

Planning Committee Meeting

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

Thursday, 23 August 2018 at 18:00

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

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

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

Information for Members of the Public

Access to information and meetings

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

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

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

Have Your Say!

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

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

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

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Library and Community Hub, Colchester Central Library, 21 Trinity Square,
Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 23 August 2018 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

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

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

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

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

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

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

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

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6 Minutes of 5 July 2018

7 - 14

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 5 July 2018.

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 172935 Stane Park Site, Essex Yeomanry Way, Stanway, Colchester

15 - 60

Erection of a retail unit with an external yard and retail space (A1), a retail terrace comprising six units with mezzanine cover (A1); two supermarkets (A1) and restaurant units (A1/A3/A5), with associated parking and landscaping.

7.2 180873 Land north of Dyers Road, Stanway, Colchester

61 - 90

Erection of 56 residential properties with associated parking, servicing, amenity space, landscaping and utilities.

7.3 180805 Ground Floor, River House, Quay Street, Wivenhoe, Colchester

91 - 112

Change of Use from Office space to 3 No Studio Flats and alterations to existing bedsits.

7.4 180807 Ground Floor, River House, Quay Street, Wivenhoe, Colchester

Listed building application for change of Use from Office space to 3 No Studio Flats and alterations to existing bedsits.

See report at Agenda Item No 7.3

- 7.5 **181313 Lealands, Chapel Lane, West Bergholt, Colchester** 113 -
Proposed single storey side extension. 120
- 7.6 **181548 Former Waiting Room Cafe, Bus Station, Queen Street, Colchester** 121 -
Advertisement Consent to display Bespoke heras fence panels around the Former Waiting Room site. 128
- 8 **Section 106 Agreement in respect of land at 6/7 Hawkins Road, Colchester** 129 -
A report by the Assistant Director Policy and Corporate giving details of the proposed variation of a Section 106 agreement attached to an approved planning application for a residential and commercial development at Hawkins Road, Colchester. 132
- 9 **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, 05 July 2018

Attendees: Councillor Lyn Barton, Councillor Vic Flores, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Chris Pearson
Substitutes: Councillor Paul Dundas (for Councillor Brian Jarvis)
Also Present:

605 Site Visits

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

606 Minutes of 24 May 2018

RESOLVED that the minutes of the meeting held on 24 May 2018 be confirmed as a correct record.

607 Minutes of 14 June 2018

A member of the Committee asked for confirmation that the decision set out in minute 601 (Application 180918 United Reform Church, 9 Lion Walk, Colchester) was correct, as it had been reported that the application had been refused. Simon Cairns, Development Manager, confirmed that the minute recorded the decision correctly and that the application had been approved, subject to conditions. A check would be made that the decision letter had been correctly issued.

RESOLVED that the minutes of the meeting held on 14 June 2018 be confirmed as a correct record.

608 180733 Land adjacent to Armoury Road, West Bergholt, Colchester

The Committee considered a planning application for a development comprising 26 dwellings, including 30% affordable housing provision, vehicular and pedestrian access from Coopers Crescent, pedestrian access from Armoury Road, public open space and structural landscaping. The application was referred to the Committee as it was a departure from the Development Plan, objections had been received and a legal agreement was required. The application had also been called in by Councillor Lewis Barber. Should the application be approved, the application would need to be referred

to the Secretary of State under the call in procedure set out in the Town and Country Planning Act (Consultation)(England) Direction 2009.

The Committee had before it a report in which all information was set out, and additional information was set out on the Amendment Sheet. The Committee made a site visit to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

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

Paul Millard addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. If the development were to proceed it would make the Maltings Park Road development unsafe and impossible to live in. The existing road which was to be used as the sole access to the development was not of an adoptable standard. It was narrow, with sharp bends and poor sightlines. Many of the properties abutted directly onto the road with no pavement. The increased traffic that would use the road as a result of this development would increase the risk of accidents involving a pedestrian. Access for emergency vehicles was already difficult and refuse vehicles had damaged the kerb whilst manoeuvring. The junction of Maltings Park Road and Colchester Road was a speeding blackspot and there had been two fatalities at the junction. Increasing the use of the junction would only increase the risk of further accidents. There was also a legal requirement to maintain a turning facility at the top of Maltings Park Road. Residents had supported the Parish Council in the creation of the Neighbourhood Plan. This proposal was in contravention of the Neighbourhood Plan and undermined proper strategic planning. The proposals would impose an additional strain on the infrastructure of the village. The development would also destroy a natural habitat for bats, and the section 106 agreement would not undo the environmental impact of the development. The application should be refused and the democratic process upheld.

Richard Sykes-Popham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application was recommended for approval as the benefits of the proposal outweighed the limited impact it would have. This was supported by the statutory consultees, particularly the Highways Authority. It accorded with all the relevant policies in the Local Plan, and in these circumstances planning permission should be granted. It was on an unused plot of land surrounded by housing. It proposed two or three bedroomed housing which was in line with the needs of the local community. 30% affordable housing would be provided, which indicated that the developer was not just seeking to maximise profit. The development also had more open space than was required, and a significant contribution would be made to local facilities. In terms of the means of access, the roads had been built in the knowledge that this plot of land would be developed and the Highways Authority did not object to the proposal. The developer did have rights of access and a mechanism

would be put in place to ensure that residents of the new development would share the costs of maintaining the roads, should the development proceed. This was a sustainable development and approval should be granted.

Councillor Barber attended and, with the consent of the Chairman, addressed the Committee. He explained that the application was outside of the current and emerging Local Plan. There was no reason to deviate from the Local Plan. The site had only been given an Amber rating in the Strategic Land Availability Assessment. This was a speculative application based on the weakness of the planning system. The Council had a five year housing supply. Should the application be granted it would set a dangerous precedent. The application was rejected by the local community. The applicant had an opportunity to address residents' concerns, but had chosen not to. The Council needed to ensure that Local and Neighbourhood Plans put in place by democratically elected authorities were supported. The proposed development was also outside the village boundary, and the settlement boundary should be respected to avoid coalescence with Colchester.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He explained that whilst he was a ward councillor for Mile End, he had been approached about the development by residents. As former Chair of the Local Plan Committee he was concerned by the application. He considered that the Planning Committee did have grounds to refuse the application. The Committee needed to consider the National Planning Policy Framework and the Local Plan, and take account of the fact that the Council had a five year housing supply. In any case, 26 homes would not make a significant difference to the housing supply. It was noted that the Highways Authority had not objected. There was enough evidence to refuse the application, but any refusal was likely to be appealed.

In discussion, members of the Committee expressed concern that the application site was not allocated for development in the current or emerging Local Plan, nor was it identified for development in the emerging Neighbourhood Plan. Where local communities had produced a Neighbourhood Plan, these should be respected and supported. Concern was also expressed that the proposed development site was located outside the settlement boundary.

Whilst it was noted that the Highways Authority had not objected to the application, members of the Committee also expressed concern about the impact of additional traffic that would be generated by the development on the existing roads in the Maltings Park Road development. Coopers Crescent was narrow and its use by construction traffic would have a significant impact on the amenity of residents. It was noted that the revised transport assessment had only been received on 28 June 2018 and clarification was sought as to whether the Council had had sufficient time to validate it. It was also suggested that the appeal cases referred to in the Committee report were not directly comparable to the circumstances of this application. Confirmation was also sought as to

whether the Highways Authority had visited the site.

Members of the Committee also queried whether there was sufficient drainage capacity for the proposed development and about the impact of the development on the village infrastructure, such as educational facilities.

In response the Principal Planning Officer explained that the revised transport assessment related to access to the development via Coopers Crescent rather than Armoury Road. The figures on anticipated traffic levels were unchanged. The Highways Authority had indicated it was content with the proposed access arrangements. It was understood that it was the Highways policy to visit all application sites. In terms of the appeals cited in the Committee report these demonstrated that it was not sufficient just to demonstrate a five year supply of deliverable housing sites in order to justify a refusal of planning permission. In terms of drainage it was noted that Essex County Council and Anglia Water had raised no objection, subject to the imposition of relevant conditions. In respect of infrastructure, a legal agreement under section 106 of the Town and Country Planning Act was proposed securing contributions towards education, open space and recreation, affordable housing, broadband and community services.

Members of the Committee also explored whether the application could be deemed to be premature. The Principal Planning Officer advised that as the site was not within the Local Plan, the emerging Local Plan or the Neighbourhood Plan it would be considered as an exception, rather than premature. On its own prematurity would be difficult to sustain at appeal.

A proposal was made that the application be deferred for further information including further information from the objectors but was not carried (THREE voted FOR and FIVE voted AGAINST).

The Development Manager stressed that whilst the application was contrary to the spatial allocations in the Local Plan, the Local Plan had to be considered as a whole. If a refusal of the application was to be sustained, the Committee needed to demonstrate the harm that would result from the application. The Committee also needed to weigh any potential harm that would be caused against the benefits that would accrue from the development. In this context it was important to note that there was no highways objection and that no harm to landscape had been identified. Whilst it was accepted that the site was outside the village envelope, it was effectively surrounded by existing developments.

A proposal was then made that the Committee should defer the application under the Deferral and Recommendation Overturn Procedure (DROP) for further advice from officers on the issue of potential harm arising from the development and for the identification of potential reasons for refusal that might be sustainable at appeal.

RESOLVED (FIVE voted FOR and FOUR voted AGAINST) that the application be deferred under the Deferral and Recommendation Overturn Procedure (DROP) for further advice on the issue of potential harm that might arise from the development and the identification of potential reasons for refusal of the application that might be sustainable at appeal.

609 180438 Colchester Northern Gateway, Cuckoo Farm Way, Colchester

The Committee considered a planning application for the Northern Gateway Sports Hub. This comprised a 2,425 square metre sports centre, a 1,641 square metre club house, 12 sports pitches (comprising two 3G pitches, seven turf pitches and three mini pitches), a 1.6 km cycle track, archery range, recreational areas, 10 ancillary storage buildings and associated earthworks, landscaping, utilities, pumping stations, car parking, access and junction alterations. The application had been referred to the Committee because it was a major application submitted on behalf of Colchester Borough Council, and because it was a departure from the adopted Local Plan which had generated objections from local residents. The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet. In addition a further amendment sheet was circulated at the meeting. The Committee made a site visit to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

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

Alan Edmonds addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that whilst he did not object to the overall development, he did object to its current form. As residents of White House Farm, they were the nearest residential property to the development. They trained horses for dressage and were concerned that noise and visual disturbance from the cycle track would disturb horses and put riders at risk. The assertion in paragraph 15.38 that the cycle track would not have an unacceptable impact on White House Farm was not accepted. There had been no engagement with them to assess the impact. The Masterplan was inaccurate on the location of the western boundary of the site, and the impact of the track could not be deemed acceptable as its location was not yet fixed. The track elevation had now been changed so it would be above their land and the lighting would also be elevated on 10 metre posts, contrary to assurances they had been given that it would be low level. There were also concerns that access to Severalls Lane could lead to parking that would block access to their land and could also pose increased risk to road safety. An accurate location for the cycle track needed to be established that took account of the impact on their amenity. The lighting needed to be reduced in height and appropriate screening on the western boundary be put in place.

Mark Gowridge addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposed development would provide public open space and recreational facilities for Colchester and the wider region. The scheme had been designed on Active Design principles, which meant that it had been designed for the needs of all ages and abilities. It was also designed to have a balance between community and elite sports. The Council had worked with a number of national governing bodies on the scheme. The development would be fully accessible. Appropriate conditions were being imposed to protect landscape, ecology and archaeology. The scheme would nestle in the landscape and the buildings linked together well. The impact from noise and lighting would be minimal.

Councillor Barlow attended and with the consent of the Chairman, addressed the Committee in his capacity as Portfolio Holder for Commercial Services. There had been a long process to reach the planning application stage and he thanked Council officers and architects for their work on the scheme. This was an important development for Colchester and the region. The application should be approved as it was a key part of the development for the area and would enable the provision of high quality sports facilities for residents of Colchester.

Councillor Goss attended and with the consent of the Chairman, addressed the Committee as ward councillor. Whilst he supported scheme overall, the Committee needed to take account of the concerns of the residents of White House Farm. The development was also a car centric proposal and he queried whether it did enough to secure pedestrian and public transport access. Whilst it was close to the Park and Ride facility, this was closed on Sundays. Junction 28 of the A12 which would serve the development was already over capacity, with further developments proposed in the area which would add to usage of the junction.

The Senior Planning Officer explained that in terms of traffic impact on the trunk road network, this issue had been carefully considered by Highways England and the Traffic Assessment had concluded that no significant effects were anticipated in terms of driver delay. The development included proposals for highways infrastructure which would help encourage modal shift. In terms of the boundary with White House Farm further work was underway to define the boundary on site. The parking and access issues would be dealt with by conditions which would require parking restrictions to be clearly and carefully signed. The final details of the lighting scheme would also be agreed by condition.

Members of the Committee welcomed the development but considered that more needed to be done to encourage use by non-car users. It was suggested that in order to encourage non car use, electric charging points should be provided for electronic bikes. It was also suggested that a cycle route with a dedicated bridge would also encourage pedestrian and cycle access to the site and help counter congestion. In addition a changing places toilet should be provided in the rugby facility. It was also

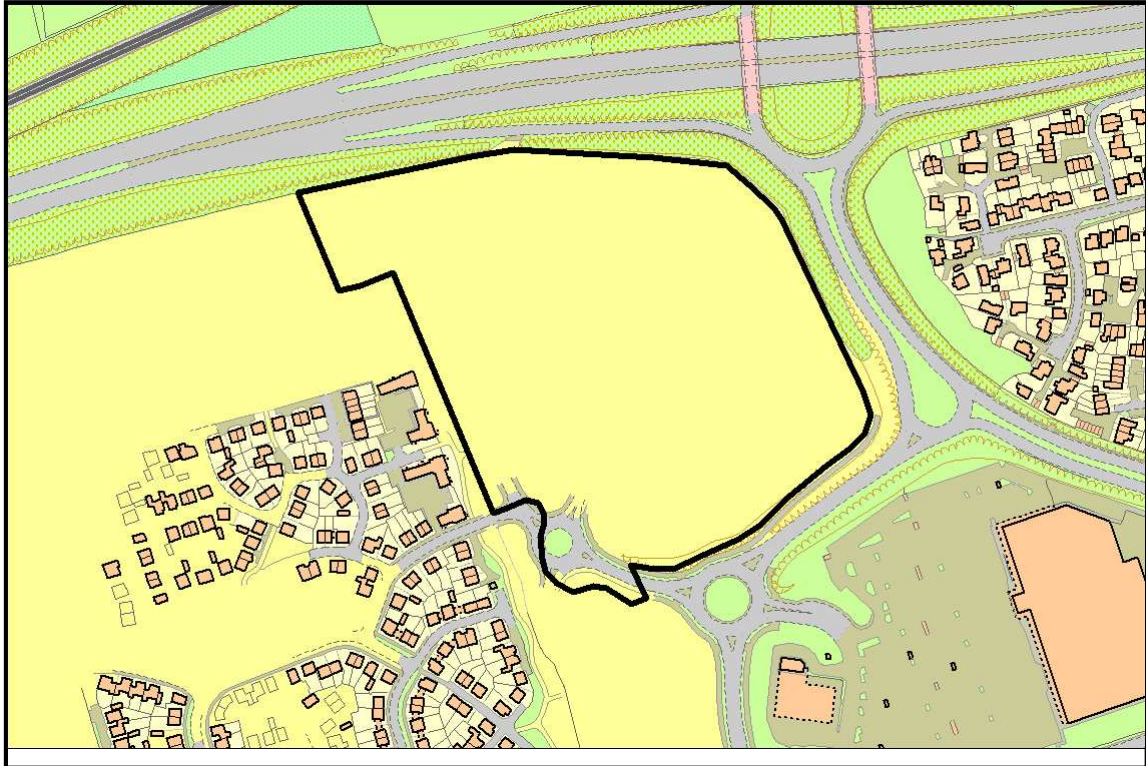
suggested that an acoustic fence on the boundary with White House Farm might help address the issues of impact on their amenity. In view of the long term proposals to widen the A12 that the site might need a wider curtilage. Members also expressed concern about the potential impact of pollution from the A12 on the site.

In response, the Senior Planning Officer explained that a condition could be included requiring the introduction of charging points for vehicles, including bicycles. In terms of access for cyclists and pedestrians, the proposed solution was the most appropriate in terms of managing traffic flow. The traffic lights would be on demand rather than sequential and therefore would minimise the impact on traffic flow. Whilst the request for a Changing Place toilet could be raised with the developer he did not consider that this could be required by condition. In terms of the amenity issues with White House Farm, there was no substantive evidence that an acoustic fence was required and an acoustic fence could be quite intrusive in a rural location. The cycle track was unlikely to generate unacceptable levels of noise and was likely to generate less noise than a pitch based sport. The elements of use that were likely to create the most noise, such as the start and finish line, the booth for officials and spectator areas were away from the farm boundary. There would be a significant amount of tree planting on site which would help reduce pollution from the A12. In respect of the southern boundary and the potential impact of widening the A12, there was already some scope for widening as the site boundary did not extend up to carriageway edge.

Members noted the responses from the Senior Planning Officer on the amenity issues in respect of White House Farm and stressed the need for officers to pay particular regard to securing mitigation of any impacts arising on the occupants of White House Farm through the details to be agreed in the discharge of the relevant conditions.

RESOLVED (UNANIMOUSLY) that:-

- (a) The application be referred to the Secretary of State as a departure from the adopted Local Plan and thereafter approved subject to the conditions and informatives as set in the report and the two Amendment Sheets together with an additional condition requiring the introduction of vehicle and bicycle charging points;
- (b) Officers pay particular regard to securing mitigation of any impacts arising on the occupants of White House Farm through the details to be agreed in the discharge of the relevant conditions.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.1

Application: 172935

Applicant: The Churchmanor Estates Company Plc

Agent: Miss Jessica Ferguson, MRPP

Proposal: Erection of a retail unit with an external yard and retail space (A1), a retail terrace comprising six units with mezzanine cover (A1); two supermarkets (A1) and restaurant units (A1/A3/A5), with associated parking and landscaping

Location: Stane Park Site, Essex Yeomanry Way, Stanway, Colchester

Ward: Marks Tey & Layer

Officer: Lucy Mondon

Recommendation: Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the proposal constitutes a departure from the Local Plan being retail development on a site allocated for Employment uses.

2.0 Synopsis

- 2.1 The key issues for consideration are:
- The principle of the development
 - Highway impact (including parking provision)
 - Sustainability
 - Landscape impact (including trees)
 - Design and layout
 - Impact on amenity
 - Heritage matters
 - Flood risk and drainage
 - Ecology
 - Contamination
 - Air Quality

S106 requirements are also discussed within the report.

- 2.2 The above matters are considered within the report as part of an overall planning balance, leading to the application being subsequently recommended for approval subject to a number of conditions and S106 obligations, and necessary consultation with the Secretary of State.

3.0 Site Description and Context

- 3.1 The application site is currently an open grass field of approximately 6.89 hectares in size. It is bounded by the A12 to the north, Essex Yeomanry Way A1124 to the east and south, and residential development to the west. The site forms part of the wider 'Stane Park', the first phase of which is currently being built out with a range of restaurants and drive-through food outlets.
- 3.2 The site is on the westernmost boundary of Stanway Ward (adjoining Marks Tey and Layer Ward) and is allocated in the adopted local plan and emerging plan as a Strategic Employment Zone within the Stanway Growth Area. Immediately west of the site is the Wyvern Farm residential development, which is now largely completed; established residential development lies to the east. The Stanway Urban District Centre is located to the south-east of the site, comprising of a Sainsbury's supermarket and existing development at the Tollgate Centre, Tollgate West, and Tollgate East.
- 3.3 The site is recorded as being Grade 2 Agricultural Land and within a Flood Zone 1. There are no Public Rights of Way (PROW) within or adjacent the site; the closest PROW being number 149_4 approximately 300 metres to the south-west of the site, running south from London Road.

- 3.4 The existing character of the site is a grassed field that is generally open and level with the road at the southern boundary, becoming approximately 6.5 m lower in level than the road at the eastern and northern boundaries which are densely planted and screen the site from the road. The western boundary with the Wyvern Farm development is again generally level; separation between the two sites being a hedgerow.
- 3.5 The area has seen considerable development in recent years, that in immediate vicinity of the application site include the Sainsburys site (permitted 2010), Wyvern Farm (permitted 2015), and Stane Park Phase 1 (permitted 2016).

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of nine retail units (23,669sqm) with three café/restaurant kiosks (326.8sqm) and associated parking areas, landscaping, and infrastructure. Units A1-A6 and Unit B are proposed to be subject to a bulky goods condition restricting the range of goods (i.e. not open A1 retail use). The retail units comprise the following:

Units A1-A6 (retail terrace)	5,542sqm plus 4,274sqm mezzanine
Unit B (B&Q)	7,547sqm plus 3,255sqm builders yard
Unit C (Marks and Spencers)	1,488sqm
Unit D (Aldi)	1,725sqm

- 4.2 As well as the necessary drawings (Site Plans; Site Sections; Floor Plans; Roof Plans; and Elevations), the application is accompanied by the following supporting documents:

- Air Quality Assessment
- Arboricultural Impact Assessment
- Archaeological Desk Based Assessment
- Archaeological Trial Trench Evaluation
- Cannons Stage 1 Road Safety Audits and Technical Notes
- Car Parking Justification
- Design and Access Statement
- Ecological Impact Assessment
- Employment Land Report (as well as subsequent comments in response to consultant (Cushman and Wakefield) reviews)
- Flood Risk Assessment
- Geo-Environmental Report
- Geophysical Survey
- Health Impact Assessment
- Landscape and Visual Impact Assessment
- Landscape Plan
- Legal Opinion, dated 13th June 2018 (in respect of 'Lawful Decision Making' and the sequential test)
- Lighting Strategy
- Noise Assessment
- Noise Technical Notes

- Planning Statement
- Retail Assessment (as well as subsequent comments in response to the Council's consultant (Cushman and Wakefield) reviews)
- Statement of Community Involvement
- Surface Water Drainage Scheme
- Transport Assessment (appended by a series of Technical Notes in consultation with Highways England)
- Travel Plan

4.3 As alluded to above, an independent consultant Cushman and Wakefield was instructed by the Council to review and comment on the submitted Employment Land Report and Retail Assessment. This resulted in a formal dialogue between consultants and has formed part of the Case Officer's assessment of the application. The details of this assessment will be set out in the main body of the report.

4.4 Following on from the Legal Opinion submitted as part of the planning application, the Council instructed a legal opinion in respect of policy matters (i.e. the sequential test as part of the NPPF). The Legal Opinion is dated 5th July 2018 and will be discussed in the main body of the report.

5.0 Land Use Allocation

5.1 The site is part of the Stanway Strategic Employment Zone. Site Allocations Policy SA STA3 relates to the Strategic Employment Zone and states:

'Within the Strategic Employment Zone allocated on the Proposals Map, the following uses will be considered appropriate;

- a) Research and Development, Studio's, Laboratories, Hi-tech (B1b), Light industrial (B1c), General industrial (B2), Storage and Warehousing (B8). Any such development will be restricted by way of condition to prevent change of use to B1a.
- b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans
- c) Indoor sport, exhibition and conferencing centres.
- d) Business Incubation space (including land within Stane Park).'

