, including the Town Wall, St Botolph's Priory and the below ground archaeology at Berryfields.

The Planning Specialists Manager further confirmed that the parking provision guidance used for commercial developments was for a maximum provision and which, in sustainable locations such as town centres, provided for car free accommodation to be appropriate. He also referred to the recently approved Magdalen Street site which provided for two parking spaces which was arguably in a slightly less sustainable location. He also welcomed the allocation of 5% of the proposed student accommodation as being adapted with a further 5% of the units being adaptable and he noted that not all disabled people would require parking facilities and he understood that the University tended to prioritise the allocation of rooms on the campus for people with disabilities. He also referred to the student accommodation at the Maltings which had two disabled units but which had, so far, not been allocated to disabled students. He also confirmed that the rooms which were adapted / adaptable had dedicated bathroom facilities. He further confirmed that a proposed condition provided for the submission of the highway works scheme for Queen Street and its implementation in full prior to occupation.

The Development Manager explained that, in relation to the proposed ramp for disabled access, it was always an officer's intention that developments should achieve DDA compliance, however in this instance, the length of ramp needed to achieve an ideal gradient would not be achievable within the application site boundary. The possibility of a lift had been investigated, however experience from the lift at Vineyard Street, it was felt that a lift may appear alien and intrusive but would also have potential problems associated with repeated and comprehensive breakdowns and resilience of service. It

had therefore been considered that a ramp would offer permanently available solution, albeit not entirely DDA compliant.

The Essex County Council Strategic Development Engineer confirmed that a great deal of time had been spent with the applicants discussing Queen Street and the proposed public realm improvements. He was of the view that the proposals had the potential to be acceptable although they still required further refinement but he was confident that it would be possible to deliver a suitable scheme within the highway or land within the applicant's control. The detail of this was to be secured by a condition and it had been agreed for the scheme to be delivered prior to occupation.

The Development Manager also confirmed that the implementation of the highway works prior to occupation would include the public realm within the application site and at the developer's expense. In response to a question concerning the Council's Objectively Assessed Housing Need, he explained that this was based on 2.5 bed spaces per dwelling, as such each 2.5 student bed spaces would count as one dwelling towards the Council's housing delivery target. With regard to the mass of the building in the locality of the wall, extensive consideration had been given to assess the impact in short views from Priory Street and longer landscape views and it had been concluded, in common with the view held by Historic England, that the impact on the setting of the wall was acceptable and would not cause significant harm, having regard to the provisions of the adopted Masterplan which envisaged three storey town houses along the top of the wall. Regarding restricted car ownership, this would part of the student lease arrangements which would prevent the bringing of vehicles to the site and for this to be actively enforced. This approach had also been accepted at other student accommodation sites at Magdalen Street and the Hythe. Evidence from the Maltings development at the Hythe indicated that car provision was unused and evidence from other student accommodation sites suggested that, in town centre locations, there was very low demand for on-site car parking. He went on to explain that the application was light in relation to the anticipated economic benefits, but it did include 17 new jobs created through the hotel operation and further contributions from the management and maintenance of the student accommodation. The flexible, commercial floorspace would also create a significant number of potential jobs, as corroborated by the speaker from Space Studios and the fully occupied creative use of the former Police Station. He further confirmed that, with regard to the student numbers quoted in the report, these had been based on information supplied to the Council by the University with regard to their Colchester campus in the context of the evidence base for the Local Plan.

The Development Manager referred to the sustainability credentials of the proposed building, he confirmed that the applicants had signed up to the BREEAM very good category. He further explained that there was no policy reason why the Council should preclude and not encourage people from experiencing town centre living as part of student life. He confirmed there was also support for this approach within the emerging Local Plan. He was also able to confirm that currently there were over 13,000 students

on the University of Essex Colchester campus and that the University of Essex had an economic impact on Colchester of £478million per annum in terms of its net contribution to the economy.

Further clarification was sought in relation to the proposed ramp and whether it was possible to make it DDA compliant and whether any redesign of the proposal as a whole could provide for the ramp to be DDA compliant. Clarification was also sought regarding the absence of any show stopper remains on the site.

The Development Manager confirmed that, without the ramp extending across the public highway, it was a physical impossibility to achieve the ideal gradient within the parameters of the car park and the area of land available. He further confirmed that other lift-based solutions had been considered with the applicant but there was a high degree of concern that this would not provide sufficient resilience and, in the event of a breakdown, would mean that disabled users would need to use the narrow footpaths along Priory Street and Queen Street which were considered to be less attractive / useable. Direct access into the site was considered preferable in these circumstances. He further confirmed that all redesign options had been looked at and none were able to provide for the ramp to be DDA compliant due to the constraints of the site.

The Archaeological Advisor confirmed that the evidence from the evaluation which had been comprehensive was that there were no show stoppers on the site and he was confident that no show stoppers would be encountered through the development. However, if something significant was found, then mitigation would be put in place and through the Written Scheme of Investigation there was scope for that and for more detailed investigations strategies, should they prove to be necessary. This was also supported by a proposed condition.

Members of the Committee continued to voice their grave concerns regarding the scheme, on the grounds that the ramp was not fully compliant with DDA requirements and the Council should no longer be seeking to approve applications which could not deliver full DDA compliance. There was also concern that the applicant had failed to consult in a timely fashion with all interested parties including local residents and had failed to produce a design which was in-keeping with expectations for this important site.

Accordingly, a *PROPOSAL* to refuse the application was moved and duly *SECONDED* on the grounds that it did not meet the satisfactory and appropriate expectations of the Committee in terms of DDA compliance together with a failure to consult in a timely fashion.

Reference was made to people manually wheeling themselves in a chair and the problem when this was attempted on slopes with gradients in excess of that proscribed in the DDA, there being a point where the wheelchair will inevitably tip backwards. Concern was also expressed regarding the potential for litigation in such circumstances.

It was also mentioned that the proposal appeared to be non-compliance with policy in respect of secure cycle storage.

The Planning Specialists Manager confirmed that the proposed cycle storage facilities for the student accommodation were both covered and secure and were located within the courtyards of the building. The numbers proposed were equivalent to those deemed to be acceptable at the Magdalen Street development and the scheme under construction at the Hythe. The hotel also had secure cycle parking, whilst visitor parking was provided within the public realm.

The Chairman invited the Development Manager comment on the risk of a potential refusal of the application.

The Development Manager confirmed that it was not a statutory requirement that all schemes are fully compliant with the DDA, it was only a requirement that every effort is made to achieve compliance and there were situations where it wasn't physically possible to do so. He suggested the Committee needed to think carefully whether it was possible to achieve a ramped access which was DDA compliant, otherwise it may be a vulnerable reason for refusal. He referred to policy DP17 which stated that 'proposals for development shall incorporate satisfactory and appropriate provision for pedestrians including disabled persons'. It was a statutory aim to achieve compliance with DDA but not something always achievable. He suggested the Committee members needed to consider whether, in this instance, policy DP17 was being breached or whether it is reasonable to allow a variance from the ideal to achieve and deliver a scheme which offers other public benefits against which the failure to comply with the DDA needs to be balanced. In relation to design and massing, he was of the view that the starting point needed to be the adopted Masterplan for the site. He explained that the massing and height was no greater than that envisaged in the Masterplan and, as such, he advised against refusing the application on these grounds. He acknowledged that design was a more subjective matter and, as such, it was within the Committee members' gift to decide whether the architectural approach selected is appropriate to the character and appearance of the area. He pointed that, in the opinion of Historic England and planning officers, it had been considered appropriate but it was open to the Committee to consider whether the design was appropriate.

One member of the Committee considered the Council's ability to choose whether to comply with the DDA deeply offensive, particularly given the potential danger, in this instance, to the lives of people with disabilities and he was of the view that the Council should not consider approving such an application. The view that the site should be accessible for everyone was supported by other members of the Committee and the opinion was expressed that more needed to be done and issues of concern had not been explored adequately.

The Development Manager confirmed that policy DP17 did provide the Committee

members with potential grounds to refuse the application. If it was the view of the Committee members that the scheme did not make adequate provision for disabled persons, then this could be a reason for refusal. He confirmed that it was highly desirable to achieve DDA compliance and wherever full compliance was possible it should be delivered. He again referred to the setting of Firstsite and that the impact was less than had been envisaged in the adopted Masterplan and that the CGI had illustrate that the prominence of Firstsite would be maintained within the scheme. He therefore advised against using the setting of Firstsite as a reason for refusal. He also reminded the Committee members that Council policy provided for development on the site and, as such, any development would, of necessity, obscure views of Firstsite. He also referred to the Council's adopted Statement of Community Involvement and he was not convinced that there had been such an inadequacy of engagement that the proposal could be deemed to have failed to comply with the adopted Statement on this matter and this may not be a robust reason for refusal.

Members of the Committee remained of the view that the application be refused on grounds that it did not meet the satisfactory and appropriate expectations of the Committee in terms of DDA compliance together with a failure to consult in a timely fashion and the PROPOSAL to refuse the application to this effect which had been previously moved and *SECONDED* was confirmed. A suggestion was made from another member of the Committee who was of the view that the proposed development constituted over-development, was not in-keeping with the conservation area and was of poor design, that these additional grounds for refusal of the application be included in the PROPOSAL.

The PROPOSER and SECONDER confirmed their willingness to accept two further grounds for refusal of the application, namely not in-keeping with the conservation area and poor design. They further confirmed their unwillingness to include grounds of over-development as they were of the view this could not be substantiated.

As the discussion suggested that the Committee may be minded to refuse the application contrary to the officer's recommendation in the report, in accordance with the Committee's procedures in these circumstances, the Chairman invited the Committee to consider invoking the Deferral and Recommendation Overturn Procedure (DROP), bearing in mind the implications of such decisions as set out in the reports and further explained by Development Manager earlier in the Committee's discussion.

The Committee agreed UNANIMOUSLY not to invoke the DROP and, accordingly, the Chairman then invited the Committee to determine the application.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the following grounds:

- Lack of adequate accessibility provision and non-compliance with policy DP17;
- Failure to consult adequately with all interested parties and at the appropriate time;

- The detailed design was poor, inappropriate and not in-keeping with the character and appearance of the conservation area.

**670 183085 Albert Roundabout, Cowdray Avenue, Colchester**

The Committee considered a planning application for the erection of a metal three dimensional wayfinding sculpture, replacement of the existing planting and trees with a new landscape design that complements the sculpture and provision of two CCTV cameras within the roundabout central island (removal of the existing CCTV camera) at the Albert Roundabout, Cowdray Avenue, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report and an amendment sheet in which all information was set out.

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

**671 183101 CNG Sports, Cuckoo Farm Way, Colchester**

The Committee considered a planning application for the removal or variation of a condition following the grant of planning permission. (Condition 2 of 180438) at CNG Sports, Cuckoo Farm Way, Colchester. The application had been referred to the Committee because it was a major development proposal submitted on behalf of the Borough Council and has generated an objection from a local resident. The Committee had before it a report and an amendment sheet in which all information was set out.

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations.

Christine Edmonds addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She explained that she lived at White House Farm and in the original approval of the application officers had been asked to give regard to the mitigation of any impacts on the occupants of Whitehouse Farm. She explained that this had not happened. Control on hours of work had not been complied with and improvement had only occurred following the intervention of a local ward councillor, the death of one of her horses and direct contact with the contractors. She had moved to Colchester to rear horses and for 11 years she had been surrounded by farm land and it had been quiet and private. However, the development had surrounded her property with noise, lights, people and their dogs. She considered it only fair that the development mitigated these changes to her lifestyle so far as is possible. She considered that the lighting on the site was in the scope of the application and she considered that the effect of the cycle-track lighting would be unknown and, as such, that they be consulted on its impact. She also requested that



consideration be given to the use of lighting bollards rather than 10 metre high posts and the relocating of at least one of the posts which would be clearly visible from her property. She considered that the plans for fencing for Whitehouse Farm access road were not safe for dogs, their owners or her horses. Their fencing ensured their horses couldn't escape but hadn't needed to exclude dogs but there was now a risk that they may enter her land, putting the horses and the dogs' owners at risk. She requested that the dog proof fencing to the A12 be applied to the whole of her property's boundary to provide protection. She also explained that she was not notified of the original application or this one and asked why this was the case as she was the most affected neighbour and asked for an assurance that she would be notified in future.

The Senior Planning Officer explained that the original application indicated flood lighting columns next to Whitehouse Farm so he was unclear about the current confusion about bollards but he had discussed the issue with Environmental Health who were of the view that there would not be any light spill towards Whitehouse Farm. In addition a proposed condition would control the precise detail of the lighting. He confirmed that the lighting columns would look towards the cycle store and, as such, he could not recommend it unfavourably. He also confirmed that there would be planting between Whitehouse Farm and the cycle track which would add further mitigation. He acknowledged the issue regarding the dog proof fencing and he had discussed this with the developer who had agreed to provide additional fencing along the boundary. An existing proposed condition encompassed the prior agreement of enclosures and, as such, this could be achieved without further amendment. He confirmed there was no proposal for an American Football pitch in relation to this application and, as such, if one were required a new application would need to be made. Regarding consultation on the current application, he acknowledged that some neighbours had been inadvertently omitted from the neighbour notifications but this had been identified early on and all affected neighbours had been re-consulted, including Whitehouse Farm.

Members of the Committee sympathised with the concerns expressed by the speaker but acknowledged that the application was lawful development of the neighbouring land. The issue in relation to nuisance caused to horses was unfortunate but the offer made by the applicant to provide additional dog proof fencing was considered to be very reasonable. It was understood that concerns regarding missed consultation had been identified and would be rectified in future. It was also hoped that the applicant would be willing to work with the residents of Whitehouse Farm to consider the potential relocation of one or more lighting columns.

The Senior Planning Officer explained that he had discussed the issue of the lighting columns with the applicant who had confirmed that columns rather than bollards would be necessary for the illumination of the cycle track. He offered to undertake further discussions with the applicant with a view to securing the relocation of one or more of the columns but he could give no assurance that this would be deliverable.

The Committee members recollected that during the consideration of the original application, the Committee members were keen that the Council, as applicant, acted as a good neighbour as possible in relation to any future changes or amendments. The view was taken that this principle should be maintained for the future, so that as much as possible is mitigated to the benefit of the neighbouring residents.

*RESOLVED* (UNANIMOUSLY) that, the application be approved subject to the conditions contained in the report and the amendment sheet and the undertaking of further discussions with the applicant with a view to seeking agreement to the repositioning of the cycle track lighting columns to mitigate the impact and address the concerns of the residents of Whitehouse Farm.

**672      190042 Outside Bill's Restaurant, High Street, Colchester**

The Committee considered a planning application for the installation of a drinking water fountain to the existing stone wall, the drinking water fountain of stainless steel construction, 900mm high x 330mm width x 365mm depth to be fixed to the existing stone wall and paved ground, excavations required for connection to water and drainage services associated with a redundant 'Uri-Lift' outside Bill's Restaurant, High Street, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report in which all information was set out.

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

# Planning Committee

## Thursday, 14 March 2019

**Attendees:** Councillor Lyn Barton, Councillor Vic Flores, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford

**Substitutes:** Councillor Julie Young (for Councillor Chris Pearson)

**Also Present:**

### 673 Site Visits

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

### 674 Minutes

There were no minutes for confirmation at this meeting.

### 675 181930 Former Essex County Council Highways Depot, Station Road, Marks Tey, Colchester

The Committee considered a planning application for the demolition of the old railway units located within Marks Tey Station car park and a change of use of land as car parking with associated infrastructure at the former Essex County Council Highways Depot, Station Road, Marks Tey, Colchester. The application had been referred to the Committee because it was a major application to which objections had been received. The Committee had before it a report and an amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. The Senior Planning officer explained that, since the publication of the amendment sheet, three additional letters of objection had been received from residents which had raised no additional material issues not already addressed. He also referred to comments from Marks Tey Parish Council raising concerns regarding the inaccuracy of plans, confusion with the detail of the proposal and a lack of consultation on the revised plans. He confirmed that a re-consultation exercise had been undertaken in October when the proposals had been revised.

Allan Walker, on behalf of Marks Tey Parish Council, addressed the Committee pursuant

to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He requested deferral of the application to enable additional consultation to be undertaken on the implications of the proposals. He commented that the large site was outside the village envelope and therefore constituted a significant encroachment and he considered this set a dangerous precedent which may frustrate the objectives of the emerging Local Plan. He considered the reference to the former Highways Depot as the location of the application was confusing as this Depot was situated on the other side of the railway line. He explained that the application drawing only illustrated the demolition area and not the bigger site proposed for additional parking. He was aware that this confusion had been raised with the applicant by planning officers and recommended that the additional parking proposal be excluded from the application. However this had been after most representations to the application had been submitted and there had been no clear indication on the Council's website to clarify the extent of the application until a week previously. He considered objections could be made to the application on traffic grounds but was of the view further clarification and consultation was needed. He did not consider that the proposal would alleviate existing parking problems in Marks Tey and Copford.

Chris Heather addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He welcomed the thorough presentation by the planning officer. He referred to the need for additional car parking at the railway station and the sustainable transport opportunity which the application proposed. He referred to additional cycle parking and disabled parking spaces. He acknowledged that the extension to the car park would be outside the settlement boundary, as was the station and the existing car park. He explained the growing number of passengers wishing to use the station which was forecast to continue and the proposal for additional parking was intended to address this demand. Although separate to the application, he also explained that the applicant was hopeful of securing more funding to improve disabled access across the site generally. Whilst this was yet to be approved it had received support from several Members of Parliament, Essex and Suffolk County Councils and Essex and Suffolk Chambers of Commerce.

One member of the Committee considered the application to be premature given the current status of the emerging Local Plan and lack of information about wider parking provision in the vicinity of Marks Tey station. Comments from the Parish Council regarding confusion about the extent of the application were acknowledged and concern was expressed and further clarification sought about the absence of evidence of need, the impact of the Garden Community proposals, the narrow access road to the station car park, planned maintenance work to the railway bridge, the over capacity of the adjacent road junction, the timescale for the implementation of the proposals, confirmation regarding the agricultural status of the proposed car park extension, the adequacy of the screening proposals, the need for commuter parking in Copford to be addressed and why financial obligations had not been deemed appropriate to mitigate the development.

Another member of the Committee referred to the need to encourage sustainable transport solutions and was of the view that the benefits of the proposals, including additional cycle, car and disabled parking spaces, outweighed the danger of development outside the village envelope. It was acknowledged that the investment from Network Rail had come forward due to the level of use of the station and, as such, the provision of space to accommodate this use was to be welcomed. Reference was, however, made to vehicle pollution and the need for the proposed conditions to provide for planting along the perimeter to be capable of absorption of pollution in order to alleviate the associated environmental damage caused.

