

Planning Committee Agenda

4 May 2021 at 6pm

Remote Meeting

Membership

Councillor J A Sosin (Chair)

and Councillors

L Ashley, H Ayres, S Dobson, J Frasca, P Hughes, R J Hyland,
R Lee, L A Millane, G H J Pooley, R J Poulter, T E Roper,
E Sampson, C Shaw and I Wright

Local people are welcome to attend this meeting remotely, where your elected Councillors take decisions affecting YOU and your City. There is also an opportunity to ask your Councillors questions or make a statement. These have to be submitted in advance and details are on the agenda page. If you would like to find out more, please telephone Brian Mayfield in the Democracy Team on Chelmsford (01245) 606923 email brian.mayfield@chelmsford.gov.uk

PLANNING COMMITTEE

4 May 2021

AGENDA

1. CHAIR'S ANNOUNCEMENTS
2. ATTENDANCE AND APOLOGIES FOR ABSENCE
3. DECLARATIONS OF INTEREST

All Members are reminded that they must disclose any interests they know they have in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they become aware of the interest. If the interest is a Disclosable Pecuniary Interest they are also obliged to notify the Monitoring Officer within 28 days of the meeting.

4. MINUTES

To consider the minutes of the meeting on 13 April 2021

5. PUBLIC QUESTION TIME

Any member of the public may ask a question or make a statement at this point in the meeting, provided that they have been invited to participate in this meeting and have submitted their question or statement in writing and in advance. Each person has two minutes and a maximum of 15 minutes is allotted to public questions/statements, which must be about matters for which the Committee is responsible. The Chair may disallow a question if it is offensive, substantially the same as another question or requires disclosure of exempt or confidential information. If the question cannot be answered at the meeting a written response will be provided after the meeting.

Where an application is returning to the Committee that has been deferred for a site visit, for further information or to consider detailed reasons for refusal, those who spoke under public questions at the previous meeting may not repeat their questions or statements.

Any member of the public who wishes to submit a question or statement to this meeting should email it to committees@chelmsford.gov.uk 24 hours before the start time of the meeting. All valid questions and statements will be published with the agenda on the website at least six hours before the start time and will be responded to at the meeting. Those who have submitted a valid question or statement will be entitled to put it in person at the meeting, provided they have indicated that they wish to do so and have submitted an email address to which an invitation to join the meeting and participate in it can be sent.

6. LAND NORTH OF CHELMER VILLAGE WAY, SPRINGFIELD, CHELMSFORD –
20/01813/FUL

7. PLANNING APPEALS

MINUTES
of the
PLANNING COMMITTEE
held on 13 April 2021 at 6:00pm

Present:

Councillor J A Sosin (Chair)

Councillors L Ashley, S Dobson, J Frasca, P Hughes, R Hyland, J Lardge,
R Lee, G H J Pooley, R J Poulter, T E Roper, E Sampson, C Shaw and I Wright

Also present: Councillor N Chambers

1. Chair's Announcements

The Chair referred to the recent death of His Royal Highness The Prince Philip, Duke of Edinburgh. The Committee was also informed of the passing of Councillor Malcolm Watson. Councillor Wright paid tribute to Councillor Watson for his service to the Council and the people of Chelmsford.

The Committee observed two minutes' silence in memory of both.

2. Attendance and Apologies for Absence

The attendance of those present was confirmed. Apologies for absence had been received from Councillor H Ayres, who had appointed Councillor J Lardge as her substitute.

3. Declarations of Interest

All Members were reminded that they must disclose any interests they knew they had in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they became aware of the interest. If the interest was a Disclosable Pecuniary Interest they were also obliged to notify the Monitoring Officer within 28 days of the meeting. Any declarations are recorded in the relevant minute below.

4. Minutes

The minutes of the meeting on 9 March 2021 were confirmed as a correct record.

5. Public Question Time

Questions and statements were made by members of the public, Parish Councils and ward councillors on several of the applications. Details are recorded under the relevant minute numbers below.

6. 2A Coval Avenue, Chelmsford – 21/00121/FUL

Councillors Hyland, Pooley, Poulter and Shaw informed the Committee that they had sought the advice of the Monitoring Officer on whether their involvement with homelessness issues as part of their membership of the Housing Working Group and Chelmsford Policy Board precluded their consideration of this item. They had been advised that it did not and, none being predetermined, they would participate in the decision on it. Councillor Lardge said that she would be speaking as a ward councillor on the application and would not participate in its consideration as a member of the Committee.

The Committee considered an application for the change of use of 2A Coval Avenue, Chelmsford from a mother and baby unit to a hostel for single homeless persons and internal alterations to facilitate the proposed use. A Green Sheet of additions and alterations to the information in the report was distributed.

Questions and statements on the application from six members of the public, the applicants and a ward councillor were made at the meeting. The concerns of the public largely centred on a return of the anti-social behaviour associated with the previous uses of the property and the effect this would have on the health and wellbeing of existing residents and new residents of the hostel. Those who objected to the application also pointed to the lack of consultation with local residents, the absence of a detailed plan for the management of the facility, the fact that work on the building had started before the application had been determined, and that, in their opinion, this was not an appropriate site for the proposed use.