6.0 Relevant Planning History

6.1 Between 1999 and 2001 a number of applications for development of the site were submitted to the Local Planning Authority for consideration, but subsequently withdrawn. The relevant applications are as follows:

1999 Application for Planning Permission (F/COL/99/1534)

Low energy headquarters building for information technology company (B1 use)

1999 Application for Outline Permission (O/COL/99/1533)

Park and ride complex railway halt pedestrian/cycle track bridge over A12 & an information technology business park (B1 use)

2001 Application for Outline Permission (O/COL/01/0008)
Development to include park and ride complex railway halt, pedestrian/cycle track-bridge over A12 and an information technology business park (B1 Use).

2006 Application for Outline Permission (O/COL/06/0891)
Incubator and business development park.

- 6.2 More recently in 2016 Stane Park Phase 1 (the site immediately south of the application site) was granted planning permission following appeal for the development of a pub/restaurant, three restaurant units, and two drive-through restaurant/café units, with associated car parking and landscaping. The details of the applications are as follows:

- 146486 (Appeal Ref: APP/A1530/W/15/3139492)
Pub/restaurant; two restaurant units, with associated car parking and landscaping.
- 150945 (Appeal Ref: APP/A1530/W/15/3139491)
One restaurant unit and two drive-through restaurant/café units (later varied under planning reference 162005 to allow for an earlier opening time for one unit).

- 6.3 The Inspector's closing comments in respect of both of the above appeals were as follows:

'Overall, therefore, I conclude that there would be no unacceptable loss of employment land, either in quantitative or qualitative terms and that the proposals pass the sequential test. There would be some harm arising from conflict with the development plan, from the significant level of car-borne customers and to the setting of a listed building. However, the totality of that harm is limited and is significantly outweighed by the benefits of the schemes as identified above. There is conflict with the development plan but in respect of both appeals this is outweighed by the other material considerations. I conclude that both appeals should succeed.'

- 6.4 The benefits of the scheme were identified as being: bringing a vacant site into beneficial use; the design of the buildings enhancing the appearance of the area; and the provision of jobs close to residential areas.

- 6.5 A further planning decision of note is the 2017 approval of planning permission (on appeal) for a mixed use leisure and retail development at Tollgate Village (Application Ref: 150239; Appeal Ref: APP/A1530/W/16/3147039). In this case, the Secretary of State agreed with the Planning Inspector's recommendation of approval, with their conclusions being as follows:

'For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies CE1, CE2, CE3 and STA3 of the development plan, and is not in accordance with the development plan overall. However, these policies are not consistent with the Framework, are out of date and attract limited weight. The Secretary of State has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.'

DC0901MWeV9.3

The Secretary of State considers that both the sequential and impact tests set out in the Framework have been passed. The proposal would not be premature and the location is accessible. The retail scheme would have a slight impact on the vitality and viability of the Town Centre but not the severe impact required by the third bullet point in paragraph 32 of the Framework to prevent development. In addition, the proposal would provide a number of social, economic and environmental benefits, as set out above, to which the Secretary of State gives significant weight. These benefits and the fact that the proposal does not conflict with national policy on ensuring the vitality of town centres and promoting sustainable transport, amount to material considerations that would justify a decision other than in accordance with the development plan in this case.'

- 6.6 Further detail relating to both the Stane Park Phase 1 appeals and Tollgate Village appeal will be discussed in the main body of the report in so far as they are relevant to the current planning application.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE2a - Town Centre
CE2b - District Centres
CE2c - Local Centres
CE3 - Employment Zones
UR2 - Built Design and Character
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP6 Colchester Town Centre Uses
DP7 Local Centres and Individual Shops
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP25 Renewable Energy

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

SA STA1 Appropriate Uses within the Stanway Growth Area
SA STA2 Phasing of Greenfield sites in Stanway Growth Area
SA STA3 Employment and Retail Uses in Stanway Growth Area
SA STA4 Transportation in Stanway Growth Area

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Sustainable Construction
Shopfront Design Guide
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
Planning Out Crime
Air Quality Management Guidance Note, Areas & Order
Stanway Joint Design Statement and Parish Plan
Tollgate Vision Statement

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. The application site remains allocated for employment in the emerging plan.

Relevant policies include:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Strategy for North Essex
SP4 - Providing for Employment and Retail
SP5: Infrastructure and Connectivity
SP6 - Place Shaping Principles
SG1: Colchester's Spatial Strategy
SG3: Economic Growth Provision
SG4: Local Economic Areas
SG5: Centre Hierarchy
SG6: Town Centre Uses
SG6a Local Centres
SG7: Infrastructure Delivery and Impact Mitigation
SG8: Neighbourhood Plans
ENV1: Environment
ENV5: Pollution and Contaminated Land
CC1: Climate Change
PP1: Generic Infrastructure and Mitigation Requirements
WC1: Stanway Strategic Economic Area
WC2: Stanway
WC4: West Colchester
WC5: Transport in West Colchester
DM1: Health and Wellbeing
DM15: Design and Amenity
DM16: Historic Environment
DM20: Promoting Sustainable Transport and Changing Travel Behaviour
DM21: Sustainable Access to Development
DM22: Parking
DM23: Flood Risk and Water Management
DM24: Sustainable Urban Drainage Systems
DM25: Renewable Energy, Water, Waste and Recycling

7.7 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.

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

8.0 Consultations

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

8.2 Anglian Water

- 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 requiring compliance with the agreed drainage strategy (in order to mitigate the risk of flooding downstream as a result of the development); and submission of a foul water strategy.
- Request that advisory text be added to the Decision Notice to notify the applicant/agent/developer that there are assets owned by Anglian Water, or those subject to an adoption agreement, within or close to the development boundary; and that an application to discharge trade effluent to a public sewer must be made to Anglian Water.

8.3 Arboricultural Officer

In agreement with submitted tree survey. The impact of the proposal is minimal given the open nature of the site, with vegetation being situated on the boundaries. It is noted that there are numerous trees intended for removal along the boundary with Wyvern Farm; the loss of these trees will have a visual impact on the views on and off the site. Consideration should, therefore, be given to retaining these trees and increasing the amount of vegetation on the boundary within the landscape scheme. If this is not possible, the planting of this boundary should include larger trees to replace those being removed, as well as 'bulk up' the density of planting to soften the development on and off the site. Strongly advised that planting should be done prior to construction (after protective fencing is installed) so that by the time the development is complete the trees are already performing the function they are intended for.

8.4 Archaeological Adviser

An adequate pre-determination (3%) trial-trenched evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established. Based on the findings of the evaluation, there are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 141 [correct at time of writing, now referenced in 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. In this case, a further (2%) trial-trenched archaeological evaluation will be required via condition. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

8.5 Contamination

The Phase 1 Geo-environmental Desk Study submitted is acceptable. Low/very low contamination risks are considered to be associated with this site and further ground investigation is not required unless any unexpected contamination is encountered during the proposed development works. A condition is required that, should any unexpected contamination be encountered, it must be reported to the Local Planning Authority and any remediation undertaken as necessary.

8.6 Environmental Protection

No objection in principle. Concerns regarding noise (from plant, access and egress, deliveries, and construction); light (from service yard, building illumination, and car parking); and air quality (operational traffic movements contribute to existing areas where road traffic related air pollutants are elevated and/or areas where Air Quality Management Areas are in effect). All these matters can be controlled by condition: house of opening; delivery times; noise assessment relating to plant, equipment, and machinery; hours of construction; lighting report; and mitigation/offsetting of impacts on air quality.

8.7 Essex County Fire and Rescue No comments received.

8.8 Essex Ecology Services Ltd (EECOS)

The mitigation measures outlined in the MLM ecological impact assessment report are appropriate in scale and nature and should result in the avoidance of some potential impacts and the minimisation of others. It will be important to ensure that these measures are carried out, including the retention of the area of habitat in the north west corner of the site, pre-development movement of reptiles to this area and the installation of external lighting which enables bats to continue to make use of the site's northern, eastern and western boundaries.

The report also mentions an ecological enhancement plan and it will be important to ensure that this plan is put into effect and that some provision is made for the future protection and conservation of this area as a wildlife area. A detailed Mitigation and Enhancement Plan (along the lines of the measures outlined in the report) can be conditioned.

8.9 Essex Police No comments received

8.10 Essex Wildlife Trust

In full agreement with EECOS comments and consider that a detailed Mitigation and Enhancement Plan should be conditioned.

8.11 Health and Safety Executive (HSE)

The development does not intersect a pipeline or hazard zone. HSE Planning Advice does not have an interest in the development.

8.12 Highway Authority

The Highway Authority consider the proposal to be acceptable (from a highway and transportation perspective) subject to certain requirements as follows:

- That a construction traffic management plan be submitted and agreed;
- That certain highway improvements are undertaken;
- That a footway/cycleway between Essex Yeomanry Way and the existing cycleway north of the Sainsburys building is provided;
- That two bus stops are provided on the site access road (between Stane Park Phases 1 and 2);
- That £25,000 is contributed towards improvement at the Stanway Western Bypass/London Road roundabout (with additional monitoring fee); and
- That a Travel Plan is submitted and approved in accordance with Essex County Council guidance (a monitoring fee applies).

8.13 Highways England

No objection subject to conditions requiring detailed design of improvements to the A12 junction 26 (and these improvements to be carried out in full prior to occupation of any unit); restrictions to unit sizes; and a site-wide travel plan.

8.14 Landscape Adviser

The landscape content of the application is satisfactory subject to a condition requiring full landscape details to be submitted and approved.

8.15 Minerals and Waste Planning No comments received.

8.16 Natural England No comments received.

8.17 Planning Policy

The Planning Policy team have provided detailed comments on the weighting to be applied to relevant planning policies in the adopted Local Plan; the consideration of employment land and viability; application of the Framework's sequential test; and the retail impact of the proposed development. In conclusion, the Planning Policy team consider that the proposal satisfies both the sequential test and the retail impact test and does not trigger the requirement to refuse an application, as set out in paragraph 90 of the NPPF. The detailed content of the Planning Policy comments will be set out as part of the Case Officer assessment in the main body of the report.

8.18 Street Services No comments received.

8.19 SUDS (Essex County Council)

No objection subject to conditions requiring a detailed surface water drainage scheme; scheme to minimise the risk of offsite flooding during construction works; and a surface water drainage maintenance and management plan.

8.20 Transport Policy

Comments were made on the original submission which has led to some amendments and further work being undertaken and submitted. Formal comments on the latest submissions is expected and will be reported to the Planning Committee on the Committee Amendment Sheet or verbally at the meeting.

8.21 Urban Design Officer

Objects to the proposal. Main reasons for objection as follows:

- The provision of retail uses in an out-of-town car-based location will compete with designated centres in more sustainable locations;
- Loss of employment land within walking and cycling access of the growing Stanway population;
- The sprawling retail park format is an inefficient use of land, lacks mixed use qualities, is car dominated; and lacks the place-making qualities required of designated centres;
- Poor relationship with Lemur Lane in conflict with key place-making principles in the Essex Design Guide and Essex Parking Standards. In particular, Unit C turns it's back (service yard) to the street, and Unit D is set behind car parking so that it appears unattractively car dominated and in conflict with pedestrian and cycle access. [Note: suggested solutions have been put forward to the Applicant, although these have been rejected for largely commercial reasons]; and
- Car reliant format would significantly contribute to car-orientated settlement patterns in Colchester, leading to increased congestion, road infrastructure and pollution, as well as less appealing walking and cycling conditions (as evidenced by the proposal to widen the bypass).

9.0 **Parish Council Response**

9.1 Stanway Parish Council have stated that they raise no objections 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. Key material considerations are highlighted in **bold**.

General (7)
Generally in favour, but concerned about the road structure going onto and off the A12; Queues are regular on Junction 26 sliproad both northbound and southbound and the development may make this worse. The development would also impact on the Tollgate roundabout with traffic currently blocking the roundabout.

Concern that the environmental noise of deliveries and 600+ cars entering the site (hour after hour), combined with existing traffic noise, will be excessive to local residents.
Requires more landscaping to hide the development and form a barriers to the daily disruption and noise of motor vehicles. The landscaping should be designed to bring wildlife back to the area. High embankments topped with native shrubs and trees will also alleviate late night delivery noise and headlights.
Need to use the opportunity to enhance the natural beauty of the site for all generations, especially those living within close proximity. Colchester's Developing A Landscape for the Future is not working here. It is the Developer's responsibility to build something that is of high quality and attractive as a single environment.
The statements within the Landscape and Visual Impact Assessment (4.9) must be enforced and guaranteed by the developers before work is approved. Need to minimise any future landscape and visual impact arising from the development.
Objecting is a waste of time because Stane Park has been mooted for some time and the Local Council, Town Council, and Central Government seem to be saying yes to everything proposed for Stanway.
Surprised to see yet more restaurant units on the application; do we not have enough already?
Biggest concern is safety : need sufficient pedestrian crossings; access of the A12 (already a problem); traffic bottle-necks; environmental effects and health concerns for those who live in the area; lack of open space.
Aldi is bound to have an effect on Sainsburys (and B&Q upon Homebase): are there any rules on building a similar enterprise close to another? I appreciate the need for jobs , but not at any cost. Stanway has had more than its fair share of these developments.
Trust that respect will be given in terms of opening times ; collection of rubbish ; and safety on the A12.
Despite objections, this proposal will sail through. Agree with all previous comments/objections.
Speed limits need to be dropped and enforced and safety measures need to be taken into consideration for pedestrians.
An issue with Stanway is that there is no sense of community , only one of development. Serious thought needs to be given to community centres and schools for use by a cross section of residents, not just business development for jobs.

Why do we need a B&Q when we have a Homebase and a B&Q already exists in Colchester.
Need to actively encourage development where people can walk or cycle , not get in their cars.
Sainsburys (who could be said to be enabling this application with the relocation of B&Q from the Hythe) should take steps to discourage and reduce private car trips to their store in order to reduce congestion .
Impacts such as pollution, vehicles, rubbish and disturbance associated with retail units. The impact on the A12 is a major concern as there are long tailbacks from the sliproad.
Sequential test: The Council should be very cautious about granting consent for a scheme which it is agreed fails the sequential test. Example given of where the Agent has objected to the Sainsbury's Lightship Way application (ref: 143715) on the grounds of failure to meet the sequential test. (see Indigo Planning letter dated 31 st July 2018 for further detail).
Conflict with local employment land policy : The application site is located within designated Employment land, both within adopted and emerging plans. A wholly retail development on designated employment land is contrary to local policy. Cushman and Wakefield [Case Officer Note: Cushman and Wakefield were independent consultants instructed to review the employment land and retail reports submitted with the application] recognise the policy conflict and advise that employment floorspace should be included within a mixed-use scheme. A mixed-use scheme is not proposed and there remains a conflict with employment land policy. (see Indigo Planning letter dated 31 st July 2018 for further detail).
A current planning application at the Tollgate Centre (ref: 181382), which proposes to lift existing restrictive conditions to allow A1 retail use of units, should be taken into account and the cumulative impacts of both developments fully assessed (both in terms of retail impact and highways impact).

Support (2)
Major upgrades are needed to existing road as traffic is close to bursting. There needs to be pedestrian crossings which are severely lacking at present.
The Council has recently granted planning permission for the conversion of offices to residential [Case Officer Note: the example provided at Moss Road/Pear Tree Road was a Prior Approval application under permitted development rights and not an application for planning permission] which undermines the Council office space argument. The Phase 1 inquiry identified vacant office and industrial space and considerable capacity . The same arguments against Phase 2 cannot be made.
Support employment opportunities that the development will bring.

Identified tenants (in contrast, the Council has not identified any tenants for the vacant office/commercial space).

Object (3)
More development without sufficient infrastructure .
There is insufficient infrastructure to cope with further development. There is already very significant traffic congestion in the area, particularly since the opening of the new road linking Warren Lane and London Road. Additional traffic around Junction 26 will cause traffic to tail back on both exist slip roads from the A12 (which is already an issue). This will place road users on the A12 at peril with traffic queues tailing back onto the A12 carriageway.
The proposed development will, if developed, cause distraction to drivers of vehicles travelling at significant speed on the adjacent A12 (particularly those travelling north). Any collisions are likely to be serious.
The extra vehicle and pedestrian traffic using the site will cause additional pollution in the form of noise, vehicle emissions, and litter.
The proposal has the potential to undermine Colchester's position at the apex of the Borough's retail hierarchy and its role as the Borough's main town centre (Further details in GL Hearn objection letter dated 7 th February 2018).
The documents accompanying the application do not fully assess the sequential or impact tests set out in retail planning policy and thus the application should be refused on that basis (Further details in GL Hearn objection letter dated 7 th February 2018).
There are a number of issues with the assumptions underlying the Transport Assessment and we note that Highways England have raised similar concerns and required further modelling (Further details in GL Hearn objection letter dated 7 th February 2018).
A fundamental principle behind the planning system is the plan led approach . The current application could undermine the emerging Local Plan (Further details in GL Hearn objection letter dated 7 th February 2018).

11.0 Parking Provision

11.1 The adopted Vehicle Parking Standards SPD would require the following parking provision:

<u>A1 retail use excluding food (i.e. the retail terrace and B&Q)</u>	
Car parking spaces	1,021 (Maximum)
Disabled Spaces	45 (Minimum)
Cycle parking spaces	102 (Minimum)
Powered Two-Wheeler spaces	31 (Minimum)

A1 retail use food sales (i.e. the Aldi and Marks and Spencers)

Car parking spaces	230 (Maximum)
Disabled Spaces	16 (Minimum)
Cycle parking spaces	16 (Minimum)
Powered Two-Wheeler spaces	11 (Minimum)

A3 restaurants and cafes (i.e. kiosks)

Car parking spaces	66 (Maximum)
Disabled Spaces	9 (Minimum)
Cycle parking spaces	8 (Minimum)
Powered Two-Wheeler spaces	4 (Minimum)

TOTALS

Car parking spaces	1,317 (Maximum)
Disabled Spaces	70 (Minimum)
Cycle parking spaces	126 (Minimum)
Powered Two-Wheeler spaces	46 (Minimum)

11.2 The proposal includes the following:

- 674 car parking spaces (including 10 electric charging spaces), with each space measuring 5.0m x 2.5m;
- 20 parent and child car parking spaces;
- 33 disabled parking bays;
- 12 van spaces; and
- 64 cycle spaces (at 8 cycle stands throughout the site)

11.3 In terms of the minimum parking standards, the proposal is deficient in disabled parking (by 37 spaces); cycle parking (by 72 spaces); and powered two-wheeler spaces (by 46 spaces).

11.4 A car parking justification has been submitted as part of the planning application and this will be discussed and assessed in the main body of the report.

12.0 Open Space Provisions

12.1 There are no open space requirements for this type of development.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area (AQMA), but the development is considered to cause additional traffic movements through AQMA's, such as Lucy Lane North. The impact on air quality will be discussed in the main body of the report.

14.0 Planning Obligations

14.1 The following obligations are considered necessary in order for the planning application to be considered acceptable in planning terms.

- Mitigation contribution (£150,000 proposed by the Applicant) towards funding the Council's economic development initiatives to improve the commercial attractiveness of Colchester;
- Employment initiatives to ensure that occupier's seek employees on opening through local agencies (e.g. Job Centre); and
- Provision of an extended footpath/cycleway link between the existing footpath/cycleway which currently terminates south of Essex Yeomanry Way and north of the Sainsbury's building;
- A £25,000 index-linked contribution towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance); and
- A Travel Plan monitoring fee.

15.0 Report

15.1 The main issues in this case are:

- The principle of the development
- Highway and sustainability matters (including parking provision)
- Landscape impact (including trees)
- Design and layout
- Impact on amenity
- Heritage matters
- Flood risk and drainage
- Ecology
- Contamination
- Air Quality

Principle of proposed Development

15.2 In terms of the principle of development and conformity with the development plan and NPPF, the key elements to consider are: whether the proposed development represents sustainable development, and whether it would have a detrimental impact on centres and employment. Core Strategy Policies SD1, UR1, CE1, CE2, CE3 and TA1 are relevant, along with Development Plan Policy DP5 and Site Allocation Policy SA STA3. These policies relate to the following:

- 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).
- UR1 is a commitment to regeneration in rundown areas, deprived communities and key centres, with the purpose of building successful and sustainable communities through developments that promote sustainable urban living, enhance the public realm, improve accessibility, and address social deprivation.
- CE1, CE2, and CE3 deal with centres and employment matters, promoting employment generating developments through the regeneration and

DC0901MWeV9.3

intensification of previously developed land and through the allocation of land necessary to support employment growth at sustainable locations. Policy CE1a sets out the centres and employment classification hierarchy which includes the Town Centre at the top of the hierarchy extending down to Edge of Centre Locations, District Centres, and Local Centres.

CE3 - The application site is an edge of centre location that is allocated as a Strategic Employment Zone. Policy CE3 seeks to deliver approximately 45,100sqm (gross) of industry and warehousing floor space, primarily within the North Colchester and Stanway Strategic Employment Zones. Existing office commitments will be supported, but further office development will be primarily directed towards the Town Centre. The policy further states that retail developments will not normally be supported in Employment Zones, except for small scale development that provide for the needs of the local workforce or are ancillary to an industrial use.

- 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.
- DP5 sets out appropriate employment uses within designated Employment Zones, such as B Class uses and similar type sui generis uses. In terms of alternative uses, the policy does provide criteria where these could be considered acceptable. In these circumstances, there is a requirement for planning contributions towards alternative employment, regeneration and training schemes if alternative employment land cannot be provided.
- SA STA3 covers employment and retail uses in the Stanway Growth Area and provides specific requirements for the types of uses that would be considered to be appropriate (e.g. research and development, light industrial, vehicle repair, indoor sport and conferencing centres, and business incubation space), making clear that new town centre uses will not be permitted within the Stanway Growth Area.

15.3 The Focused Review of the 2008 Core Strategy and 2010 Development Policies, the Inspector's report in connection with that review, and subsequent planning appeal decisions, provides the basis for assigning weight to policies in the adopted Local Plan. In particular, the Stane Park Phase 1 Inspector's decision (paragraph 46) provides guidance by relating weight to consistency with the NPPF. Plan policies that are consistent with the NPPF accordingly should be given full weight. Other policies can be given weight commensurate with their compatibility with the NPPF. In terms of the relevant policies in this case, this approach translates into the following interpretations:

- SD1 and TA1 full weight to be applied;
- CE1, CE2, CE3, UR1, STA3, and DP5 out-of-date and consequently limited weight should be afforded.

- 15.4 In accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan, unless there are material considerations that indicate otherwise. The fact that certain policies have been deemed to be out-of-date with the NPPF is a material planning consideration that needs to be taken into account in the weight to be applied to certain policies in decision making.
- 15.5 This interpretation of adopted planning policy means that consideration of sustainable development and accessibility needs to follow the provisions of Core Strategy Policies SD1 and TA1. Given the limited weight of the policies relating to centres and employment, the provisions of the NPPF will be relevant.

Sustainable Development:

- 15.6 The site is located in Stanway, which (along with Colchester Town) 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. The nature of the proposal providing bulky goods retail and supermarket uses, as well as the level of car parking proposed (739 spaces), suggests (as was noted by the Inspector in the decision on Stane Park Phase 1) that there would be a heavy reliance on the private car. There is scope within the scheme, however, to promote sustainable modes of transport. The current proposals show additional pedestrian crossings to the site, including signal controlled crossings on the Western Approach Road, which increase the opportunity for employees and visitors to walk to the site. There are also negotiations with the Highway Authority in terms of their requirements for providing bus stops in close proximity to the site and the provision of a cycleway/footway link from the residential area to the east. Indeed these measures are included in the Highway Authority recommendation and can be conditioned or secured via S106 legal agreement as appropriate. The inclusion of works that would offer the choice of different modes of transport is seen as a positive of the scheme and in accordance with the requirements of policy TA1 and paragraph 108 of the NPPF.