Other Committee members referred to the potential to use less land space through the encouragement of multi-storey car park solutions. Further comment was made concerning photographic evidence suggesting the recent use of the land for agricultural purposes and the need for increasing numbers of cars to be accommodated at transport hubs was acknowledged. Reference was also made to the outstanding information awaited by Highways England regarding impact on the A12 and A120 and the road network, further information on the proposed drainage system, the introduction of traffic restrictions on neighbouring roads or the creation of incentives to encourage commuters to use designated parking areas and the need for disabled access improvements across the whole station site. As such, the request from Marks Tey Parish Council to defer the application was supported.

The Senior Planning Officer confirmed there had been re-consultation of the application in October 2018 and was unsure why the confusion regarding the extent of the application had arisen. He acknowledged the site was outside the village envelope but it was not considered to be a departure from the Local Plan policy and he confirmed that the Local Plan team had been confirmed that the application was not considered to be premature. He acknowledged that incomplete drawings had been submitted with the original application but revised drawings had recently been circulated and his understanding was that the revised plans had been published on the Council's website since October 2018. He acknowledged that more information was required on highways and drainage matters but he had been of the view that the application could be determined by the Committee subject to these matters being concluded satisfactorily. He confirmed that no financial obligations to mitigate the application had been considered necessary by the Development Team and that the land was of agricultural status, although not currently used as such. He confirmed that the suggestion to mitigate environmental pollution through appropriate planting could be accommodated by means of condition. He agreed with the benefits of multi-storey car parking in urban locations but was of the view that in semi-rural locations, such as the application site, there may be a negative visual impact. He was also of the view that, if the Committee considered it preferable to defer the determination of the application to enable additional information on highways, drainage and disability access to be submitted, this would be acceptable.

Committee members made further comments in relation to the narrow width of the railway bridge, the impact of additional traffic on the A12 / A120 roundabout, that the comments regarding confusion about the full extent of the application appeared to be genuinely made, the inclusion of renewable energy solutions such as electric charging points for vehicles and solar panels within the car park proposals and the wider implications of potential future development in the area.

*RESOLVED* (UNANIMOUSLY) that the application be deferred to allow for the resolution of matters raised by Highways England and Essex County Council Sustainable Drainage Solution team and the submission of further information in relation to disabled access generally across the whole station site, the need for parking restrictions on neighbouring roads and the potential for renewable energy solutions such as electric charging points for vehicles and solar panels.

**676      180874 The Langenhoe Lion, Mersea Road, Langenhoe, Colchester**

The Committee considered a planning application for the demolition of the former public house and erection of four dwellings and car parking at the Langenhoe Lion, Mersea Road, Langenhoe, Colchester. The application had been referred to the Committee following its deferral from a previous meeting to allow the potential for a community space on the site to be explored. It was explained that Abberton Parish Council had submitted a business plan for a community shop on the ground floor of one of the proposed four dwellings and the applicant's agent had indicated that there could be potential for the scheme to be viable. Accordingly, draft layout plans had been submitted and a re-consultation had been commenced.

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

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He confirmed that meetings had taken place between the applicant and the Parish Council and that the proposals for a community shop were being progressed. He explained that the applicant was keen to start the development without further delay and asked for the Committee to delegate authority to officers to approve the application following the expiry of the consultation period in anticipation there would be no further objections. In addition, whilst he was hopeful that the retail use would be successful, he also sought clarification regarding the ability of the applicant to return the shop to a residential unit without the need to undertake a further protracted marketing exercise, should the community shop fail in the future.

Councillor Davidson attended and, with the consent of the Chairman, addressed the Committee. He supported the views expressed by the speaker and thanked the Committee members for their support for the potential for a community shop. He also

confirmed that the Parish Council had met with the planning officers and the developer on numerous occasions and a satisfactory agreement had been reached. He considered there was strong demand for the community shop. He questioned the description of the application on the Council's website which had not been updated to reflect the inclusion of the shop unit and considered it needed to be amended to refer to both residential and retail. He indicated his support for the suggestion made to revert the shop unit to residential, should the retail use fail in the future, whilst also referring to the 94% success rate of the Plunkett Foundation, an organisation which supported such community uses. He asked whether a condition could be added to indicate any further marketing of the site would not be required. He also stated that the co-operation of the developer had been much appreciated.

Members of the Committee welcomed the revised proposals for a shop unit and asked whether there was scope to remove the need for future marketing of the site should the retail venture fail in the future. Clarification was also sought in relation to the updating of the description of the application on the Council's website.

The Development Manager confirmed that any future proposal to return the retail unit to residential use would require the submission of a new planning application and, as such, it would not be possible for the Committee to impose a condition on the current application providing for no future marketing of the site as this would constitute the pre-determination of a planning application. He confirmed that the Committee's scope extended only to an acknowledgement of support for this approach in the record of the meeting.

The Senior Planning Officer confirmed that arrangements would be made for the application description on the Council's website to refer to both retail and residential use of the site. He also confirmed that the Committee could opt to delegate authority to officers to approve the application following the expiry of the period for consultation, subject to the receipt of no further objections and he was of the view that it would be unreasonable to require the developer to undertake any further marketing of the site should the retail use fail in the future.

The Development Manager confirmed that, should the Committee wish to delegate authority to officers to approve the application, this would need to include the imposition of appropriate conditions, such as the hours of operation and the detailing of shop fronts.

*RESOLVED* (UNANIMOUSLY) that –

- (i) Authority be delegated to the Assistant Director Policy and Corporate to approve the revised scheme incorporating a ground floor shop unit, together with the imposition of appropriate conditions.
- (ii) In respect of the consideration of any subsequent planning application, in the

event of the failure of the shop unit in the future, the Committee's view that the requirement to undertake any further marketing exercise of the site by the developer would be unreasonable be noted.

**677      190266 Sir Isaacs Walk, Colchester**

The Committee considered a planning application and listed building consent for the installation of fixing points on 20 buildings throughout the street. Installation of catenary cables between each fixings to create the foundations for the umbrella street. Further catenary cables complete with umbrellas would then be installed between the catenary cables. Once installed there will be a 5.7m clearance from the floor to the lowest point of the umbrella to ensure the installation conforms to highways regulations at Sir Isaac's Walk, Colchester. The application had been referred to the Committee because the applicant was a project promoted by Colchester Borough Council. The Committee had before it a report in which all information was set out.

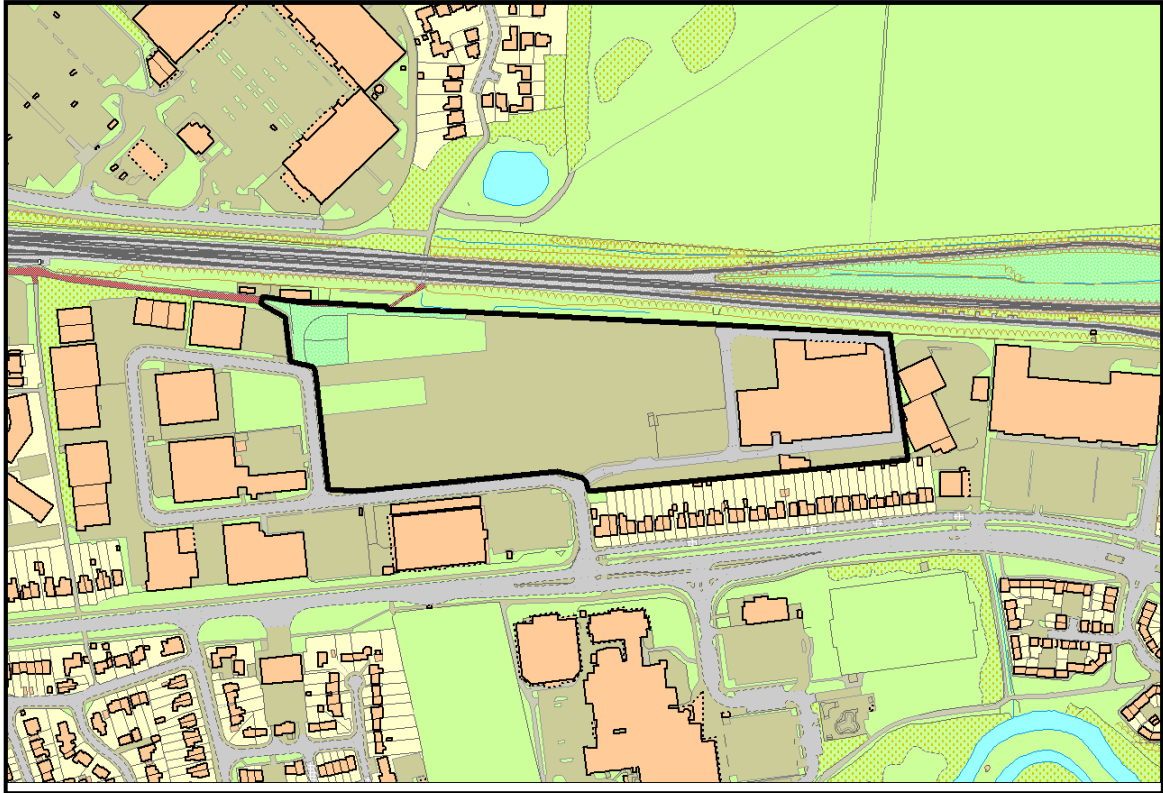
*RESOLVED* (UNANIMOUSLY) that, the planning application and listed building consent be approved subject to the conditions set out in the report.

**678      183133 Colchester Crematorium, Mersea Road, Colchester**

The Committee considered a planning application for the Widening of existing entrance, part removal of existing boundary walls and provision of new gates and railings repositioned to fit revised entrance. Also the introduction of electrical gate opening system – all for the purposes of Health and Safety at Colchester Crematorium, Mersea Road, Colchester. The application had been referred to the Committee because the applicant was Colchester Borough Council. The Committee had before it a report in which all information was set out.

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





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## Item No: 7.1

**Application:** 180045

**Applicant:** Mr Matthew Parsons. Persimmon Homes

**Proposal:** Demolish all existing buildings and redevelop the site, creating 262 no. one, two and three bedroom houses and apartments plus associated roads, car parking, landscaping and public open space.

**Location:** Cowdray Centre, Mason Road, Colchester, CO1 1BH

**Ward:** Castle

**Officer:** Lucy Mondon

**Recommendation:** Approve Subject to Legal Agreement

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

- 1.1 This application is referred to the Planning Committee because it constitutes major development where a s.106 legal agreement is required and also because objections have been received.

## **2.0 Synopsis**

- 2.1 The application seeks planning permission for the redevelopment of a brownfield site and existing business premises for 262 dwellings and associated landscaping, open space, parking and highway infrastructure. The report describes the site and its setting, details of the proposal, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.2 The key issues explored below are the principle of development, landscape impact (including the impact on trees), traffic and highway implications; noise; contamination; flood risk; ecology; and archaeology. Impact on neighbouring amenity and the surrounding area will also be assessed, as will the impact upon existing businesses. Matters surrounding the viability of the scheme will also be addressed in so far as they relate to necessary planning contributions towards infrastructure.
- 2.3 Following an assessment of all material planning considerations the application is subsequently recommended for approval subject to prior completion of a legal agreement.

## **3.0 Site Description and Context**

- 3.1 The application site forms part of Cowdray Trade Park, a trade and industrial park with commercial units, located to the north of the town centre (town centre fringe) accessed off Cowdray Avenue. The Cowdray Trade Park site as a whole is within a Regeneration Area and is allocated for mixed use development (Site Allocation policies SA CE1 and SA TC1) in the Local Plan.
- 3.2 The site originally contained a large printing factory (from c.1938), which was extended and subsequently divided into individual units. Following a fire in 2006, the majority of the building was demolished and its site has remained vacant. The area of demolition is now fenced off with solid hoardings. The existing building to the eastern part of the site formed part of the previous factory, but has remained in use and contained, until recently, a variety of existing business units. These included (but were not limited to) a motorcycle MOT shop; dance studio; a triathlon store; and guitar shop. As of December 2018 the vacancy rate was over 60%, with an expectation that this would rise to 80% in the early part of 2019.
- 3.3 There is a Local Wildlife Site to the north-western corner of the site, which is overgrown.

- 3.4 The remainder of the Cowdray Trade Park lies to the west and south of the application site and does not form part of the planning application. The trade park as a whole measures approximately 10.19 ha, with the application site measuring 5.10 ha.
- 3.5 Beyond the confines of the site and the trade park is the Lookers Volvo car servicing and sales building (to the east), with Colne View Retail Park beyond. Highwoods Country Park lies immediately north of the site. The site is separated from the country park by a railway track, although there is a public footpath (Public Right of Way 73) under the track that enables access. The footpath also enables access to Turner Rise Retail Park and North Station railway station (as Public Right of Way 224). There is also a Public Right of Way on the southern side of the railway track that leads from the site to the North Station railway station (Public Right of Way 53). This footpath is allocated as a Green Link within the Local Plan, with the green link extending Public Right of Way 73 into Highwoods Country Park. The railway track runs along the northern boundary of the site in its entirety and is significantly elevated, particularly at the eastern end of the site (approximately 5-7 metres height difference). Other facilities, such as Leisure World and allotments, lie to the south of the site across Cowdray Avenue.
- 3.6 There are residential properties in close proximity to the site. Those closest are a linear development of 1930s houses running along part of the southern boundary on Cowdray Avenue. The rear boundary of these properties forms the boundary of the site and comprises a mix of fencing and walls, some of which are overgrown. There is also more recent residential development at Clarendon Way, Bloyes Mews, Gilbert Court, and Imperial Court to the west of the trade park.

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

- 4.1 The application seeks planning permission for 262 dwellings, with associated road, car parking, landscaping and public open space. The unit mix is as follows:

One-Bed Apartments	x	4
Two-Bed Apartments	x	171
One-Bed Houses	x	14
Two-Bed Houses	x	14
Three-Bed Houses	x	59

- 4.2 The proposal has undergone a number of full revisions in response to planning comments. For clarity, the original submission was made in January 2018 with revised proposals being submitted in August 2018, November 2018, January 2019, and finally March 2019. The number of units proposed has varied throughout the course of the revisions; the original proposal was for 272 dwellings which reduced to 262 dwellings before increasing to 265 dwellings and then finally reverting back to 262 dwellings. The various reports submitted with the application were updated when the unit numbers were initially reduced; they have not been updated as part of the latest revision given that the number of dwellings is still below the 272 dwellings originally proposed.
- 4.3 In addition to the plans and drawings detailing the proposal, supporting documents include:
- Air Quality Assessment
  - Arboricultural Impact Assessment
  - Archaeological Desk Based Assessment
  - Biodiversity Toolkit Validation Checklist
  - Design and Access Statement
  - Drainage Strategy
  - Ecological Survey and Assessment
  - Flood Risk Assessment
  - Ground Investigation Report
  - Habitats Regulations Assessment
  - Health Impact Assessment
  - Landscape Strategy
  - Noise Assessment
  - Noise and Vibration Assessment
  - Planning Statement
  - Preliminary Ecological Assessment
  - Statement of Community Involvement
  - SUDS and Drainage Report
  - Sustainability and Energy Statement
  - Townscape and Visual Impact Assessment
  - Transport Assessment
  - Travel Plan (Draft)

## **5.0 Land Use Allocation**

- 5.1 The site is within the Town Centre and North Station Regeneration Area and is allocated (as part of the whole Cowdray Trade Park site) for mixed use development within the Local Plan. Site Allocation Policies SA CE1 and SA TC1 are relevant.
- 5.2 Site Allocation Policy SA TC1 states that the Cowdray Centre ‘should provide a range of uses within the categories of retail, residential, leisure, hotel, and employment. The residential element shall comprise no more than 50% of the site area and existing businesses will be encouraged to remain.’ The policy goes on to state that ‘development of the site should also deliver improved connectivity to the Town Centre and North Station for vehicles (especially

public transport), pedestrians and cyclists; and a green link between Highwoods Country Park and Leisure World/Castle Park. In addition land should be safeguarded for a potential future vehicular link under the railway to Turner Rise.'

## **6.0 Relevant Planning History**

6.1 Outline Permission was granted for up to 154 dwellings and up to 2,517sqm B1 and/or D1 floorspace, with associated access, roads and paths, car parking and servicing, open space and landscaping in August 2016 (ref: 151850). The current application covers the same part of the site which accommodated the residential element of the outline permission, but is a standalone planning application (i.e. it is not a reserved matters application that provides detail in relation to the outline). The outline permission was subject to a number of conditions, and a s106 Agreement that secured financial contributions for Affordable Housing, Education, Open Space, Sport, and Recreation, and Community Facilities subject to a Viability Review (as the proposal was demonstrated to be unviable dependent upon built costs, remediation costs, and market sales).

6.2 Previous planning applications relating to redevelopment of the site include:

81/0579 - Outline application APPROVED for warehouse and industrial development (not more than 113,000 sq.ft. industrial) with ancillary office, circulation road, car parking and service facilities. 15<sup>th</sup> June 1981;

O/COL/01/0449 – Outline application for redevelopment of redundant warehouse (former Ozalid Works Site and adjoining land) to retail warehouse and employment development. Approved subject to legal agreement, but subsequently CLOSED due to lack of progress.

## **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
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres

- CE2a - Town Centre
- 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
- ENV1 – Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure levy
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

- SA CE1 Mixed Use Sites
- SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area

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

- Backland and Infill
- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing

- Archaeology and Development Strategy
- Sustainable Drainage Systems Design Guide
- Street Services
- Planning Out Crime

#### 7.6 Submission Colchester Borough Local Plan 2017-2033:

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

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

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

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

## 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:

Confirmation that the foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. Recommended conditions to establish a phasing plan (to ensure that the development is phased to avoid an adverse impact on drainage infrastructure) and to secure a surface water management strategy (to prevent environmental and amenity problems arising from flooding). Additional advice for developer with regards to Anglian Water assets and procedure for serving notice.

#### 8.3 Arboricultural Officer:

In agreement with the Arboricultural Impact Assessment submitted. The proposal does require the removal of vegetation within the site, but this is acceptable as the vegetation is only of moderate value at best. The proposal does affect trees situated off site within the rear gardens of adjacent properties and development in these locations would create a conflict. Following further revisions from the Applicant to omit the units immediately adjacent neighbouring trees the Arboricultural Officer has confirmed that this has resolved the issue in terms of direct conflict with the trees, although comment that overshadowing

may still occur from the trees to the new gardens. Recommended conditions to make the Arboricultural Impact Assessment an approved document and secure tree protection measures.