Representatives of Moat and CHESS spoke at the meeting and referred to the need for this type of accommodation in Chelmsford, their extensive experience in managing such facilities, and the close support that would be provided to those who would be occupying it.

Replying to the issues raised by those who had spoken against the application, the officers said that:

- It was recognised that some local residents had not yet been directly contacted by Moat and CHESS to discuss the proposed facility but it may be that the organisations had not been sure whether it was appropriate to do so before the application had been determined. However, it was clear that they did intend to engage with local residents if the application was approved.
- The property had previously been operated by different organisations for a different clientele and it was recognised that it had not been well run, resulting in disturbance to local residents. The homeless persons to be accommodated in the facility would have participated previously in the CHESS assessment process, would sign up to a code of conduct, be allocated a support worker and closely supervised, and would be occupying the property under a licence. Such arrangements and a detailed plan for the management of the property would reduce the possibility of a repeat of the anti-social behaviour associated with the previous uses of the premises.
- The work that had been carried out to the building were internal alterations that did not require planning permission.

Officers also noted that this was the only scheme of its type in Chelmsford that had received government funding for its provision.

The Committee was mindful of the balance that needed to be struck between meeting the need for this type of accommodation in Chelmsford and the duty it owed to residents to ensure that developments did not adversely affect their quality of life or result in a fear of crime. Members had sympathy for residents' experiences with previous uses of the premises but appreciated that properties managed by CHESS tended to be well run. They felt that residents' concerns would be alleviated if a condition was included in any permission that a management plan be submitted and approved prior to the occupation of the property and adhered to thereafter. Accepting officers' advice that adherence to the management plan would be difficult to enforce from a purely planning point of view, members nevertheless believed that this would reassure residents that Moat and CHESS were sincere in their intentions to ensure the proper management of the premises and behaviour of its residents.

RESOLVED that application 21/00121/FUL in respect of 2A Coval Avenue, Chelmsford be approved, subject to the conditions detailed in the report to the meeting, as amended by the Green Sheet of additions and alterations, and the addition of a condition, to be drafted by the officers, that a management plan for the property be submitted and approved before its occupation and adhered to thereafter.

(6.12pm to 7.11pm)

7. 37 Goodwin Close, Great Baddow, Chelmsford – 21/00185/FUL

An application had been received in respect of 37 Goodwin Close, Great Baddow, Chelmsford for a part garage conversion and a first floor extension to the side and rear with dormer windows added. The application also involved a loft conversion with a flat roof rear dormer and addition of roof windows to the front.

RESOLVED that application 21/00185/FUL in respect of 37 Goodwin Close, Great Baddow, Chelmsford be approved, subject to the conditions set out in the report to the meeting.

(7.11pm to 7.15pm)

8. 214 Beeches Road, Chelmsford – 21/00149/FUL

The Committee had before it an application for the construction of a single storey granny annexe for ancillary use to the main dwelling at 214 Beeches Road, Chelmsford.

Whilst the development could result in some overshadowing of the allotment plot in the garden of the adjacent property, members felt on balance that the application was acceptable.

RESOLVED that application 21/00149/FUL in respect of 214 Beeches Road, Chelmsford be approved, subject to the conditions detailed in the report to the meeting.

(7.15pm to 7.24pm)

9. Land South of Brewers Arms, Main Road, Bicknacre, Chelmsford – 20/01507/FUL

The Committee considered an application for a development of 42 residential dwellings with associated access, parking, landscaping and amenity space on land to the south of the Brewers Arms, Main Road, Bicknacre, Chelmsford. A Green Sheet of additions and alterations to the information in the report was distributed.

The agent for the applicant attended the meeting to speak in support of the application. Whilst not objecting to the proposed development, a member of the public asked that the drainage ditch from Thrift Wood to the site be kept clear to prevent flooding.

Officers informed the Committee that an increase in the number of properties on the site from the 35 referred to in the Local Plan to the 42 in the application had been possible as a result of additional land being provided by the Council on which to relocate the slow worms on the site. This had enabled a larger development that was acceptable in terms of density, layout, amenity and design. The affordable house element would be interspersed throughout the site with the private-owned properties and be of the same design.

From the point of view of biodiversity, officers explained how a net gain would be achieved by compensating for the loss of grassland, providing new and thickening up existing hedges to make up for the loss of some hedges, additional tree planting, improvements to Thrift Wood and providing a new habitat for slow worms.

Access for fire service vehicles was satisfactory and whilst open space would not be provided on the site, it was adjacent to an existing area of open space, which was being improved. A SUDS would ensure the adequate drainage of the site and no additional water would be discharged into the drainage ditch between Thrift Wood and the development site.