Employment Land Issues:

- 15.7 Paragraph 81 of the NPPF requires that local authorities should set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period. The Council accordingly has a mandate to ensure a sufficient supply of employment sites through the Local Plan site allocation process.
- 15.8 The application site forms part of a larger Strategic Employment Zone in Stanway. The site is therefore safeguarded for employment purposes (of a type set out in policies CE3 and SA STA3). In considering the availability of employment land, it is noted that the employment land allocations for Stanway continue to be reduced by alternative proposals for town centre and residential uses, including the Phase 1 element of Stane Park development. The 34.42ha allocation for the Stanway Strategic Employment Zone contained in the 2010

Site Allocations included capacity for 36,500 Class B1 offices and 45,100 Class B industrial and warehouse use. The reduced allocation for new employment allocations for Stanway in the 2017 Employment Land Supply Trajectory and reflected in the emerging Local Plan is 13,554sqm Class B1 offices and 13,554sqm Class B industrial and warehouse use. This allocation reflects the deletion of some less accessible sites and inclusion of Stane Park as the highest rated site in the analysis of site attractiveness. The reduction reflects recommendations in the Council's 2015 Employment Land Needs Assessment for a selective approach to Stanway allocations:

In light of the identified surplus of employment (and specially office) land available to meet future economic growth needs in Colchester over the plan period, it would be difficult to justify retaining the full extent of undeveloped employment allocations at Stanway from both a quantitative and qualitative market perspective. In this respect, it is recommended that the Council adopts a selective approach to safeguarding these undeveloped allocations for future development by retaining those sites with the best intrinsic qualities and greatest prospect of coming forward for employment development in future. (ELNA para 8.48)

- 15.9 The Stanway allocations are accordingly considered to achieve the desired selective approach to Stanway sites which would retain appropriate sites to best meet potential market demand.
- 15.10 The delivery of the Stane Park allocation in the short-medium term is, however, limited by viability issues. The Council's consultants Cushman and Wakefield agree that in the current market, office or industrial uses are not viable on their own. Indeed, office developments are discouraged by adopted policy with a preference for these to be sited in the Town Centre. A scheme involving cross-subsidy of either offices or industrial with a higher value retail use might conceivably be viable, but the applicants have resisted consideration of alternative schemes on the basis that the Council must consider the scheme in front of it. The prospect of a cross-subsidised scheme could only be pursued if the Council carried out further work, to include designing the mixed-use scheme and testing the viability and marketability of a hybrid scheme. In any case, the Council does have a duty to determine the application as submitted and, if the scheme is considered to be acceptable, should be approved.
- 15.11 Paragraph 81 of the NPPF states that planning policies should be flexible enough to enable a rapid response to changes in economic circumstances, with paragraph 120 requiring planning policies and decisions to reflect changes in the demand for land. Given the evidenced lack of viability for developing the land for employment uses (i.e. office or industrial development), it is considered that a refusal of planning permission on the basis of loss of employment land would be contrary to the provisions of the NPPF. This conclusion also takes into account further mitigation for the loss of employment land put forward by the Applicant, being a monetary contribution towards future Council economic development initiatives to improve the commercial attractiveness of Colchester (in accordance with the requirements of Appendix 3 of the Development Policies DPD), together with the establishment of employment initiatives to ensure that occupier's seek employees through local agencies.

15.12 Town Centre Uses in an Out-of-Centre/Edge-of-Centre Location:

The proposal is for retail development on a site that is not located within a defined centre. There are two aspects to consider in respect of this:

1. Does the proposal pass the sequential test in terms of establishing whether there are any sites within a defined centre that can accommodate the proposal (paragraph 86 of the NPPF); and
2. Would the proposal have a significant adverse retail impact on the town centre (paragraph 89 of the NPPF);

15.13 In terms of the first point, the Sequential Test, Paragraph 86 of the NPPF directs Local Planning Authorities to apply a sequential test to 'planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan'. The wording might be considered to create confusion on how sites should be handled in the absence of an up-to-date Local Plan, but in practice all applications for town centre uses in Stanway, including Tollgate Village, Stane Park Phase 1 and the current application, have applied the sequential test as a matter of course.

15.14 The primary issue of contention between the Applicant and the Council is the status of Tollgate, with the Council considering that it is an Urban District Centre, and Martin Robeson on behalf of the Applicant considering that it is not a centre as the relevant Centres and Employment policies are out of date. The Council maintains its view that Tollgate is a centre, however, taking into account Inspector decisions on its status:

- Tollgate Village decision, paragraph 12.1.2: *In NPPF terms the site is part in centre and part edge-of-centre with DZ1 an island within the defined district centre. Para 12.2.10 is also relevant: In any event, Tollgate district centre and Colchester town centre are both town centres in NPPF terms and so one should not be prevented from competing with each other; and*
- Stane Park Phase 1 decision, paragraph 27 where Tollgate is described as a defined Urban District Centre.

15.15 The Inspectors in both cases considered the Centres and Employment policies to be out of date, but clearly considered that this point did not stop Tollgate serving the function of a centre in terms of the NPPF sequential test.

15.16 In principle, the Council considers that sites within the Tollgate Urban District Centre are sequentially preferable to Stane Park being within centre. The Tollgate Partnership has written to confirm that they consider that the Tollgate Village site is both suitable and available for the uses proposed and therefore represents a sequentially preferable location. Further information has, however, been submitted establishing that one of the units at the site has a lease that extends to 2022 which means that the Tollgate Village site is accordingly not 'available' for the proposed development (i.e. the proposed development could not be accommodated at the Tollgate Village site until at least 2022 when it is fully vacated). In line with the decision reached in the *Aldergate* Judgment (Case No: CO/6256/2015), the Tollgate Village site cannot be considered to be a sequentially preferable location as it is not available.

Retail Impact:

- 15.17 Cushman and Wakefield identified shortcomings in the Applicant's Retail Impact Assessment, but their overall conclusion was that the impact on Town Centre was not significant, particularly in context of the Tollgate Village appeal decision, where it was concluded that even the 'worst case' 14.0% impact would not cause a significant adverse impact on the Town Centre. In this case, the Retail Assessment submitted concludes a 9% cumulative impact with the proposed Tollgate Village development, significantly less than the 14% quoted in the Tollgate Village appeal decision.
- 15.18 The only likely impact from the proposed development is on the adjacent Tollgate Centre, with any disbenefits from loss/diversion of trade likely to be outweighed by the benefits of linked trips. The impact is not, therefore, considered to be significantly adverse.
- 15.19 A further point to consider is that Units A1-A6 and Unit B would be subject to a bulky goods condition, thereby limiting the impact on open Class A1 (retail) uses in other centres.
- 15.20 Taking these matters into account, the proposal is not considered to have a significantly adverse retail impact on centres.

Points of clarification:

- 15.21 Core Strategy Policies SD1 and CE1-CE3 set out a hierarchical approach to sustainable development. The varying status of policies within the adopted plan has, however, given rise to debate over the extent to which the approach to Colchester's spatial and centres hierarchy can be accepted. It is important to note that, whilst policy SD1 and Table SD1 consider the overall settlement hierarchy, the retail hierarchy is only mentioned specifically in the Centres and Employment policies (CE1-CE3) which cannot be given full weight as they are out-of-date with the NPPF. There is reference to the important role of the Town Centre in both SD1 and the Spatial Strategy, but no specific references to the role of district centres.
- 15.22 Both the Applicant and the Council have sought independent legal opinion in respect of whether a failure to satisfy the sequential test, as set out in the NPPF, would result in a straightforward or automatic refusal. Whilst the legal opinions are useful in interpretation of the sequential test, in this case the application is considered to pass the sequential test having taking into account evidence (submitted post-Cushman and Wakefield reports to the Council) to demonstrate that the sequentially preferable site of Tollgate Village is not 'available'.

Conclusion:

- 15.23 In consideration of the above, the proposal is considered to satisfy both the sequential test and the retail impact test and does not trigger the requirement to refuse an application set out in paragraph 90 of the NPPF.

Highway and Sustainability Matters

- 15.24 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 15.25 In assessing highway impact it is necessary to consider both the impact upon the Strategic Road Network (in this case, the A12) and the general highway network.
- 15.26 Highways England is the highway authority in respect of the Strategic Road Network. Considerable discussion and negotiation has taken place between the Applicant's Highway Consultant and Highways England, ultimately leading to Highways England having no objections to the proposed development subject to conditions. These conditions would ensure that the A12 Junction 26, Eight Ash Green Roundabout will continue to fulfil its purpose as part of the Strategic Road Network; both in terms of road safety and to reduce traffic generations in the interests of sustainability. Fundamental to this are a number of highway improvements at the Eight Ash Green Roundabout (essentially road widening, kerb realignment, and traffic control signals); the improvements are shown on a drawing that will need to be conditioned to ensure that the works are carried out. Additional conditions include stipulating the floor area of the development (as this is the basis on which the traffic and highway impact has been assessed) and requiring a Travel Plan.
- 15.27 The Highway Authority are responsible for the local road network. Again, extensive discussion and consultation has taken place in respect of the proposed development. The Highway Authority have confirmed that they do not have any objections to the proposals subject to certain requirements in order to mitigate the traffic impacts of the proposal, as well as address sustainability objectives. The requirements include highway improvements (e.g. road widening); the provision of pedestrian crossings and a toucan crossing; the provisions of a footpath/cycleway from the toucan crossing into the site; the provision of a footway/cycleway between Essex Yeomanry Way and an existing footway/cycleway north of the Sainsburys building; the provision of two bus stops in close proximity to the entrance to the site; an approved Travel Plan; and a monetary contribution towards improvements

DC0901MWeV9.3

at the Stanway Western Bypass/London Road roundabout. The necessary mitigation measures will need to be conditioned or included in a S106 legal agreement as appropriate. Provided these measures are secured, the proposal is considered to be acceptable in terms of its impact on the local road network.

- 15.28 In terms of parking provision, the fact that the development is for bulky-goods retail in the main would suggest that an ample amount of car parking is necessary (i.e. customers are more likely to require their car to purchase and take home bulkier shopping items). The level of parking is, however, less than half of the maximum amount that would be allowed under planning policy. The car parking layout as proposed is essentially informed by the Applicant's commercial expertise and calculations of car park capacity in relation to visitor rates; this includes the number of standard car parking spaces and disabled car parking spaces, the provision of van spaces and parent and child spaces, as well as cycle parking. The proposal is deficient in the number of disabled car parking spaces being provided, as well as the number of cycle parking spaces and motorcycle spaces. Given that car parking is being provided in accordance with data assimilated as part of the Transport Assessment (a parking accumulation survey) it is not considered appropriate to refuse the application on the grounds of lack of certain elements of the parking provision.
- 15.29 The standard car parking spaces proposed do not meet the preferred bay size as set out in the Vehicle Parking Standards SPD; being 5.0m x 2.5m instead of 5.5m x 2.9m. They do, however, meet the minimum bay size which can be used in exceptional circumstances. The Vehicle Parking Standards SPD does not set out what such exceptional circumstances may be, but the application site is not considered to be particularly constrained in any way that might lead to the developable area being at a premium. The Applicant has, however, submitted a car parking justification for the smaller bay sizes. The justification explains that the number of car parking spaces proposed would enable customers to find a space when the car park is operating at its peak, with the understanding that customers will typically park their car closest to the various store entrances, leaving areas of the car park (further away from entrances) being relatively underused; the point being that a driver of a larger car could park in the underused area of the car park if they have concerns about being parked in close proximity to other cars. Given that the larger car parking size is a 'preferred' option rather than a mandatory one, and the Applicant has reasoned that there would be sufficient capacity within the car park for customers to park in more open space (i.e. spaces away from other cars) should they so choose, the car parking bay sizes proposed are considered to be acceptable.

Landscape Impact

- 15.30 The site is currently an open grassed field that forms part of the gateway to the wider Tollgate area of Stanway, especially on the approach from the A12. There are a number of trees along the northern and eastern boundaries of the site, as well as a hedgerow and trees along the western boundary with Wyvern Farm.
- 15.31 The application has been supported by a Landscape and Visual Impact Assessment (updated April 2018) that concludes that there are few landscape and visual constraints to the development of the site, being an 'urban fringe location with few distinctive features', but that it 'has important potential roles as a gateway to the Tollgate Retail Park and as a functional landscape setting for the adjacent Wyvern Farm residential community'. A landscape masterplan has been submitted that seeks to mitigate the landscape and visual impacts of the proposed development; resulting in negligible to medium visual impact at completion of the development with the exception of one viewpoint at the south-west corner of the site adjoining Wyvern Farm, which would experience a high visual impact. The impact cannot be fully mitigated given views into the site from the entrance road. The visual impact would reduce, however, to a medium-high impact after 15 years when landscaping has matured. The assessment goes on to state that this should be seen in the context of the wider Tollgate Retail Park environment.
- 15.32 The Council's Landscape Adviser has considered the details submitted as part of the planning application, concluding that the submissions are satisfactory and that there are no objections to the proposal on landscape grounds. Conditions to secure a detailed landscape scheme and landscape management plan would be required in order to ensure appropriate development from a landscape perspective.
- 15.33 In terms of the impact on trees, the Council's Arboricultural Officer has confirmed that the submitted Tree Survey is acceptable and agrees with the submitted Arboricultural Impact Assessment in that the impact of the proposal upon the vegetation on the boundaries of the site is minimal. This is with the exception of the boundary with Wyvern Farm which is marked by a hedgerow (an historic field boundary) where trees are proposed for removal in order to facilitate the service access to the majority of the proposed units. The retention of the historic hedgerow and the need to strengthen/reinforce its planting is considered to be important and has been addressed in the Landscape and Visual Impact Assessment, as well as the landscape proposals which is encouraging. Although a condition can secure proposals in relation to the hedgerow, the Arboricultural Officer is concerned that the loss of trees to facilitate the access road would have a visual impact on and off the site and that if the trees are removed, compensatory tree planting should take place before construction so that the screening function the trees would have performed is already in place when the development is completed. This can be addressed via a suitably worded condition.

- 15.34 Subject to conditions, the wider landscape impact of the proposal is therefore considered to be acceptable.

Design and Layout

- 15.35 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.
- 15.36 The proposal is essentially a group of retail units set out along the peripheries of the site and facing a central car park. The entrance to the development is located to the south-west corner of the site and would be flanked by the two supermarket units (units C and D). The largest unit (unit D) would be sited to the eastern side of the site, with the retail terrace (units A1-A6) being located along the northern boundary of the site. Areas of landscaping are shown along the southern edge of the site, with tree planting shown within the car park. The planted area to the eastern and northern boundary is highway land (Highways England to the north and the Highway Authority to the east). The design of the units are as one may expect of modern retail buildings; simple flat roofed or mono-pitched roofed buildings, with coloured cladding.
- 15.37 The Council's Urban Design Officer has objected to the scheme on the following grounds:
- Provision of retail uses in an out-of-town location and loss of employment land;
 - Inefficient use of the land;
 - Poor relationship with Lemur Lane (part of the Wyvern Farm development to the west) and gateway entrance point to the site; and
 - Car-reliant format that would contribute to increased congestion, road infrastructure, and pollution.
- 15.38 The first point has been assessed at length in this report under 'Principle of Development'. Whilst the Urban Design Officer's comments are perfectly valid, recent case law and planning policy considerations have led to the conclusion that the proposal should not be refused on the grounds of being an out-of-town location contrary to employment land policies.
- 15.39 The second point relates to the layout of the scheme, which the Urban Design Officer describes as 'sprawling', lacking mixed use qualities, car dominated, and lacking 'place-making' qualities. The layout of the scheme is not considered to be sprawling (in terms of the definition 'spread out over a large area in an untidy or irregular way') in that it is confined quite tightly within the confines of the site with the retail terrace (units A1-A6) forming a corner with Unit B. The two supermarket units (units C and D) are more detached from the remainder of the development, but it is not felt that the separation of two units represents an 'untidy' scheme. It is considered that it is how these two units relate to the entrance of the site is of more pressing importance.

- 15.40 In terms of car parking, the scheme does include a large car parking area, although it should be noted that the number of spaces proposed is approximately 50% of the maximum allowed under planning policy for a development of this size. The visual impact of the car parking is not considered to be significant in terms of public views from outside the site (i.e. on the approach or departure on the A12, Essex Yeomanry Way, or Western Approach Road) given the site being at a lower level to the road on the eastern side and with intervening built development of the proposed units, as well as landscaping. This view is supported by the Landscape Adviser comments that found the submitted Landscape Visual Impact Assessment to be satisfactory with visual impact being low-medium in the main.
- 15.41 The ‘place-making’ concept is generally taken to mean creating public spaces that promote health, happiness, and well-being. The proposed scheme is clearly functional; it is a retail development that provides functional units, with car parking, and pedestrian walkways through the car park to each unit. The scheme includes some restaurant/café kiosks in the middle of the site which provide a public focal point of sorts that also helps to break up the car park. Tree planting is also proposed to add some visual relief to the large car park areas. Each named retail unit (i.e. the B&Q, Marks and Spencers, and Aldi) are essentially set pieces, designed with the end user in mind and to their particular requirements; they are not, therefore designed as part of a collective in terms of ‘place-making’. It is likely, however, that any commercial development of the site (be it the current proposal or a policy compliant business/employment development) would have commercial requirements that would dictate the design and layout of the scheme to a certain extent. This does not excuse poor design, but does lead to a conclusion that a refusal of planning permission on these grounds would be unreasonable.
- 15.42 In terms of the third point, suggested amendments were put forward to the Applicant which involved omitting the car parking immediately south of unit D (Aldi) and re-orientating unit C (Marks and Spencers) so that it had a dual frontage towards the entrance to the site and the car park, as well as some general design amendments to the external appearances of the units. Whilst some amendments have been made to the external appearance of the units and unit C has been re-sited to allow for additional landscaping to the southern edge of the site, the proposed amendments to the site entrance (omitting the car park area and re-orientating unit C) have not been taken forward by the Applicant, primarily due to commercial requirements.
- 15.43 The Urban Design Officer’s final point regarding the proposal being a car-reliant scheme, with impacts such as pollution and congestion, is noted. The impacts, and potential harm, of the proposal in terms of pollution, traffic generation, and congestion are not considered to be significant subject to mitigation. These matters have been assessed elsewhere in this report under ‘Highway and Sustainability Matters’, ‘Impact on Amenity’, and ‘Air Quality’.

- 15.44 The concerns raised by the Urban Design Officer will need to be carefully considered as part of the overall planning balance.

Impact on amenity

- 15.45 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 15.46 Given the separation between the proposed development and existing residential properties (namely the Wyvern Farm development) there are not considered to be any concerns regarding loss of privacy or daylight and sunlight. Particular concerns of the Council's Environmental Protection team in terms of residential amenity relate to noise from the operation of the site and deliveries, and light disturbance.
- 15.47 The acoustic assessment submitted with the application has provided information in respect of potential noise impacts from the development. The noise impacts from construction can be mitigated by condition limiting the hours of work. Similarly, noise impacts from mechanical plant, vehicle noise (both customers and deliveries), and operation of the service yards can be mitigated by conditions to limit noise levels and hours of operation and delivery. There has been considerable debate between the Applicant and Case Officer with regards to recommended conditions to restrict delivery times. In particular, these concerned negotiations concerning the service road and service yards on the western boundary of the site adjacent residential properties (part of the Wyvern Farm development). Ultimately, a boundary fence has been proposed along the western boundary, with additional planting between the fence and the retained boundary hedge, in order to mitigate the noise impacts from delivery vehicles and allow for slightly extended hours of opening and delivery times. Provided the fence is provided, Environmental Protection have agreed that the hours of operation and delivery can be extended as requested by the Applicant. The provision of a fence along the western boundary has also been discussed with the Council's Landscape Adviser who has confirmed that they do not have any objection, subject to appropriate planting. Noise impacts are therefore considered to be adequately addressed subject to conditions.
- 15.48 In terms of lighting, lighting levels along the periphery of the site would be controlled as part of the mitigation of impacts on bat foraging corridors. This, in part, ensures that lighting levels would not be overly obtrusive. There is, however, a need to ensure that lighting levels would not have a negative impact on residential amenity. As there is insufficient information submitted with the application with which to assess this with any certainty, a condition is recommended that lighting levels are in accordance with the Colchester Borough Council External Artificial Lighting Planning Guidance Note for low district brightness areas (Zone EZ2).
- 15.49 Subject to conditions, therefore, the proposal is not considered to have a detrimental impact on residential amenity.

Heritage Matters

- 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, the site is not in a conservation area, is not part of, or part of the setting of, a historic park or garden or listed building. The site is, however, located in an area of high archaeological interest, with archaeological remains being recorded as cropmarks captured by aerial photography (Colchester HER No. MCC7716). Archaeological remains were also encountered during development of the Stane Park Phase 1 development, less than 100m south of the application site. There is, therefore, high potential for encountering below-ground archaeological remains at this location. The NPPF, in its chapter Conserving and Enhancing the Historic Environment requires developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation in these circumstances.
- 15.51 An Archaeological Desk-Based Assessment was submitted as part of the planning application and the Council's Archaeological Adviser has confirmed that an adequate pre-determination (3%) trial-trenched evaluation has been undertaken by the applicant, with the archaeological implications of the development having now been established. The Trial Trench Evaluation identified post-medieval field system and the remains of a field boundary/enclosure relating to agricultural activity. Based on the findings of the evaluation, there are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. In accordance with paragraph 199 of the NPPF, it is considered necessary to impose a planning condition to require a further (2%) trial-trenched archaeological evaluation in order to record and advance the understanding of the archaeological significance of the site before it has been development.
- 15.52 Subject to the aforementioned condition, the proposed development is considered to be acceptable in terms of its impact on heritage.

Flood Risk and Drainage

- 15.53` 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.
- 15.54 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.

- 15.55 Environment Agency records ('Long term flood risk information') indicate that there are some areas in the eastern part of the site that have a low-high flood risk from surface water. A Flood Risk Assessment and Surface Water Drainage Scheme have been submitted as part of the planning application and Essex County Council SUDs team have been consulted as Lead Local Flood Authority. Essex County Council have confirmed that they have no objection to the proposals subject to conditions requiring a detailed surface water drainage scheme; scheme to minimise the risk of offsite flooding during construction works; and a surface water drainage maintenance and management plan.
- 15.56 Given the low flood risk at the site, and appropriately conditioned measures to mitigate any risks of surface water flooding, the proposal is considered to be acceptable in terms of flood risk.
- 15.57 In terms of drainage, Anglian Water have confirmed that there is capacity for the foul drainage from the development, although they do require the submission of a foul water strategy via condition. Subject to the inclusion of the condition recommended by Anglian Water, foul drainage is considered to be acceptable.

Ecology

- 15.58 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.
- 15.59 An Ecological Impact Assessment has been submitted with the application. The assessment confirms that the site supports foraging/commuting bats, badger, and low populations of slow-worm and common lizard. Given vegetation along the boundaries of the site, there is also suitable habitat for nesting birds. No designated site or important habitats would be affected by the proposed development. Given the presence of protected species on site, the following mitigation is proposed:
- Reptiles to be translocated from land within the construction zone to a suitable on-site receptor (an area of land to the north-western corner of the site which would remain undeveloped);
 - Measures to be put in place to avoid badgers becoming trapped in excavations during construction phase;
 - Site clearance works to be times to avoid the bird nesting season, as well as appropriate checks to be put in places; and

- The lighting scheme for the site will be designed to ensure that dark corridors are maintained at the site periphery for bats and other nocturnal wildlife.
- 15.60 The impact assessment concludes that, subject to the mitigation measures, no residual or cumulative effects on ecology would occur. The assessment also identifies that ecological enhancements could be achieved at the site which would have a beneficial impact.
- 15.61 Essex Ecology Services Ltd (EECOS) and the Essex Wildlife Trust agree that the mitigation measures outlined in the Ecological Impact Assessment are appropriate in scale and nature and should result in the avoidance, or at least minimisation, of the potential impacts from the development. It is important, therefore, that the measures outlined in the assessment are carried out, including the retention of the area of habitat in the north-west corner of the site. The ecological enhancement measures should also be secured as part of an ecological enhancement plan. A detailed mitigation and enhancement plan can be conditioned.
- 15.62 Provided the ecological mitigation and enhancement measures are secured via condition, the proposal is not considered to have an adverse impact on ecology.