#### 8.4 Archaeological Adviser:

This proposal is located in an area of archaeological interest, defined in the Historic Environment Record, adjacent to the site of a Roman cremation cemetery (HER no. MON793). There is high potential for encountering buried archaeological remains (and potentially further burials) at this location, given the proximity to known remains. 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 199), 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 Cadent Gas:

Request that the Plant Protection team be notified of the planning decision. Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

#### 8.7 Colchester Travel Plan Club:

Comment that the development must be designed to allow walkers and cyclist suitable access through the site and linking the site to the cycle route NCN1. Strongly support the provision of a car club on site with at least two spaces and two cars to give home buyers the option of reducing their car ownership. The Travel Plan should include more information about how the car club and sustainable travel options will be marketed to potential home buyers as a positive lifestyle choice. Specific comments on the following:

1. The current kink in the shared use path along the western boundary of the site is designed out to provide straight access to the tunnel under the railway
2. That there is a clear line of visibility through the tunnel to overcome concerns for safety.
3. Consideration be given to a more direct link through the development from Cowdray Avenue to the underpass tunnel, and from the PROW which links Station Way to the development through the development to join a potential eastbound route through to the NCR1



4. The development's design should allow for a north – south route linking directly to Cowdray Avenue, should land become available to allow this link.
5. If a shared use cycle/pedestrian path is recommended by the Highway Authority within the site and on Mason Road as far as Cowdray Avenue to the underpass then a minimum of 4.0m wide running north south, with raised platforms at road crossings to give priority to pedestrians and cyclists
6. Work with Network Rail to allow permissive rights to for cyclists along the PROW to and including the underpass, as well as the westbound PROW to Station Way.
7. That provision is made for secure cycle parking on the site.
8. Developers funds be secured to allow the PROW to be upgraded (west to Station Way and north under the rail line to join the existing cycling and walking network)

#### 8.8 Contaminated Land Officer:

The Brown2Green 'Phase 1 Geo-Environmental Desk Study and Additional Gas Monitoring Report, Ref. 1788/Rpt 1v1 (Final), dated January 2018' is satisfactory as a preliminary assessment of potential contamination risks. Advisory comments for the Developer, as to Colchester Borough Council expectations, and recommended conditions for contamination investigation and remediation as necessary.

#### 8.9 Environmental Protection:

The site layout has been revised to protect bedrooms from railway noise at night and living rooms from nearby industrial noise during the day, although it is still necessary to impose a condition to secure mitigation measures (enhanced passive ventilation, noise attenuation fencing etc). Additional recommended conditions relating to construction method statement and limits to hours of work; noise levels, refuse and recycling facilities, and communal storage areas.

With regards to air quality, further to the grant of outline permission 151850, the new proposal should have similar conditions applied to secure Residential Travel Information Packs (to include walking and cycling maps, site specific public transport information, park and ride service information, school travel plan information, local taxi information, car sharing scheme information, information on reducing the demand for travel, and sustainable travel vouchers) and the provision of one electric charging point per dwelling (where dedicated parking) and 10% provision for unallocated parking spaces.

#### 8.10 Essex Bridleway Association:

Confirmation that they have no comments at this time.

#### 8.11 Essex County Fire and Rescue:

No comments received.

#### 8.12 Essex Police:

No comments received.

#### 8.13 Essex Wildlife Trust:

No comments received.

#### 8.14 Essex Ecology Service (EECOS):

Following a review of both the 2015 and 2018 ecological reports, it is concluded that both reports include appropriate enhancement measures for the 'permanent wildlife area' in the north west corner of the site. Both recommend post-development management of the PWA, including management of scrub encroachment, wildlife-friendly planting, protection against illumination by external lighting, and installation of bat and bird boxes. Only a small proportion of partially vegetated brownfield habitat is proposed for retention for wildlife. If a larger area could be retained, assuming a larger area of habitat is present (as aerial photos seem to indicate), it would be preferable.

It is proposed that management of the PWA is laid out in an Ecological Management Plan or equivalent, which makes sense and may be worth conditioning.

Please note that the report also calls for a reptile survey and pre-development translocation, plus surveys for bats (in buildings) and birds (black redstart and little ringed plover), which seem reasonable.

#### 8.15 Highway Authority:

The impact of the proposal is acceptable from a highway and transportation perspective subject to conditions: Construction traffic management plan; provision of a priority junction off Mason Road; provision of visibility splays; upgrade of bus stops; improvement to the Public Rights of Way network through the railway line subway to Mason Road and North Station Road (south of the railway line); provision of a residential travel plan.

#### 8.16 Landscape Officer:

1. Any POS containing play areas should be enclosed with railing or knee-rail (dependant on proximity to highway) and the areas themselves left uncorralled and given a more natural play design, imaginatively utilising bunding and natural play elements together with the more formal play equipment to form and protect the active areas of play. Seating and bins should be included to the play area. – However it should be noted that there would be no objection to the actual detail design of the POS being agreed to be submitted under condition. This subject to 1.3.3 below being evidenced and provided that the footprint of the POS, the footprint of the LEAP, POS tree locations/types, POS footpath footprints/locations and the location of the maintenance access point (see Appendix LIS/A clause 7.7) is/are submitted at this the application stage.

2. It is recommended the footprint of the LEAP is clearly demonstrated (marked on plan) as having a minimum 20m offset 'between activity zone and the habitable room façade of dwellings' and that it has a minimum activity zone of 400sqm. This to accord with best practice as defined within the 'Beyond the Six Acre Standard' national Fields In Trust guidance (table 4). The LEAP itself should maintain a broadly nucleated form to ensure its viability as an interactive, dynamic and diverse play area with a vibrant, opportunistic play options is ensured.

#### 8.17 Natural England:

No objection subject to appropriate mitigation being secured.

It has been identified that this development site falls within the 'Zone of Influence' (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.).

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these mitigation measures.

#### 8.18 Network Rail:

No comments received.

8.19 NHS Essex:

Planning obligations required.

8.20 Open Space, Sport, and Recreation:

Comments provided in respect of planning obligations required.

8.21 Planning Policy:

No comments received.

8.22 Street Services:

No comments received.

8.23 SUDs:

No objection subject to conditions to secure a detailed surface water drainage scheme and a surface water drainage maintenance and management plan.

8.24 The Ramblers Association:

No comments received.

8.25 Transport Policy:

- The development should be well connected to the existing pedestrian and cycle network. The 'dog leg' from the underpass should be resolved.
- The PROWs from the development site to North Station Road and under the rail line should be upgraded to allow better cycle and pedestrian access to the rail station and to bus stops.
- A 4m wide shared use cycle/pedestrian path is recommended through the site from the underpass to Mason Road.
- Cycle parking to be in accordance with the EPOA Vehicle Parking Standards.
- Upgrades to bus stops would be required.
- Strong support for the provision of a car club on site with at least two spaces and two cars to give home buyers the option of reducing car ownership.
- Expectation that electric vehicle charging points are included within the development to encourage the uptake of electric vehicles.
- Further information is required as part of the Travel Plan to explain how the car club and sustainable travel options will be marketed to potential home buyers as a positive lifestyle choice.

## 8.26 Urban Design:

Extensive comments and negotiation throughout the course of the application.

## 9.0 **Parish Council Response**

9.1 Myland Community Council (MCC) have commented as follows:

1. MCC welcomes the intention to enhance foot and cycle path connections via the development site. This aligns well with the Myland and Braiswick Neighbourhood Plan Project LP15 - Roads & Transport: "MCC will lobby Colchester Borough Council to upgrade the footpath with an adjoining cycle-way which runs from Petrolea Close through the Cowdray Centre direct to the Colchester Leisure Centre". MCC is striving to encourage reductions in private car usage to local points of interest and this is a positive step.
2. MCC is concerned to note the provision of a possible road link into High Woods Country Park. This is in direct conflict with the Myland and Braiswick Neighbourhood Plan Policy ENV4: "High Woods Country Park is a valuable and important asset. Planning applications must ensure protection and enhancement of High Woods Country Park". The intention to possibly link Cowdray Avenue to Turner Rise via a road route under or over the railway line will have a consequence for the Country Park in terms of loss of habitat. It will set a dangerous precedence for further incursion into what is a highly important recreational and conversation area.

## 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 Local representations following initial consultation:

### General Comment (4)

- Would prefer no housing as Colchester is big enough and too much strain on infrastructure.
- Concerned about how the boundary of the site would be secured with different ground levels between existing houses and the new build.
- Prefer the roundabout junction previously proposed. The priority junction is inefficient at busy times.
- Would object to any plan to create an access into Highwoods Country Park.
- Maintaining and improving safety and lighting of footpath to Turner Rise and North Station is essential.
- How would air and noise pollution be managed during demolition and construction?
- Colchester Hospital is trying to encourage active transport (i.e walking and cycling) and public transport to improve road safety and reduce congestion and air pollution. In order to incentivise staff and patients to leave their cars at home pleasant and safer routes need to be provided. The tunnel offers

great potential for improvement to offer a more pleasant route to walk or cycle and represents a vital piece of future infrastructure to help the hospital achieve its goals.

- Due to the lack of parking the proposal, the shared use pathways are important for people to move around Colchester and make the most of the open spaces nearby (i.e. Highwood Country Park) and access public services such as the hospital.
- The pavement and cycleway should be segregated and run parallel to each other. The cycleway should be of a different colour in order to distinguish it as a cycleway to the visually impaired. Pavement and cycleway should be 3m wide (preferably 4m).
- Pavement on eastern side of Mason Road should be widened and made into a shared use path. There should also be a crossing over the side road on Cowdray Avenue.
- Junction of Mason Road and Cowdray Avenue needs to be improved and have a toucan crossing to improve route along Cowdray Avenue and links to Leisure Centre.
- Side road along Cowdray Avenue should be restricted or closed off for cyclist safety.
- Cycle parking is inadequate and too much car parking. Secure cycle parking for visitors should be provided.
- Not supportive of road under the rail line to Petrolea Way as it would result in the development becoming a rat-run from North Station and Turner Rise Retail Park.
- Need to ensure that pavement parking is restricted.

#### Object (38)

- Does not meet requirements of Policy DP17: The proposal does not enhance accessibility for sustainable modes of transport or give them priority. It does not incorporate satisfactory and appropriate provision for pedestrians and cyclists.
- Does not meet requirements of Policy TA2: In order to meet requirements the proposal should include:
  - Route through the middle of the development on a cycling desire line
  - Resolve the 'kink' in the path leading the foot tunnel; (currently stops users having a view through the tunnel, effecting person security and hindering use)
  - The cycle path leading to the tunnel from Mason Road should be segregated from pedestrians (the tunnel should have clear 'give way to pedestrian' signs, but no barriers that would impede cyclists, people with disabilities or families)
  - The path along Mason Road is too narrow and not safe for pedestrians and cyclists
  - Provision should be made to facilitate cyclists and pedestrians crossing Maldon Road and travelling along Cowdray Avenue, possibly by enhancement of the traffic lights
  - The cycle track to the east with ('future links') should be segregated from pedestrians

- No plans to include small business units. No thought has been given to the plight of existing businesses and customers they serve. What facilities will be made available to the small businesses to relocate?
- Far too many properties with far too few amenities and facilities.
- Too close to the railway line.
- Would cause further congestion on Cowdray Avenue.
- The surrounding infrastructure cannot cope with an additional 272 homes in the area. The roads are gridlocked at rush hour.
- Should rescue empty houses and 'upcycle' rather than build new houses and flats.
- Pollution from traffic.
- Could be development that includes shared to use to allow entrepreneurs to work close to home and avoid traffic burdens by commuting.
- Cannot find alternative premises for business; not many sites suitable for B2 use. The business is therefore in danger.
- Dance studio and space for hire at the Cowdray Centre serves the community and wants to continue to operate in this area, but the proposals do not support this.
- If Colchester Borough Council wants to encourage business within the town the proposal should include a commercial element (as the previous application did). The existing businesses will lose their premises if this is approved and there is a significant shortage of suitable premises within the town.
- Traffic reports regularly mention severe congestion on Cowdray Avenue. The Council should confirm that the current inadequate infrastructure will be upgraded to ensure that a worse situation is not created.
- How will PROW 73 (Colchester) and PROW 73 and 224 (Myland) be protected and enhanced? No protection measures are evident.

### 10.3 Local representations following revisions:

#### General Comment (3)

- Query regarding boundary fencing to existing dwellings so as to prevent overlooking.
- Use of public transport and cycling is overestimated.
- Are there school places available?
- Consent should be conditional upon a substantial contribution towards the cost of an eventual Asda/Petrolea Close road link to Cowdray Avenue, as well as the proposed pedestrian/footpath link.

#### Objection (17)

- The road network is insufficient to deal with the current volume of traffic as well as the proposed dwellings.
- Cowdray Avenue is already heavily congested and there is considerable air pollution which will be made worse as a result of the proposal.
- Loss of the small businesses.
- The houses will not be affordable. There is no mention of how much affordable housing is proposed.
- The houses will be aimed at commuters instead of local people.

- Flooding along the new housing development at the riverside has not been rectified.
- Schools, doctor's surgeries and local hospital already failing to meet demand.
- Existing residents will suffer overlooking.
- Future links to Ipswich Road should be planned and built now.
- Public safety issue if roads are congested and emergency vehicles cannot access.
- There is already very limited residents parking and it will be unfair on local residents if they cannot find a parking space within 100 yards of their home as a result of this development.
- There will be more traffic on Cowdray Avenue as a result of the proposed development. More congestion will cause more pollution, which will damage health.
- Rear courtyard parking is insufficient as people will rather park their car on the road to the front of houses and this will make it difficult for emergency service vehicles to gain access.



## 11.0 Parking Provision

11.1 The EPOA Vehicle Parking Standards for Class C3 dwellinghouses is as follows:

Use	Vehicle	Cycle	PTW	Disabled
	Minimum	Minimum	Minimum	Minimum
1 bedroom	1 space 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
2+ bedroom	2 spaces per dwelling*			
Visitor/ unallocated	0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number)	If no garage or secure area is provided within curtilage of dwelling then 1 covered and secure space per dwelling in a communal area for residents plus 1 space per 8 dwellings for visitors	1 space, + 1 per 20 car spaces (for 1 <sup>st</sup> 100 car spaces), then 1 space per 30 car spaces (over 100 car spaces)	<b>200 vehicle bays or less</b> = 3 bays or 6% of total capacity, whichever is greater, <b>Over 200 vehicle bays</b> = 4 bays plus 4% of total capacity

The proposed scheme provides the following parking arrangements:

- One car parking space per 1-2 bed apartment and 1 bed house
- Two car parking spaces per 2+ bed house
- Cycle parking provided for blocks of flats

No dedicated visitor parking or disabled parking (relevant for communal parking areas only) is provided, although the submitted 'Concept Plan' has illustrated locations where on-road car parking can occur in convenient locations.

## 12.0 Open Space Provisions

12.1 The proposed scheme provides at least 10% of the site area as public open space in accordance with Development Plan Policy DP16.

## 13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones. In any case, air quality has been considered as part of the application and will be assessed in section 15.0 of this report.

## 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.

14.2 Following notification of the obligations required, the Applicant submitted a Viability Assessment that concluded that the development was not viable and could not, therefore, include any affordable housing or planning contributions. The Council then commissioned an independent review which concluded that there was viability within the scheme. No further viability argument has been put forward by the Applicant. The Applicant has, however, put forward a draft Heads of Terms offer that includes affordable housing provision and planning contributions.

14.3 The exact trigger points, mechanisms, and associated clauses will need to be discussed further with the Solicitors for each party, but the obligations that would be agreed as part of any planning permission would be as follows (headings in alphabetical order):

- Affordable Housing: 20% (tenure mix being at least 80% affordable rent and no more than 20% intermediate). As part of the affordable housing, 2 No. one-bed flats would be delivered as part M4 Category 3(2)(a) to include a wet room and 2 No. one-bed flats would be delivered as part M4 Category 3 (2)(b) fully adapted wheelchair units. The remaining affordable units, excluding upper floor apartments, would meet part M4 Category 2. Not more than 70% of the market dwellings shall be occupied unless the developer has contracted with a Registered Provider to deliver disposal of 100% of Affordable Dwellings.
- Archaeology: £15,125 (+VAT) for the display, promotion and management of archaeological discoveries on the site. If no archaeological remains are affected by the development (to be determined as part of an agreed programme or archaeological investigation secured by condition) £290 (+VAT) would be required to integrate the information from the archaeological investigation with the Colchester Historic Environment Record (HER);
- Community Facilities: £359,000 required towards the provision of a multi-use community facility adjacent to the visitor's centre at Highwoods Country Park;
- Education: Contribution towards Primary and Secondary education provision in accordance with the Essex County Council formula (£12,734 per Primary place and £19,345 per Secondary place subject to indexation) £1,218,738.00;
- NHS: £96,048 towards providing additional capacity at East Hill Surgery to mitigate the development;

- Open Space, Sport, and Recreation: £240,000 to be spent on a new shared cycle/pedestrian path in High Woods Country Park. Additional £91,445.94 required if the open space provided by the development is adopted by Colchester Borough Council; and
- Transport and Sustainability: £65,000 to provide a north/south cycle and pedestrian link between the development site and the existing underpass (providing clear sight lines through the underpass) as indicated in purple hatching on drawing PH222-PL-11 Rev E.
- The provision of a LEAP play area.
- Land to be safeguarded for a potential future vehicular link under the railway to Turner Rise.

14.4 A s106 Agreement is therefore required to secure these obligations and contributions. A contribution to provide RAMS mitigation can also be included as part of the s106; further explanation of this requirement is set out in section 15 of this report.

## 15.0 Report

15.1 The main issues in this case are: principle of development; impact on landscape and trees; flood risk and drainage; highway matters; amenity; ecology and biodiversity; design and layout; heritage matters; contamination; impact on existing businesses; and public health.

### Principle of Development

15.2 One of the core planning principles set out by the National Planning Policy Framework (NPPF) is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. The application site is previously developed brownfield land, so its redevelopment would be encouraged, subject to material planning considerations. The site also comprises existing commercial uses however so the principle of its redevelopment as a whole needs to be considered further in terms of the impact upon existing businesses.

15.3 The site is allocated within the Local Plan for mixed use redevelopment under Site Allocation Policies SA CE1 and SA TC1. This allocation covers the Cowdray Centre and Cowdray Trade Park as one site and seeks to provide a range of uses within the categories of retail, residential, leisure, hotel, and employment. Policy SA TC1 states that 'the residential element shall comprise no more than 50% of the site area and existing businesses will be encouraged to remain. Development of the site should also deliver improved connectivity to the Town Centre and North Station for vehicles (especially public transport), pedestrians and cyclists; and a green link between Highwoods Country Park and Leisure World/Castle Park. In addition land should be safeguarded for a potential future vehicular link under the railway to Turner Rise.'