RESOLVED that application 20/01507/FUL in respect of land to the south of the Brewers Arms, Main Road, Bicknacre, Chelmsford be approved, subject to the conditions detailed in the report to the meeting and the additional condition on the Green Sheet relating to the adaptation of one of the affordable homes.

(7.24pm to 7.53pm)

10. Pipers Farm, Mill Road, Good Easter, Chelmsford – 20/01900/FUL

The Committee considered a retrospective application for the change of use of land at Pipers Farm, Mill Road, Good Easter, Chelmsford from agricultural to storage and distribution (use class B8) and the addition of and extension to existing walls to form a covered structure with a roof incorporating a portacabin.

A representative of Good Easter Parish Council and the ward councillor attended the meeting to speak against the application. Their objections were that the infrastructure in the village was unsuitable for the increased traffic the scheme would generate; that, if approved, the initial change to scaffold yard activities could set a precedent and result in the use of Pipers Farm for a variety of industrial activities, creating further significant lorry traffic movements within the village and surrounding narrow lanes; that the proposed change of use conflicted with the rural nature of surrounding areas and was not in keeping with the residential nature of other properties in the vicinity; and that the proposed use was better located on a site designed for industrial use.

In response to those concerns, officers said that:

- It was not possible or appropriate to pre-empt the future possible uses of the site but if similar applications came forward an assessment would be made of their cumulative impact before deciding whether permission should be granted.
- In terms of the present application, the use of the site for a scaffolding business was appropriate in planning terms.
- The vehicles operated by the scaffolding business would be lighter and smaller than those previously associated with the farm use and would result in 15-20 movements a day, beginning with employees' vehicles arriving at 6am and the first lorries leaving

at 7am, which it was considered would not result in undue disturbance to local residents. There were many examples of similar operations in rural areas accessed by single roads and there were several passing places on the roads leading to the site.

Whilst not unanimous in its view, the Committee believed that the proposed use would be appropriate and the application should be approved.

RESOLVED that application 20/01900/FUL in respect of Pipers Farm, Mill Road, Good Easter, Chelmsford be approved, subject to the conditions detailed in the report to the meeting.

(7.53pm to 8.29pm)

11. Planning Appeals Annual Report

RESOLVED that the information on appeal decisions between 1 April 2020 and 31 March 2021 be noted.

(8.29pm to 8.30pm)

The meeting closed at 8.30pm

Chair

PLANNING POLICY BACKGROUND INFORMATION

The Chelmsford Local Plan 2013 – 2016 was adopted by Chelmsford City Council on 27th May 2020. The Local Plan guides growth and development across Chelmsford City Council's area as well as containing policies for determining planning applications. The policies are prefixed by 'S' for a Strategic Policy or 'DM' for a Development Management policy and are applied across the whole of the Chelmsford City Council Area where they are relevant. The Chelmsford Local Plan 2013-3036 carries full weight in the consideration of planning applications.

SUMMARY OF POLICIES REFERRED TO IN THIS AGENDA

- DM13** Policy DM13 - Designated Heritage Assets - The impact of any development proposal on the significance of a designated heritage asset or its setting, and the level of any harm, will be considered against any public benefits arising from the proposed development. The Council will preserve Listed Buildings, Conservation Areas, Registered Parks and Gardens and Scheduled Monuments.

- DM15** Policy DM15 - Archeology - Planning permission will be granted for development affecting archaeological sites providing it protects, enhances or preserves sites of archaeological interest and their settings.

- DM16** Policy DM16 - Ecology & Biodiversity - The impact of a development on Internationally Designated Sites, Nationally Designated Sites and Locally Designated Sites will be considered in line with the importance of the site. With National and Local Sites, this will be balanced against the benefits of the development. All development proposals should conserve and enhance the network of habitats, species and sites.

- DM17** Policy DM17 - Trees, Woodland & Landscape Features - Planning permission will only be granted for development proposals that do not result in unacceptable harm to the health of a preserved tree, trees in a Conservation Area or Registered Park and Garden, preserved woodlands or ancient woodlands. Development proposals must not result in unacceptable harm to natural landscape features that are important to the character and appearance of the area.

- DM18** Policy DM18 - Flooding/Suds - Planning permission for all types of development will only be granted where it can be demonstrated that the site is safe from all types of flooding. All major developments will be required to incorporate water management measures to reduce surface water run off and ensure that it does not increase flood risk elsewhere.

- DM21** Policy DM21 - Protecting Community Facilities - The change of use of premises or redevelopment of sites that provide valued community facilities will only be permitted where the site cannot be used for an alternative community facility or where there is already an adequate supply of that type of facility in the locality or settlement concerned. Existing open spaces, sports and recreational buildings and land will also be protected.

- DM23** Policy DM23 - High Quality & Inclusive Design - Planning permission will be granted for development that respects the character and appearance of the area in which it is located. Development must be compatible with its surroundings having regard to scale, siting, form, architecture, materials, boundary treatments and landscape. The design of all new buildings and extensions must be of high quality, well proportioned, have visually coherent elevations, active elevations and create safe, accessible and inclusive environments.