Contamination

- 15.63 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. A Phase 1 Geo-environmental Desk Study has been submitted as part of the application and has been assessed by the Council's Contaminated Land Officer who has found it to be acceptable. The findings of the study are that there is low/very low contamination risks associated with the site and further ground investigation is not required unless any unexpected contamination is encountered during the proposed development works. A condition is required that, should any unexpected contamination be encountered, it must be reported to the Local Planning Authority and any remediation undertaken as necessary.

Air Quality

- 15.64 Whilst the application site is not located in an Air Quality Management Area (AQMA), the development would cause additional traffic movements through AQMA's, such as Lucy Lane North. Core Strategy Policy TA4 states that the demand for car travel will be managed to prevent adverse impact on sustainable transportation, air quality, local amenity and built character and Development Policy DP1 seeks to protect existing public and residential amenity with regard to pollution. The Council's Environmental Protection team have therefore considered the implications of the proposal in terms of air quality.

- 15.65 Environmental Protection assessment is that, whilst it is agreed that the site is not likely to cause the Air Quality Objectives for road traffic related pollutants to be exceeded in or around the site, it is clear that the location will cause additional traffic movement to and from the site that will travel through areas where the levels of NO² are in excess of 75% of the Air Quality Objectives and areas where an AQMA is declared (Such as Lucy Lane north).
- 15.66 It is therefore necessary for the site to provide mitigation to minimise these impacts in line with the guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control processes titled; 'Land-Use Planning & Development Control: Planning for Air Quality'. Mitigation should include electric charging points, as well as improved public transport connection. Whilst a detailed scheme could be conditioned as recommended by Environmental Protection, the revised 'Proposed Site Plan' drawing shows electric charging points being included within the development. It is therefore considered appropriate to condition the installation of the charging points to ensure that they are installed and available to use prior to occupation of the development. Improved public transport is part of the consideration of the Highway Authority and additional bus stops are required as part of the mitigation of highway impacts.

16.0 Planning Balance and Conclusion

- 16.1 The proposal is for a retail development outside any designated centre and on a site allocated for employment. The proposal is, therefore, considered to be contrary to the provisions of the adopted development plan. Although some of the relevant planning policies within the development plan have been found to have inconsistencies with the NPPF they still carry weight (albeit limited weight) and, therefore, the conflict with the development plan remains. Given the limited weight of relevant planning policies, the provisions of the NPPF have been taken into account in respect of safeguarding employment land, the sequential test, and retail impact. The proposal has, as a result of viability evidence, assessment of alternative sites, and conditions to restrict the use of units to bulky goods, been assessed as passing the necessary tests contained within the NPPF. Compliance with the NPPF weighs in favour of the application.
- 16.2 It then turns as to whether there are any benefits that outweigh the conflict with the development plan.
- 16.3 The Inspector in the Stane Park Phase 1 appeal decision stated that the proposal would bring a vacant site into beneficial use and the same can be said for the Phase 2 proposals. Whilst there have been proposals to develop the site for employment purposes (between 1999 and 2006) these were withdrawn and the site has remained vacant. The Inspector in the Stane Park Phase 1 appeal considered that development of the Phase 1 site would enhance the appearance of the area; in this case, the landscaping of the site is considered to be of some visual benefit. In addition, development of

the site would provide employment in the area in the near future both in terms of construction and later operation of the site. These matters weigh in favour of the application.

- 16.4 The proposal would include highway improvements that would mitigate the impacts of the development, but would also offer improved accessibility to the site and its surroundings, as well as providing a choice of mode of transport for local residents (i.e. cycling and/or walking via a cycleway/footway link, and bus travel with bus stops being located in close proximity to the site entrance). This has a benefit in terms of accessibility and sustainability which are core principles of the adopted development plan. Whilst using private car is likely to be the more common form of transport to and from the site given the nature of the development, alternative modes of transport would be available. Increasing the availability of more sustainable modes of transport weighs in favour of the proposal.
- 16.5 The scheme would incorporate ecological enhancements that would otherwise be absent; indeed, if the site remained vacant it is likely that it would be unmanaged from an ecology perspective which would be detrimental to biodiversity. The ecological mitigate and enhancements incorporated into the scheme weigh in favour of the application.
- 16.6 There are concerns regarding elements of the design and layout of the proposal, particularly the arrangement of built form at the entrance to the site. The Applicant has made some amendments to improve the gateway entrance and, whilst it is not considered to fully meet policy standards and principles, this element of the proposal is considered to be outweighed by the benefits of the scheme when taken as a whole.
- 16.7 Public representations have been taken into account as part of the assessment of the proposal and, as set out in the preceding parts of the report, the impacts of the proposal can be suitably mitigated.
- 16.8 Having taken all matters into account, it is concluded that the proposal satisfies the requirements of the NPPF and that this, along with additional benefits of the scheme outweigh the conflict with the development plan.

Procedural Matter

- 16.9 Should the Planning Committee resolve to approve the application there are some procedural matters that need to be undertaken. The Town and Country Planning (Consultation) (England) Direction 2009 sets out the procedure for when the Local Planning Authority is required to consult the Secretary of State in order to ascertain whether they wish to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990. In this case, the application constitutes development that would fall within category 5 of the Direction relating to 'development outside town centres' given the nature of the development as retail, not being in accordance with the development plan (i.e. Local Plan), the out-of-centre location, and floorspace above 5,000sqm. In recommending approval of the application contrary to the provisions of the Local Plan it is necessary to consult the

DC0901MWeV9.3

Secretary of State as per the requirements of the Direction. Planning permission cannot be granted until the expiry of 21 days beginning with the date which the Secretary of State notifies the Local Planning Authority that the consultation has been received and they have all the information necessary to consider the matter. Alternatively, the Secretary of State may exercise their powers to 'call-in' the application for determination by them.

17.0 Recommendation to the Council

17.1 The Officer recommendation to the Committee is to resolve to

- Approve the application subject to the recommended conditions and Section 106;
- To delegate authority to the Planning and Housing Manager to consult the Secretary of State in order to ascertain whether they wish to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990;
- To delegate authority to the Planning and Housing Manager to determine the application either upon receipt of confirmation from the Secretary of State that they do not wish to 'call-in' the application or following the expiry of 21 days from receipt of the consultation;
- To delegate authority to the Planning and Housing Manager to negotiate the obligations and clauses of the Section 106 and approve planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement.

17.2 The permission will also be subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM - Development to Accord with Approved Plans

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers

16384_0201_P-00	Site Location Plan
16384_2000_P-18	Proposed Site Plan
16384_2020_P-01	Unit A1 to A6 GA Ground Floor Plan
16384_2021_P-01	Unit A1 to A6 GA Roof Plan
16384_2022_P-02	Unit A1 to A6 GA Elevations
16384_2010_P-02	Unit B GA Plan Ground and Mezzanine Floor
16384_2011_P-04	Unit B GA Plan Roof Plan
16384_2012_P-05	Unit B GA Elevations
16384_2040_P-05	Unit C GA Plan Ground Floor Plan

16384_2041_P-05	Unit C GA Plan Roof Plan
16384_2042_P-05	Unit C GA Elevations
16384_2031_P-03	Unit D GA Plan Ground Floor Plan
16384_2032_P-02	Unit D GA Plan Roof Plan
16384_2033_P-02	Unit D GA Elevations
16384_2046_P-02	Kiosk GA Plan and Elevations
398-PA-05 O	Landscape Plan
16384_1001_P-01	Site Sections Sheet 01
16384_1002_P-01	Site Sections Sheet 02
16384_1003_P-01	Site Sections Sheet 03
16384_1004_P-01	Site Sections Sheet 04

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

3. Non Standard Condition - Floor Area

The total floor area of the development shall not exceed:

A1 retail 24,016 Square metres

A3 Restaurant/café 326.8 Square metres

Reason: For the avoidance of doubt as to the scope of the permission and because the impacts of the proposal, along with necessary forms and levels of mitigation, have been assessed on this basis.

4. Non Standard Condition - Restriction on Mezzanine Floor Space

Notwithstanding the definition of 'development', the creation of any mezzanine level or intermediate floorspace within any building or part of a building within the development hereby approved, with the exception of the 4,274sqm of mezzanine space to serve Units A1-A6, is not permitted without the further grant of planning permission for the expansion of floorspace from the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of the permission and because the impacts of the proposal, along with necessary forms and levels of mitigation, have been assessed on this basis.

5. Non Standard Condition - Bulky Goods Restriction

No goods shall be sold from Units A1-A6 or Unit B (as shown on drawing number 16384_2000_P-18) other than: DIY goods, materials for maintaining and repairing the dwelling; furniture and furnishings; tiles, carpets and other floor coverings; household textiles; electrical goods and other domestic appliances; construction tools and associated equipment; garden equipment, plants, flowers and sundries; audio visual, photographic and information processing equipment, accessories and sundries; cycles, motor vehicle and cycle goods; spares and parts (including the repair of cycles); pets, pet food and pet related products and services (with any pet care and treatment services being ancillary only); goods for outdoor pursuits (including for camping and caravanning); together with ancillary café facilities (Class A3) strictly where these are operated by the tenant. The aforementioned units shall be used for no other purpose, including any other use in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) as well as any use as part of the Town and Country Planning (General Permitted Development) Order 2015 (as amended or re-enacted).

Reason: In the interests of mitigating the impact on retail premises in designated centres from an out-of-centre location.

6. Non Standard Condition - Exclusion of Comparison Goods

Notwithstanding the provisions of the Class A1 Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) and the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or in any amending Order, Units C and D shall be used for A1 convenience goods floorspace only, other than for no more than 20% of Unit C floorspace and no more than 30% of Unit D floorspace that shall be used for the sale of comparison goods, and shall not be used for any other purpose.

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.

7. Non Standard Condition - Hours of Operation

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

Weekdays: 07:00 to 23:00

Saturdays, Sundays and Public Holidays: 07:00 to 23:00

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

8. Non Standard Condition - Delivery Times

No deliveries shall be received at, or despatched from, Units A1-A6, B, or D outside of the following times:

Weekdays: 06:00 to 22:00

Saturdays, Sundays and Public Holidays: 06:00 to 22:00

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

9. Hours of Demolition or Construction Work

No demolition or construction work, other than internal fit out works following shell completion, shall take place outside of the following times;

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays and Bank Holidays: NONE

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

10. Non Standard Condition - Construction Method Statement

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

- The parking of vehicles of site operatives and visitors;
- Hours of deliveries and hours of work;

- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction; and
- A scheme for recycling/disposing of waste resulting from 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.

11. Non Standard Condition - Programme of Archaeological Works

No works shall take place until the implementation of a programme of archaeological work, for an additional 2% trial trenching, 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).

12. Non Standard Condition - Ecological Mitigation and Enhancement Plan

No development shall commence until a detailed Ecological Mitigation and Enhancement Plan, following the principles of the hereby agreed MLM Group Ecological Impact Assessment (ref: AC/774816), has been submitted to and agreed, in writing, by the Local Planning Authority. The approved plan shall then be implemented as approved.

Reason: In order to safeguard protected wildlife species and their habitats and in the interests of ecological enhancement.

13. Non Standard Condition - Highway Improvements A12 Junction 26

No development shall commence until detailed designs of the required improvements to the A12 junction 26 have been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall generally conform to the arrangements shown in outline on Cannon Consultants drawing number F171/109 rev C and shall include the following:

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations,
- ii. Full construction details relating to the highway improvement. This should include any modification to existing structures or proposed structures, with supporting analysis,
- iii. Full signing and lighting details where applicable,
- iv. Confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departures from standards),
- v. An independent stage 2 Road Safety Audit (taking account of any stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB) and Advice Notes.

The highway improvements shall be implemented as approved and completed to the satisfaction of the Local Planning Authority (in consultation with the Highways Authorities) and no occupation shall take place unless and until the junction improvements shown in outline on Cannon Consultants drawing number F171/109 rev C have been delivered and are fully operational.

Reason: To ensure that the A12 Junction 26, Eight Ash Green Roundabout, will continue to fulfil its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980, Circular 02/13 'Planning and the Strategic Road Network', to satisfy the reasonable requirements for road safety. And to reduce traffic generations in the interests of sustainability.

14. Non Standard Condition - Highway Improvements Local Road Network

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

- a) Dualling of the Stanway Western Bypass between the A1124 Essex Yeomanry Way 'Teardrop' junction and Sainsbury's roundabout as shown in principle on the approved drawings
- b) Dualling of the proposal site access road between the Sainsbury's roundabout and the roundabout which serves Stane Park phase 1a and 1b and the proposal site as shown in principle on the approved drawings
- c) Widening of the Stanway Western Bypass southern arm at the Sainsbury's roundabout as shown in principle on the approved drawings
- d) Widening of the Stanway Western Bypass northern arm at the London Road roundabout as shown in principle on the approved drawings

- e) A toucan crossing on the Stanway Western Bypass north of the Sainsbury's roundabout
- f) A footway/cycleway between the toucan crossing mentioned above and the proposal site as well as on all sides of the roundabout which serves Stane Park phase 1a and 1b and the proposal site
- g) Two bus stops to current Essex County Council specification on the proposal site access road between the Sainsbury's roundabout and the roundabout which serves Stane Park phase 1a and 1b and the proposal site (specification shall be agreed with the Local Planning Authority prior to commencement of the development)

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.

15. Non Standard Conditionh - Travel Plan

No development shall commence until a Framework Travel Plan for the site/scheme as a whole has been submitted to and approved in writing by the Local Planning Authority. No individual unit shall then be brought into use until a Tenant Travel Plan, to be in line with the general parameters set out in the approved Framework Travel Plan, has been submitted to and approved in writing by the Local Planning Authority. The approved Tenant Travel Plans shall be implemented upon first occupation of each part of the development and shall be in line with prevailing policy and best practice and shall include as a minimum:

- The appointment of a Travel Plan Co-ordinator
- The identification of targets for trip reduction and modal shift
- The methods to be employed to meet these targets
- The mechanisms for monitoring and review
- The mechanisms for reporting
- The penalties to be applied in the event that targets are not met
- The mechanisms for mitigation
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variations to the Travel Plan following monitoring and reviews

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

16. Non Standard Condition - Detailed Landscape Works

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

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

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

17. Non Standard Condition - Detailed Surface Water Drainage Scheme – Technical Certification

No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Run-off from the site restricted to a maximum of 24.5l/s for all events up to the 1 in 100 inclusive of climate change (40%) storm event.
- Infiltration testing across the site area, in accordance with BRE 365, to support the SuDS hierarchy.
- Control of all surface water run-off generated within the development for all events up to and including the 1 in 100 year event inclusive climate change (40%).
- An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
- Final detailed modelling of the whole drainage network on site.
- A drainage plan highlighting final conveyance and exceedance routes, location and sizing of storage features, discharge/infiltration rates and outfall/s from the site.

Reason: The National Planning Policy Framework paragraph 163 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

18. Non Standard Condition - Scheme to Minimise the Risk of Offsite Flooding During Construction

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

Reason: Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

19. Non Standard Condition - Surface Water Drainage Maintenance and Management Plan

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

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

20. Non Standard Condition - Foul Water Strategy

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No unit shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

21. Non Standard Condition - Materials

No external materials (including windows and curtain walling) 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.

22. Non Standard Condition - Electric Charging Points

Notwithstanding the submitted details, no works to construct the parking areas shall be commenced until a scheme for the provision of EV charging points (including rapid charge points) for vehicles has been submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, the provision of 10 EV charging points for cars as shown on drawing number 16384_2000_P-18. The scheme shall then be implemented as approved and be made available for use prior to the occupation of the development.

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

23. NonStandard Condition - Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the noise rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 5dB(A) above the background levels determined at all boundaries of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

24. Non Standard Condition - Noise attenuation fencing

Prior to the first use or occupation of the development, details of the density and construction of a 2.5m high fence along the 136m length of the western site boundary, as shown on drawing 16384_2000_P-16 attached to MRPP's email of 7 June 2018, together with details of the associated landscaping between the fence and boundary hedge to the west, shall be submitted to and approved, in writing, by the Local Planning Authority. The approved works and associated landscaping shall then be implemented and completed prior to first occupation of units A1-A6, B and D.

Reason: In order to mitigate the noise disturbance from the proposed service road in the interests of residential amenity.

25. Non Standard Condition - Landscape Management Plan

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

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

26. Non Standard Condition - Lighting

Prior to the first OCCUPATION/USE of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

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

27. Non Standard Condition - Reporting of Unexpected Contamination

In the event that historic 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 previously fly tipped land where there is the possibility of contamination.

28. NonStandard Condition - Outside Storage

No outside storage of goods, materials, or waste shall take place in the open except with a designated compound the details of which, including barrier treatment, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

4. Anglian Water Informative

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

5. Archaeology Informative 1

In respect of condition 8 a further (2%) trial-trenched archaeological evaluation is required. Decisions on the need for any further investigation (excavation before groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

6. Archaeology Informative 2

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

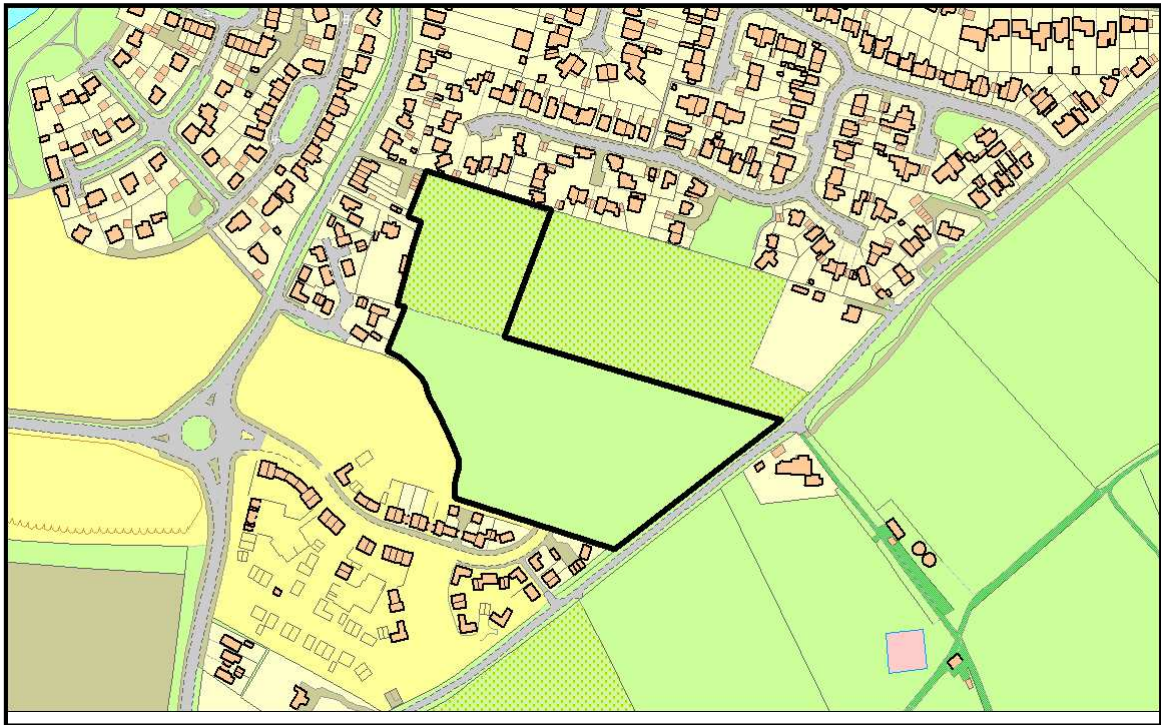
Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.

8. 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.

9. Highways England 'Informative' - S278 agreements

The Highways England informative regarding Section 278 Agreements is appended to this decision and should be taken into account by the Applicant/Developer as necessary.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.2

Application: 180873

Applicant: Mr Davies

Agent: Kevin Coleman, Phase 2 Planning & Development Ltd

Proposal: Erection of 56 residential properties with associated parking, servicing, amenity space, landscaping and utilities.

Location: Land North of, Dyers Road, Stanway, Colchester

Ward: Stanway

Officer: Sue Jackson

Recommendation: Approval/Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the application is a major, objections have been received and a legal agreement is required.

2.0 Synopsis

- 2.1 The key issues for consideration are land-use, the design/layout, traffic and highway implications, flood risk, impact on ecology and archaeology. The impact on neighbouring amenity and the surrounding area is also discussed, the representations are set out and responded to. The report concludes that the development is acceptable subject to appropriate conditions and section 106 obligations.
- 2.2 The application is subsequently recommended for permission subject to a legal agreement.

3.0 Site Description and Context

- 3.1 The application site is located on the west side of Dyers Road, Stanway between two parcels of land; one to the south where residential development is under construction with some dwellings occupied and the other to the north where there is a committee resolution to grant planning permission for 35 dwellings.
- 3.2 The site has an area of 2.82 hectares it is "L" shaped and can be divided into two parcels. The smaller area is described as a mixed successional habitat of neutral sward grassland, dense mixed scrub and individual young broad leaf trees, the larger area is of agricultural origin with little biodiversity or conservation value.
- 3.3 The site has a frontage to Dyers Road, the north boundary is shared with the adjacent development site and then extends behind this land to abut the boundary with established dwellings in Egremont Way and Grieves Court. The west boundary is irregular in shape it also abuts a boundary with established dwellings in Warren Lane including "The Burrow" a bungalow set behind the road frontage. This boundary also abuts new residential development, where there is row of preserved trees along the old field boundary separating the two sites. The south boundary also abuts new residential development.
- 3.4 The frontage to Dyers Road includes a hedgerow and in addition to the preserved trees on the west boundary the site also contains a small number of preserved trees close to the north boundary and a single preserved tree within the site.

4.0 Description of the Proposal

- 4.1 This full application proposes the erection of 56 dwellings with associated infrastructure, parking, landscaping and open space. The proposal comprises 1, 2, 3 and 4 bed homes on a site of 2.82 hectares north of Dyers Road. Eleven affordable units are included. The layout takes into account the future development of Stanway, a “strategic” road from the neighbouring site and the eventual stopping up of Dyers Road. The main vehicular access is proposed from a new entrance onto Dyers Road, located towards the southern end of the site’s frontage which then connects to the road serving the land to the south. A linear open space is proposed along part of the north and east boundary abutting an area of retained woodland on the adjacent site. A pedestrian/cycle link is indicated connecting to a similar path proposed on the site to the north and linking to the main access road.
- 4.2 The application includes the following supporting documents;
- Design and Access Statement
 - Planning Statement
 - Transport Statement
 - Flood Risk Assessment and Drainage Strategy
 - Ecological Report
 - Archaeology Report
 - Arboricultural Impact Assessment
 - Landscape Strategy
 - Site Investigation and Remedial Method Statement

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 The application site does not have any relevant planning history. Relevant planning history on adjacent sites include; Application 172272 which proposes 35 dwellings on land to the north where there is a committee resolution to approve subject to a legal agreement being signed (Taylor Wimpey). The development under construction on the land to the south is subject to application reference 152826 for 93 dwellings (Mersea Homes).