- 15.4 The proposal is considered to comply with the requirements of the site allocation. The proposed residential development would not exceed 50% of the overall Cowdray Trade Park site and land can be safeguarded for a potential future vehicular link under the railway to Turner Rise, as shown in the Development Concept Plan submitted with the application.
- 15.5 In terms of connectivity, the site would benefit from existing links (Public Rights of Way) that lead to and from Highwoods Country Park, a retail park (Turner Rise), and the train station. The Public Right of Way that runs along the northern edge of the site is shown to be improved (widened) on the submitted plans, making the path more user friendly and convenient in terms of allowing for passing by other users; of particular benefit given that a greater number of people would be using the surrounding links as a result of the development. In order to adhere to highway requirements, as well as the provisions of policy SA TC1 and Transport and Sustainability principles, it is also necessary to secure (via planning condition or s106 agreement as appropriate) the following:
- Improvements to surfacing along the PROW
  - Straightening the PROW from the subway into the site (to allow users clear visibility through the subway)
  - Improvements to 2 No. local bus stops
  - Provision of a path through Highwoods Country Park
- 15.6 When considering wider sustainability issues, Core Strategy Policy SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy). Policy TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester. A key aspect of this is the improvement of accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Developments that are car-dependent or promote unsustainable travel behaviour will not be supported.
- 15.7 The site is located immediately north of the town centre, which is at the top of the settlement hierarchy of policy SD1. Development in this location is therefore supported in broad sustainability terms. The requirements of TA1 are such that development needs to be focussed on highly accessible locations to reduce the need to travel and, given the proximity of the site to the train station, Country Park, Retail Park, leisure facilities, and the town centre, this is considered to be the case.
- 15.8 Subject to the above requirements, and in consideration of this being a brownfield site within the settlement boundary of Colchester, the proposal is considered to be acceptable in principle. Other material planning matters now need to be considered.

#### Landscape Impact (including impact on trees)

- 15.9 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.
- 15.10 The application is supported by a Townscape and Visual Impact Assessment which considers a number of close, local, medium, and distant views of the site, concluding that a development of up to four stories in height would be 'visually unobtrusive' and would 'sit comfortably in relation to the surrounding townscape and the higher ground of Colchester town centre and High Woods Country Park'. The Council's Landscape Officer raises no objections to the content of the report and it is considered that the proposals would be acceptable in terms of the landscape setting.
- 15.11 In terms of the impact on trees, the Council's Arboricultural Officer has advised that the Arboricultural Impact Assessment submitted is acceptable; the vegetation that would be removed from within the site as a result of the development is of moderate value at best. Potential conflict with trees on adjacent sites has been resolved via the omission of several units that were proposed in close proximity to these trees. Conditions will be required to ensure that the impact assessment is an approved document and that tree protection measures will be carried out during demolition and construction works. Subject to these conditions, the proposal is not considered to have an adverse impact on trees and therefore respects its landscape setting.

#### Flood Risk and Drainage

- 15.12 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water
- 15.13 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.
- 15.14 A Flood Risk Assessment, as well as a SUDs and Drainage Report, has been submitted with the application and both Essex County Council SUDs (as Lead Local Flood Authority) and Anglian Water have been consulted. Essex County Council SUDs have confirmed that they have no objection to the proposal subject to conditions to secure a detailed surface water drainage scheme and a surface water drainage maintenance and management plan (a similar condition has also been recommended by

Anglian Water). This is considered appropriate in order to mitigate any impacts in terms of surface water run-off and flooding.

- 15.15 In terms of drainage, Anglian Water have confirmed that the foul drainage from the development is in the catchment of Colchester Water Recycling Centre, which has available capacity for the flows.
- 15.16 The proposal is not, therefore, considered to be susceptible to flooding or cause flooding elsewhere, will (subject to condition) manage surface water run-off, and would be adequately served in terms of foul drainage. The proposal complies with policies SD1 and DP20.

Highway Matters (including sustainability and accessibility)

- 15.17 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. The policy also states that the demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity, and built character. 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). It is relevant that the parking standards note that a reduction to the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport.
- 15.18 The application is supported by a Transport Assessment which looks at parking provision, trip generation, accessibility, travel patterns, impact on the surrounding highway network, and mitigation measures.
- 15.19 The assessment sets out that the proposed development would be sustainable in terms of having access to a number of services and facilities without reliance on private car. This is due to the PROWs in the vicinity of the site, cycle routes (including National Cycle Network 1 on Cowdray Avenue), bus services (on Cowdray Avenue and North Station Road), and proximity to the train station.
- 15.20 The assessment acknowledges that the proposal does not meet minimum parking standards and makes the following justification:
- A large proportion of apartments are included in the scheme, which typically have lower car ownership rates. Flats and houses are treated the same in the standards despite evidence showing that typically lower car ownership rates are associated with flats. In addition, the scheme includes a high proportion of 2-bedroom units; There is limited opportunity for on-street parking in the area surrounding the site;

- A proportion of the parking spaces will be unallocated as this provides the most efficient use of parking and spaces can be shared across residents with different car ownership and use profiles;
- There is good access to public transport; and,
- The level of cycle parking provided will meet the standards.

15.21 In addition, car ownership data is analysed by looking at Census data from the surrounding area. The findings show that the car ownership rate is 0.85 vehicles per household (lower than the average across Colchester which is 1.26 cars/vans per household). The level of car parking proposed (i.e. one space per apartment and one-bed house and two spaces per house with two or more bedrooms) exceeds the car ownership levels in the surrounding area. Taking the car ownership data of approximately one vehicle per dwelling suggests, according to the assessment, that visitor parking can be accommodated on-site for the houses where two car parking spaces are provided. Visitor spaces may also be accommodated throughout the unallocated parking for the flats due to car ownership rates (the data showing that 45% of flat owners have no access to a car). In any case, visitor parking is also shown to be capable of being provided on-road (subject to parking restrictions that will be put in place by the Highway Authority to prevent parking by commuters that could cause obstructions to other road users).

15.22 The assessment confirms that the proposal will adhere to cycle parking standards. Cycle stores are shown on the floor plans for the apartments and further details (to ensure adequate provision) can be secured via a planning condition. It is considered that cycle parking can be provided within the curtilage of the houses proposed and that no further details are required for these units.

15.23 In terms of impact on the surrounding highway network, the assessment has compared the volume of trips that would be generated as a result of an industrial (last use) of the site to the trip generation from the proposed residential scheme using nationally recognised TRICS trip generation data. The comparison is summarised below:

<b>Time Period</b>	<b>Proposed Residential</b>	<b>Industrial</b>	<b>Difference</b>
8am-9am	86	98	-12
5pm-6pm	98	88	+10
7am-7pm	917	1,205	-288

15.24 The data shows a similar trip generation between the two uses, although the proposed development would generate fewer AM and overall daily trips. It should also be noted that the Industrial trips would include HGV traffic which would not be included as part of residential traffic generation.

- 15.25 The assessment proposes some additional mitigation measures in the form of a Residential Travel Plan (including issuing a travel pack to all households upon first occupation) to raise awareness and promote the use of sustainable modes of travel to encourage residents to make sustainable travel choices; improvements to the pedestrian and cycle links in the vicinity of and across the site; and a consideration of the introduction of up to two car club spaces.
- 15.26 The Highway Authority have confirmed that they agree the proposed layout (on highway terms) and they have not expressed any concerns regarding the findings and conclusions of the Transport Assessment. The conclusions of the assessment are therefore considered to be sufficient to justify a lower car parking provision (given the high levels of connectivity and accessibility) as well as demonstrate that the proposal would not result in adverse harm to the road network. Policy DP19 confirms that “A lower standard may be acceptable...where it can be clearly demonstrated that there is a high level of access to services, such as town centre location”. Conditions are necessary to improve facilities for more sustainable modes of transport (PROWs and bus stops) in order to improve the connectivity of the site and reduce the reliance on private car.
- 15.27 In terms of air quality, an Air Quality Assessment has been submitted as part of the planning application. The assessment looks at the potential impacts on local air quality during the construction period, as well as once the development is occupied, with the conclusion that there would be a negligible-low risk to human health during construction and that the proposed development would not result in any significant air quality impact as it would not significantly increase traffic once operational. The Air Quality Assessment has been considered by the Council's Environmental Protection team and no objections have been raised subject to conditions to secure Residential Travel Information Packs and electric charging points to encourage the use of electric vehicles.
- 15.28 The proposal is therefore considered to be acceptable with regards to highway matters and policies TA4, DP17 and DP19.

#### Impact on Neighbouring Amenity

- 15.29 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.
- 15.30 The application site (on its eastern side) shares a boundary with a row of properties fronting Cowdray Avenue. The impact of the proposed development on these properties therefore needs to be considered. When assessing the relationship between properties, the Essex Design Guide states that, ‘where habitable rooms are located at the rear of neighbouring properties and the rear facades face each other, a minimum spacing of 25m between the rears of the properties is required. An intervening fence or other visual barrier of above eye-level height (as viewed from the potential



vantage point) should be incorporated to maintain an adequate level of privacy.' In this case, all of the proposed properties that directly back onto the boundary are over 25 metres from the rear wall of their corresponding property on Cowdray Avenue and boundary treatments above eye level will be maintained or incorporated. In terms of the proposed units that are positioned 'side on' to the boundary, these do not include any windows (other than a very narrow module window) at first-floor level that would generate actual or perceived overlooking; these units are at least 15 metres from the rear wall of the properties on Cowdray Avenue which again adheres to the standards advised in the Essex Design Guide for this layout arrangement.

- 15.31 An additional consideration is that the Essex Design Guide advises that 'where new development backs onto the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary. Where the rear faces of the new houses are approximately parallel to those of the existing homes, the rear of the new houses may not encroach any closer than 15m to an existing rear boundary, even if closer encroachments would still achieve 25m between the rears of the houses.' The proposed dwellings that would back onto the Cowdray Avenue properties are all at least 15m from the shared rear boundary therefore meeting the additional requirement in terms of privacy for existing dwellings.
- 15.32 The units proposed alongside the boundary with Cowdray Avenue are not considered to result in any adverse overshadowing or loss of sunlight/daylight to the neighbouring properties as there is considerable separation between them and the proposed units would be located to the north, thereby not restricting sunlight which would come from the east, south, or west depending upon the time of day.
- 15.33 Noise and disturbance is considered to be minimal given the residential nature of the proposed development. The construction phase is likely to cause noise and disturbance and, as such, the Council's Environmental Protection team have recommended conditions to limit the hours of work and establish a construction method statement. This is considered to ensure that the amenity of local residents is protected as far as reasonable.
- 15.34 The proposal is considered to meet the requirements of Policy DP1 in terms of impacts on public and residential amenity subject to necessary conditions.

#### Ecology and Biodiversity

- 15.35 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.

- 15.36 The application is supported by a Preliminary Ecological Assessment and a Phase 2 Ecology Survey. The assessment confirms that 'The habitats within the north-west section of the site are of value for notable plants and their terrestrial invertebrate assemblage but the habitats are declining in value through lack of scrub management.' It is therefore considered that if the site were to remain undeveloped, the habitat currently present would continue to decline.
- 15.37 It is clear that the development of the site would result in the loss of some brownfield habitat. In order to mitigate this both the assessment and survey propose an Ecology Mitigation and Management Plan (EMMP) that would 'guide the proposed development through the construction and operational establishment phases to ensure adherence to wildlife legislation and to maximise the potential for enhancement of the retained habitats within the north west section of the site that are of value for invertebrates and reptiles.' The survey goes on to explain that the 'EMMP will also maximise the biodiversity potential of the wider site through a programme of enhancements such as the installation of bird nest boxes and integrated bat boxes, as well as invertebrate 'bug boxes' within the site.' The survey concludes that the implementation of the mitigation and enhancement measures would compensate for the adverse impacts upon specific habitats, designated site and protected species, with positive outcomes for biodiversity.
- 15.38 As the wildlife area and railway embankment would remain undeveloped, development on the application site would, therefore, only result in the loss of the well-vegetated areas immediately adjacent the wildlife area. These vegetated areas do have interest for invertebrates and reptiles. However, the improvements to the wildlife area, as well as the other enhancements and mitigation measures proposed are considered to adequately compensate for this loss. The proposal is therefore considered to meet the requirements of the NPPF and Development Policy DP21.
- 15.39 The Phase 2 Ecology Survey also details surveys for bats and reptiles. In terms of bats, the survey concludes that the existing building on site is unsuitable for bats, although there may be the potential for foraging and/or roosting bats along the railway line and in the north-east corner of the site. An emergence survey was undertaken at the north-east corner of existing building on site to check for any emergences by bats from under the fascia, but no bats were observed or recorded to emerge from the building and therefore no roosts were considered to be present. There is a record of slow-worm and common lizard on the site in 2005 and this may explain why the north-west corner was delineated as a Permanent Wildlife Area (PWA) in approximately 2007; there is currently a dilapidated reptile fence that can be seen around the PWA. The survey reports that there may be small populations of slow-worm and common lizard on the site.

- 15.40 Consequently, mitigation and enhancement measures are recommended. These measures include ensuring site lighting is kept to a minimum (during both construction and occupation), implementing a translocation programme for reptiles, and installing bat boxes away from artificial light and regular disturbance. These matters can be conditioned appropriately.

Design and Layout (including amenity of future residents)

- 15.41 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Development Plan Policy DP16 sets out space standards for both public and private (garden) space. In addition, Policy DP12 focusses on dwelling standards and the requirement for high standards of design, construction and layout. Particular elements for consideration include:
- (i) The avoidance of adverse overshadowing between buildings or over neighbouring land uses, and of other adverse microclimatic effects resulting from medium and high rise buildings at a high density;
  - (ii) Acceptable levels of daylight to all habitable rooms and no single aspect north-facing homes;
  - (iii) Acceptable levels of privacy for rear-facing habitable rooms and sitting-out areas;
  - (iv) A management and maintenance plan to be prepared for multioccupancy buildings and implemented via planning conditions to ensure the future maintenance of the building and external spaces;
  - (v) Flexibility in the internal layout of dwellings to allow adaptability to different lifestyles;
  - (vi) Vehicle parking (including secure cycle and motorcycle parking) to an appropriate standard, as set by Essex County Council and policy DP19, and provided in a visually acceptable manner. In the case of flats, secure cycle storage should be incorporated into flat blocks and readily located at the building entrances, and;
  - (vii) An accessible bin and recycling storage area, and external drying areas.
- 15.42 The scheme has undergone extensive revision over the course of the planning application. This has partly been in order to address certain constraints (such as noise from the railway line), but also in order to achieve what would be regarded as good design in terms of creating connectivity, adequate public and private space, and appropriate scale, form and architectural detailing.
- 15.43 In terms of broad layout, the proposed scheme provides at least 10% open space as required by Development Policy DP16 and, in the case of houses, acceptable levels of private amenity space (50-60sqm dependent upon the number of bedrooms), albeit with some of the one-bed houses being slightly shy of the size requirement (approximately 4sqm deficiency). Amenity space for the flats comprises of balconies and external communal space; whilst the amount of space proposed falls short of the minimum 25sqm per flat requirement under Policy DP16, the space provided is considered to be of beneficial use and is adequately compensated for by the public open space

provided on site, as well as existing open space in close proximity to the site (Highwoods Country Park and Castle Park in particular).

- 15.44 The Council's Landscape Officer has advised that the play area indicated on the layout drawings and landscape strategy would not meet the 'Beyond the Six Acre Standard' Fields in Trust guidelines in terms of its proximity (under 20m) from approximately five of the units. Whilst these comments are acknowledged, it should be noted that these standards are guidelines only and are not adopted as part of Council planning policy. Whilst there may be some disturbance to future residents from activity at the play space, it is considered that these units would front onto open space regardless of whether a play area were located there or not so would be susceptible to public activity in any case; indeed, it may even be the case that prospective occupiers may wish to be in close proximity to a playground for the convenience of letting their children out to play. Given that the standards are guidelines rather than adopted policy, the limited impact on amenity, and considering the level of impact proportionate to the benefits of the scheme as a whole, the location of the play area is not considered to constitute a justifiable reason for refusal in this case. The Landscape Officer has no objections to the remainder of the landscape concept; it is considered necessary to condition detailed landscaping, as well as details of the play area.
- 15.45 Turning to Policy DP12, the layout of the proposed development is considered to achieve acceptable levels of daylight to habitable rooms and avoid adverse shadowing between buildings. Levels of privacy are also considered satisfactory, with back-to-back distances between houses being between 20-25 metres and the blocks of flats being arranged so that they do not look into sitting-out areas or rear habitable rooms. The impact of noise and vibration from the railway line and adjacent commercial businesses has been considered at length and the scheme has been amended in order to ensure that bedrooms are located on the shielded side (i.e. away from the noise source) of the building. Environmental Protection have also recommended a condition to ensure that internal noise levels meet British Standards.
- 15.46 The units would need to meet Building Regulations in terms of accessibility. Additional requirements have, however, been agreed with the Applicant in terms of providing units for wheelchair users, as well as units that are capable of being adapted for wheelchair use; this relates to the affordable housing (52 units) where 4 No. one-bed flats will be required to be wheelchair user dwellings and the remainder to be adaptable for wheelchair use.

- 15.47 The development would include accessible bin and recycling storage areas, as well as external drying areas; the houses have internal facilities as well as private garden space with which to store bins and dry clothes outside, and the flats have communal bin stores and some private external space to dry clothes. The communal areas for the flats will need to be maintained and managed by a management company, the details of which can be secured by condition in order to ensure that these areas remain fit for purpose.
- 15.48 Detailed design has been thoroughly negotiated with the support of the Council's Urban Designer. Street frontages have been revised to achieve continuity of frontage and avoid a formulaic approach in order to create interesting street scenes. The form and external design of the house types and blocks of flats have also been extensively revised, particularly with regards to roof form (i.e. pitch) and elevational treatments, elements of which will need to be conditioned to ensure that these design principles are adhered to. Architectural detailing, such as (but not limited to) articulation, depths of reveals to windows and decorative panelling, window details are all required to be conditioned to ensure acceptable finishing, as are facing and roofing materials.
- 15.49 Subject to the conditions referred to above, the proposed development is considered to meet the requirements of policies UR2, DP1, and DP12, and is considered to be acceptable with regards to policy DP16 in terms of open space and private amenity space.