- DM24** Policy DM24 - Design & Place Shaping Principles in Major Developments - The Council will require all new major development to be of high quality built form and urban design. Development should, amongst other matters, respect the historic and natural environment, be well-connected, respond positively to local character and context and create attractive, multi-functional, inclusive, overlooked and well maintained public realm. The Council will require the use of masterplans by developers and will implement design codes where appropriate for strategic scale developments.
- DM25** Policy DM25 - Sustainable Buildings - All new dwellings and non-residential buildings shall incorporate sustainable design features to reduce carbon dioxide and nitrogen dioxide emissions and the use of natural resources. New dwellings and non-residential buildings shall provide convenient access to electric vehicle charging point infrastructure.
- DM27** Policy DM27 - Parking Standards - The Council will have regard to the vehicle parking standards set out in the Essex Parking Standards - Design and Good Practice (2009) or as subsequently amended when determining planning applications.
- DM29** Policy DM29 - Protecting Living & Working Environments - Development proposals must safeguard the amenities of the occupiers of any nearby residential property by ensuring that development is not overbearing and does not result in unacceptable overlooking or overshadowing. Development must also avoid unacceptable levels of polluting emissions, unless appropriate mitigation measures can be put in place and permanently maintained.
- DM30** Policy DM30 - Contamination & Pollution - Permission will only be granted for developments on or near to hazardous land where the Council is satisfied there will be no threat to the health or safety of future users and there will be no adverse impact on the quality of local groundwater or surface water. Developments must also not have an unacceptable impact on air quality and the health and wellbeing of people.
- SPS1** Strategic Policy S1 Spatial Principles - The Spatial Principles will guide how the Strategic Priorities and Vision will be achieved. They will underpin spatial planning decisions and ensure that the Local Plan focuses growth in the most sustainable locations.
- SPS2** Strategic Policy S2 Addressing Climate Change & Flood Risk - The Council, through its planning policies and proposals that shape future development will seek to mitigate and adapt to climate change. The Council will require that all development is safe, taking into account its expected life span, from all types of flooding.
- SPS3** Strategic Policy S3 Conserving & Enhancing the Historic Environment - The Council will conserve and where appropriate enhance the historic environment. When assessing applications for development, the Council will place great weight on the preservation and enhancement of designated heritage assets and their setting. The Council will also seek to conserve and where appropriate enhance the significance of non-designated heritage assets and their settings.
- SPS4** Strategic Policy S4 Conserving & Enhancing the Natural Environment - The Council is committed to the conservation and enhancement of the natural environment through the protection of designated sites and species, whilst planning positively for biodiversity networks and minimising pollution. The Council will plan for a multifunctional network of green infrastructure. A precautionary approach will be taken where insufficient information is provided about avoidance, management, mitigation and compensation measures. Where appropriate, contributions from developments will be secured towards mitigation measures identified in the Essex Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

- SPS5** Strategic Policy S5 Protecting & Enhancing Community Assets - The Council recognises the important role that community facilities have in existing communities and that they are also an integral part of any proposals for new residential and employment development. Existing community assets will be protected from inappropriate changes of use or redevelopment.
- SPS6** Strategic Policy S6 Housing & Employment Requirements - In order to meet the full objectively assessed housing need in the period 2013-2036 provision is made for a minimum of 18,515 net new homes at an average annual rate of 805 net new homes per year. A minimum of 55,000sqm of business employment floorspace (Use Classes B1-B8) will also be allocated in the Local Plan for the period up to 2036.
- SPS8** Strategic Policy S8 Delivering Economic Growth - The Council will make provision for flexible and market-responsive allocations of employment land which will allow further diversification of Chelmsford's economy. The Council will encourage links between business and the significant education sector in Chelmsford.

VILLAGE DESIGN STATEMENTS

VDS: Sets out the local community's view on the character and design of the local area. New development should respect its setting and contribute to its environment.

NATIONAL PLANNING POLICY FRAMEWORK

The National Planning Policy Framework (NPPF) was published in February 2019. It replaces the first NPPF published in March 2012 and almost all previous national Planning Policy Statements and Planning Policy Guidance, as well as other documents.

Paragraph 1 of the NPPF sets out the Government's planning policies for England and how these should be applied. Paragraph 2 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and should be read as a whole.

Paragraph 7 says that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development meant that the planning system has three overarching objectives; an economic objective; a social objective; and an environmental objective. A presumption in favour of sustainable development is at the heart of the Framework.

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.