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 also be taken into account in planning decisions and sets out the Government’s planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

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
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- 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 STA1 Appropriate Uses within the Stanway Growth Area
- SA STA2 Phasing of Greenfield sites in Stanway Growth Area
- SA STA4 Transportation in Stanway Growth Area
- SA STA5 Open Space in Stanway Growth Area

It is understood that the Stanway Neighbourhood Plan is currently 'on hold' and is unlikely to be progressed in the short term. No weight can be given to the work carried out to date. There is an adopted Parish Plan for Stanway but this does not form part of the Local Plan.

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 having been submitted for Examination and is, therefore, considered to carry some weight in the consideration of the application. But as it is yet to complete the examination stage, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

- Stanway Parish Plan and Design Statement (March 2011)
- Stanway Southern Slopes Access Brief (May 2011)
- Community Facilities
- Vehicle Parking Standards
- Open Space, Sport and Recreation
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing
- Cycling Delivery Strategy

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 Environment Agency have confirmed they have no comment to make.

8.3 Urban Design Officer objected to the original submission which was considered to lack a sense of distinctive character, and did not adequately respond to the attractive landscape setting and generally did not represent good place-making. Objection was also raised as the proposals are premature, given they are not informed by a wider agreed masterplan as required by the Colchester Local Plan for such large growth sites, and which might have helped avoid some of the identified problems. key issues include:

- Car parking inappropriately dominating some areas of public realm and resulting in a poor sense of spatial enclosure
- Lack of desire-line pedestrian and cycle link to the East (Warren Lane)
- Extension of the pedestrianised green corridor (from the neighbouring northern site) inappropriately peters out into nothingness instead of intuitively facilitating desire-line access
- Development inappropriately backs onto to public realm, at least without woodland buffering and a general sense of self-policing.

- Poorly overlooked and defined space between development and woodland/hedgerow along some of the northern site boundary
- a lack of continuity of built frontage (urban characterisation) and public realm greenery (soft landscaping) for the relatively wide movement corridors:
- An undersupply of useable public open space assessed against Colchester's Development Policies which requires 10%
- A lack of foot and cycle access along the hedgerow as part of a wider envisaged route through Fiveways.

OFFICER COMMENT

The Urban Designer comments about prematurity and the need for a masterplan are surprising as the officer is aware of the development of the parcels of land either side of this site. As the site is the only remaining area on this side of Dyers Road there is no necessity for a masterplan as key parameters are now established. The adjacent developments have been agreed without a masterplan and this remaining parcel is informed by those approved schemes. The site to the north and ecological constraints on the application site have informed the location and shape of the open space and the vehicular access and location of the spine road are informed by the development to the south. A masterplan will be required for the larger area of the Fiveways Fruit Farm on the opposite side of Dyers Road. The development cannot be considered to be premature as it relates to an allocated site.

Meetings have taken place to secure improvements to the scheme in respect of layout, including the pedestrian link, defining the open space and car parking. Whilst some improvements have been agreed these discussions are ongoing and Members will be updated on the amendment sheet.

8.4 Archaeologist 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.

8.5 Environmental Protection have no objections in principle but comment; The development will create operational traffic that will add further road traffic related air pollutants into areas already experiencing elevated Colchester borough has a number of AQMA's and areas where levels of road traffic related pollutants are over 75% the national and European Air Quality Objectives.

In Line with the latest institute of air Quality and Environmental Protection UK guidance, impact mitigation measures should be incorporated into new developments. This would include effective travel plans (In excess of those normally expected for a typical development of this nature) but should also incorporate Electric Vehicle charging points for off road parking spaces associated with dwellings. This can be dealt with by condition.

We would therefore recommend conditions be applied should permission be granted.

8.6 Contaminated Land Officer

A Phase 1 Desk Study has been submitted which includes the application site, as well as another parcel to the south of Dyers Road (not the subject of this application). This is an acceptable report for Environmental Protection's purposes. It has identified some potential sources of contamination, chiefly: suspected asbestos containing material in vicinity of a derelict shed adjacent to the southern boundary of this parcel (within the building's structure and spread across the ground surface), use of shed for general farming activities, off-site landfills/backfilled pits. No asbestos surveys were made available. An initial conceptual site model has been drawn up and a Phase 2 Intrusive Investigation has been recommended for both parcels in order to further risk assess the identified potential pollution linkages.

The Geotechnical and Geo-environmental Site Investigation Report refers to the Land North of Dyers Road parcel only. This report has further assessed the risks identified in the above desk study report. The work consisted of the excavation of six trial pits to max depth of 2.4m bgl and 7 boreholes to a maximum 2m bgl. A sample of the surface soils in the vicinity of the suspected asbestos-containing fragments was obtained. Sample locations were determined to provide a general assessment of ground quality beneath the site. Three of the boreholes (BH1, BH2, BH7) were converted to monitoring wells and six gas monitoring visits were completed. Soil samples were tested for a range of contaminants, including metals, PAH, TPH, pesticides and herbicides.

I note that up to 0.8m made ground/disturbed ground was encountered, all determinants were found to be below the chosen assessment criteria and it has been concluded that the contaminant levels within the soils will not pose a significant risk to human health. No loose asbestos fibres were encountered in the area where fragments of suspected asbestos cement sheeting were observed. The appendices include a single sample result for 'hut' – result 'chrysotile'. The revised Conceptual Site Model recommends removal of all fragments of cement sheeting on the surface adjacent to the hut and Figure 4 includes the derelict shed in the area requiring remediation. On completion of the work it has been recommended that validation should be undertaken to confirm that all asbestos containing materials and asbestos has been removed, consisting of a detailed inspection of the area and the collection and analysis of surface soil samples for asbestos.

With respect to ground gases, I would like to be in receipt of confirmation that the depth of response zones is considered relevant, also that the worst case has been captured by the data, given the shallow depth of wells and as there have been no readings undertaken at low pressure (<1000mb)

The applicant's attention is drawn to the recommendation that the potable water supplier be contacted to confirm its requirements for buried supply pipes. Further risk assessment will be required for the remainder of the site (Land South of Dyers Road).

However, based on the information provided, it would appear that the site could be made suitable for the proposed use. Consequently, should this application be approved, Environmental Protection would recommend inclusion of conditions and informatives:

- 8.7 Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development. Incorporating Secured by Design into your development is always preferable in order that security and lighting considerations are met for the benefit of the intended residents and those neighbouring the development,. Essex Police, in supporting the ethos of Sections 58 & 69 of the NPPF, provide a free, impartial advice service to any applicant who request this service; we are able to support the applicant to achieve the requirements to gain Secured by Design accreditation and would invite the them to contact Essex Police via designingoutcrime@essex.pnn.police.uk .

8.8 Lead Local Flood Authority (LLFA) EC SUDS Team

The LLFA were consulted in April 2018 and despite several reminders have not responded to the consultation. A response was again requested on the 10 August and a verbal update will be provided for the Committee or conditions suggested.

8.9 EECOS (The Ecological Advisory Service of Essex Wildlife Trust)

EECOS has advised the Council on ecological matters and commented that with this and other adjacent developments in the pipeline, it appears likely that badgers may be effectively excluded from the local area unless sufficient habitat is retained to support them. Retaining movement corridors is unlikely to be sufficient. Therefore it would be preferable to retain the north west scrub area.

Officer comment: EECOS subsequently confirmed this comment was only advisory as legislation does not secure habitats. Following the receipt of the further information from the applicant's consultant EECOS agreed with the comments made.

8.10 North East Essex Badger Group

It is noted that this Application borders Appl. No 172272 - a development area which houses the badger sett referred to in this Application. At the moment the wildlife have free range over both these areas but presumably once the first development commences, then they will naturally gravitate to the last remaining piece of land afforded to them. If this area is built on then exactly where will our badgers and other wildlife go? A narrow wildlife corridor is all well and good, should they wish to keep to it, but this leads to roads and over to the last piece of land which we understand is also subject to development. It would be good if provision could be made for a substantial piece of shrubland to remain undeveloped connected to the present badger sett area which would allow the badgers and other wildlife reasonable foraging grounds.

The applicant's specialist response to these comments is set out below "Eco-Planning Uk Ltd has been involved with this application site and adjacent secondary woodland area since 2013, and as such our badger related comments are not a one off/snap shot opinion based upon a single site visit but have arisen from 5 years of on-site presence. As part of the planning application process comments have been received from EECOS and the North East Essex Badger Group in relation to the disturbance of the badgers/sett within the adjacent secondary woodland that would be caused by the proposed development:

It is not clear from their comments if either group have at any time been to the proposed development site to assess the sett and any/all adjacent habitats, or if their comments are simply general observations.

We have clearly stated in the ecological report submitted as part of the application that in relation to the off site sett:

This possibly once main sett has 12 entrances, most of which have been blocked or only occasionally used over the last 5 years....

The sett use has declined significantly since 2013 when we first assessed its condition/status, its use is now only occasional.

Since the completion of the ecological report – our services have been retained and the site is under our watching/monitoring brief. During this time the occasional sett use has declined further and there is now no indicative sign of any sett use within the secondary woodland. It is possible that this sett has already been vacated and there is no associated badger presence or even occasional use.

There is a large active sett to the south east of site beyond the adjacent five ways fruit farm (we do not normally disclose the location of off-site badger setts that are not impacted upon by a proposed development – in case of illegal badger related activities) that may be part of the same social group that used the proposed development site, without further survey efforts -bait marking etc we cannot confirm.

Ground penetrating radar was used to determine if the off-site sett in the adjacent secondary woodland extended into the proposed development area beneath the soil surface. The ground penetrating radar had a visual screen representation which was used to mark on site the location of any sett trespass into the development area. The off-site sett did locally extend with one distinct sett tunnel 9.2 metres into the proposed development site.

Although the off-site sett is possibly no longer active it was agreed that a 10 metre boundary corridor could be created and would prevent any sett disturbance and would allow any possible future badger occupation of the sett.

It must be noted that the 10 metre wildlife corridor is not specifically/solely for badger provision as the degree of sett activity is now negligible. The corridors existing need is to increase and connect the amount of reptile habitat to the northern boundary field edge where there is a restricted reptile presence, and to improve the connectivity of the declining tree/shrub field hedge boundary for bat dispersal – foraging. In this instance the green corridor will be effective and fit for purpose.

In conclusion – the comments made although understandable are not accurate in relation to the existing sett condition and badger presence – they are more generic – and not based upon on extended site observations”.

8.11 Arboriculturalist: has raised no objection to the application

8.12 Highway Authority

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

8.13 Landscape Officer has commented that to accord with the Council's Landscape strategy for development sites the landscape element of the proposal needs to be cross-checked against the Council's standard generic requirements under landscape 'Guidance Notes A (LIS/A)'; and where applicable amended accordingly to fully accord with them.

The following points should be taken into consideration as part of any revised proposals:

- For reasons of clarity units 1 to 5 need to be clearly numbered on the Landscape Strategy drawing 17.3050.01.A and the surface materials on plan need to include symbol as well as colour.
- The existing hedge to Dyers Road has considerable value within the street scene and is a prominent and established part of the hedgerow network locally. In order help protect the long term viability of this important hedge development layout should be reconsidered to ensure units are set well back from and preferably front onto it, or if not front onto then layout is redesigned to allow units to side onto it.
- In order to help better define the frontage enclosure along the main spine road, define the edge of the sight splay arcing along the frontages to plots 1 to 5 and complement the pattern of adjacent development, horizontal bar railing should be proposed to front the proposed frontage hedging to plots 1 to 6, 41 & 42 and 50 to 53.

9.0 Parish Council Response

9.1 The Parish Council have stated I can confirm that Stanway Parish Council OBJECTS to this proposal as there is insufficient Public Open Space, there is a lack of amenities for children, the site is too dense with a lack of parking and the Committee backs the concerns of local residents.

10.0 Representations from Notified Parties

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

- The roads can't cope as it is and that's without the other developments finishing. There should not be any more new builds in Stanway or near the A12 or A120.

- Stanway used to be a quiet village but now it can't cope with all the extra people and traffic, the roads are in a terrible condition with potholes everywhere.
- Traffic builds up in Warren Lane and right through to Tollgate as the cars try to join the Maldon Road it is horrendous and this application if agreed, will just make a bad situation even worse.
- Facilities including the doctors and schools cannot cope
- Colchester Borough Council will not listen to the people of Stanway and will approve this development because the backhanded payments they are receiving and lining their pockets with
- Stop using the word affordable because the houses aren't and never will be.
- This development will fill in the last remaining open space in this area. Surely the time has come to stop building in Stanway, we have very little open space left and our facilities are at bursting point now.
- Each relatively small development off Dyers Road is one thing, but if linked as is proposed will produce one huge sprawling estate. This plot is the last remaining oasis for wildlife in the 'Dyers Road/ Warren Lane triangle'.
- crime will increase
- This is an ecological disaster. So much wildlife will be displaced especially as the woodland area is being destroyed. We have a badger set on the land, we have deer, foxes, stag beetles, owls, bats.
- We ourselves have suffered the consequences of being built on two sides of our property over the past 18 months, namely Parva Place, and the approval of this application would mean that our third boundary would also have a housing development. This would leave us totally surrounded and engulfed by a huge development. Two years ago, we had seclusion and privacy from the world, but today we are being subjected to the trappings of living in an estate- built bungalow. We purchased our property because of its privacy and seclusion and the thought of yet another boundary being taken over by building works is an absolute nightmare for us. We are concerned about our right of way, and even though Mersea Homes have assured us that our right of way will not be affected, we feel that our drive may in some way suffer from residents or children within this development. We would like some reassurance as to how the developers intend to fence off our right of way, in order to ensure us that the drive will NOT be used for any traffic including foot traffic. We would like to know whether the trees on the north west boundary will be protected. We have very little green space for our children to grow up and appreciate the environment.

11.0 Parking Provision

- 11.1 The development satisfies the Councils adopted parking standards for residential development including visitor parking. A condition will be imposed to secure appropriate vehicle and cycle parking .

12.0 Open Space Provisions

- 12.1 The layout includes an area equivalent to 10% of the site as public open space. The submitted drawings and supporting planning documents state that all garden areas comply with the Councils amenity standards for private gardens.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area.

14.0 Planning Obligations

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

- Open Space, Sport and Recreation: A total off site open space contribution of £312,699.36. A Public Open Space & Tree maintenance sum, if these features are adopted by CBC, of £24,638.78
- County Education: Primary Education: £12,734.00 per place, Secondary Education: £19,345.00 per place, the development can be expected to generate the need for up to 16.20 primary school, and 10.80 secondary school places.
- County Highways: a) A continuation of the spine road between the adjacent Taylor Wimpey site (east of Warren Lane) and Dyers Road b) Upgrading of the two bus stops which would best serve the site (details to follow) c) Residential Travel Information Packs. Works to be conditioned and delivered either as part of the site or by a s278 agreement.(As with Taylor Wimpey's site east of Warren Lane, delivery of the continuation of the spine road should be included in the s106 agreement)
- Affordable Housing Officer commented on the original proposal which has now been revised to include 2 4-bed dwellings and the storage space in the units has been increased. 11 units are proposed tenure to be in accordance with adopted policy and all of the affordable housing to meet a minimum of building regulations Part M4 Category 2.
- Community Facilities – a contribution required towards the refurbishment and extension of the Evangelical Church, £180,000 for the building work at Stanway Evangelical Church and £2000 for installation of a hearing loop and relevant equipment Stanway Youth Centre

15.0 Report

15.1 The main issues in this case are:

The Principle of Development

15.2 It is a statutory requirement for a planning application to be determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is also reflected in guidance set out in the NPPF. The Council's adopted Development Plan Documents, include a Core Strategy, Site Allocations and Proposals Maps and Development Plan Policies (DPD). The Council has also adopted a Supplementary Planning Document Stanway Southern Slopes Access Guidance (2013). In addition to these adopted documents, the emerging local plan is also of relevance,

and is considered to carry some weight. The residential use of this land is in conformity with the adopted local plan.

- 15.3 The Council's Core Strategy provides the overarching policy direction for the local plan and for the delivery of development, infrastructure, facilities and services in Colchester to 2021 and 2023 for housing. Policy SD1 of the Core Strategy promotes sustainable development and identifies broad locations for growth. Five main locations are identified, including the Stanway Growth Area, of which the application site forms part. Policy SA STA1 of the adopted Site Allocation Plan identifies appropriate uses within the Stanway Growth Area. The application site is allocated for residential development.
- 15.4 As this is an allocated site there is not an objection in principle to the site being developed for residential purposes.

Design and Layout Appearance

- 15.5 The proposed dwellings are of a traditional design. A range of house types are proposed; their external appearance has been developed with a simple palette of materials. A mix of red, multi and buff bricks will be used and complimented by special brickwork detailing, window blanks and special feature walls. A mix of brick and weatherboarding will be used on some units to provide enhanced details and features which further anchor the larger houses within the street scene.
- 15.6 The urban design officer has commented on the lack of foot and cycle access along the hedgerow as part of a wider envisaged route through Fiveways; the position of the extension of the pedestrianised green corridor; the development inappropriately backs onto to public realm and that there is poorly overlooked and defined space between the development and woodland/hedgerow along some of the northern site boundary; a lack of continuity of built frontage and public realm greenery and an undersupply of useable public open space.
- 15.7 The provision of a link through the frontage hedge would conflict with the advice from the Landscape Officer to preserve this hedgerow intact. In the longer term Dyers Road will become a pedestrian cycle route when it is closed to through traffic. The layout has been revised to reduce the dominance of car parking. The built frontage to the main spine road has been improved by linked units and the amended plans include increased levels of greenery.
- 15.8 The layout has also been revised to include units, north of the access, fronting Dyers Road set behind the frontage hedge. South of the access point due to the sharp curve in the road to connect to the adjacent site it is not possible for units to both front the new access road and Dyers Road. In townscape terms the priority is to front the new road and these units therefore back onto Dyers Road with the frontage hedge retained at the end of the gardens.

- 15.9 The application originally included two areas of open space, one a small oval shaped area virtually surrounded on all sides by roads and the second a linear area abutting the retained woodland on the land to the north. The revised scheme re-aligns the internal road so these two areas now form a single larger area. The public open space includes the preserved trees on the site. At the request of a ward councillor a nature trail is proposed through the open space the details of which will be secured by condition.
- 15.10 The layout has been revised so dwellings now front onto the open space so this public area is overlooked. Negotiations are continuing regarding these frontage units to ensure the open space is appropriately addressed and this public space is not dominated by vehicles and roads. This is difficult to achieve taking account of the constraints of the site and the linear nature of the public space but a more organic edge to this public area is required. Revisions in respect of materials and some fenestration details are also ongoing.
- 15.11 Some of the amendments to the layout whilst not significant have altered the position of dwellings and introduced different house type on plots along part of the west boundary adjacent to recently constructed dwellings. These neighbours have been re-consulted and the period for comments expires on the 24th August (the day after the Committee meeting). Any representations will be reported on the amendment sheet. Should any material new representations be received raising new issues on the 24th September the application will be referred back to Members.

Scale, Height and Massing

- 15.12 The buildings are all of domestic scale; with proposed dwellings a maximum of two-storeys high. The proposal includes bungalows on sensitive boundaries with established dwellings. The range of house types and differing unit sizes has been used to create a varied street scene with larger, corner-turning house types used to anchor key views around the site.
- 15.13 The scale of development is of medium density, semi-detached and detached dwellings. This follows the established pattern of development in the Stanway area.

Impacts on Neighbouring Properties

- 15.14 Members will note the representations summarised above. The objections are made by residents in the established properties in Warren Lane, Egremont Way and Grieves Court. One of the main issues raised relates to traffic; the condition of roads and the queues on the A12 and A120. Stanway has seen large scale residential development in recent years including Lakelands and Wyvern Farm and more locally the development to the north and south of the site and other smaller sites in Warren Lane. Stanway is defined as a Growth Area in the Development Plan and the application site is allocated for residential development. The Highway Authority has raised no objection to the application.

- 15.15 Concerns about ecology are addressed below.
- 15.16 The residents of the Burrow and others have raised objection to the loss of privacy. The application includes five bungalows which are located on the boundary with properties in Warren Lane and Egremont Way/Grieves Court. The bungalows do not include any rooms in the roof space and conditions will be imposed to prevent roof conversions without the prior consent of the Council. One 2- storey house is also proposed on this boundary with the dwelling orientated side-on with no first side floor windows. Furthermore, the installation of first floor windows without the prior written consent of the Council will be precluded by condition.
- 15.17 The majority of the proposed houses back onto the new dwellings on the land to the south. Two houses are aligned side-on and one includes a first floor side bedroom window which will be excluded by condition.
- 15.18 The occupants of “The Burrow” a bungalow behind the Warren Lane frontage have expressed concerns that they will be surrounded by new development. This is acknowledged as the site allocations in the adopted local plan are contiguous with the boundaries of this property. This application proposes bungalows along the boundary and it is considered that the existing bungalow will not be materially overlooked. These residents are also concerned that their right of way to Warren Lane may be used by additional traffic. Whilst this right of way is in the applicant’s ownership they have confirmed no vehicular access is proposed. The application shows the rear garden of a new bungalow abutting the end of the right of way.
- 15.19 It is considered the proposed layout of dwellings, in particular the use of bungalows on sensitive boundaries, will effectively protect residents amenity. Conditions will require the submission of a Construction Management Plan which will require agreement amongst other matters to working hours and delivery times.

Trees and ecology

- 15.20 The planning application is supported by an Arboricultural Impact Assessment and Tree Protection Plan. The assessment indicates that to implement the proposal, it would be necessary to remove a total of 11 trees. These trees are overall in poor condition and lack visual presence. Trees of medium to high quality including all trees subject to Tree Preservation Orders will be retained and will be adequately protected throughout the development process.
- 15.21 To compensate for the loss of trees, the application includes replacement trees or shrubs to be replanted at key locations throughout the development. These new trees will offer the opportunity to replace the low quality tree population that currently occupy the site.

- 15.22 No part of the proposed development site has any type of statutory or non-statutory conservation designation although the development site is within a zone of influence for Abberton Reservoir S.P.A. - RAMSAR site, Essex Estuaries Special Area of Conservation, and Colne Estuary S.P.A. The proposed development will not reduce the size or conservation status of these designated sites, nor affect their management regimes or future ecological potential. The proposed development area does not create new access to these Natura 2000 sites. However the ecological and habitat report indicates the proposed development could have some minor recreational/disturbance and the applicant has confirmed they would be willing to make a financial contribution towards the emerging Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) recommended by Natural England.
- 15.23 The ecological report includes surveys for the following species
Great Crested Newt - The report concludes there is no water body within the proposed development area. There are two irrigation reservoirs within the Five Ways Fruit Farm to the east and appropriate screening for both reservoirs confirmed a Great Crested Newt absence.
- 15.24 Invertebrates – the report concluded that the site has little invertebrate value and that the losses to invertebrate ecology arising from the development of this site are likely to be minimal. However it recommends these small losses should be mitigated by the retention and enhancement of edge habitats which would be of value in particularly the retention and planting of blackthorn and the narrow strip of gorse behind the roadside hedgerow. The creation of bee banks along the south-facing margins of the western section would also be of benefit.
- 15.25 Hazel Dormice – the surveys indicated a dormouse absence from the site.
- 15.26 Reptiles - Slow Worm and Common Lizard were identified within field margins and the successional field corner to the north-west. Habitat protection / enhancement / creation/mitigation will be required to retain these animals on site in viable and sustainable numbers.
- 15.27 Badgers- A badger sett is present, adjacent to but outside of the northern site boundary. The report indicates that the sett use has declined significantly since 2013 when its condition/status was first assessed, its use is now only occasional. Ongoing development will result in the sett being more or less enclosed with significantly reduced foraging habitat. This proposed development will require a minimum of a 10 metre buffer along the northern boundary through which the animals can access of site habitat. However the report indicates that it is likely however that the badgers will in time vacate this area, however badgers are such sett loyal animals –and if they want to stay the wildlife enhanced corridor buffer will be of benefit.