Other Matters (heritage, contamination, health impact assessment)

- 15.50 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. In this case, there are not considered to be any historic buildings that would be affected by the development of this site. The proposal is, however, located in an area of archaeological interest, being adjacent to the site of a Roman cremation cemetery. As such, there is a high potential for encountering buried archaeological remains (and potentially further burials). Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist. The Council's Archaeological Adviser considers that there are no grounds to refuse planning permission in order to achieve the preservation in situ of any important heritage assets. It is therefore recommended that a condition for archaeological investigation is applied in order to advance the understanding of any heritage asset before it is damaged or destroyed. In addition, a planning contribution is required in order to display, promote, and manage any archaeological discoveries on the site, as well as update the Historic Environment Record (HER) database. These provisions are considered to mitigate the impact of the proposal upon the historic environment.

- 15.51 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. A Geo-Environmental Desk Study and Gas Monitoring Report has been submitted in support of the application and has been considered by the Council's Contaminated Land Officer who has concluded that the information is satisfactory in making an assessment of potential contamination risk. Conditions are therefore recommended to secure the submission of a site characterisation and remediation scheme, leading onto the implementation of an approved remediation scheme. A condition setting out the procedure should any unexpected contamination be encountered should also be included.
- 15.52 Policy DP2 requires all development to be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. Health Impact Assessments (HIA) are required for all residential development in excess of 50 units. An HIA needs to identify the potential health consequences of a proposal on a given population, maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal's environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities. Where significant impacts are identified, planning obligations will be required to meet the health service impacts of the development. Any HIA must be prepared in accordance with the advice and best practice for such assessments. A Health Impact Assessment has been submitted with the application, taking into account personal/family lifestyles and characteristics, the social environment, physical environment, and access to quality services. NHS Essex were consulted on the application and did not provide any comments in respect of the Health Impact Assessment, other than to confirm that a contribution would be required to mitigate the impact of the development on health services (in this case, East Hill Surgery being identified).
- 15.53 The proposal would result in the loss of some existing business units, although the existing commercial building is now largely vacant. Site Allocation Policy SA TC1 states that existing businesses will be encouraged to remain on site as part of the wider mixed-use development. Given that the application site covers the residential element of the mixed use allocation (for the site as a whole) it would not be possible for the businesses to remain on site. Information provided by the landowner demonstrates that the businesses have been on short term leases since the fire in 2006 and that the existing building has deteriorated since then and is not in a satisfactory state of repair that would meet the expectations of business users. In any case, evidence from the Landowner shows that the majority of businesses have either left the premises for new locations or are actively seeking new premises. Of the 35 units at the Cowdray Centre, 3 No. look to remain occupied (by car repair businesses); reports from the Landowner indicate that these businesses are actively seeking new premises. Whilst it is acknowledged that the three remaining businesses will need to find new premises as a result of the proposed development, it is ultimately not considered justified to refuse the application on this basis.

15.54 It is necessary to assess the application in accordance with the Habitats and Species Regulations 2017 (as amended). The whole of Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment was therefore required to assess recreational disturbance impacts as part of the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). To support the Local Planning Authority Appropriate Assessment, a Habitats Regulations Assessment was submitted as part of the application. The assessment provided details that the development would include both on-site and off-site mitigation measures as follows:

On-site measures:

- Suitable Alternative Natural Greenspace (SANGS) provision of 1.0ha greenspace to offer the estimates increase in dog walking as associated disturbance from the development at the site, with this area being managed as a SANGS through the provision of a range of measures (including cutting and maintaining a network of paths, provision of waste bins and signage to inform residents of the SANGS area and the reason for it as recreational diversion from nearby designated sites).
- The site is located adjacent to and directly connected with a Public Right of Way that leads to the High Woods Country Park immediately north of the railway line. Improvements to the Public Right of Way would be secured as part of the planning application and the Country Park is therefore considered to be an extension to the greenspace provision of the site as recreational diversion.

Off-site measures:

- The shadow HRA confirms that a contribution in accordance with the Essex Coast RAMS will be secured.

15.55 The appropriate assessment concluded that the on-site and off-site mitigation proposed would mean that the development would not have an adverse effect on the integrity of the European sites included in the Essex Coast RAMS. Natural England were advised of this assessment and confirm their agreement provided that the mitigation measures are secured.

15.56 Finally, comments submitted by local residents have been taken into consideration as part of the assessment of the application. The majority of comments have been addressed within the main assessment above, but there are two points that may benefit from further clarification. Comments have been received regarding the potential strain on infrastructure (doctor's surgeries and school places in particular); should planning permission be granted it would be subject to a s106 agreement that would require monetary contributions to mitigate the impact of the development in terms of doctor surgery capacity and school places. These contributions have

been requested by the NHS and Essex County Council Education respectively.

- 15.57 Several comments have been made in respect of concerns regarding a potential vehicular access into Highwoods Country Park. The proposal does include the safeguarding of land with which to potentially provide a vehicular link to Petrolea Close. This has been included in the proposals as it is a specific requirement of the site allocation policy. Should a proposal for a new vehicular link be developed it would need to consider the impacts upon the Country Park as well as other matters, including feasibility in terms of addressing the railway line and the cost implications. At this stage, it is appropriate for the proposal to include the potential for the link as it is a long-standing policy requirement

## **16.0 Conclusions**

- 16.1 National policy requires planning to be genuinely plan-led. The proposal is considered to be acceptable with regards to 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, identifying three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as establishing new residential development where residents can readily utilise and support nearby businesses, services and facilities. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure benefits in terms of ecology and biodiversity, as well as provide homes in an area that is highly accessible so as to encourage more sustainable means of transport and reduce the need to travel by private car. There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. Overall it is considered the positive environmental effects and sustainability of the proposal would weigh in favour of this scheme.



- 16.2 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts and, as such, Members are recommended to resolve to grant planning permission subject to the conditions set out below.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to:

- Agreement with the Agent/Applicant to the pre-commencement conditions under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and delegated authority to make changes to the wording of conditions as necessary;
- The signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting to deliver the obligations set out at paragraph 14.3. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement; and
- The Permission being subject to the following conditions:

### **1. Time Limit**

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. Approved drawings**

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

- |  |                      |
|--|----------------------|
| • Location Plan                        | PH222-PL-01 rev. A   |
| • Development Concept Plan             | PH222-PL-03 rev. A10 |
| • Storey Heights Plan                  | PH222-PL-04 rev. P   |
| • Parking Allocation Plan              | PH222-PL-05 rev. N   |
| • Fencing Layout Plan                  | PH222-PL-06 rev. P   |
| • Amenity Space Plan                   | PH222-PL-08 rev. N   |
| • Cyclepath Works                      | PH222-PL-09 rev. C   |
| • Cycle Path/Tunnel Section            | PH222-PL-10 rev. B   |
| • Highways Layout                      | PH222-PL-11 rev. E   |
| • Refuse Collection Strategy<br>Layout | PH222-PL-12 rev. H   |
| • Affordable Housing Location<br>Plan  | PH222-PL-13 rev. C   |
| • Landscape Strategy West              | MCA2217/01 [L]       |
| • Landscape Strategy East              | MCA2217/02 [L]       |

• Apartments – Block A – Plans and Elevations	PH222-AP-A-01 rev. A
• Apartments – Block B – Plans and Elevations	PH222-AP-B-01 rev. A
• Apartments – Block C – Floor Plans	PH222-AP-C-01 rev. C
• Apartments – Block C – Elevations	PH222-AP-C-02 rev. B
• Apartments – Block D – Floor Plans	PH222-AP-D-01 rev. B
• Apartments – Block D – Elevations	PH222-AP-D-02 rev. B
• Apartments – Block E – Floor Plans	PH222-AP-E-01 rev. B
• Apartments – Block E – Elevations	PH222-AP-E-02 rev. C
• Apartments – Block F – Floor Plans	PH222-AP-F-01 rev. B
• Apartments – Block F – Elevations	PH222-AP-F-02 rev. D
• Apartments – Block G – Elevations	PH222-AP-G-01 rev. C
• Apartments – Block G – Floor Plans	PH222-AP-G-02 rev. A
• Apartments – Block H – Floor Plans	PH222-AP-H-01 rev. A
• Apartments – Block H – Elevations	PH222-AP-H-02 rev. A
• Apartments – Block I – Floor Plans	PH222-AP-I-01 rev. B
• Apartments – Block I – Elevations	PH222-AP-I-02 rev. B
• Apartments – Block K – Plans and Elevations	PH222-AP-K-01 rev. A
• Apartments – Block L – Floor Plans	PH222-AP-L-01
• Apartments – Block L – Elevations	PH222-AP-L-02
• House Type K – Floor Plans and Elevations	PH222-HTa-01 rev. B
• House Type B – Floor Plans and Elevations	PH222-HTa-02 rev. B
• House Type O – Floor Plans and Elevations	PH222-HTa-03 rev. C
• House Type L – Floor Plans and Elevations	PH222-HTa-04 rev. C
• House Type Lb – Floor Plans and Elevations	PH222-HTa-05 rev. B
• House Type M – Floor Plans and Elevations	PH222-HTa-06 rev. D
• House Type I – Floor Plans and Elevations	PH222-HTa-08 rev. B
• House Type F – Floor Plans and Elevations	PH222-HTa-09 rev. B

- House Type N – Floor Plans and Elevations PH222-HTa-10 rev. B
- House Type D – Floor Plans and Elevations PH222-HTa-12 rev. B
- House Type GF – Floor Plans and Elevations PH222-HTa-13 rev. C
- House Type GFa – Floor Plans and Elevations PH222-HTa-14 rev. C
- House Type GFb – Floor Plans and Elevations PH222-HTa-15 rev. D
- House Type GFc – Floor Plans and Elevations PH222-HTa-16 rev. C
- House Type Mb – Floor Plans and Elevations PH222-HTa-17
- House Type Ma – Floor Plans and Elevations PH222-HTa-18
- Proposed Street Scene (Sheet 1 of 2) PH222-SC-01 rev. B
- Proposed Street Scene (Sheet 2 of 2) PH222-SC-02 rev. C
- Proposed Street Scene PH222-SC-03 rev. C
- Proposed Site Sections and Street Scenes PH222-SS-01 rev. F

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

### **3. Limits to Hours of Work**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

### **4. Bats and Artificial Lighting**

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the Institute of Lighting Professionals (ILP) Guidance Note 8 Bats and Artificial Lighting (2018).

Reason: In order to minimise risk of disturbance of potential features that may provide bat commuting and foraging habitat.

### **5. Internal/External Noise Levels**

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime The development shall thereafter be carried out in accordance with any

details approved, and shall be retained in accordance with these details thereafter.

Reason: In the interests of the amenity and living conditions of future occupants.

## **6. Car Electric Charging Points**

The development hereby approved shall be provided with at least 1 No. electric vehicle (EV) charging point per dwelling with dedicated parking and at a rate of at least 10% provision for unallocated parking spaces. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

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

## **7. Roof Pitch Requirements**

Notwithstanding the submitted details, House Types L, Lb, M, and O shall be constructed with a 45 degree roof pitch in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of good design and visual amenity.

## **8. 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 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.

## **9. Permitted Development Rights Removal – Extensions and Alterations**

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 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 enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

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.

## **10. Permitted Development Rights Removal – Fences and 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 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.

### **11. Ecological Mitigation and Management Plan (EMMP)**

No works shall take place until an Ecological Mitigation and Management Plan (EMMP) has been submitted to and approved in writing by the Local Planning Authority. The EMMP shall follow the principles set out in the SES Phase 2 Ecology Surveys and Assessment report dated October 2018 and shall include details of the management of the Permanent Wildlife Area; details of reptile translocation; and details of the provision of bat boxes. The development shall then be carried out and maintained in accordance with the approved EMMP.

Reason: In order to mitigate the impact of the development upon ecology and biodiversity and in the interest of ecological enhancement.

### **12. Tree Protection**

No works or development adjacent to retained trees shall take place until a scheme of supervision for the arboricultural protection measures as set out in the SES Arboricultural Impact Assessment dated 24<sup>th</sup> October 2018 has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

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

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

### **13. Archaeological Investigation**

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

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

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

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

#### **14. Contaminated Land 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.

#### **15. Construction Method Statement**

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

- the parking of vehicles of site operatives and visitors;
- traffic management
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;

- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- details of lighting in accordance with the Institute of Lighting Professionals (ILP) Guidance Note 8 Bats and Artificial Lighting (2018);
- vehicle/wheel washing facilities;
- measures to control the emission of noise, dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

#### **16. Contaminated Land 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.

#### **17. 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.

#### **18. Landscape Scheme**

No works shall take place (other than demolition) 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:

- Details of the 1ha Suitable Alternative Natural Greenspace (SANGS) as per the SES Habitats Regulations Assessment dated 9<sup>th</sup> November 2018, including details of waste bins and signage to inform residents of the SANGS area and the reason for it as recreational diversion from nearby European designated sites;
- Proposed finished levels or contours.
- Means and details of enclosure.
- Car parking layouts.
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

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

### **19. Surface Water Drainage Scheme**

No works shall take place until the following, as part of the detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the local planning authority.

- 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.

Reason: In order to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure the effective operation of SuDS features over the lifetime of the development, as well as 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.

### **20. Surface Water Drainage Maintenance and Management**

No works shall take place until a Management and Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies (including details of how maintenance will be recorded), 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.

## **21. Highway Requirements – PROW**

No works shall commence, other than demolition, groundworks and underground enabling works, until details of the improvements to the Public Rights of Way Network through the railway line subway, to Mason Road and North Station Road (south of the railway line) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented as approved prior to the occupation of 50% (131 dwellings) of the development hereby approved.

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

## **22. Architectural Detailing**

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the depth of reveal and any dormer features); rooflights to be used; recessed/projecting brickwork and cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design in the interests of visual amenity.

## **23. Remediation Validation Certificate**

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 14.

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

#### **24. Site noise levels for mechanical plant**

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 residential units. 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. Refuse and Recycling Facilities**

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

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

#### **26. Communal Storage Areas**

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

#### **27. Residential Travel Information Packs**

No occupation of the development hereby approved shall take place until details of the Residential Travel Information Packs to be provided to new occupants have been submitted to and approved in writing by the Local Planning Authority. The packs shall include walking and cycling maps, site specific public transport information, park and ride service information, school travel plan information, local taxi information, car sharing scheme information, information on reducing the demand for travel, and sustainable travel vouchers. The approved Residential Travel Information Packs shall then be issued to new occupants of the development.

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

## **28. 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.

## **29. Highway Requirements**

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

- a) A priority junction off Mason Road to provide access to the proposal site as shown in principle on the planning application drawings.
- b) Upgrade to current Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) A Residential Travel Plan in accordance with Essex County Council guidance.

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

## **30. Details of Communal Cycle Parking**

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

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

## **31. 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 14, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 16, 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 23.

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.

## 18.0 Informatives

18.1 The following informatives are also recommended:

### 1. Advisory note on construction and 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. Non Standard Condition

In the interests of ecology and the protection of mammals, it is recommended that any trenches be covered over with wooden sheeting and any construction zones fenced off at night.

### 3. 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.

### 4. 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.

### 5. Anglian Water Informative

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

### 6. 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>

## **7. 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 (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link).'

## **8. Informative on Street Naming & Numbering**

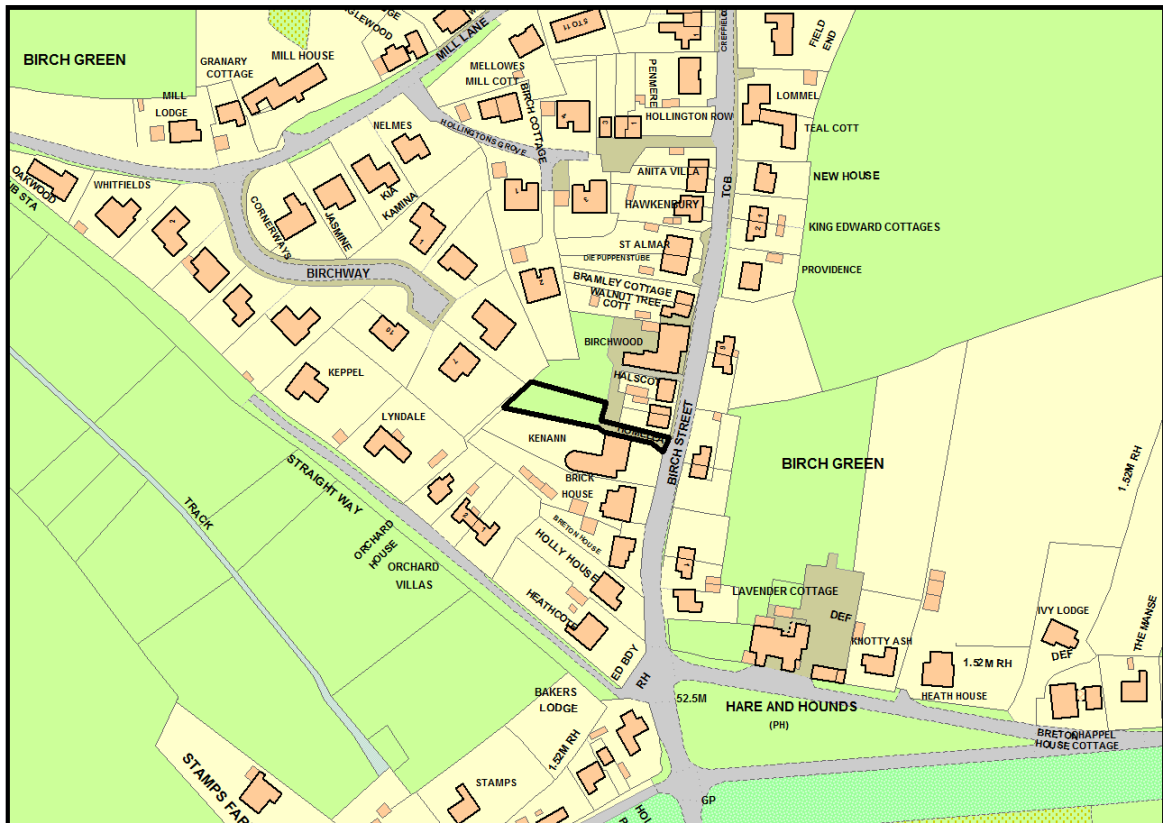
For the safety of residents, it is the developer's obligation to ensure that:

1. street name signs are in place before the first property is occupied on any new street, and
2. each property is clearly marked with a house number visible from the highway before occupation.