Planning Committee
4th May 2021

Application No	:	20/01813/FUL Full Application
Location	:	Land North Of Chelmer Village Way Chelmer Village Way Springfield Chelmsford Essex
Proposal	:	Erection of a new Lidl foodstore
Applicant	:	Lidl GB
Agent	:	Miss Hannah Mitchell
Date Valid	:	24th November 2020

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Appendices:

Appendix 1	Consultations
Appendix 2	Drawings

1. Executive summary

- 1.1. The application has been referred to the Planning Committee at the request of local Ward Councillors. This is because of the level of public interest and due to some comments being in support of the proposal, as well as many against the proposal.
- 1.2. The application proposes a new Lidl foodstore with associated car park and new access on a site which is presently natural, green and undeveloped, as well as being designated as Open Space within the adopted Local Plan. The site is an important green buffer between the residential properties in Chelmer Village and the neighbouring commercial uses within Springfield Lyons Business Park. This green buffer function has been highlighted as an important feature of the area in two previous planning appeals; one in 2017 (against a proposed care home) and one in 2007 (against a proposed car dealership).
- 1.3. The loss of the designated open space conflicts with Policy DM21 which seeks to protect community facilities. The redevelopment of the site and loss of the natural, green, verdant land would also harm the character and appearance of the area. There are further conflicts with Policy DM23 which seeks well-designed buildings with active public facing elevations and DM13 as the proposal would be harmful to the setting of nearby Listed Buildings.
- 1.4. A consultation response has not yet been received from Essex County Council as the Local Highway Authority. This will be reported on the Green Sheet when it is available.
- 1.5. The site is known to provide a habitat for Great Crested Newts and has been used to provide mitigation and a receptor area in the past when adjoining sites were developed. The site may also support reptiles. Insufficient information and inadequate mitigation have been provided to rule out likely harm to these protected species. Furthermore, the application does not provide sufficient information to establish whether the proposal would provide a biodiversity net gain, contrary to Policy DM16.
- 1.6. The application proposes a package of enhancements to the existing open space adjacent to the application site. The enhancements proposed include gravel pathways, benches, information boards, bins, log piles, bird and bat boxes as well as areas of woodland planting, wildflower grass, specimen planting, an area of wet land and a grass area for an informal 5-a-side football pitch.
- 1.7. The enhancements put forward have not been fully evidenced and it is unclear whether they would provide a biodiversity net gain as the baseline has not been established. They may also give rise to further issues, such as increased risk to Great Crested Newt and practicality issues of feeding the wet land with water. The application is not supported by a management or maintenance plan for these enhancements and does not secure the enhancements. They are therefore not sufficient to clearly outweigh the harm and policy conflicts identified.
- 1.8. The application is recommended for refusal.

2. Description of site

- 2.1. The application site is located in Springfield, within the Urban Area of Chelmsford. It is currently an area of informal grassland to the north of Chelmer Village. The site, as well as land to the east and north-east, is allocated as Open Space within the adopted Chelmsford Local Plan.

- 2.2. The northern boundary of the site is shared with Springfield Lyons Business Park. To the west is a Montessori child-care nursery. There are residential properties to the east (Cuton Grove) and to the south on the opposite side of Chelmer Village Way (Barlows Reach and Dairy Farm Cottage).
- 2.3. Beyond the north eastern corner of the site there are known archaeological remains including a Bronze Age enclosure and Saxon cemetery. There are two Grade II Listed Buildings within close proximity to the site; Dairy Cottage and The Cottage at Dairy Farm.
- 2.4. There is a public footpath close to the eastern boundary of the site which runs from Chelmer Village Way northwards to the Bronze Age enclosure. There are formal and informal footpath routes that are located to the east and north of the site.
- 2.5. There are two Ash trees on the western side of the application site which are protected by preservation order TPO/2004/010. A preserved Oak tree (TPO/2004/010) is situated offsite along the northern boundary. One of the Ash trees has previously been identified as requiring removal due to its poor structural form and health.
- 2.6. The site and adjacent land form a Great Crested Newt mitigation and receptor area following development to the north (Springfield Lyons) and to the west (Buttercup Montessori). Within the Montessori site is a pond known to contain newts together with the collection of ponds in Bronze Age settlement to the north-east.

3. Details of the proposal

- 3.1. The application proposes a new Lidl foodstore. The store would provide approximately 1414 square metres of retail sales floorspace.
- 3.2. During the life of the application the proposal has been amended to alter the proposed layout of the site and the location of the proposed foodstore. The store would be located close to the western boundary of the site, adjacent to the Buttercup Montessori nursery.
- 3.3. A new access is proposed to serve the development and would be located close to the south-east corner of the site. The drawings show that the existing bus stop on Chelmer Village Way would be relocated and provided in a new lay-by. The existing footway and cycle way would be re-aligned to allow for the new bus stop lay-by.
- 3.4. The car park would contain 125 spaces, including 6 accessible (disabled) spaces and 9 parent and child spaces. Two EV charging spaces are shown.
- 3.5. The loading bay and servicing of the foodstore would take place to the front of the building, close to the rear part of the car park. Delivery vehicles are shown to enter the site using the same access as cars. Vehicles would turn within the site using the car park layout.
- 3.6. The application is accompanied by a landscaping plan. Planting is proposed along all boundaries of the site, as well as some trees and planting areas within the car park. A total of 38 new trees are proposed.
- 3.7. The application proposes alterations to the adjacent Open Space to the east of the site. This would include a wet land area, mounding, native planting and landscaping, pathways, litter bins, benches, information boards, and an area allocated for a 5-a-side informal football pitch.