- 15.28 The report also indicates that “Surprisingly, a single entrance “new” sett was created almost overnight in October 2017 some 30 metres plus into the proposed development site from the northern boundary. Ground penetrating radar confirmed that it was not connected to the main off site sett. An application will be made to Natural England to close this single entrance sett under licence from June 2018”. Further commentary regarding badgers is set out above in the consultation section.
- 15.29 Bats- Five species of bat were recorded within the survey area - Common Pipistrelle, Soprano Pipistrelle, Common Noctule, Brown long-eared and Leislers Bat.
- 15.30 The report concludes the wider site had negligible bat foraging activity – the secondary woodland, off site to the north, had the most. In respect of commuting routes – the greatest activity was along the northern boundary field edge and continued directly into the green off-site corridor leading into the Five Ways Fruit Farm. Medium commuting activity was identified along the southern and southwest field boundaries.
- 15.31 Protection and enhancement of the remaining hedge line and the restoration of the connectivity where it has been removed will be required. The hedge/tree line to the northern boundary will require protection, enhancement and creation with a minimum 10 metre wildlife corridor/buffer along its length to maintain this most important bat foraging and dispersal route, from the secondary woodland to off- site habitats, as highlighted within the bat survey efforts.
- 15.32 Illumination design across the site, especially along the northern boundary buffer, should be minimal bat friendly, further bat provision – roost boxes should be part of a subsequent ecological design and management plan for the site.
- 15.33 Birds - The survey concludes that development of the land will not be detrimental to the species identified during the fieldwork on condition that any development work must commence in the winter months defined as October to February in order that possible crop nesting/feeding species are not prospecting nest sites, especially once the main fruit growing areas have been cleared. In the event that the development proposes to remove any section of mature Hawthorn hedgerows, the work to remove them must commence in winter and be completed by the end of February, before hedge-nesting species start prospecting nest sites
- 15.34 The ecological survey work concludes that the site has ecological significance in the local context and this is referred to by residents. The layout of the proposed development has been informed by the ecological work and there is the potential for development to mitigate and enhance the ecological and biodiversity of the site. Given that the site supports habitat that will be used by a range of species, a condition requiring a scheme of biodiversity enhancements and habitat retention, protection and enhancement is recommended, this could include such matters as sensitive

lighting, planting of replacement habitats on site, e.g. within the POS areas, retention of habitat, to follow good practice during the site clearance and during the construction phase, and good practise construction measures. Conditions will secure the submission and approval of a Biodiversity Method Statement, Construction Environmental Management Plan, and Management Plan for the site the latter to ensure the long-term and continuing favourable condition of the retained and compensated habitats to provide long-term biodiversity benefits.

Highway and Parking Provision

- 15.35 A Development Brief for Stanway Southern Sites Access has been adopted by the Council. The brief requires the creation of an estate spine road through the southern part of the Stanway Growth Area, linking Warren Lane to Blackberry Road. The scheme provides for the eventual closure of Dyers Road as a through route and the reconfiguration of the Fiveways junction, with the estate spine road designed to accommodate bus services. The main access road to this site from Dyers Road linking to the development to the south state forms part of this estate spine road.
- 15.36 It is proposed that the main vehicular access to the site will be via a new strategic road that connects to the existing Warren Lane / Stanway Western By-pass roundabout, through the land to the south west and into the south western corner of the application site. This strategic road will ultimately cross Dyers Road and connect to the parcel of land to the south of Dyers Road providing accessibility to the future residential development of this site. Dyers Lane will ultimately become a green lane for pedestrian and cycle movements if the future. A spine road with cul-de-sacs leading off it will provide the main access to the proposed residential dwellings within the site that is connected to the main strategic road.
- 15.37 The application includes a continuation of the pedestrian / cycle link proposed on the adjacent development site to the north. The pedestrian and cycle links will provide opportunities for the residents to walk and cycle to local facilities. To help encourage modes of transport other than the private car, Residential Travel Information Pack are proposed for all new residents. This is to be secured by condition.
- 15.38 The concern expressed by local residents in respect that the impact that this development will have on the surrounding roads are appreciated. The Highway Authority has not raised an objection to this application on the grounds of highway safety or capacity.
- 15.39 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this, provision for visitor parking at a ratio of 0.25 spaces per unit is required. In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling to be provided.

- 15.40 Each property is provided with a minimum of two allocated parking spaces through a combination of garages, private driveway and/or parking courts. In addition to the private parking spaces visitor car parking spaces are also provided. Each house is provided with secure cycle parking.

Drainage and Flood Risk

- 15.41 The application is accompanied by the submission of a Flood Risk Assessment and Drainage Strategy. The site falls within Flood Zone 1 and is therefore at minimal risk from surface water flooding, the document also assesses other sources of flooding and concludes they pose no threat to the development site.
- 15.42 The drainage strategy indicates how the required below ground attenuation can be located within the development layout. Surface water runoff can be accommodated via the piped network, crate and concrete ring soakaways together with the foul water connecting to the Anglian water network via pumped rising main.
- 15.43 The use of SUDS is proposed within the surface water drainage strategy for the propose development in order to control runoff water rates and volumes. This will reduce downstream flood risk and reduce pollutant concentrations and act as a buffer for accidental spills to improve runoff water quality.
- 15.44 The Environment Agency has confirmed they have no comment to make on the application.
- 15.45 Essex County SUDS was consulted in April on receipt of the application and despite reminders have not responded to the application.

Air Quality

- 15.46 The proposed development site is not located within an existing AQMA. However Environmental Protection has commented that the development will create operational traffic that will add further road traffic related air pollutants into areas where levels of road traffic related pollutants are over the national and European Air Quality Objectives. Impact mitigation measures are requested to include effective travel plans incorporating electric vehicle charging points. These matters will be secured by condition.

Contamination

- 15.47 The Contamination Land Officer has made detailed comments in respect of the submitted reports but concludes that subject to conditions and informatives the site can be made suitable for the proposed use.

16.0 Conclusion

- 16.1 The application proposes 65 dwellings on land allocated for residential purposes in the adopted local plan. It is considered the development will not adversely impact on the amenity of adjacent neighbours nor result in significant impacts on the highway. The supporting documents demonstrate the development would not cause significant harm to ecological or landscape interests and conditions are proposed to mitigate and improve ecological interests. Preserved trees will be retained and new landscaping is proposed and secured by condition. The Highway Authority has raised no objection in terms of highway safety or capacity. It is considered that the benefits of the scheme significantly outweigh any adverse impacts and Members are asked to agree the officer recommendation set out below.

17.0 Recommendation

- 17.1 It is recommended that Members resolve to grant planning permission, subject to:
- (1) a recommendation of no objection from the Lead Drainage Authority ECC SUDS team (any conditions recommended will be imposed)
 - (2) no material objections being received as a result of the further neighbour notification on the revised plans which expires on the 24 September.
- 17.2 Subject to the above the Planning and Housing Manager is authorised to enter into and complete a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting to provide the following:
- Open Space, Sport and Recreation: A total off site open space contribution of £312,699.36. A Public Open Space & Tree maintenance sum, if these features are adopted by CBC, of £24,638.78. Details of the Management Company for the open space to be submitted and agreed prior to the commencement of any development
 - Primary Education: £12,734.00 per place 16.2 places , Secondary Education: £19,345.00 per place 10.80 places • A continuation of the spine road between the adjacent Taylor Wimpey site (east of Warren Lane) and Dyers Road to be completed in accordance with details including an implementation timetable, to be agreed with the Highway Authority
 - Affordable Housing 11 units tenure to be in accordance with adopted policy and all of the affordable housing to meet a minimum of building regulations Part M4 Category 2,
 - Community Facilities – a contribution required towards the refurbishment and extension of the Evangelical Church £180,000 for the building work at Stanway Evangelical Church and £2000 for installation of a hearing loop and relevant equipment Stanway Youth Centre
 - A financial contribution towards Recreational Disturbance Avoidance and Mitigate Strategy (RAMS)

- 17.3 In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Planning and Housing Manager is authorised at their discretion to refuse the application.

Conditions

1. ZAA - Time period

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 (drawing numbers to be added on amendment sheet)

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

3. – Non Standard Condition - Cross Sections

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

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

4 – Non Standard Condition - Architectural Features

Notwithstanding the details submitted, no works shall commence above ground floor slab level until additional drawings that show details of all the proposed architectural details including but not limited to plinths, windows, doors, cills, arches, eaves, verges, bargeboards, porches, brickwork /stone work detailing, false windows, chimney stacks and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure the architectural detailing is of a high quality and such detail that has been submitted is not necessarily acceptable as such details are considered important to establishing a benchmark for the character of the buildings in this strategically important and prominent site.

5 – Non Standard Condition - Removal of PD to erect new walls/fences

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

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

6. Non Standard Condition - Removal of PD for Windows Above Ground Floor Level

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

Reason: To protect the privacy of adjacent dwellings.

7. Non Standard Condition - Retaining Garage for Parking

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

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

8. Non Standard Condition - Parking and Cycle Parking

The residential development hereby approved shall have a minimum average of 2.25 car parking spaces per dwelling and cycle parking in accordance with the Council's adopted parking standards. The parking facilities, as agreed, shall be maintained at all times for parking.

Reason: To ensure the provision of adequate car and cycle parking within the scheme in accordance with the Council's parking standards.

9. Non Standard Condition - Landscape

Notwithstanding the details submitted, no works shall take place until full details of all landscape works, including 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:

- MINOR ARTEFACTS AND STRUCTURES (E.G. THE NATURE TRAIL, 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; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

10. Non Standard Condition - Boundary Treatment

Notwithstanding the details submitted, the boundary treatment of the site, where it abuts existing residential properties shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of these dwellings. The additional details shall include drawings to demonstrate existing boundary enclosures to be retained and the new boundary enclosures. The approved scheme shall be implemented in accordance with the approved details prior to the occupation of these dwellings

Reason: In order to ensure that an appropriate landscape treatment is provided along this sensitive boundary.

11. Non Standard Condition - Landscape Management

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 including the open space and nature trail, 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.

12. Non Standard Condition - Trees

No works shall take place until all trees and hedges not scheduled for removal on the approved plans have been safeguarded behind protective fencing in accordance with BS 5837. All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

13. Non Standard Condition - Trees

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

14. Non Standard Condition - Trees

No works or development shall be carried out until an Arboricultural Method Statement in accordance with BS 5837 and an arboricultural Scheme of Supervision, have been submitted to and approved, in writing, by the Local Planning Authority. The Scheme of Supervision shall include: a) Induction and personnel awareness of arboricultural matters b) Identification of individual responsibilities and key personnel c) Timing and methods of site visiting for monitoring of tree work and development work adjacent to retained trees, record keeping and updates and the timeframe for submitting these details to the Local Planning Authority d) Procedures for dealing with variations and incidents and the timeframe for notifying the Local Planning Authority of such details. The development shall be implemented in accordance with the approved Arboricultural Method Statement and Scheme of Supervision.

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

15. – Non Standard Condition - Air Quality Mitigation Scheme

Prior to the commencement of development a written scheme that considers mitigation measures outlined in Chapter 5 of the EPUK & IAQM Guidance 'Planning For Air Quality' shall be submitted to and approved in writing by the local planning authority. The scheme shall detail the measures aimed at mitigating or offsetting the impacts on local air quality resulting from increased road traffic generated by the development. The scheme shall include details of the type of charging point to be provided, their location, a timeframe for their implementation, the arrangements by which residents of the development can access and use the charging points and details of their on-going management and maintenance. The approved scheme shall be completed and operational prior to final completion of the development.

Reason: To ensure that the proposed development does not give rise to any unnecessary increase in atmospheric emissions which will have an adverse impact on local air quality for the surrounding area and further afield and in the interest of promoting a sustainable transport modes.

16. Non Standard Condition - Construction Method Statement

Development shall not commence unless and until a Construction Management Plan ("CMP") has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved statement. The CMP shall include:

- Details of the site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- Details of the proposed storage of materials and disposal of surplus materials;
- Methods of dust management;
- Pollution control during construction: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage, pollution response plans;
- Details of hours of work;
- Details of hours of deliveries

- Siting and details of wheel washing facilities
- Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant equipment and vehicles;
- Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound;
- Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009; and
- Details of piling

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.

17. Non Standard Condition - Construction traffic management plan

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

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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

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

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

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

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 18, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 19, 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 20.

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.

22. ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 18.

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 receptor.

23. Non Standard Condition - Ecological Scheme

Prior to the commencement of development a Biodiversity Method Statement, a Construction Environmental Management Plan, and a 5 to 10-year Management Plan plus a Scheme of biodiversity and habitat retention, mitigation (including a detailed lighting scheme), protection and enhancement, including an implementation timetable, to include but not be limited to the details set out in the Ecological Report submitted with the application shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with such agreed details.

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

24. Non Standard Condition - Highway Amendments

Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:

- a) The footway adjacent plot 8 to 16 located immediately adjacent the carriageway. As submitted the layout is likely to lead to vehicles parking across the footway
- b) An adoptable transition into the shared surface adjacent plot 16 and 34
- c) A footway on both sides of the carriageway and an adoptable transition into the shared surface adjacent plot 48 and 57

The development shall be carried out in accordance with the approved drawings

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, in accordance with policy DM1 and DM9 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

25. Non Standard Condition - Highway Mitigation

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

- a. The approved Traffic Regulation Order and associated works to prohibit vehicular traffic in Dyers Road
- b. A priority junction off Dyers Road to provide access to the proposal site. Junction shall have but not be limited to a 43 x 2.4 x 43 metre visibility splay
- c. 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)

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, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

26. Non Standard Condition - Highway Mitigation

Within 28 days of completion of the development item b. above shall be permanently removed and all vehicles travelling to and from the proposal site using the spine road provided as part of the adjacent residential development (planning permission 152826 refers)

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, in accordance with policy DM1 and DM9 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

27. Non Standard Condition - Travel Packs

On the first occupation of each dwelling, the residents shall be provided with Travel Packs, the contents of which shall previously have been agreed in writing by the Local Planning Authority, in consultation with Essex County Council.

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

28. Non Standard Condition - Garages

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

Reason: To ensure that there is satisfactory parking provision at the site at the time when the development becomes occupied.

29. Non Standard Condition - Lighting

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

Reason: To protect the residential amenity and to reduce the affects of light pollution.

19.0 Informatives

1. ZTO - Advisory Note on Construction & Demolition

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

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

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

3. Highway Informatives

- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works

4. Informative – Asbestos-Containing Material

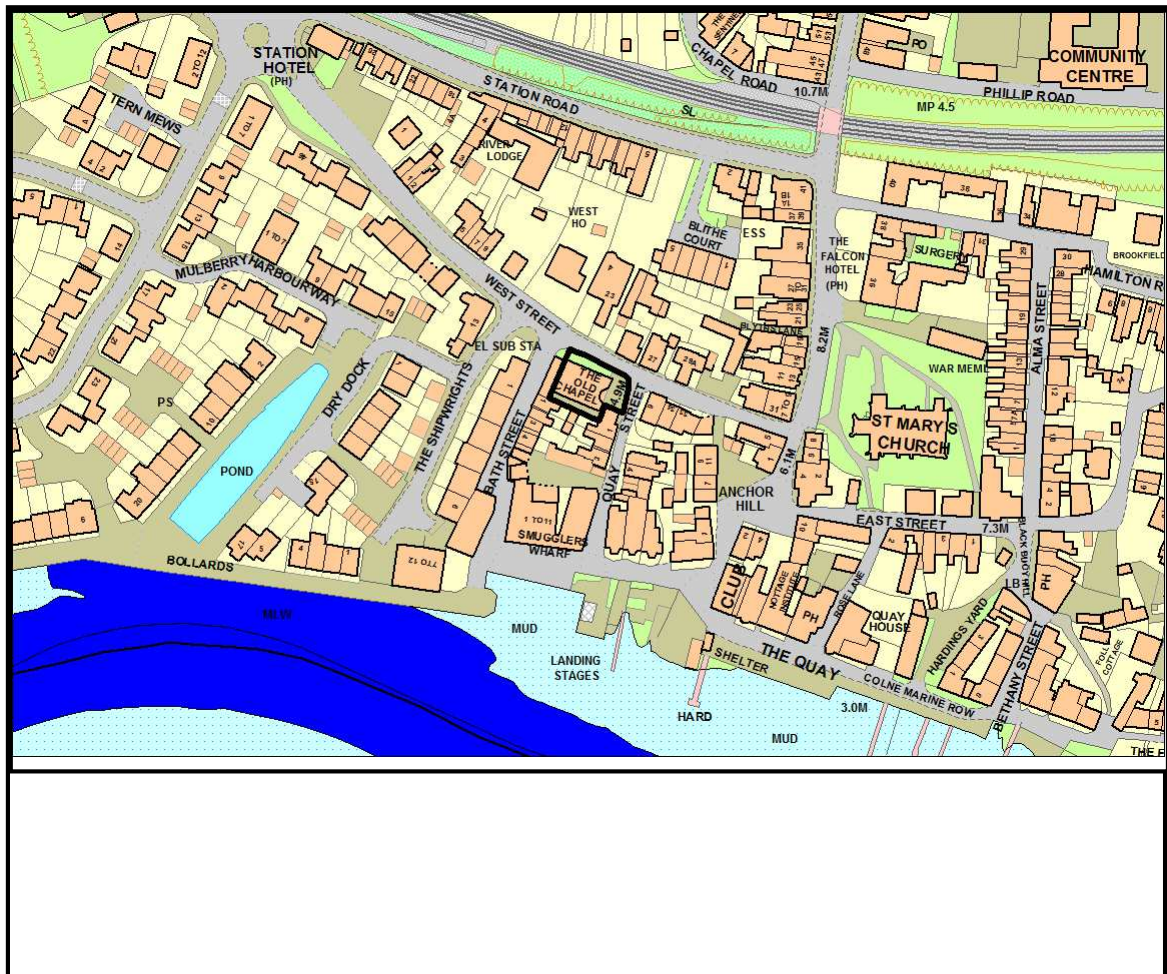
Environmental Protection note that asbestos-containing material has been identified at/in vicinity of a derelict shed and we therefore recommend that the applicant seek specialist advice, sufficient to ensure that all relevant asbestos-containing material is identified prior to commencement of works, safely dismantled or demolished and appropriately disposed of and in accordance with all duties under the Control of Asbestos Regulations 2012.

Reason - Asbestos-containing material has been identified at/in vicinity of a derelict shed and Environmental Protection wish to ensure that all asbestos containing material is identified, safely removed and appropriately disposed of, to prevent creation of any new, unacceptable contamination linkages.

5. Informative – Ground Gas Risk Assessment

Environmental Protection would like to be in receipt of further information with respect to ground gas migration risks.

Reason – There is insufficient information to show that the depth of response zones is considered relevant, also that the worst case has been captured by the data, given the shallow depth of wells and as there have been no readings undertaken at low pressure (<1000mb), and Environmental Protection wish to ensure that the development only proceeds if it is safe to do so. The applicant is responsible for the safe development and safe occupancy of the site.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item Nos:	
Application:	180805 and 180807
Applicant:	Mr Higginbottom
Agent:	Tim Snow Architects
Proposal:	Change of Use from Office space to 2 No Studio Flats and alterations to existing bedsits
Location:	Ground Floor, River House, Quay Street, Wivenhoe, Colchester, CO7 9DD
Ward:	Wivenhoe
Officer:	Alistair Day
Recommendation:	Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application has been called-in to the Planning Committee by Cllr Liddy. The grounds for the call-in are: the loss of employment space, overdevelopment, failure to provide adequate parking and failure to provide adequate amenity space.

2.0 Synopsis

- 2.1 The key issues for consideration are:

- Whether the proposed change of use from office to residential is acceptable;
- the impact that the proposed development will have on the significance of heritage assets (both direct and indirect) and whether the proposal constitutes good design;
- whether the proposal would constitute an unacceptable flood risk;
- the extent to which the proposal is consistent with the advice to promote more sustainable transport choices and whether the proposal complies with car parking standards; and
- whether the proposed development would have a detrimental impact on the residential amenity of nearby properties

- 2.2 Having carefully considered all relevant planning matters, the application is recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 River House is a former early Victorian Congregational Chapel. The ground floor consists of offices on the south side of the building with four bed sits on the north side. The upper floors comprise two residential apartments. The building is listed grade II for its special architectural and historic interest. The Listing describes the building as:

Former Congregational Chapel Dated: 'This Chapel was erected by Thomas Sanford, Esq. AD 1846'. Of square plan, brick, painted and rendered. Two storey front to Quay Street, with parapet and pediment dentilled. Pilastered returns and giant order with doubled pilasters each side of central bay. First floor band and ground storey portico with 2 round Doric columns, 2 pilasters and modern doors in a recess. Three light windows over and 4 Doric columns, plinthed, triglyphs, and mutules to the flat entablature. West side elevation has 2 ranges of sash windows, now clear glazed, interspersed with 4 pilasters all with capitals of the giant order.

- 3.2 The application site is located on the west side of Quay Street. To the south of the application site (and obscuring part of the front façade of River House) is a modern garage structure with accommodation over. To the south of this structure is a short terrace of Victorian housing. The rear garden to 1 Quay Street forms part of the southern boundary of the application site. To the west

of the application site and attached to River House is a lean-to storage structure and this forms the boundary with Bath Street. The flank wall of 1 Bath Street and its rear garden forms the remaining part of the southern boundary of the application site. To the north of the site are variety of buildings of mixed architectural styles which range in date from the sixteenth century to the nineteenth century. Many of these buildings are listed. West House and no. 23 West Street are two of the largest houses on the north side of this street and are set well back from the road behind gardens enclosed by brick walls. The application site is located within the Wivenhoe Conservation Area.

4.0 Description of the Proposal

- 4.1 The applications seek planning permission and listed building consent for the conversion of the existing office space at River House into residential use, creating two apartments. Internally, the works involved to create the new apartments, include the insertion new partitions and mezzanine floors. Externally the windows remain unchanged and the layout has been configured so as not to divide the windows visually when viewed from outside. Access to the building will be via the existing door on the main (Quay Street) elevation.
- 4.2 Listed building consent is also sought for the alteration of the part of the ground floor that is already in residential use. It is proposed to remodel the existing three of the existing four ground floor bedsits to create one larger unit of residential accommodation; the remaining bed site will remain unchanged.

5.0 Land Use Allocation

- 5.1 Predominantly Residential

6.0 Relevant Planning History

- 77/0779 - Use of ground floor as units of bed and breakfast accommodation
- 78/1701- Erection of garage with workshop over
- 83/0165 - Conversion of ground floor store to offices.
- 83/0166 - Alteration to building in association with conversion of ground floor store to offices.
- 86/0994 - Continued use of ground floor office without compliance with Condition 1 of Consent COL/165/83 (personal use of applicant only).
- 86/1715 - Continued use of ground floor office without compliance with Condition 1 of Consent COL/165/83 (Personal use of applicant only)
- 87/1623 - Variation of Condition 3 of COL/1701/78 to enable use of garage/workshop to be transferred to neighbouring property.