## **9. 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.





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**Item No:** 7.2

**Application:** 190217

**Applicant:** Mr & Mrs Cherry

**Agent:** Mr Lee Scales

**Proposal:** Proposed new three bedroom bungalow on land to the rear of Homelea. Resubmission of 182077

**Location:** Homelea, Birch Street, Birch, Colchester, CO2 0NW

**Ward:** Marks Tey & Layer

**Officer:** James Ryan

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because of the level of objection generated from neighbours, the previous appeal decision and the input from the MP Priti Patel on behalf of one of the neighbours.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the history of the site, the principle of development and the impact on highway safety.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The site comprises a backland plot to the rear of Homelea. Homelea is an end of terrace dwelling that fronts Birch Street. It has a modest garden and then a larger piece of land beyond that. This comprises the site area and is severed from the garden of Homelea by an access track.
- 3.2 This access track for the access to the rear of the terrace beyond Homelea. It also serves the new parking area and bungalow that is nearing completion. This was recently approved under application 171984.

## **4.0 Description of the Proposal**

- 4.1 Proposed new three bedroom bungalow on land to the rear of Homelea.

## **5.0 Land Use Allocation**

- 5.1 The site is within the settlement boundary but has no other allocation.

## **6.0 Relevant Planning History**

- 6.1 The planning history most relevant to this scheme is the application for a dwelling O/COL/04/2184 which was refused by the Council and refused at appeal (ref APP/A1530/A/05/1177116) on 22/11/04.
- 6.2 On the 31/1/19, application 182077 for a new dwelling was withdrawn as the notices had been incorrectly served.
- 6.3 It is also important to note that on the plot to the north a new bungalow has recently been constructed. That was approved via application 171984 on 13/09/17. This represents a material change in circumstances following the appeal referred to at paragraph 6.1 above.



## **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 generally in conformity 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
  - UR2 - Built Design and Character
  - PR1 - Open Space
  - PR2 - People-friendly Streets
  - TA1 - Accessibility and Changing Travel Behaviour
  - TA2 - Walking and Cycling
  - TA3 - Public Transport
  - TA4 - Roads and Traffic
  - TA5 - Parking
  - ENV1 - Environment
  - ENV2 - Rural Communities
  - ER1 - Energy, Resources, Waste, Water and Recycling
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
- DP1 Design and Amenity
  - DP2 Health Assessments
  - DP3 Planning Obligations and the Community Infrastructure Levy
  - DP12 Dwelling Standards
  - DP14 Historic Environment Assets
  - DP16 Private Amenity Space and Open Space Provision for New Residential Development
  - DP17 Accessibility and Access
  - 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:

N/A

- 7.5 The site is not in an area with a neighbourhood plan.

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

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

#### Submission Colchester Borough Local Plan 2017-2033

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

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo 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 ECC Highways

Originally objected. Withdrew their objection following amendments and recommended conditions:

AMENDED PLANS DATED 04 MARCH 2019 NUMBERED PA-002 REV H.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1 The development shall not be occupied until such time as the car parking and turning areas for both dwellings, has been provided in accord with the details shown in Drawing Numbered PA-002 REV H. 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 and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

2 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, 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.

3. 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 and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The amended drawing demonstrates an aisle width of 6.0m enabling a workable manoeuvring space for cars to ingress and egress the car

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parking spaces for the new dwelling and the second car parking space for the donor dwelling is shown at 3.4m which provides sufficient circulatory space for pedestrians and for car doors to be opened fully.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

### 8.3 Natural England

#### **SUMMARY OF NATURAL ENGLAND'S ADVICE – European designated sites<sup>1</sup>**

It has been identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

### 8.4 Tree Officer

Trees can be protected via condition.

## 8.5 Landscape Officer

No objection to the scheme, the following condition(s) is/are recommended.

Z00 – No part of the development shall be occupied until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing trees, shrubs and hedgerows on the site, proposed planting, details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

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/B (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link).'

## 8.6 Environmental Protection

Should planning permission be granted Environmental Protection wish to make the following comments:-

### **ZPD - Limits to Hours of Work**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

## 8.7 **Contaminated Land Officer**

A condition and an informative requested.

## 9.0 **Parish Council Response**

9.1 The Parish Council's response was awaited at the time of drafting this report.

## 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 raised is given below.

### 10.2 Neighbour Objection Comments

This scheme has generated a number of objections, more than one of which come from the residents of 'Kennan'. An objection was also received from Orchard House and a further objection from the neighbours who have built the new backland bungalow next door.

The representations were very detailed and all have been carefully considered. Two of the emails transpose a letter received from a planning consultant in relation to the previous application that was withdrawn. They can be read in full on the website, however in summary they objected to the scheme on the following basis:

- >The previous scheme was refused by the Council and refused by PINS at appeal.
- >This scheme is invalid.
- >The scheme is demonstrably harmful to highway safety.
- >Not enough space for vehicular maneuvering.
- >The scheme will cause material harm to our neighbouring amenity
- >The applicants don't own the land they claim to.
- >The applicants don't own the access track.
- >We want this scheme refused.
- >There was asbestos in the old garage.
- >This intensification of use is unacceptable.
- >ECC Highways say this should be refused.
- >Fails to comply with a number of Development Plan policies.
- >Fails to comply with the NPPF.
- >Whilst this kind of intensification used to be acceptable, since 2010 infilling such as this 'garden grabbing' has become unacceptable.
- >The higher density of this development is unacceptable.
- >Scheme will cause further light, sound and noise pollution and will cause overlooking/loss of privacy.
- >The open aspect of the neighbourhood is being eroded.
- >How are the services going to go in – over who's land?
- >I don't object to a new bungalow as I have constructed one next door myself.
- >The neighbours who support the scheme are wrong, they have too many cars and they turn on my drive without permission.

### 8.3 Neighbour Support Comment

One letter of support was also received which stated:

I have supported the application and do not find parking in the local area to be an issue. There is a housing shortage in this area and small developments such as these should be supported.

## **11.0 Parking Provision**

11.1 As amended the scheme accords with the parking standards. Full details will be set out in the relevant section below.

## **12.0 Open Space Provisions**

12.1 This proposal does not generate any public open space requirement. It will provide a private amenity area to the rear of over 100m<sup>2</sup> which accords with the requirement set out in relevant adopted policy DP16.

## **13.0 Air Quality**

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

## **14.0 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**

15.1 The main issues in this case are:

### The Principle

15.2 The appeal decision referenced above was concerned with an all matters reserved submission. The Inspector was satisfied with all relevant matters apart from potential issues with the access. The definition of previously developed land has changed since the appeal decision so the Inspectors sentiments in terms of the positive reuse of previously developed land are not held to carry significant weight in the determination of this application.

15.3 There have been other changes in circumstances since the appeal and these do add weight to the recommendation of approval of this scheme. The Backland and Infill Development SPD was adopted in 2010 and this provides guidance that is relevant to applications such as this. At para 3.3 the SPD requires that backland and infill development:

- Respects and reflects the character of the area and the existing street scene;
- Comprehensive development is planned;
- Safe and attractive residential layouts are promoted;
- Local distinctiveness and identity are promoted;
- Environmental impacts are minimised..

- 15.4 In addition to the highway matters which are dealt with in the relevant section below, since the appeal the Council has allowed backland development (as per approval 171984) close to this site. It could not now be argued that backland development is out of character in this part of Birch Village. The development planned is comprehensive and does not land lock any other potentially developable sites. The bungalow proposed is acceptable in design terms as will be detailed in the relevant section below. It is also held that the Environmental Impact of the scheme has been minimised to within tolerable levels. The bungalow is of a reasonable size that will sit comfortably in this context and has policy compliant parking and amenity space provision.
- 15.5 Whilst essentially tandem development in nature, the proposal utilises an existing access way and it is therefore held that this scheme cannot be held to be materially harmful in that respect given that the proposed access is already potentially used for access by a number of properties. These vehicles would pass close to the objector's property 'Kennan'. The scheme therefore complies with the sentiments of the 'Backland and Infill' SPD in the opinion of officers.

Highway Matters:

- 15.6 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. This is held to be the key issue following the appeal.
- 15.7 In the case of the previous appeal the Inspector found the scheme could potentially harm highway safety. In short due to the lack of certainty about the access way (that was not red-lined), the Inspector concluded there could be harmful on street parking at paragraph 8:
8. Birch Street is the main road through the village. In the vicinity of the entrance to the private drive it is narrow with a broken hazard centreline but subject to a 30mph speed limit. There is a narrow footway on one side of Birch Street adjacent to the private access. Otherwise pedestrians must walk in the road and there is no street lighting. The visibility splay where the private access joins Birch Street is substandard in terms of that recommended in Places, Streets and Movement. This is particularly the case to the north of the access where the nearby shop and post office attracts on-street car parking that further reduces intervisibility between southbound traffic on Birch Street and vehicles emerging from the private drive. The on-street parking limits the effective carriageway width of Birch Street so that two vehicles cannot pass. However, as parking takes place on the northbound side of the road, the parked cars are in my view less effective in slowing southbound traffic. If it were the case that private highway rights did not exist over the drive and therefore any vehicles had to be parked off site this would be most likely to occur on Birch Street in the vicinity of the access junction. This would contribute further to the problem of visibility from the private drive for existing users.



- 15.8 In this instance the Highway Authority no longer object to the scheme. In 2004 there were no adopted parking standards but since 2008 standards have been formally adopted. The scheme provides parking spaces for both the donor dwelling and the new dwelling and is therefore policy compliant. This proposal has been discussed with the Highway Authority and amendments to the parking areas have been agreed. This will require the widening of the parking space to the rear of the donor dwelling 'Homelea' (the parking space at the bottom of the private amenity space) by moving the rear garden fence. The amended drawing demonstrates an aisle width of 6.0m enabling a workable manoeuvring space for cars to ingress and egress the car parking spaces for the new dwelling and the second car parking space for the donor dwelling is shown at 3.4m which provides sufficient circulatory space for pedestrians and for car doors to be opened fully. Following the amendment the Highway Authority do not consider the access to be dangerous and are satisfied with the proposed parking arrangements. They would not now support a refusal on highway safety grounds.
- 15.9 Further to this there have been other highway related changes in circumstance since the last appeal. The shop that the Inspector noted would cause short term parking in para 8 of the appeal decision has since closed and has been demolished as part of application 171984. Consequently, the short term parking for the shop on Birch Street that the Inspector noted will no longer take place. It is also noted that once laid out there will be more parking for the neighbours (condition 10 of 171984) which would help take more parked cars off of the highway as apt of the development permitted on the neighbouring backland site.
- 15.10 The backland dwelling approved via application 171984 takes its access from the same access point as is intended to be used to serve this application. In fact, this arrangement was favoured over another existing access point further to the north which was conditioned to be blocked via condition 5 of 171984; as it was very narrow. This permission also required highway junction improvement works (condition 6), no unbound materials within the first 6m of the junction (condition 8) and the layout out and surfacing of the six parking spaces for the new bungalow, donor dwelling and neighbours (condition 10). These conditions do not appear to have been complied with to date; but presumably will be prior to occupation as required by the conditions. In short, the shared access way is conditioned to be significantly improved prior to occupation but this has not occurred yet.
- 15.11 It is considered that it would be unreasonable for the Council to have accepted the intensification of this access point for the bungalow approved via 171987 but not allow one more bungalow to take access from this access as the further intensification of use is not considered materially harmful.. The site would be sterilised if that was the case as there are no other access points physically available to provide vehicular access.

- 15.12 There has also been a material change in policy context since the last appeal and the revised 2019 NPPF has the strongest steer yet that the government is committed to delivering new homes. This scheme would provide a small but helpful boost to the Council's 'windfall' housing numbers.
- 15.13 The first and third suggested conditions from the Highway Authority meet the tests set out in the PPG and will therefore be imposed if this development is approved. The second suggested condition, which requires provision for bike parking does not meet the tests. Whilst useful, it is not essential for the development to go ahead. The development is within the settlement limits where development is held to be sustainably located. In this instance, bike parking for a single dwelling does not meet the test of 'necessary' as required by the PPG.

#### Land Ownership

- 15.14 Land Ownership is not a planning matter. The applicants accept that they did not correctly serve notice on other owners of the access track and therefore withdrew the first application. They do appear to have correctly served notice this time.
- 15.15 The neighbours claim that the applicants do not have a right of access and this has been carefully considered but ultimately this is a civil matter. The applicants have provided a copy of their Land Registry Certificate.
- 15.16 In the previous appeal, the land in question was entirely isolated (symptomatic of the fact the plot was actually originally linked to Orchard House):
- it was agreed by the principal parties that the only feasible option is via a private drive that passes between two dwellings on Birch Street to the land to the rear, including the appeal site. The drive was not included within the red line on the application drawing and as a result the appeal site does not have a boundary with the public highway. The appellant has indicated that there are private highway rights from the appeal site over the access drive. I have seen no documentary evidence of this and the appellant does not know who owns the access. In the absence of such evidence I am unable to establish that a safe means of access to the public highway is achievable.
- 15.17 In this instance, the applicants have indicated a red lined area to the public highway and are claiming ownership/control of that land to provide vehicular access. In terms of evidence, the applicants have now provided full Title documents showing ownership of the whole site and access rights over the access way. This is considered to be sufficient to address this issue. The access arrangements are therefore now considered satisfactory.

### Flood Risk and Drainage:

- 15.18 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 15.19 The site is located in a Flood Zone 1, which means that the flood risk from rivers or the sea is very low. Environment Agency advice is that the very low risk means that each year the site has a chance of flooding of less than 0.1% (taking into account the effect of any flood defences in the area). Flooding from surface water is difficult to predict as rainfall location and volume are difficult to forecast.
- 15.20 Given the very low risks of flooding, the proposal is not considered to be susceptible to flooding and it is also unlikely to increase the risk of flooding elsewhere; a good proportion of the site would remain undeveloped and entirely permeable.

### Biodiversity

- 15.21 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.
- 15.22 As during the course of application 182077 (subsequently withdrawn) it was alleged that protected species (Hazel Dormouse) had been seen on site, a Preliminary Ecological Appraisal Including a Protected Species Assessment was carried out and has been submitted with the application. This concluded the site is of low ecological value. It suggests mitigation measures which will be conditioned.

### RAMS

- 15.23 In line with Natural England's Advice, the LPA has carried out an Appropriate Assessment and it concluded that subject to the financial payment of £122.30 towards the RAMS fund, the off-site in combination impacts on coastal designations SPA and SAC's will be satisfactory mitigated. This has been paid via the Council's online portal.

#### Trees and Landscaping:

- 15.24 Core Strategy Policy UR2 and Development Policy DP1 require development proposals to be high quality, respecting and enhancing the characteristics of the site and providing appropriate landscaping.
- 15.25 The principle matter to consider is the impact on the limited tree cover on site and more importantly off-site to the rear. This has been discussed with the Arboricultural Officer who has agreed that these trees can be protected by condition.

#### Design and Amenity:

- 15.26 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. In terms of housing density, Core Strategy Policy H1 is relevant in that it requires efficient use of land, whilst still relating to the context of the site. Core Strategy Policy H3 seeks to secure a range of housing types across the Borough. Despite this proposal only providing a three bedroom house, this is considered to be appropriate in that it responds to the characteristics of the area. As backland development, the Backland and Infill SPD is also very important.
- 15.27 Whilst this scheme is of a form of development that is somewhat contrived, following the approval 171984 it could not be argued that it is 'out of character'. Residential development to the rear (and a large six space car parking area) has been previously allowed on the neighbouring plot realistically only leaving this plot for potential development.
- 15.28 During the course of this application, as noted above to ensure policy compliant levels of parking for both the dwelling and the donor, the dwelling was shifted back slightly. To ensure it did not completely fill the plot to the detriment of the neighbour at Kennan the depth of the bungalow has also been reduced from 16.7m to 14.67m.
- 15.29 During the consideration of the subsequently withdrawn application it was considered that the roof pitch was steeper and the ridge higher than it needed to be and could potentially be reduced. This amendment reduced the ridge height from 5.31m to 4.8m which is a small but useful reduction. It is held that as amended the bungalow proposed is as realistically low profile as possible and is of a depth that is as small as the applicants are willing to make it.
- 15.30 Due to the slack roof pitch and the single storey nature of the proposed dwelling, it is not held that this scheme will have a materially harmful impact on the surrounding neighbours in terms of overshadowing, loss of light, oppressiveness or overlooking.

15.31 The bungalow is very simple in design terms with a hipped roof and a bay window feature on the front elevation. It is held to sit quietly in the streetscene. As it sits in a back land position, it will have limited visual prominence and will therefore have a neutral impact in the road with little wider presence in the immediate neighbourhood.

15.32 It is accepted that as Kennan sits forward of the proposed building there will be some additional disruption from the comings and goings of a new residential dwelling to these neighbours in particular. This has been very carefully considered. The access way is existing and is used by a number of vehicles already. It's use will intensify when the new bungalow that is now constructed is occupied. A garage is already located on site and that also has the potential to generate car movements; including manoeuvring. The level of intensification of disturbance (and potentially pollution from cars) is not held to be harmful to the point that warrants a refusal of a single dwelling. Space has intentionally been left on the frontage for a high quality landscaping scheme to help screen the cars in the parking area from the neighbours at Kennan. It is recommended that this is secured by condition.

Contamination:

15.33 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. The land is considered to be suitable for the proposed use subject to a condition for the appropriate process in the event that unexpected contamination is encountered.

Archaeology:

15.34 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. In this case, the site is not in an area of high archaeological potential or a conservation area, is not part of, or part of the setting of, a historic park or garden or listed building. The proposal is considered to be acceptable on this basis and no further works needed in that regard. There is no identifiable impact on heritage assets.

Accessibility:

15.35 Development Plan Policy DP17 requires all development to maintain access for all users. As a bungalow it is held that this proposal will be sufficiently accessible for wheelchair users and any amendments that may be needed to make the internal arrangements wholly accessible could be made without needing planning permission as a building control matter. A small ramp may be needed to cross the threshold taking finished floor level into consideration but this could be dealt with via the planning process should the need arise.

## **16.0 Conclusion**

- 16.1 To summarise, this scheme has been given very careful consideration in light of the neighbour's representations, potential impacts on amenity and whether the proposed access arrangements are satisfactory; in the light of the site history. On balance, the proposal for a single, modest bungalow as amended, is held to be acceptable. The ownership of land is not a planning matter and the applicant has demonstrated that on-site parking in accordance with the adopted standards can be made available for both the dwelling and the donor dwelling. The scheme is not therefore held to be materially harmful to highway safety or amenity and is acceptable in all other regards. It therefore complies with the revised National Planning Policy Framework and the Development Plan.

## **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. Standard Time Limit**

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 in Accordance with the Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PA002 Rev H, PA003 Rev D and PA004 Rev D.