4. Other relevant applications

06/01331/OUT - Refused 6th February 2007 – Appeal Dismissed 28 August 2007

Construction of car dealerships with associated facilities (Outline application seeking approval of siting, access, design and appearance)

The reasons for refusal were that the development of this piece of open space would result in the loss of a buffer zone between the housing and the industrial area to the north. This was considered to be harmful to the general visual amenity of the area. The land was considered to provide an important setting for the adjoining industrial area and archaeological site. The Inspector, in dismissing this appeal stated that *“The appeal land remains one of the few substantial undeveloped tracts of land within the area and its location at the meeting of Chelmer Village Way, Cuton Hall Lane and New Dukes Way gives it a particular prominence as a physical and visual amenity contrasting with what is otherwise an intense urban environment with considerable residential, commercial and retail activity.”*

16/02208/FUL - Refused 26th May 2017 – Appeal dismissed 25th April 2018

Construction of a 70 bed, part two storey and part three storey care home with associated access, parking, landscaping, amenity space and provision for a significant area of public open space.

In summary, the Inspector found the following:

- The proposal would result in the loss of open space which would not be replaced by equivalent or better provision in terms of quantity and quality.
- The openness and visual relief currently provided by the site would be substantially eroded.
- Sense of openness, a key attribute of open space, would be obstructed and from some points entirely lost.
- Subject to a conditions the scheme would not harm Great Crested Newt or wildlife habitats.

5. Summary of consultations

- Essex County Council Highways – *Awaiting consultation response.*
- Police - Designing Out Crime – Neither support or object. No apparent concerns with layout. Encourage ‘Secured By Design’ consideration.
- Essex County Fire & Rescue Service – No objection. Access for fire service appears acceptable subject to compliance with Building Regulations.
- ECC Historic Environment Branch – Potential for archaeological remains; condition requested.
- Parks & Open Spaces - The proposed development involves the loss of public open space which is currently extensively used by the local community for informal recreation; this loss of open space is not acceptable and cannot be mitigated nearby. The site is located within an area where few alternative larger open spaces exist and where, in accordance with current planning policy standards, there is a shortfall of open space provision.
- Springfield Parish Council – Objection based on the following grounds:
 - Loss of Open Space
 - Harm to amenity

- Loss of buffer zone between industrial park and Chelmer Village
 - Loss of habitat for wildlife
 - Loss of preserved trees
 - Traffic concerns
 - Adequate provision of food providers nearby
 - Concern about proximity of building to nursery.
- Public Health & Protection Services – Potential for noise disturbance during the night time hours; a condition should restrict delivery and collection times. Charging for Electric Vehicles (EV) should be provided.
 - Anglian Water Services Ltd – Acceptable.
 - ECC Minerals & Waste Planning – No comments.
 - Essex County Council (SUDS) – No objection.
 - Leisure & Heritage Services – No response.
 - Ramblers Association – No response.
 - Recycling & Waste Collection Services – No response.
 - NHS Mid & South Essex Sustainability & Transformation Partner – No response.
 - Essex and Suffolk Water – No response.
 - Local residents – Letters of representation received from 141 local residents; 17 supporters and 124 objectors.

Comments in support mainly relate to: need and competition; employment; the site is an eyesore; development would encourage walking and would open up the Bronze Age settlement and open space.

Comments made objecting to the proposal mainly relate to: loss of open space; loss of green buffer; harm to wildlife and trees; harm to heritage; out of character; no demand; traffic and parking issues; harm to amenity.

A summary of consultation responses is provided at Appendix 1.

6. Planning considerations

Main Issues

6.1. The main policy issues to be considered as part of this application are:

- (a) Loss of Open Space
- (b) Character & Design
- (c) Heritage
- (d) Ecology
- (e) Trees & Landscaping
- (f) Traffic & Parking
- (g) Amenity
- (h) Retail Impact