7.0 Principal Policies and statute

7.1 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the following documents:

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

- SD1 - Sustainable Development Locations
- H1 - Housing Delivery
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

7.4 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
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

7.5 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies are not directly relevant to this application.

7.6 The Council is developing a new Local Plan (Publication Draft Colchester Borough Local Plan 2017-2033) 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 NPPF states that decision makers may give weight to relevant policies in emerging plans according to:

- (1) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- (2) the extent to which there are unresolved objections to relevant policies in the emerging plan the less significant the unresolved objections, the greater the weight that may be given); and
- (3) the degree of consistency of the relevant policies in the emerging plan this framework (the closer the policies in the emerging local plan to the policies in the framework , the greater the weight that may be given).

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

7.7 The Neighbourhood Plan for Wivenhoe has been submitted for examination and passed the “publicity period” for representations. The emerging NHP can therefore be afforded some weight in determining planning applications within the NHP area. The considerations above (7.5) are relevant to the emerging Neighbourhood Plan for Wivenhoe

7.8 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.

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

- The Essex Design Guide
- EPOA Vehicle Parking Standards
- Wivenhoe Town Plan and Executive Summary

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.

Planning Policy

- 8.2 The proposal at the Quay in Wivenhoe has been considered and the implications of the loss of office space in the context of the NHP.
- 8.3 As the Wivenhoe Neighbourhood Plan has been submitted for examination and passed the “publicity period” for representations, the emerging NHP must be afforded some weight in determining planning applications within the NHP area. Policy WIV 19 is relevant in respect of the existing use being employment, which as drafted, requires evidence to substantiate it being marketed for alternative business opportunities prior to concluding that alternative uses are supported. The detailed wording of this policy is subject to representations including from CBC. This will be considered further at examination but the gist of the representation is to bring some flexibility into the timing of the marketing requirement and to refer to the need to this be in agreement with the LPA. (The weight given to this policy could be argued as being reduced since the wording is subject to representations, although the underlying principle is not challenged and accords generally with both Adopted and emerging Local Plan policies)
- 8.4 This proposal for a change of use from office to residential only represents a very small proportion of the building floorspace, with the remainder already being in residential use, which is likely to significantly limit the suitability for alternative economic uses, and also not likely to create significant employment opportunities, which in itself could influence to relative balance of this policy. To comply with emerging policy (as drafted and with suggested amendments) some evidence of marketing, or at least a further explanation of the justification in respect of its suitability for alternative employment uses should be provided. There is a brief explanation provided which you may feel provides sufficient justification in this instance.
- 8.5 As responses to the application have made reference to the NHP and it has reached the stage where it should be afforded some weight, officers consider that some reference to whether this policy has either been complied with, or is on balance outweighed by other considerations should be presented in the balance of consideration. Officers suggest that a pragmatic approach is required, given the modest scale of the floorspace concerned and in the context of the existing residential uses and the historic asset considerations. It is recommended that policy WIV19 as an emerging policy (subject to Examination) has some weight, and should therefore be referenced in your consideration with a view expressed regarding its relevance to your decision as part of the overall planning balance.

Environmental Protection

- 8.6 No objection subject to conditions to cover hours or works (construction) and sound insulation.

Highway Authority

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

Private Sector Housing

- 8.8 Private Sector Housing comments can be summarised as follows:

1. The suitability of the proposed studio flats, in terms of their floor area and layout of amenities will depend on the intensity of use i.e. are the flats to be occupied by single people or couples? National crowding and space guidance needs to be considered in relation to room sizes/space available which indicate that bedrooms of 6.5m² will be suitable for a single person and 9.5m² will be suitable for a couple. However it is worth noting that in relation to HMO rooms (a useful benchmark) new requirements that bedrooms must be 6.52m² (single) and 10.23m² (couple/twin) are currently subject to parliamentary approval.
2. The design must ensure that alongside compliance with Building Regulations, the units of accommodation do not increase hazards such as:
 - Crowding and Space
 - Hot Surfaces and Materials,
 - Food Safety,
 - Collision and Entrapment, and
 - Position and Operability of Amenities.The guidance contained in each of the above hazard profiles at Annex D of the Housing Health and Safety Rating System (HHSRS) Operating Guidance should therefore be considered in finalising the design/layout
3. Where space is limited, designs usually focus on maximising living space at the expense of storage space. I'd like to highlight the need for adequate storage space to meet the needs of each occupying household

Environment Agency

- 8.9 In their letter initial letter the Environment Agency raised a holding objection to this application as a Flood Risk Assessment (FRA) did not form part of the application. Following the submission of the FRA, the Environment Agency advised that they are removing their holding objection to this application as the site is currently defended and the Shoreline Management Plan policy for this area has an aspiration for hold the line.

- 8.10 The flood risk maps show that the site lies within tidal Flood Zone 3a & 2 and have a high probability of flooding. The proposal is for a change of use from offices to 3 [now 2] studio flats and alterations to existing bedsits, which is classified as a 'more vulnerable' development. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).
- 8.11 To assist in making an informed decision about the flood risk affecting this site, the EA note that key points to note from the submitted FRA by Richard Jackson Engineering Consultants are:

Actual Risk

The site is currently protected by flood defences with an effective crest level of 3.00m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 2.90m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development. If the SMP policy is not followed then at the end of the development lifetime, the 0.5% (1 in 200) annual probability including an allowance for climate change flood level of 2.92m AOD, would not overtop the existing defences.

Residual Risk

The EA note that the FRA does not explore the risk of a breach of the defences. The undefended flood levels show that in a worst-case scenario the site could experience breach flood depths of up to 1.28m during the 0.5% (1 in 200) annual probability including climate change breach flood event with flood level of 5.38m AOD, and up to 1.64m during the 0.1% (1 in 1000) annual probability including climate change breach flood event with flood level of 5.74m AOD.

The FRA does not provide a site level. Based on the available information, the site level is assumed to be 4.10m AOD. This is below the 0.5% (1 in 200) annual probability (undefended) breach flood level including climate change of 5.38m AOD and therefore at risk of flooding by 1.28m depth in this event. It is likely that the first floor level would be at least 2m above the ground floor level and will therefore provide a refuge above the 0.1% (1 in 1000) annual probability (undefended) breach flood level of 5.74m AOD.

The FRA does not propose to include flood resistant/resilient measures in the design of the building to protect/mitigate the proposed development from flooding. We recommend that consideration is given to the use of flood proofing measures to reduce the impact of flooding when it occurs.

A Flood Evacuation Plan has not yet been proposed and is necessary to ensure the safety of the development in the absence of safe access with internal flooding in the event of a breach flood.

The EA note that application site is at risk from reservoir flooding but consider that this is extremely unlikely to happen providing the reservoir is appropriately managed and maintained.

The Planning Practice Guidance states that local planning authorities are advised to consult with their emergency planning officers as early as possible regarding any planning applications which have implications for emergency planning

Shoreline Management Plan / Catchment Flood Management Plan

The current defences protect this community against a tidal flood with a 0.5% (1 in 200) annual probability of occurrence. However, the impacts of climate change on sea levels over the development's lifetime will gradually reduce the level of protection afforded by the defences if they are not raised within this timeline

Safety of Building – Flood Resilient Construction

The FRA does not propose to include flood resistant/resilient measures in the design of the building to protect/mitigate the proposed development from flooding.

Sequential and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 101 of the National Planning Policy Framework. The Exception Test is set out in paragraph 102. These tests are your responsibility and should be completed before the application is determined.

Emergency Planning Officer

- 8.12 No objection and welcomes the proposal to incorporate Flood Resilience/resistance measures and emergency plan.

Archaeological Officer

- 8.13 No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

9.0 Parish Council Response

- 9.1 The Parish Council no comments have been received

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.

Wivenhoe Society

10.2 The Wivenhoe Society raised the following concerns:

Loss of office space

10.3 The emerging Wivenhoe Neighbourhood Plan (Policy WIV 19) specifies that the conversion of commercial properties will be supported provided:

- (i) they have not been in use for a 12 month period; and
- (ii) that there is no potential for either reoccupation or redevelopment for business use as demonstrated through the results of a full valuation report and a marketing campaign lasting for a continuous period of at least 12 months.

The intention of this policy is to support employment within Wivenhoe and to reduce the need to commute. The applicant states that no marketing has been carried out. The applicant is probably correct in saying that if the building were not listed then conversion from office space to residential would be covered by permitted development but this is not the case for a listed building.

Overdevelopment

10.4 A government document (2016) Technical housing standards sets out space standards for new dwellings. It is stated that the office area occupies about 70sqm. Allowing for a mezzanine floor if six units are created this does not meet the space requirements set out in the above document, which is 58sqm for a two storey one bed roomed dwelling. There would also appear to be a problem with room heights. It is stated that the current ceiling height is 4.3m. The suggested standard is floor to ceiling height is 2.3m for at least 75% of the floor space. With a mezzanine this would not be achievable.

Parking

10.5 The proposed 6 studio flats would have only 2 parking spaces between them. This is way below the Borough's parking standards. There is very little on street parking available in the immediate area.

Amenity space:

10.6 The Borough's standards would not be met for amenity space.

Local Residents

10.7 The following comments have been made by local residents:

- The development is likely to result in a significant increase noise for adjacent properties (both internally and externally).
- The increase in density of residential units could alter the character of this conservation area and would contrast with other property types in the same area.

- The issue of parking, which is already a scarce resource in the area.

11.0 Parking Provision

11.1 See paragraph 15.29 to 15.31

12.0 Open Space Provisions

12.1 See paragraph 15.26 to 15.28

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

The Proposal

15.1 The application as originally submitted proposed the conversion of the ground floor office into three residential units and the remodelling of the existing four ground floor bedsits to create three units of accommodation. Following discussion with agent, the application has been amended so that it is now proposed to create two new residential units only by the conversion of the offices and to remodel three of the existing bed sits to create on larger unit of accommodation; the fourth bed sit will remain unchanged. Planning permission is sought for the conversion of the offices; listed building consent is sought for the alteration works. The submitted application does not affect the two residential units on the upper floors of River House.

Principle of Development

15.2 River House dates from the mid nineteenth century was originally used as a Congregational Church. The building was converted into residential accommodation and storage use in mid-1970s. In the early 1980s, a personal planning permission was granted to use part of the ground floor (the storage area) as offices.

15.3 The provision of Class O of Part 3 of Schedule 2 to the GPDO which, subject to certain limitations and conditions, categorises as ‘permitted development’ the change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) to a use falling within Class C3 (dwellinghouses).

- 15.4 The conversion of office element of River House into residential use is not permitted development as River House is listed. Prior approval would also be required due to the fact that the property is potentially at risk from flooding. In view of this, it is necessary to determine this application in accordance with the development plan, unless material consideration indicate otherwise.
- 15.5 The application site is located in the historic heart of Wivenhoe village and is identified in the local plan as being located in a predominantly residential area. Given this, the conversion of the offices to residential use would not conflict with the land use designation as set out in the local plan.
- 15.6 The Wivenhoe Neighbourhood Plan has been submitted for examination and, as such, constitutes a material consideration. The emerging Neighbourhood Plan contains a policy on general employment (Policy WIV 19). This policy states that applications for the conversion of existing commercial buildings will be supported where it is demonstrated that:
- (i) the commercial premise has not been in active use for at least 12 months; and
 - (ii) the commercial premise has no potential for reuse and a market campaign has been undertaken for at least 12 months.
- 15.7 Given the current status of the Wivenhoe Neighbourhood Plan (submitted for examination), it is considered that this document can only be afforded limited weight. Moreover the weight that can be attributed to Policy WIV 19 is further reduced as this policy is subject to representations (including those from the Borough).
- 15.8 The existing office space is small (approximately 70sqm) and the internal 'fit out' is very much of its time. The 1983 planning permission for the use of part ground as an office was granted on the basis of a personal consent due to the 'special circumstances of the case'. Judging from the committee report for the office conversion, this seems to have been due to the fact that the applicant lived in the building.
- 15.9 The existing office is now becoming vacant through retirement. The agent has advised that a marketing campaign has not been carried out by the owner because, as one of the original occupiers of the building, it was agreed on the basis of a personal use with the agreement of the then residents. The agent goes on to explain that this office has not been available for rent for more than 35 years and that its loss will not, therefore, have an impact on the availability of commercial floor space in the area.
- 15.10 The existing office has clearly worked for the current occupier due to their specific circumstances. The office accommodation now requires significant investment to bring it up to modern standards; repair works are also required to exterior of the building. Given the size and location of the office, such investment is unlikely to be economically viable. A further disadvantage of the existing office is that they occupy a very small proportion of the River House (with the remainder of the building already being in residential use) which is likely to limit its suitability for alternative commercial/employment uses. Officers are also

mindful of the general thrust of Government policy which seeks to promote the supply of housing and includes (subject to certain safeguards) specific provision for the conversion of offices into residential accommodation. One such safeguard relates to the conversion of listed buildings; however it is believed this safeguard relates more to control the internal alteration of the listed building rather than the principle of the change of use.

- 15.11 In light of the above, and having due weight to the emerging Neighbourhood Plan, it is considered that the proposed change of use of this office to residential accommodation not would to result in the loss of significant employment opportunities in Wivenhoe and, as such, would have a negligible impact on the supply of office accommodation in this part of the Borough.

Design considerations

- 15.12 CS Policy UR2 seeks to promote and secure high quality design. DPD DP1 sets out design criteria that new development should meet which includes the requirement to respect the character of the site and enhancing its surroundings. Policy DP 11 relates to proposals for the conversion and sub-division of existing premises into flats and other self-contained residential units. This policy states that proposals within the defined settlement boundary will be supported subject to meeting identified criteria.
- 15.13 The application relates to the conversion and alteration of an existing building which will be achieved by the internal alteration of the building; no changes are proposed to the exterior of the building. Given this, the proposed development will not fundamentally change the character of the site or the surrounding area. Part (i) of Policy DP11 states that proposals will not be supported where the conversion of an existing property with a gross floor area of less than 110 square metres. The supporting text to this policy goes on to explain that smaller family homes are in high demand because they represent a more affordable option and that the Council is concerned not to reduce the stock of smaller houses. It is therefore clear from the supporting text that this part of the policy is aimed at the conversion of existing houses rather than the conversion of offices to residential accommodation as proposed by this application. With regard to the size of the proposed units, the agent has advised that they exceed the DCLG Nationally Described Space Standards for 1bed 2 person units and 2 bed 3 person units, albeit these are not an adopted Council Planning Policy. The proposal is therefore not considered to result in unsatisfactory living environment for prospective occupiers in terms of the size of the units.
- 15.14 With regard to the other parts of DP11, the proposal is considered to be sympathetic to the existing character of the building and the street scene in general (parts ii & iv). The proposal is also considered acceptable in terms parking, private amenity space, refuse storage (part iii) and potential impact on neighbours (noise and/or overlooking) for the reasons discussed below in the report.

- 15.15 The proposal to convert the existing offices into residential use is considered to be acceptable in terms of design quality and is not considered to be in broad compliance with the aforementioned adopted local plan policies and national planning guidance set out in the NPPF.

Heritage Considerations

- 15.16 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas. CS Policy ENV1 and DPD 14 seek to protect heritage assets. Government guidance on the historic environment is set out in section 16 of the NPPF. Paragraph 195 deals with substantial harm to a designated heritage asset. Paragraph 196 deals with less than substantial harm. Harm in this category has to be weighed against the public benefits of the proposal.
- 15.17 The conversion of the former chapel to residential accommodation and offices was undertaken before the building was listed. The internal conversion works fundamentally changed the internal spatial character of the former chapel by the insertion of numerous internal floors and walls.
- 15.18 The application as originally submitted proposed the convert the offices into three residential units. Through negotiation, the application has been amended so as to provide a better internal layout, which has resulted in the number of proposed units being reduced from three to two. Kitchen and living rooms are shown on the ground floor and a bedroom and bathroom are shown on the new created mezzanine level. The mezzanine extends over only part of the ground floor accommodation. It is considered that the remodelling of the office space to create the new residential units will not result in further harm being caused to the special interest of this building. The internal remodelling of the existing bedsits is also not considered to have an adverse impact on the special interest of the building. As noted above, no external changes are proposed to River House and, as such, it is considered that the proposal will have a neutral impact on the character and appearance of the conservation area.
- 15.19 For the reasons given above, it is considered that the current application accords with Policies ENV 1 and DPD Policy DP 14 and the NPPF objectives that seek to conserve heritage assets.

Residential Amenity

- 15.20 DPD DP1 states that all development must avoid unacceptable impacts on amenity.
- 15.21 River House is located with the heart of the old village of Wivenhoe and is in close juxtaposition with surrounding buildings. The existing building has accommodation on the ground, first floor and attic levels and there are existing

windows on each elevation of the building. The existing office is located on the south side of the ground floor and has five window bays. As the proposals relate to the conversion of an existing building there will be no change to the present situation in terms of overshadowing etc of adjacent buildings. The existing windows of the office face towards the rear gardens of the adjacent residential properties and are located some 2.5m from the boundary. Despite the close proximity of the building to the southern boundary, the outlook from new residential units will not have an adverse impact on the private amenity of adjacent rear gardens. This is due to a combination of factors, including the height of windows (the chapel windows cills are set approximately 1.5m above the external ground level), and the height of the boundary wall (circa 1.5m) and the change in ground levels between this site and the adjacent gardens. The proposed mezzanines are set back from the windows (to avoid the floor cutting across the window) which will reduce the potential for overlooking from the new bedrooms. The upper floors of River House are already in residential use and will therefore not result in a change of circumstance in terms of any overlooking of adjacent properties.

- 15.22 The comments made about the development likely to result in a significant increase in noise for adjacent properties (both internally and externally) are noted. The revised proposals will not result in an increase in the overall number of units within River House and there is no reason to suppose that this scheme would be noisier than any other residential development. Regarding internal noise transfer, the proposed residential units will need to comply with relevant Building Regulations, which includes noise transfer between properties. Environmental Protection has also requested a condition to cover this matter.
- 15.23 With regard to the remodelling of ground floor of the existing units on the north side of River House, these units face Quay Street and will not result in a material change in terms of their impact on the private amenity of nearby residents.
- 15.24 The construction works associated with the conversion of the retained buildings has the potential to impact on the amenity of local residents. A condition has therefore been proposed requiring the development to be undertaken in accordance with submitted construction method statement.
- 15.25 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is considered to be in broad conformity with DPD Policies DP1 and the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Public Open Space, Play Areas and Private Amenity Space

- 15.26 DPD Policy DP16 sets down criterion (size of gardens) that should be provided within new residential developments. For flats, a minimum of 25sqm per flat provided communally (where balconies are provided the space provided may be taken off the communal requirement). In addition to private amenity space, DP16 requires all new residential development to provide new public areas of accessible strategic or local open space.
- 15.27 The constraints of the site are such that there is very limited space available within the application site and, as a consequence of this, it is not possible to achieve the private amenity as set out in policy DP16 (25sqm for per flat units). It is not however unusual in historic urban areas for dwellings to have 'reduced' area of private amenity space and many of the recent office to residential conversions have been provided with no amenity space. Whilst limited private area of amenity space will provided, officers are mindful of the opportunities that will be afforded to future occupier in terms of the riverside and associated public amenity areas. The King George V Playing Field is also just a short walk away, to the north of the railway line.
- 15.28 Given that the application relates to the conversion of an existing building on a constrained historic site, it is considered that the proposed development is acceptable in terms of the policy requirement for the provision of private and private amenity space.

Parking

- 15.29 Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards. The adopted guidance states that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided and that for **one bedroom units, one parking space is required**. In addition to this, visitor parking at a ratio of 0.25 spaces per unit is required. In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling.
- 15.30 The existing office has the use of two parking spaces which will be available to the new units (i.e. one space each, which is in compliance with the parking standards). There are a further two spaces that serve the existing apartments (the four bed sits and units on the upper floors). The agent has advised that the existing bedsits do not have parking and tenants have not required parking. The proposal to remodel three of the bed sits to create one larger unit will serve to improve the ratio of existing parking spaces to residential units. It also recognised that the site is located within in a highly sustainable location with shops, rail and bus services all located in close proximity to the site.
- 15.31 Provision is made for cycle parking on the land to the south of the building through a lockable gate. The applicant notes that spaces for eight cycles have been allowed but there is scope for this to be extended if the need dictate. The cycle parking will need to be both secure and covered and to ensure that this is the case, a condition is recommended.

- 15.32 The proposed parking provision is considered to accord with the requirements of Policy DP19 and the adopted parking standards.

Hydrology and Drainage

- 15.33 CS policy ENV1 sets out the strategic policy approach to safeguard people and property from the risk of flooding. ENV1 seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk. DP20 supports development proposals that include flood mitigation/ attenuation measures as well as flood resilience measures.
- 15.34 According the Environment Agency Flood Maps, the application site is shown to lie within tidal Flood Zone 3a & 2 and is classed as having a high probability of flooding.
- 15.35 The application is for the change of use from offices to 2 new residential units and alterations to existing bedsits. Residential accommodation is classified as a 'more vulnerable' development. The Environment Agency has advised that to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).
- 15.36 Paragraph 164 of the NPPF (2018) states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments. The application is supported by a Flood Risk Assessment.
- 15.37 The Flood Risk Assessment notes that the site is located at the edge of Flood Zone 2 and is protected from tidal flooding by the Colne barrier and associated defences and, as a consequence of this, users are not at risk of flooding in a design 1 in 200 year tidal event currently or when climate change is considered. The Flood Risk Assessment does note that were the defences to fail the application site would be flooded in a 1 in 200 year plus climate change event and that there would be there limited warnings for evacuation, but that the residents would be able to take refuge on the upper floor of the development. The Environment Agency has confirmed that they do not have an objection to this application. In their letter, the Environment Agency has drawn to the Council's attention a number of flooding related matters, including the that consideration should be given to the preparation of a Flood Warning and Evacuation Plan and the incorporation of Flood Resilient Measures and that consultation should take place with the Council's Emergency Planning Officer. Draft proposals have been submitted in respect of Flood Warning and Evacuation Plan and Flood Resilient Measures; conditions are recommended to cover these matters. The Emergency Planning Officer has not raised an objection to this application.
- 15.38 No changes are proposed to the external scale of the building and hence no adjustments to the existing surface water disposal arrangements are proposed (or required).

- 15.39 The submitted evidence indicates that the current proposal would not result in an increase in flood risk and, as such, the development will not conflict with the intentions of the development plan or the Framework in respect of flood risk

16.0 Conclusion

- 16.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the relevant policies contained in the Council's adopted development plan. The NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF identifies three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase. The loss of office accommodation weighs against this proposal however this is not considered to be significant. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure the long-term future of this listed building and will have a neutral impact on the character and appearance of the conservation area. There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby residents, flood risk, noise pollution or have a severe impact upon the highway network; in terms of capacity or safety. Overall it is considered the positive environmental effects 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 and listed building consent 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 (181805 – 7.3) 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. ZAX - *Development to Accord With Approved Plans (qualified)*

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 868/05 A 868/06 B and 868/07 received 7 August 2018.

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

3 Non Standard Condition - Construction Management Plan

Development shall not commence unless and until a Construction Management Plan ("CMP") has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved statement. The CMP shall include:

- a) Details of the storage of materials in connection with the construction of the development and contractor parking
- b) Methods of dust management;
- c) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009; and
- d) Hours of works

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

4 NonStandard Condition – Flood Resilient Measures

Prior to the commencement of the development hereby permitted details of the Flood Resilient Measures to be incorporated within the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To minimise flood risk of damage to property.

5 Non Standard Condition – Flood Warning and Evacuation Plan

Prior to the occupation of the units hereby permitted a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Flood Warning and Evacuation Plan shall be adhered to at all times

Reason: To minimise flood risk to residents.