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

### **3. Approval of 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 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. Working Times**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

#### **5. Landscaping Scheme**

No part of the development shall be occupied until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing trees, shrubs and hedgerows on the site, proposed planting, details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

#### **6. Unexpected Contamination**

In the event that any 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 demolished garage with the potential to have contained asbestos and where there could be residual contamination.

#### **7. Provision of Parking as shown on plans**

The development shall not be occupied until such time as the car parking and turning areas for both dwellings (ie the new dwelling and the donor dwelling), has been provided in accord with the details shown in Drawing Numbered PA-002 REV H. The car parking areas 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. This will involve the widening of the rear parking space to the donor dwelling as agreed during the application phase.

#### **8. Removal of Domestic PD**

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

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

#### **9. Tree Protection**

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.

#### **10. Compliance with Ecology Report**

No works shall take place except in complete accordance with the



recommendations section (section 5) of the Preliminary Ecological Appraisal Including a Protected Species Assessment by Skilled Ecology dated December 2018.

Reason: To ensure that the recommendations section of the submitted Preliminary Ecological Appraisal Including a Protected Species Assessment are complied with in the interests of ecology and biodiversity.

#### **11. CMS**

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.

#### **18.1 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 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. Advisory Notes for the Control of Pollution during Construction & 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 Protection 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 Protection.

##### **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 Holidays.
- 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 Protection). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

- **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.
- 5) All necessary measures shall be taken to minimise dust, including damping down and the use of barriers.

#### 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

- 1) 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.
- 2) 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

- 1) 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.

**5. Highways Informative:** The amended drawing demonstrates an aisle width of 6.0m enabling a workable manoeuvring space for cars to ingress and egress the car parking spaces for the new dwelling and the second car parking space for the donor dwelling is shown at 3.4m which provides sufficient circulatory space for pedestrians and for car doors to be opened fully.

**6 Highways Informative:** All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details

shall be agreed before the commencement of works.

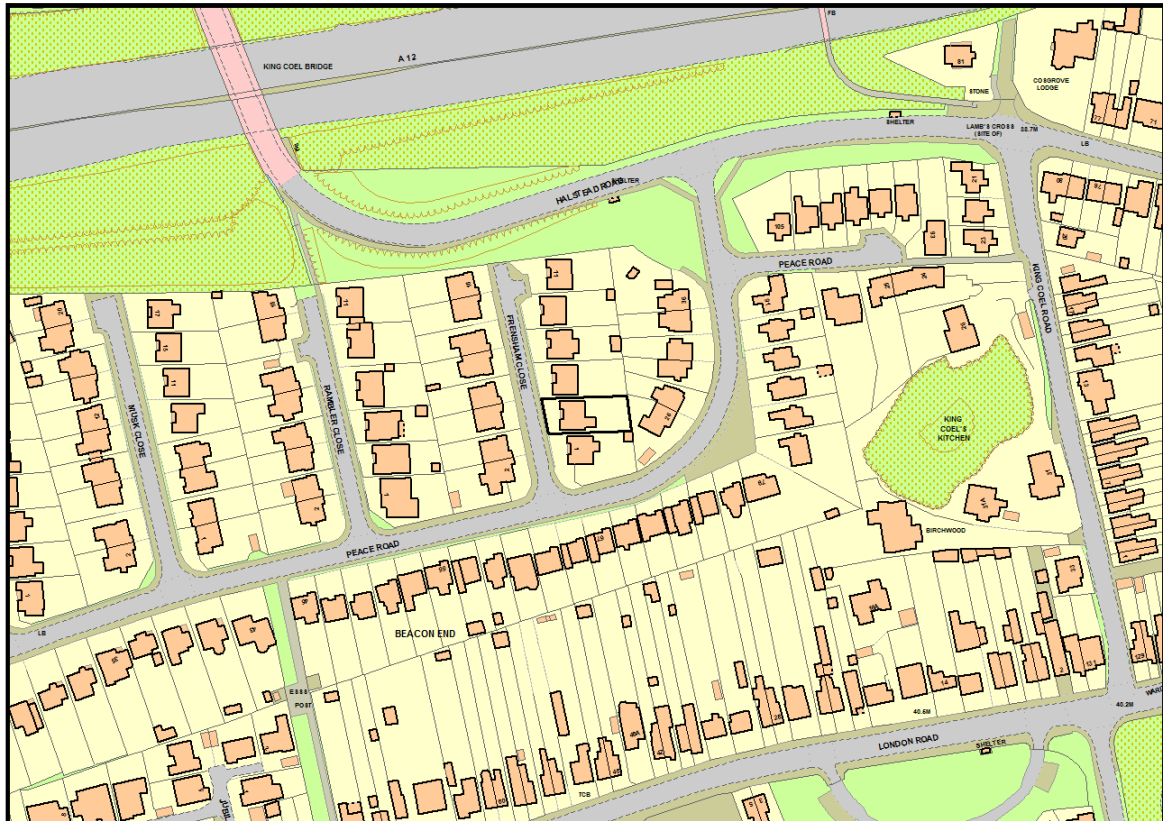
## **7 Contaminated Land Informative – Asbestos-Containing Material**

The applicant is advised that the site to which this planning permission relates is reported as being on or in the vicinity of land where a garage thought to contain asbestos material was located but has now been demolished.

Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Further guidance can be found in 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 - The site lies on or adjacent to land with previously potentially contaminative uses and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from the former use of land in this locality.



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**Item No:** 7.3

**Application:** 183001

**Applicant:** Mr & Mrs Parker

**Agent:** Penny Little, A & P Designs

**Proposal:** Proposed single storey front addition to existing garage

**Location:** 3 Frensham Close, Stanway, CO3 0HP

**Ward:** Stanway

**Officer:** Daniel Cooper

**Recommendation:** Approval with conditions

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

- 1.1 This application is referred to the Planning Committee because of a call in from Councillor Dundas due to objections from a neighbour regarding concern over loss of light. There is also uncertainty if the plans fully comply with the 45 degree angle of outlook guidelines and questions over aesthetics.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the design of the proposal and its impact on neighbouring amenity.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site sites on the Western side of Frensham Close within the Stanway area of Colchester. The site contains a detached bungalow set back from the highway. An internal garage is currently existing at the property.

## **4.0 Description of the Proposal**

- 4.1 The proposal seeks planning permission to extend the internal garage outwards by 2.7m providing additional parking and storage area.

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 The property has previously been granted consent for a single storey rear extension and porch infill under application reference 132299.

## **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  
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  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

The Essex Design Guide  
Car Parking Standards

## **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. However, a summary of the material considerations is given below.

- 8.2 **Archaeological Officer** - 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

### **8.3 Environmental Protection**

Should planning permission be granted Environmental Protection wish to make the following comments:-

#### **NOTE: Demolition and Construction**

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

#### **Contaminated Land Informative 1**

*(within 250m of known/suspected filled land, no other contamination concerns):*

The applicant is advised that the site to which this planning permission relates is recorded as being within 250 metres of filled land. Prior to commencement of the permitted development the applicant is therefore advised to satisfy themselves that there are no unacceptable risks to the permitted development from any ground gases. Where appropriate, this should be considered as a part of the design of the foundations (and may be required under Building Regulations). As a minimum, any ground gas protection measures should equal those in the main building and not compromise the effectiveness of existing gas protection measures.

**Reason**

The site lies within 250m of a former (or suspected) landfill site and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from landfill gas in this locality.

**9.0 Parish Council Response**

9.1 The Parish Council have stated that they do not object to the proposal.

**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 A comment was received from a neighbouring property raising concern over loss of light and view of the street from their side window.

10.3 The same neighbour also raised concern over boundary issues and works access. Officer comment: These issues are covered by legislation beyond the remit of planning and are not considered material planning considerations.

**11.0 Parking Provision**

11.1 The proposal includes the construction of a new driveway in place of a front lawn that would retain adequate parking provision to the front of the property to comply with car 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 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

- 15.1 The application site sits in a residential setting within the defined settlement and as a result the development proposed is acceptable in principle.

### Design

- 15.2 The proposal seeks to extend an internal garage outwards on to the driveway to provide a more usable internal parking space and storage. The dual pitched roof on the extension will be similar to the existing bungalow with the eaves of the extension measuring lower.
- 15.3 The extension proposed to the garage is of modest size and adopts a traditional architectural approach. While there are no other front extensions in Frensham Close the proposed will not protrude forward of the neighbouring property thus retaining the existing line of bungalows that are set back in a staggered formation.
- 15.4 The proposal is therefore acceptable in terms of design.

### Impact on Amenity

- 15.5 The proposed structure is single story and does not incorporate any windows. On this basis there are no concerns regarding neighbouring privacy.
- 15.6 The proposed structure would sit forward of the side window of a neighbouring property. In this instance, the neighbouring window in question is a ground floor side facing window (that currently faces the existing side wall of the application site). It is worth noting that loss of a view is not a material planning consideration.
- 15.7 The above mentioned side window on the neighbouring property constitutes the only concern regarding loss of light. This window serves a front living room within the neighbouring property that also benefits from light from the front of the property via an existing front window. Although it is acknowledged that the proposal will have an impact on the light enjoyed through this side window, on balance it is not considered this impact would be so detrimental as to warrant refusal of this application.
- 15.8 Guidance in Supplementary Planning document 'The Essex Design Guide' states that a 45 degree combined plan or elevation angle from the mid-point of windows should be preserved. This proposal complies with this test in elevation form. In situations such as this it is considered that the loss of light will not be so significant as to justify refusal of the application.
- 15.9 In summary, it is not considered that there would be material harm upon outlook or loss of light to the neighbouring properties and any impact upon residential amenity would be negligible.

### Parking

- 15.10 The current internal garage is not considered to be a parking space as it is under the minimum required dimensions (measured internally) of 7m X 3m under the car parking standards. Therefore, the only policy compliant parking provision is the existing driveway to the frontage which provides one parking space.
- 15.11 The proposed development would not result in the garage becoming policy compliant in terms of the car parking standards and the extension on to the driveway would remove the only existing compliant provision on the driveway. In light of this, the proposal therefore includes a new driveway in place of the front lawn. As such, the proposal retains the existing parking provision. The car parking space can be conditioned in order to ensure it is provided before the first use of the proposed development.
- 15.12 The proposal therefore retains the current parking provision without loss.

#### Accessibility

- 15.13 As the proposal is for a front extension to an existing garage without any changes to current access arrangements there are no concerns with Policy DP17 Accessibility and Access.

### **16.0 Conclusion**

- 16.1 To summarise, this proposal is of an acceptable design and, whilst there would be some impact upon the amenities of the occupier of the neighbouring property, such impacts would be within acceptable bounds.

### **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 5448/04 REV B received 28<sup>th</sup> February 2019 and 5448/03 REV A received 5<sup>th</sup> April 2019.

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

#### **3. ZBB - Materials As Stated in Application**

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area.

#### **4. Non Standard Condition – Parking**

Prior to the first use of the development hereby approved, the vehicle parking area indicated on the approved plan 5448/03 REV A dated 5th April 2019, shall have been hard surfaced, sealed and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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

### **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. Contaminated Land Informative 1**

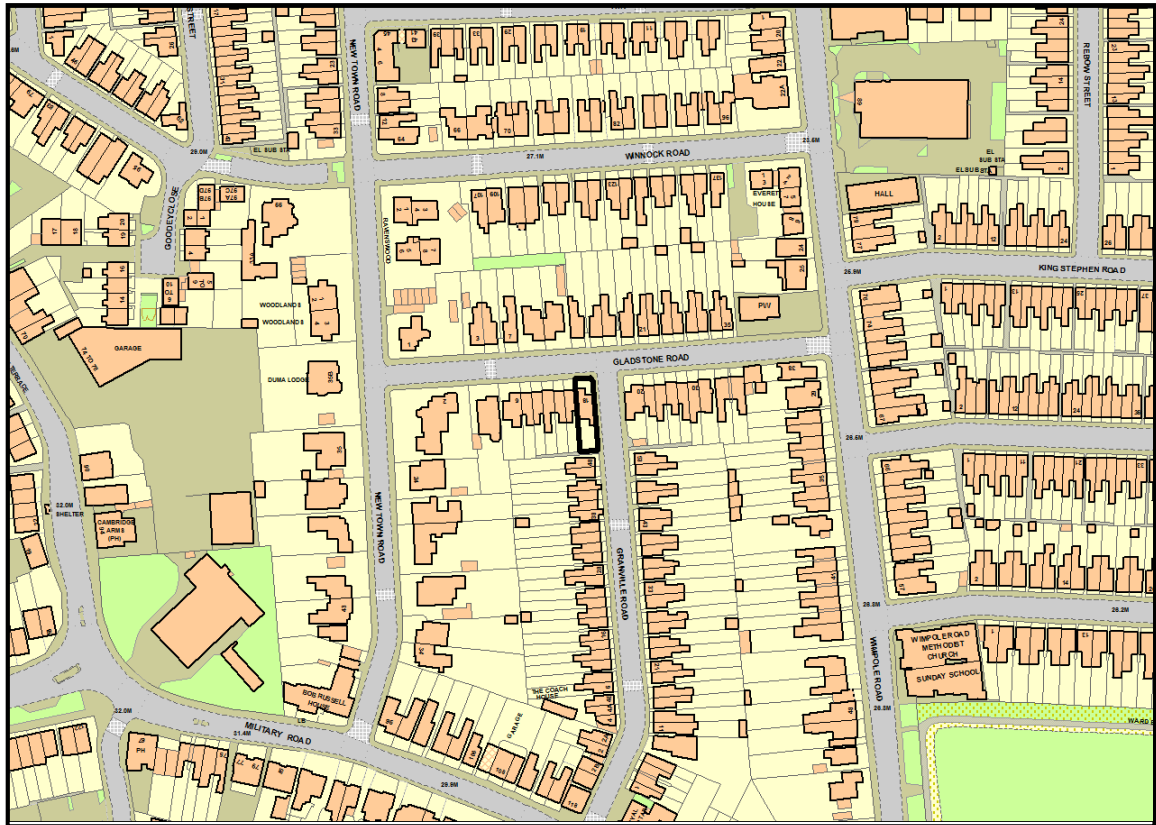
*(within 250m of known/suspected filled land, no other contamination concerns):*

The applicant is advised that the site to which this planning permission relates is recorded as being within 250 metres of filled land. Prior to commencement of the permitted development the applicant is therefore advised to satisfy themselves that there are no unacceptable risks to the permitted development from any ground gases. Where appropriate, this should be considered as a part of the design of the foundations (and may be required under Building Regulations). As a minimum, any ground gas protection measures should equal those in the main building and not compromise the effectiveness of existing gas protection measures.

#### **Reason**

The site lies within 250m of a former (or suspected) landfill site and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from landfill gas in this locality.





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**Item No:** 7.4

**Application:** 183117

**Applicant:** Mr Ross Mason

**Agent:** Jake Tharp

**Proposal:** Single storey detached garage at rear of garden

**Location:** 18 Gladstone Road, Colchester, CO1 2EB

**Ward:** New Town and Christ Church

**Officer:** Daniel Cooper

**Recommendation:** Conditional Approval

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

- 1.1 This application is referred to the Planning Committee by Cllr Cope for the following reasons: The size of the proposed development and its impact on the Conservation Area. A further concern has been raised on the impact on amenity to 16 Gladstone Road.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact on the Conservation Area and the impact on amenity to 16 Gladstone Road.
- 2.2 The application is subsequently recommended for Approval

## **3.0 Site Description and Context**

- 3.1 The application site is a corner plot located on the junction of Gladstone Road and Granville Road located within Colchester's Conservation Area: New Town.
- 3.2 The host dwelling is an end of terrace that has previously been extended out to the rear.
- 3.3 Planning permission has previously been granted for a single storey garage at the same location as this application under reference 162327.

## **4.0 Description of the Proposal**

- 4.1 This application seeks permission to erect a single storey detached garage at the rear of the garden.

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 On 6<sup>th</sup> January 2017 planning reference 162327 granted permission for a single storey detached garage of a similar design at the same location.

## **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  
UR2 - Built Design and Character  
ENV1 - Environment

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

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

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards

## **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 Officer**

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.

### **8.3 Historic Buildings and Areas Officer**

The revised proposals have addressed the concerns regarding the impact of the proposals on the Conservation Area , by reducing the size of the proposed garage, both in terms of footprint and height, and by changing the treatment of the elevations, adopting the same design that was approved by the latest application (ref. no 171381). Although the reduction of its dimensions did not bring it back to the scheme of Planning Permission 162327, it is considered a satisfactory effort to mitigate the impact on its setting. The change of the front elevation's design, to refer the architecture of the main house, is also an improvement to the scheme. Therefore and on the basis of the revised proposals, there are no objections from a heritage perspective to the support of the proposals.

## **9.0 Parish Council Response**

- 9.1 Non-Parished

## **10.0 Representations from Notified Parties**

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 A number of comments were received raising concerns over the size and design of the initial proposal and the impact on the Conservation Area. Concerns were also raised regarding the use of the proposal given the size.
- 10.3 In addition, an adjoining neighbour raised objection on the initial proposal regarding the loss of amenity and light to their garden area.

## **11.0 Parking Provision**

- 11.1 The previously approved garage at this location (162327) did not meet the required parking provision for garages under the EPOA Parking Standards so cannot be considered as a parking space. It is noted that this proposal likewise falls short of the requirements and therefore cannot be considered a parking space.
- 11.2 Given the above the proposal will not result in any loss of current 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

- 15.1 The application site sits in a residential setting within the defined settlement and as a result the development proposed is acceptable in principle.



#### Design and Impact upon Conservation Area:

- 15.2 The proposal seeks consent for a single storey garage to the rear of the back garden. After amendments the design is similar in appearance to the previously approved garage under reference 162327.
- 15.3 When taking into account what can lawfully be constructed on the site under reference 162327, this proposed garage differs slightly in dimensions with a 300mm increase in height, a 746mm increase in width and a 100mm decrease in depth.
- 15.4 The revised scheme very closely reflects the same design as previously approved on site. The proposed materials are painted timber detailing to match the house, a painted timber garage door and red facing brickwork. This is considered to be acceptable for the age and character of the property and wider Conservation Area.
- 15.5 Given the similarities with the already approved garage, the minor increase in height is not considered to have a significant negative impact on the character of the Conservation Area and is considered acceptable in design.

#### Impact on Amenity

- 15.6 The main consideration regarding amenity would be the impact on the adjoining neighbour to the West.
- 15.7 It is noted that the neighbour's garden is narrow and therefore any impacts on amenity could be exacerbated. That being said the alterations in height, width and depth from what is already approved are considered minor in this respect.
- 15.8 Although it is acknowledged that the proposal will have an impact on the light and outlook enjoyed in the neighbouring garden, on balance it is not considered this impact would be so detrimental from what is already approved at this location as to warrant refusal of this application.