6.2. Each will be addressed in turn below.

(a) Open Space

- 6.3. The application site forms part of a wider parcel of land which is allocated as Open Space within the adopted Local Plan. From letters of representation received during the life of the application it is clear that this open space is valued and well-used by local residents.
- 6.4. Strategic Policy S5 in the Local Plan states that *“The Council recognises the important role that community facilities have in existing communities including health, education, social, sports and leisure, parks and green spaces, arts and cultural facilities...”*. It goes on to say that existing community assets *“will also be protected from inappropriate changes of use or redevelopment”*.
- 6.5. Paragraph 5.36 of the Chelmsford Local Plan states that *“Existing indoor and outdoor recreation facilities represent important assets serving the communities in which they are located, and in some instances the wider area. This importance relates to their function and also the amenity value and the contribution the outdoor facilities have in providing a ‘green lung’ and visual break in the built environment.”*
- 6.6. Policy DM21 relates to protecting community facilities. Part B relates specifically to open space and states:
- B) The change of use of premises or redevelopment of existing open space, sports and recreational buildings and land, including playing fields forming part of an education establishment, will only be permitted where:*
- i. an assessment has been undertaken which clearly shows the facility is surplus to requirements; or*
 - ii. the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
 - iii. the development is for alternative provision, the needs of which clearly outweigh the loss.*
- 6.7. Paragraph 8.125 of the adopted Local Plan states that *“The retention of all community facilities, including existing sport and leisure facilities, tourist attractions and places of recreation, public open spaces and playing fields, is paramount unless a case can be made that alternative provision will be provided in an acceptable and timely manner. If no alternative provision is to be provided, permission will only be granted where an assessment, which may include details of marketing, has been undertaken which has clearly shown the facility is inappropriate for alternative community uses or is surplus to requirements.”*
- 6.8. The Reasoned Justification to the Policy goes on to say *“In the case of open spaces, they offer amenity value and contribute to the character of an area in general, and can provide a ‘green lung’ and visual break in the built environment on a wider scale. Given the nature particularly of the built environment of Chelmsford, if such facilities are lost to other uses it can be extremely difficult to find alternative locations, particularly as open land is scarce and therefore at a premium. Against this background, it is intended to secure the retention of existing spaces and facilities unless a case can be made that alternative provision will be provided in a wholly-acceptable manner.*
- 6.9. The application relates to the redevelopment of existing open space. It is Natural Green Space. The open space is important both in terms of its use as public open space but also for its open and pleasing aspect, visual relief and a sense of openness and rurality within fairly dense urban surroundings. This view was shared by the previous Planning Inspector (planning application 16/02208/FUL refers). In this respect, the site is an important part of the ‘green lung’ between the otherwise urban development of Chelmer Village and Springfield Lyons Business Park. This

is highly valued by local residents, demonstrated by the objections received to the proposed development.

- 6.10. Since the previous appeal the wording of Policy DM21 (when compared to the emerging policy considered by the Inspector) is slightly different in that only one of the criteria need to be met, rather than all three. The criteria are now followed by 'or' rather than 'and'.
- 6.11. The application contains an Open Space Assessment. The Assessment finds that there is a 'sufficient supply' of Natural Green Space within the Chelmsford Urban Area and that the development of the site would result in a loss of 0.3% of the overall Natural Green Space within the Urban Area. The application suggests that this loss, against the backdrop of a 'sufficient supply' is negligible and would have a limited impact upon the community.
- 6.12. Although not all of the open space in the location would be lost to the development, some would be lost. Policy DM21(B) criterion (i) is clear that in this scenario an assessment must '*clearly shows the facility is surplus to requirements*'. A 'sufficient supply' is not the same test as 'surplus to requirements'. Just because there is enough of Natural Green Space within the Urban Area, it does not automatically follow that the application site is no longer needed or used (ie surplus). To the contrary, and as demonstrated by the level of local objection to the proposed development, the site is clearly needed and well used such that it is not 'surplus to requirements'. Furthermore, the site plays an important role in providing a 'green lung' and visual break from development such that it is important in this location and therefore has an ongoing requirement in respect of the character of the area, as well as in terms of its use.
- 6.13. Criterion (i) has not been met as the application does not clearly show the facility is surplus to requirements. As such, criterion (ii) or (iii) must be met in order for the development to comply with Policy DM21. Criterion (ii) requires the loss resulting from the proposed development to be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
- 6.14. To meet criterion (ii) replacement open space needs to be provided of the same or better quality and quantity. Although the application proposes enhancements to the existing open space adjacent to the site, it does not propose a replacement of the open space which would be lost. There is no replacement provision for the open space lost to the redevelopment of the site and therefore the proposal cannot comply with criterion (ii). The enhancements of the adjacent open space do not justify the loss of open space, the importance of which is discussed above.
- 6.15. Both criterion (i) and (ii) are not met. The only remaining criterion is (iii) however this is not relevant to the proposal as it relates to a replacement provision. The application proposal is not for the replacement provision of open space; it is for a commercial food retail unit.
- 6.16. In conclusion, the application proposal does not comply with Policy DM21(B) in relation to the loss of open space. This loss would be detrimental to the quality of life of local residents and, as discussed below, would be detrimental to the character of the area as the Natural Green Space provides an important 'green lung' function in the otherwise urban environment.

(b) Character & Design

- 6.17. The application site is on the northern side of Chelmer Village Way. It sits between residential properties, the Buttercup Montessori nursery and Springfield Lyons Business Park. The land is not particularly managed as it is Natural Green Space. To some it appears as unkempt land, however it has value as a natural, green and undeveloped parcel of land in an otherwise built up environment. In this respect, it is an important green buffer between the Springfield Lyons

Business Park and the residential properties to the south. It also acts as a buffer between the commercial premises to the west and the residential properties to the east.