6 Non Standard Condition - Vehicle Parking

Notwithstanding the details submitted, a scheme for the treatment of the frontage boundary enclosure shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details subsequently approved.

Reason: To ensure that the proposed to the boundary alterations to River House safeguard the setting of this listed building and the character and appearance of the Wivenhoe Conservation Area.

7 Non Standard Condition – Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area shall be laid out in accordance with a scheme that shall have previously been agreed by the Local Planning Authority and made available for the use of the residents. The vehicle parking area shall be retained in the approved form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

8 ZCE - 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.

9 ZJA - Cycle Parking TBA

Prior to the occupation of the development hereby permitted, and notwithstanding the details submitted, further of the 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.

10 ZGI - Sound Insulation on Any Building

Prior to the occupation of the development as hereby permitted, the building shall have been constructed or modified to provide enhanced sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed 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.

18.0 Informatives

18.1 The following informatives are also recommended:

1.ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

4. Non Standard Informative

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.

5. Non Standard Informative

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

Listed Building Conditions – 180807 (7.4)

1. ZAB - Time Limit for LBCs

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

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

2. ZLA - Only Works Shown Within Application

This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved, in writing, by the Local Planning Authority prior to any works commencing.

Reason: For the avoidance of doubt as to the scope of the permission and to ensure that the historic building is preserved from any other potentially harmful works.

3. Non Standard Condition – Additional drawings

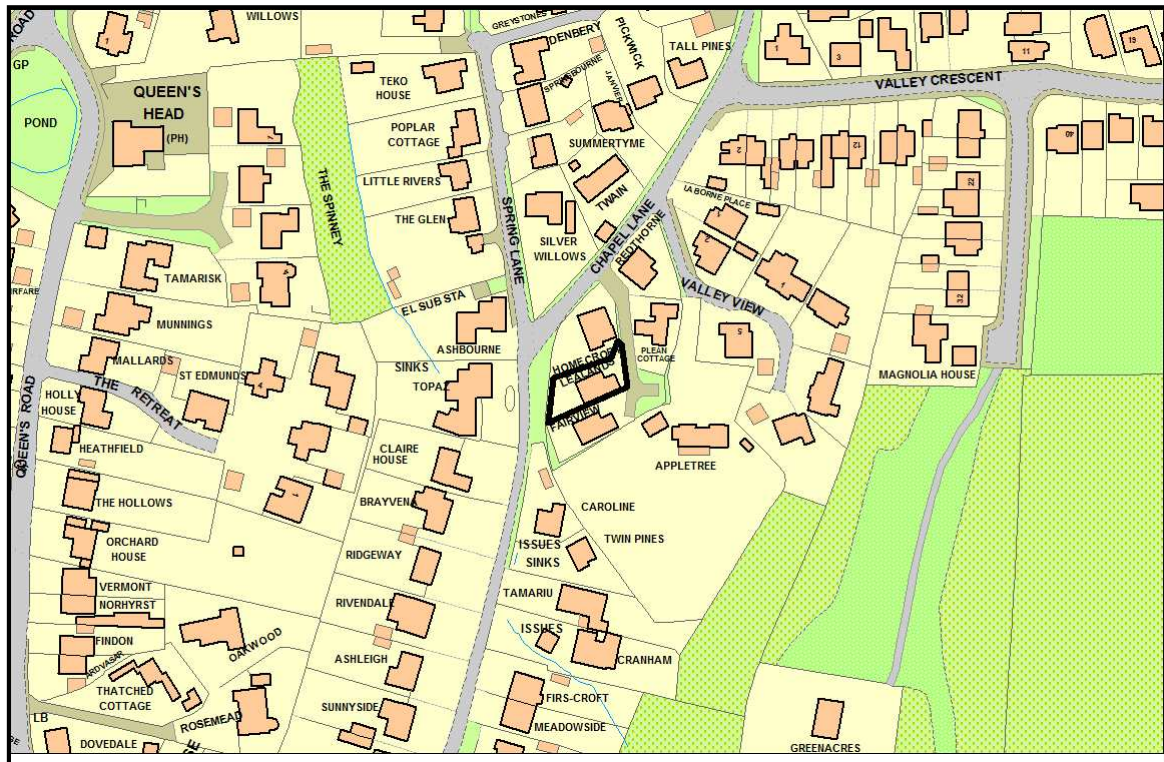
Prior to commencement of the works, additional drawings that show details of proposed new walls, mezzanine floors (including method of support and detailing of junctions with existing windows) and stairs by section and elevation, at scales between 1:50 and 1:10, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4. ZLR - Making Good

Within one month of the works being carried out, all adjoining surfaces which have been disturbed by the works (including brickwork, plaster and floor tiles) shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the historic character of the listed building.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.5

Application: 181313

Applicant: Mr and Mrs Mayers

Agent: Mr Andrew Feasey

Proposal: Proposed single storey side extension

Location: Lealands, Chapel Lane, West Bergholt, Colchester, CO6 3EF

Ward: Lexden and Braiswick

Officer: Chris Harden

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Barber on the grounds that “A resident has requested I call this in because of encroachment onto property and loss of parking spaces.”

2.0 Synopsis

- 2.1 The key issues for consideration are the design, scale and form of the proposed extension, as well as its impact on neighbouring amenity in terms of outlook, light and privacy. The extent of retained parking provision also needs to be assessed.
- 2.2 These matters are considered in the report and the application is subsequently recommended for approval. The design, scale and form of the proposed extension is considered to be visually acceptable. It is not considered that there would be a significant impact upon neighbouring amenity from an overbearing affect, loss of outlook loss of light or overshadowing. There would be no loss of privacy. Adequate parking provision for two cars would still be retained.

3.0 Site Description and Context

- 3.1 The site contains a detached single storey residential property within the settlement boundary of West Bergholt. There are detached neighbouring properties either side including the two storey dwelling of Fairview (to the south), the rear of which faces towards the proposed extension. The application site is at a lower level than Fairview. A two-storey property ‘Homecroft’ lies immediately north of the site. There is no site history that is particularly relevant to the decision regarding this proposed development.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of a single storey side extension to the property on the Northern elevation which is the elevation facing towards Homecroft. The gable facing the neighbours would be 4.4 metres in width and the extension would be 1.9 metres closer to the boundary than the existing dwelling. It would have a ridge height of 4.8 metres which is approximately 0.1 m lower than the ridge of the existing dwelling.

5.0 Land Use Allocation

- 5.1 N/A

6.0 Relevant Planning History

- 6.1 No recent planning history of particular relevance to this case.

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
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

7.4 Some "allocated sites" also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies are not of relevance to this application.

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

Paragraph 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.

- 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
Sustainable Construction
Managing Archaeology in Development.
West Bergholt Parish Plan & West Bergholt Village Design Statement

8.0 Consultations

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

9.0 Parish Council Response

- 9.1 The Parish Council have stated that it has “no problem with the extension in principal, however it will result in the loss of one of the two parking spaces. The Council would therefore defer to Colchester Borough Council’s policy and their need to satisfy themselves with regards the loss of parking.”

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.

One neighbour has made the following objections:

- (i) Having just become aware of the planning application I am concerned with the extension imposing on my property, I would like to meet with the residents and the Planning Officer to mutually agree a solution.
- (ii) Single-storey extension includes the full height roof extension which encroaches considerably to the edge of my property and will put a large part of my garden in the shade.
- (iii) Architectural impact to my property does not appear to have been considered. It was surprising the original planning for the property was granted so close given the layout and number of windows in my property on that elevation. It has to be seen to be believed and invite you to visit.
- (iv) Extension would also reduce parking by one space which was an important issue with the original planning approval as there is limited parking in the area.
- (v) Given that Lealands is at a lower level the solution would be to have a flat roof or a lantern style glass roof you see on conservatories and other properties in the near vicinity, this would cause minimal impact.

11.0 Parking Provision

11.1 Two car parking spaces retained.

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 site lies within a predominantly residential area where development such as that proposed is considered to be acceptable in principle and should be judged on its planning merits. The most significant planning issues are the design, scale and form of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy. The extent of retained parking provision also needs to be assessed.

Design, Scale and Form

15.2 In considering the design impacts of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.

15.3 The design, scale and form of the proposed extension is considered satisfactory on its own merits. The extension would relate well to the character of the existing dwelling with the same roof pitch and materials and detailing to match the existing dwelling. It would only extend 1.9 metres out from the dwelling and would still be set off the boundary, avoiding a cramped appearance. The extension would be set well back into the site, which reduces its impact in the street scene. It would also be adequately recessive, having a slightly lower ridge line. Overall, it is considered that the proposed extension would be visually acceptable and would not detract from the appearance of the original building. Consequently the design and layout does not harm the surrounding area either.

Impact upon neighbouring residential amenity

- 15.4 Development Plan policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. Part (iii) of this policy seeks to protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity.
- 15.5 The proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and the proposal satisfies this requirement. It is considered that the extension is far enough away from the neighbouring dwelling to avoid causing any significant overbearing impact, particularly as the application site is lower than the neighbouring site, is essentially single storey and would only be 1.9 metres closer than the existing dwelling.
- 15.6 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 15.7 The comments of objection received from the neighbour have been carefully considered. However, it is not considered there is a justification to refuse the proposal on any overshadowing or loss of light impact for the above reasons, including impact upon the neighbour's garden area.
- 15.8 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the Essex Design Guide. There would be a rooflight on the rear roof but this simply brings light into the extended living room and would be above head height.

Parking Provision

- 15.9 Lealands is a two-bedroom property. Development Plan policy DP19 and the Vehicle Parking Standards SPD require residential uses to have at least 2 car parking spaces for properties of two or more bedrooms. Two parking spaces of the required size for cars would be retained on site. This therefore accords with the adopted car parking standards. There is therefore not an objection on the grounds of loss of parking.

Other

- 15.10 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. Adequate amenity space would be retained on site. There would also be no impact upon vegetation of significance. There are also no archaeological implications.

- 15.11 It is not considered the proposal contravenes the provisions of the West Bergholt Parish Plan and the West Bergholt Village Design Statement which focus on the proportions and scale of new developments, good quality design, and ensuring minimum garden sizes; all of which are discussed in the main body of the report above.

16.0 Conclusion

- 16.1 To summarise, the design, scale and form of the proposed extension is considered to be visually acceptable. It is not considered there would be a significant impact upon neighbouring amenity from an overbearing affect, loss of light or overshadowing. Adequate (i.e. policy compliant) parking provision for two cars would still be retained.

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

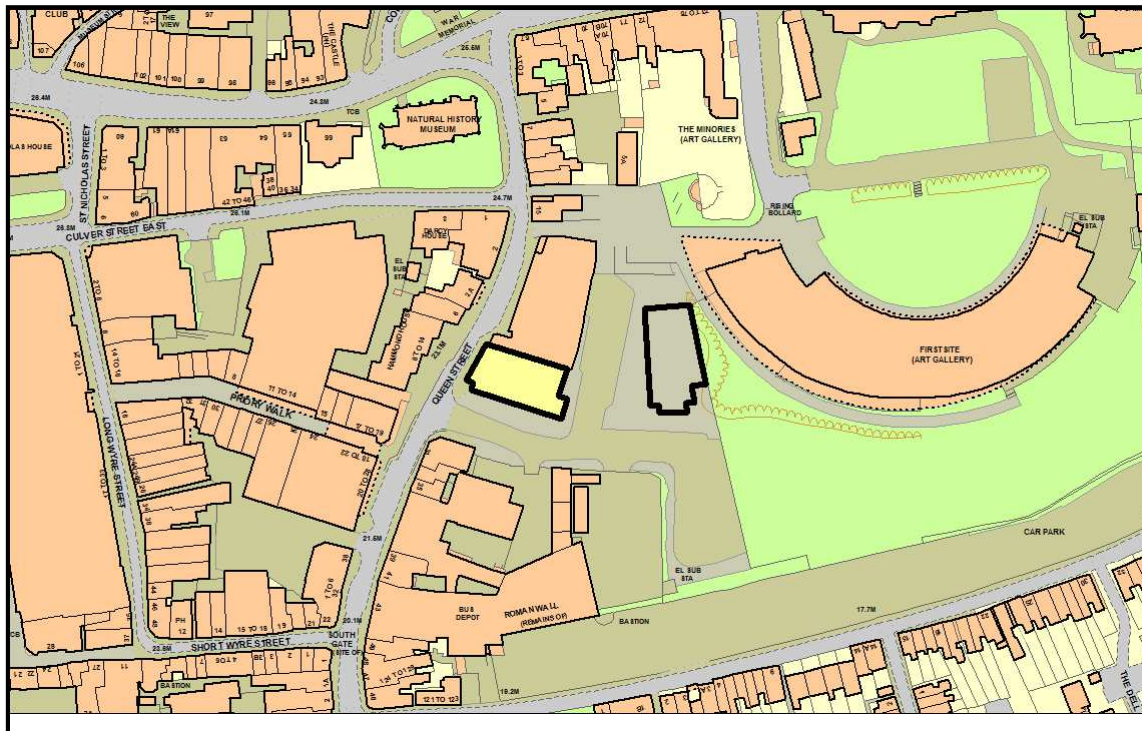
The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 18_970 SP (Site Location Plan) 18_970 SP (Site Block Plan), 18_970 103 (Proposed Elevations), 18_970 102 (Proposed Floor Plans) received 18.6.18.

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

3. ZBA – Materials to Match

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.6

Application: 181548

Applicant: Colchester Borough Council

Agent: Mr Jack Conington

Proposal: Advertisement Consent to display Bespoke heras fence panels around the Former Waiting Room site.

Location: Former Waiting Room, Cafe, Bus Station, Queen Street, Colchester, CO1 2PG

Ward: Castle

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 the applicant is Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact the scheme will have on visual amenity and public safety. It is concluded that the scheme is acceptable in both respects.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site is located next to an area of public realm between the Curzon Cinema and Firstsite. The temporary Heras fence in question is in place and runs from the edge of the Firstsite gallery to the edge of the Bus Station.
- 3.2 Behind the Heras fence is the site of the former Waiting Room which has recently been demolished and is now empty awaiting redevelopment.

4.0 Description of the Proposal

- 4.1 The proposal is to affix advertising banners to the existing Heras fencing. These will announce 'Welcome to Colchester's Creative Quarter' and will also show the logos of the partners involved in the redevelopment of the area. The banners would be in place for a temporary period until 31st July 2020.
- 4.2 The banners will run the length of the existing fencing at 87.5m and will be in blocks of 3.5m long by 1.8m high.

5.0 Land Use Allocation

- 5.1 The site is located in the town centre and is also within the Conservation Area.

6.0 Relevant Planning History

- 6.1 There is a great deal of planning history that relates to the surrounding sites but none are particularly relevant to this application for temporary advertisement consent.

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
DP14 Historic Environment Assets

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

The Essex Design Guide
Town Centre Public Realm Strategy

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.

8.1 Highway Authority – No objection.

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 No representations received to date – any received will be reported on the update sheet.

11.0 Parking Provision

11.1 As an application for advertisement consent this scheme raises no parking issues.

12.0 Open Space Provisions

12.1 As an application for advertisement consent this scheme raises no requirement for open space.

13.0 Air Quality

13.1 As an application for advertisement consent this scheme will not generate significant impacts upon the air quality management 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 As an application for advertisement consent the main issues in this case are:

- Visual Amenity
- Public Safety

Visual Amenity

15.2 Paragraph 67 of the NPPF states "poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts." Paragraph 56 states "the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."

15.3 In assessing an advertisement's impact on "amenity", regard should be had to the effect on the appearance of the building or on visual amenity in the immediate area where it is to be displayed. It is therefore necessary to consider what impact the advertisement, including their cumulative effect, will have on their surroundings. The relevant considerations for this purpose are the local characteristics of the area, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality. In terms of visual amenity a key consideration is the impact that the proposed advertisements would have on the character of the area, together with their impact on the amenity of the local street scene. Development Policy DP14 states that development will not be permitted that adversely affects (inter alia) a conservation area and that any features of specific historic, archaeological, architectural or artistic interest should be enhanced in the first instance.

DC0901MWeV9.3

15.4 In this instance it is held that covering the exiting Heras fencing in PU-coated polyester fabric advert panels on a temporary basis will significantly reduce the transparency of the fencing. In turn the proposal will provide a greater degree of screening than the fences on their own. As the area behind the fence is a site that is awaiting redevelopment this additional screening is held to be beneficial to visual amenity. The adverts will also provide more visual interest than the blank temporary fencing does and will inform the public of the ongoing redevelopment of the area that is transforming this section of Colchester into the Town's Cultural Quarter.

15.5 The signs proposed are simple, are obviously temporary and are non-illuminated so they have a neutral to beneficial impact on the setting of the listed buildings in the area and on the setting of the Scheduled Ancient Monument which is nearby. They are also held to preserve the Conservation Area as they will screen part of it that is undergoing redevelopment on a temporary basis. They are well designed and are not held to constitute advertisement clutter. A condition will be imposed to require the maintenance and upkeep of the PU-coated polyester fabric advertisements to prevent them becoming untidy over time.

Public Safety

15.6 In assessing an advertisement's impact on "public safety", regard should be had to the effect upon the safe use and operation of any form of traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention, therefore it should not automatically be presumed that an advertisement will distract the attention of passers-by. The vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety. In this instance, the non-illuminated proposal is unlikely to create any impact upon highways safety. The Highway Authority has not objected to the scheme nor recommended conditions to be imposed so as such the proposal is considered to be acceptable. The scheme raises no public other public safety issues.

16.0 Conclusion

16.1 To summarise, the scheme is held to be beneficial to the areas in terms of visual amenity, will preserve the Conservation Area and raises no public safety issues. The scheme therefore accords with the NPPF and the Development Plan and an approval is therefore warranted.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of advertisement consent subject to the following condition:

1. ZQA - Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. ZQM – Adverts Used as Screening

The advertisements permitted by this consent shall not be displayed on the site after the date of completion of building operations or after expiry of two years from the date of this decision, whichever first occurs.

Reason: In order to ensure that this temporary screening is not retained on site to the detriment of the surrounding environment once the building operations it is designed to screen have ceased.

3. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted block plan and advert details, received by the Local Planning Authority on 11th July 2018.

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

4. Z00 – Requirement for Upkeep

The PU-coated polyester fabric advert panels shall be monitored and maintained on a regular basis and if they tear, become undone from the fencing, or become damaged the panel in question must be replaced within one calendar month of its discovery.

Reason: To ensure the banner adverts are maintained in the interests of visual amenity and to ensure the scheme does not degrade in quality over time.

18.0 Informatives

18.1 The following informatives are also recommended:

Z00-Highways Informative

The Highway Authority reserves the right under Section 152 of the Highways Act, 1980 to remove or alter any sign overhanging or adjacent to the highway which is considered to be an obstruction or a hazard to the safe and convenient passage of the public in the highway.

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.

ZT0 – Advisory Note on Construction & Demolition

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

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationary Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 8

Proposal: Application for approval of reserved matters following outline approval 152493 (Erection of 37 apartments, 2 office units and associated layout, access and parking).

Location: Unit 6-7, Unit 6-7, Hawkins Road, Colchester, CO2 8JX

Ward: Greenstead

Officer: Bradly Heffer

Planning Committee

Item
8

Date 23rd August 2018

Report of	Assistant Director – Policy and Corporate	Author	Bradly Heffer
			01206 506940
Title	Section 106 Agreement in respect of land at 6/7 Hawkins Road Colchester		
Wards affected	Greenstead		

This report concerns proposed variation of a s106 agreement attached to an approved planning application for a residential and commercial development at Hawkins Road Colchester.

1.0 Decision(s) Required

- 1.1 Members are requested to endorse the officer recommendation to revise the requirements of a s106 agreement secured as part of an outline planning permission for residential/commercial development at a site identified as 6/7 Hawkins Road Colchester.

2.0 Reasons for Decision(s)

- 2.1 Following the grant of outline planning permission for the development under application ref. 152493, and the subsequent approval of reserved matters under application 180694, the owner of the site advised that the requirements of the s106 attached to the outline planning permission were not financially viable. A report was produced on behalf of the owner and this has been independently assessed by Chartered Surveyors instructed by officers. The finding of the assessment is that financially the scheme is not viable and cannot support the developer contributions secured under the s.106 agreement..

3.0 Alternative Options

- 3.1 The alternative option is not to agree the removal of the identified elements of the agreement, in which case it is anticipated that the approved scheme would not be developed.

4.0 Supporting Information

- 4.1 Members are advised that as part of the outline planning permission granted on this site under application ref. 152493 the following elements comprised clauses in a s106 agreement attached to the permission:
- Provision of 20% of the total number of dwellings for affordable housing
 - Education contribution of £73 032 to provide the necessary additional primary school places required as a result of the development.
 - Repair and ongoing maintenance of that part of the river wall contiguous with the site's frontage on the Colne.

- 4.2 Following a grant of outline planning permission the ownership of the application site changed, and a reserved matters planning application was submitted and approved under application ref. 180694 – following consideration at the Planning Committee meeting held on 24th May 2018.
- 4.3 Officers were subsequently advised by the owner of the site that the approved scheme was not viable and therefore the provision of the affordable housing, and the education contribution, was not possible. Information explaining this position was submitted and Officers arranged for this to be independently assessed. The findings of this assessment accepted the non-viability of the development and its inability to provide the identified mitigation in the s106 agreement.

5.0 Proposals

- 5.1 In recognising that the scheme is currently not able to provide the affordable housing contribution and the education contribution it is your officer's view that a suitable alteration to the wording of the s106 agreement should be inserted whereby:
- a) After commencement of the approved development, it is completed within a three year period; or
 - b) If the development is not completed within this period the viability is reassessed and, if found to be financially viable, appropriate contributions secured for affordable housing and primary education provision to reflect the viability identified.
- 5.2 Members are advised that the reserved matters planning permission was granted by the Council on 25th May 2018. A condition attached to the permission requires that the development is commenced by 25th May 2021. In looking to insert these clauses it is considered reasonable to require that a development of 37no. residential units, and 2no. office units, is completed within a three year period. Officers have taken advice on this point. This would ensure that this prominent site within a defined Regeneration Area was redeveloped to secure the Council's strategic aims with regard to East Colchester. If development had not been completed within this time, the second clause listed above would be applicable and would enable the viability of the scheme to be re-assessed.
- 5.3 Members are advised that the third requirement of the current agreement i.e. the repair of the river wall, would still form part of the amended s106 agreement. Infact, the site owner has commissioned a survey report that has identified the need for works to be undertaken. This element of the overall development is significant as it would be linked to the provision of a footway/cycleway across the riverside frontage, which is required by condition.

6.0 Strategic Plan References

- 6.1 The development of this site would help meet aims in the Council's Strategic Plan in that it would develop homes and job opportunities, increase the supply of good quality homes and contribute to the creation of new routes for walking or cycling.

7.0 Consultation

- 7.1 None

8.0 Publicity Considerations

- 8.1 None directly arising from this report.

9.0 Financial Implications

9.1 None directly arising from this report.

10.0 Equality, Diversity and Human Rights Implications

10.1 None directly arising from this report.

11.0 Community Safety Implications

11.1 None directly arising from this report.

12.0 Health and Safety Implications

12.1 None directly arising from this report.

13. Risk Management Implications

13.1 None directly arising from this report.

Background Papers

Assessment of Economic Viability – Development of land at 6/7 Hawkins Road Colchester
Morley Riches and Abelwhite

Appraisal Document
Haart Land and New Homes

Unit 6&7 Hawkins Road Colchester – Independent Viability Review
BPS Chartered Surveyors