#### Parking:

- 15.9 The previously approved garage at this location (162327) did not meet the required parking provision for garages under the EPOA Parking Standards so cannot be considered as a parking space. It is noted that this proposal likewise falls short of the requirements and therefore cannot be considered a parking space. The proposal therefore will not result in a loss of currently authorised parking provision.
- 15.10 In addition, the site is in a sustainable area where lower parking provision is considered to be acceptable.

### Accessibility

- 15.11 As the proposal is for a single storey detached garage without any changes to current access arrangements there are no concerns with Policy DP17 Accessibility and Access.

## **16.0 Conclusion**

- 16.1 To summarise, the proposal is of an acceptable design and considered to very closely relate to what can lawfully be built on site. It is considered that the amendments to the design and dimensions mitigates the impact on the setting and character of the Conservation Area.

- 16.2 Whilst there would be some impact upon the amenities of the occupier of the neighbouring property, such impacts would be within acceptable bounds.

## **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 G18-01 received 2<sup>nd</sup> January 2019 and GL8-03E received 11<sup>th</sup> March 2019.

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

### **3. ZBB - Materials As Stated in Application**

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

### **4. Z00 – Ground Levels**

The floor level of the garage shall accord with the submitted details on drawing GL8-03 E.

Reason: For the avoidance of doubt as to what has been considered and approved and the interests of visual and residential amenity.

### **5. ZDR - \*Ancillary to Host Dwelling\***

The development hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as 18 Gladstone Road.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

## **18.0 Informatives**

18.1 The following informatives are also recommended:

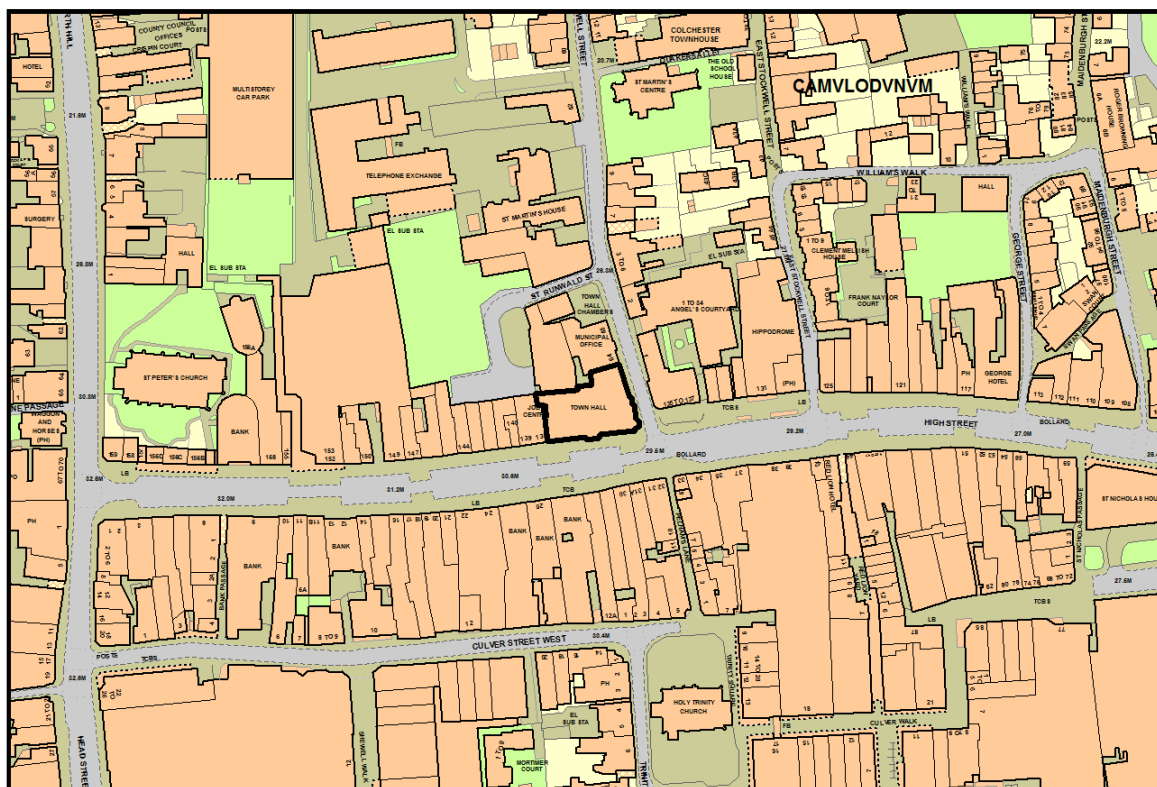
### **1. ZT0 – Advisory Note on Construction & Demolition**

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

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





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**Item No:** 7.5

**Application:** 190551

**Applicant:** Colchester Borough Homes

**Proposal:** Face bed new ashlar in Portland Whit Bed Stone to re-establish inscription to Foundation Stone

**Location:** Colchester Borough Council, Town Hall, High Street, Colchester, CO1 1PJ

**Ward:** Castle

**Officer:** Eirini Dimerouki

**Recommendation:** Approval of listed building consent subject to conditions

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

- 1.1 This application is referred to the Planning Committee because the applicant is Colchester Borough Homes on behalf of the Borough Council.

## **2.0 Synopsis**

- 2.1 The key issue for consideration is the impact of the proposed works on the heritage significance of the Town Hall, a grade I listed building..

## **3.0 Site Description and Context**

- 3.1 The application relates to the Town Hall in High Street. The building is listed at Grade I and its list description is as follows:

*“1898, by John Belcher. Exceptionally rich design in free classical style: red brick and Portland stone. 3 storeys, lowest one stone-faced with central entrance, carved brackets to porch support balcony above. 3 pairs of engaged Corinthian columns rise through 1st and 2nd storeys to support 2 segmental and one triangular pediment. Large coat of arms above latter, breaking balustrade to roof. Statues in high relief between 2nd storey windows. Victoria tower, on return, rises above pair of bay windows. 162 ft high topped by statue of St Helena. Lower stage of brick, upper part of stone: very elaborate with 4 bronze ravens and 4 stone figures - Fishery, Engineering, Military Defence , Agriculture. One of the bells is from the Old Town Hall. Circa 1400 (RCHM).”*

- 3.2 The Town Hall is located in Colchester Conservation Area No. 1 and is one of Colchester's landmarks. The impressive building is a key focal point in the views along High Street, while the tower dominates the skyline and is a significant element of the townscape.

- 3.3 The proposals relate to the foundation stone which is located at the eastern end of the building's High Street elevation. The Portland stone plaque commemorates the occasion when it was laid with an inscription that contains the names of dignitaries who laid the stone, the date of the event, the Architect's name and the name of the Town Clerk in post at the time.

- 3.4 Today, the stone is in a poor condition, as wetting and drying cycles, salt migration and frost action have resulted in delamination and deterioration of its surface, leaving the inscription largely and increasingly unreadable.

## **4.0 Description of the Proposal**

- 4.1. The proposal involves face bedding a new 735mm x 550mm x 75mm (thick) ashlar block in Portland Whit Bed Stone with new hand worked text / letters to match original inscription. The template drawing for the engraving is based on a rubbing taken on site, while the wording is obtained from the official programme of the event.

## **5.0 Land Use Allocation**

### **5.1 DP6 Town Centre Uses**

## **6.0 Relevant Planning History**

- 6.1 C/COL/03/1846 - Change of use from Civic Hall and Council Offices to Civic Hall and Council Offices and commercial functions/business meeting rooms - Town Hall, High Street, Colchester – Approved 12/12/2003.
- 6.2 090383 - Creation of new gated entrance and flight of steps with landings to form accessible route to building together with new stepped access to churchyard. Installation of stair lift with support guide rail and new external lighting – Town Hall Chambers Churchyard, St Runwalds Street, Colchester – Approved 08/07/2009.
- 6.3 090735 - Creation of new gated entrance and flight of steps with landings to form accessible route to building together with new stepped access to churchyard. Installation of stair lift with support guide rail and new external lighting - Town Hall Chambers Churchyard, St Runwalds Street, Colchester – Approved 27/08/2009
- 6.4 091425 - Internal decorations to the moot hall area, rewire works to moot hall and council chamber, external fabric repairs and decorations and the insulating of the roof void above the moot hall – Town Hall, High Street, Colchester – Approved 21/01/2010.
- 6.5 111289 - Listed building application to install an additional handrail to the main internal staircase – Approved 18/11/2011.
- 6.6 120371- Proposed installation of four micro antennas below the cupola of the Town Hall Tower to provide a wide area Next Generation Access broadband service to residents and businesses of Colchester Borough – Approved 10/05/2012.
- 6.7 120349-Listed building application for new extractor hood installed in Kitchen – Approved 22/08/2012
- 6.8 132801- Alterations to lower ground floor to relocate CBC CCTV monitoring centre. Installation of relocated emergency generator into external courtyard at basement floor. Installation of new exhaust flue from generator and air con air duct – Approved 04/02/2014.
- 6.9 132802- Alterations to lower ground floor to relocate CBC CCTV monitoring centre. Installation of relocated emergency generator into external courtyard at basement floor. Installation of new exhaust flue from generator and air con air duct – Approved 21/02/2014
- 6.10 120301-Upgrade of existing emergency lighting system– Approved 24/05/2012.

- 6.11 160415- Proposed removal of 1x plasterboard stud work, non-load bearing wall to reinstate original room size – Approved 01/04/2016.
- 6.12 160502- Installation of a new bench on raised platform in front of the existing bench in the council chamber, including new access ramp to provide wheelchair access and associated repositioning of adjacent fixed seating and benches. The works are desired to be fully reversible so that the chamber can be returned to its existing configuration – Approved 31/05/2016.
- 6.13 161058- Restoration of clock face, including removal of opal glass, and replacing glass with opal perspex – Approved 05/07/2016.

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for Listed Building Consent must be determined in accordance with Section 16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990 which requires that “In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” .
- 7.2 The National planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. NPPF’s Section 16 “Conserving and enhancing the historic environment” provides the guidelines for the protection and conservation of heritage assets, including listed buildings. Paragraph 193 determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 195 and 196 identify and deal with two levels of harm respectively: substantial and less than substantial harm linking their justification to the public benefits that can potentially outweigh them.
- 7.3 Moreover, planning applications must be decided in accordance with the development plan, unless material considerations indicate otherwise. Continuing the themes of the NPPF, Colchester Local Plan 2001-2021 includes the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) which adds detail through local strategic policies. Particular to this application, the following policies are most relevant:
- UR2 - Built Design and Character
  - ENV1 - Environment



- 7.4 In addition, also relevant are the adopted Colchester Borough Development Policies (adopted 2010, amended 2014):
- DP1 Design and Amenity
  - DP14 Historic Environment Assets
- 7.5 Further to the above, the Historic England Good Practice Advice Notes 1-3 (March 2015) should also be taken into account in the decision-making process for applications affecting listed buildings or the historic environment generally.

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below.

### **8.2 Historic England**

“Thank you for your letter of 5 March 2019 regarding the above application for listed building consent. On the basis of the information available to date, we do not wish to offer any comments.”

### **8.3 The Victorian Society**

“ We have no objections in principle to the re-facing of the existing foundation stone. The contribution this stone makes to the significance of the Grade I-listed Town Hall is focused in the inscription rather than the stone itself, and we consider the renewal of this inscription acceptable. Nonetheless, the foundation stone is an important if small textural element of the principal façade of the Town Hall, and any changes must be considered carefully in order to avoid harm. The choice of bed for the Portland stone is crucial, as is the quality of the letter-cutting. The stone itself must be carefully matched to the existing and surrounding stones, and we suggest that your authority’s conservation officer approve the choice of stone before any work is done. The character of the inscription is very important, both in terms of the letter forms and the profile of the grooves with which those forms are cut into the stone. To ensure that the new inscription matches the original as closely as possible the letters must be cut by hand, and the letter cutters must be carefully selected.”

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

## **9.0 Parish Council Response**

- 9.1 Not Parished

## **10.0 Representations from Notified Parties**

- 10.1 None received at the time of the report drafting.

## **11.0 Parking Provision**

- 11.1 N/A

## **12.0 Open Space Provisions**

12.1 N/A

## **13.0 Air Quality**

13.1 N/A

## **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. This application is for listed building consent only.

## **15.0 Report**

15.1 The main issue raised by this application is the effect that the proposed works would have on the special interest of this Grade I listed building. Key considerations for the works are:

- the sufficient justification for the proposals;
- the suitability of proposed materials and execution of the works; and
- the impact of the proposed works on the special interest of the heritage asset

### Sufficient justification of the proposals

15.2 Historic England’s Conservation Principles, Policies and Guidance (2008) identify four main heritage values that are associated to historic assets: evidential value; historical value; aesthetic value; and communal value. The Town Hall’s exceptional interest is the sum of these values can be ascribed to the Grade I listed status of the building.

15.3 The foundation stone is a feature that contributes to these heritage values:

- Evidential value (derives from the potential of a place to yield evidence about past human activity): the stone provides a record of the building’s construction, marking the beginning of the works and providing evidence for their length (four years, as the building was completed in 1902).
- Historical value (derives by the ways in which past people, events and aspects of life can be connected through a place to the present - it tends to be illustrative or associative): by commemorating an important civic event of Colchester’s history and by its association to the notable people who were involved.
- Aesthetic value (derives from the ways in which people draw sensory and intellectual stimulation from a place): the foundation stone is not a

decorative feature of the building but it is situated on a visible location on street level and therefore its poor condition reflects on the asset's aesthetic qualities and detracts from its appearance.

- Communal value (derives the meanings of a place for the people who relate to it, or for whom it figures in their collective experience or memory- it can be commemorative and symbolic, social and spiritual): as an expression of community effort, collective experience and memory associated to the construction of the most important civic building of Colchester.

- 15.4 The deterioration of the stone's surface and the loss of its inscription undoubtedly affect its potential to contribute effectively to these values and therefore the need for remedial repairs is considered sufficiently justified.

#### Suitability of the proposals

- 15.5 The proposals are analysed for their suitability for their impact on the heritage asset as follows:

- Material: the Portland Whit Bed Stone was chosen for its greater resistance to salts etc and specifically selected clean (relatively clear of shell) in order to achieve a more satisfactory result for the carving. The 'hard Brown Portland' which is mentioned in the programme of the event cannot be sourced. The name was possibly is a colloquial term from the time or could relate to a former quarry, as a Portland Stone of this colouration would be considered defective, or sub-standard.
- Method of repair: the existing stone will be carefully cut back to allow a section of new 735mm x 550mm x 75mm (thick) ashlar to be fixed in place with Stainless Steel pins and bed on a Lime/Portland Stone dust mortar. The thickness of stone (75mm) has been selected to achieve greater visual integration with the existing stone, whereas the selection of a thinner embedded repair would more likely read as a planted-on section of stone. The new stone will be cut and carved in the workshop as it is impractical to work this on site.
- Design: the inscription will be reproduced by new hand worked letters, based on a rubbing taken from the existing stone and including the wording obtained from the official programme of the day when the stone was laid.
- Craftsmanship: the works will be carried out by a company registered with the 'Stone Federation Great Britain', to ensure proper expertise and experience of the personnel who will carry out the works.
- Maintenance: some concerns involve the pressure washing of the adjacent public areas which may affect the stone surface. To minimise this risk, the operatives who carry out this works must be made aware of the hazard and instructed to take additional care when working around stonework. Additionally, it is proposed that a fine shelter coat of Lime/Portland Stone dust mortar is applied periodically on the stone for more efficient protection.
- Alternative options: a different approach that would keep the existing stone without cutting away a section would involve the reworking of the

stone's surface. However this idea was dismissed as it would be impractical to carry out the work on site due to the stone's location, the new surface would no longer be flush with the adjacent stones and the reworking could accelerate the rate of the stone's decay and damage, exposing its inner core.

- 15.6 The review of the proposals demonstrate that careful consideration has been given to ensure that the new stonework will replicate accurately the historic foundation stone, will integrate seamlessly into the surrounding surface and will be resistant to decay.

#### Impact of the proposed works on the special interest of the heritage asset

- 15.7 As discussed above, the foundation stone contributes to the heritage values that comprise the building's great significance. Its contribution is mainly associated to the content of its inscription rather than the stone itself and therefore the loss of the engraving would have a detrimental impact to these values. As the proposal requires some loss of historic fabric in order to achieve the renewal of the inscription, it can be argued that the intervention involves a level of non-substantial harm to the historic asset. However, the benefit from the restoration of the historic engraving is considered sufficient enough in order to outweigh this harm, as it will ensure the foundation stone's contribution to the special interest of the Town Hall.

## **16.0 Conclusion**

- 16.1 To summarise, the proposed works are considered fully justified to ensure the contribution of the foundation stone to the heritage values of the building, while the limited non-substantial harm caused by the loss of original fabric, is not considered to have a significant effect on the special interest of the Town Hall and any harm caused be sufficiently outweighed by the benefits of the stone's restoration.

## **17.0 Recommendation to the Committee**

- 17.1 The Officer recommendation to the Committee is for:

### **APPROVAL of Listed Building Consent subject to the following conditions:**

#### **1. ZAB: Time Limits 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:

- Drawing COR386776 B-0001, Location Plan
- Drawing COR386776 B-0002, Foundation Stone
- Access, Heritage and Planning Statements

- Assessment of Significance

and does not indicate approval for associated or enabling other 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. ZBB: Materials as Stated in Application**

The materials to be used shall be those specified on the submitted application form, the Access, heritage and Planning Statements and the Assessment of Significance. Reason: To ensure that materials are of an acceptable quality appropriate to the listed building.

### **4. Non Standard Condition – Sample to be agreed**

Prior to the removal of the existing foundation stone, a sample of the proposed replacement stone including bedding shall be submitted to and agreed in writing by the Council's Historic Buildings and Areas Officer.

Reason: To ensure that materials are of an acceptable quality appropriate to the listed building.

## **18.0 Informative**

18.1 The following informative are also recommended:

### **1. ZUA: Informative on All Listed Building Consents**

PLEASE NOTE: This listed building consent relates solely to the plans, drawings, notes and written details submitted with the application or as subsequently amended in writing and referred to in this notice. Any variation of the works or additional works found necessary before work starts or while work is in progress or required under the Building Regulations, or by the County Fire Services or environmental health legislation may only be carried out after approval by the Local Planning Authority. Unauthorised modifications, alterations or works not covered by this consent may constitute an offence under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and may render the applicant, owner(s), agent and /or contractors liable to enforcement action and/or prosecution.



## 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.*