- 6.18. The findings of both Planning Inspectors in 2007 (06/01331/OUT) and 2017 (16/02208/FUL) remain relevant today. The site provides a physical and visual break from surrounding development in an otherwise intense urban environment. The sense of openness would be eroded and, at some points, lost through the presence of the proposed development. Furthermore, it is noted that the proposed development is arguably even more urbanising than the proposal for a care home considered in 2017 which proposed less car parking and a greater amount of landscaping (including a care home garden area).
- 6.19. The development of the site would be harmful to the character of the area and would remove an important green buffer which currently softens and separates commercial development close to residential properties. The proposal does not comply with Policy DM23 as it fails to respect the character and appearance of the area in which it is located and is not compatible with the important landscape function of the green buffer.
- 6.20. Part B of Policy DM23 relates to the design of all new buildings. New buildings must be of a high-quality design, well-proportioned, have visually coherent elevations and have active elevations visible from public vantage points.
- 6.21. During the life of the application the layout of the site has been amended to position the building closer to the Buttercup Montessori nursery. This primarily allows for a revised car park design and greater opportunities for landscaping. The position of the building means that the south-east and south-west elevations would be visible from vantage points along Chelmer Village Way, the public footpath to the east and other positions along public highways near the site (ie. Cuton Hall Lane).
- 6.22. The customer entrance to the store would be located on the south-east facing elevation (labelled as south on the submitted plans) in the southern most corner. This elevation would also include doors to the staff area and warehouse access, including a service ramp at the northern corner.
- 6.23. The south-east elevation (labelled as south on the submitted plans) would not appear overly active or visually coherent due to its length and predominant function for servicing, warehouse and staff access. This is a noticeable contrast with the primarily glazed south-west elevation (labelled as west). Both elevations would be equally visible from public vantages and the south-east elevation would be that which presents itself to the car park and public footpath beyond. The large areas of cladding, 'back-of-house' functional fenestration and the servicing area would be unattractive, would lack activity and interest and would be highly visible.
- 6.24. Overall, due to the detailing and function of the south-east elevation the building as a whole is not considered to represent the high-quality design sought by part B of Policy DM23.

(c) Heritage

- 6.25. The site lies adjacent to Dairy Cottage and The Cottage at Dairy Farm. Both are Grade II Listed Buildings. The context was once farmland providing a rural setting to the listed buildings. This context has now changed with the modern Chelmer Village development, but the application site gives a sense of the undeveloped rural setting with close visual connections to the listed buildings.

- 6.26. The revised scheme moves the building adjacent to the existing built form. The site boundary and car park would have additional landscaping. No updated heritage impact assessment has been provided. The previous heritage assessment provided with the application identified a low-moderate impact on setting due to the visual impact of the development taking account of the changed setting and the proposed landscaping scheme. In the previous appeal decision the Inspector found no harm, however in contrast the current application scheme would have a large expanse of car parking covering much of the site.
- 6.27. The large expanse of hard surfacing, car parking and built form, and likely adverts, would change the character of the site. The revised scheme would reduce the impact of the development through the placement of the building and the landscaping scheme. There would however remain a low level of harm to the setting of the listed buildings.
- 6.28. The harm to the setting of the listed buildings, even at a low level, amounts to less than substantial harm for the purposes of the National Planning Policy Framework (NPPF), to be balanced against any public benefit delivered by the scheme. Policy DM13 reflects this, stating that *"where there is less than substantial harm to the heritage asset this will be weighed against the public benefits of the development proposal, including securing the optimum viable use of the heritage asset."*
- 6.29. To the northeast lies Springfield Lyons archaeological site which comprises a Neolithic causewayed enclosure in the easternmost part of the site, a Late Bronze Age settlement within a causewayed enclosure, an Early Saxon cremation and inhumation cemetery and a Late Saxon manorial settlement site. This site is considered as a non-designated heritage asset. Policy DM14 applies.
- 6.30. The separating distance from the monument and the changed context means that there is no harm to its setting, subject to archaeological evaluation being undertaken by condition of any approval. This is consistent with the advice of the Essex County Council Historic Environment Branch.

(d) Ecology

- 6.31. The development site and adjacent land form a Great Crested Newt (GCN) mitigation and receptor area following development to the north (Springfield Lyons) and to the west (Buttercup Montessori). Within the Buttercup Montessori site is a pond known to contain newts together with the collection of ponds in Bronze Age settlement to the north-east.
- 6.32. It is poor practice to develop on mitigation land as it requires the continuous capture and translocation, and disturbance of protected species; receptor areas should remain in perpetuity with their associated development. The supporting ecological report does not appear to make this connection and instead recommends mitigation based on a rapid-risk assessment which states "offence- high likely".
- 6.33. The use of District Level Licencing for GCN has been adopted in Essex. This is a new strategic approach to authorising developments affecting GCN, and is an alternative to the traditional mitigation licencing; applicants can choose which route to use. During the life of the application a countersigned Impact Assessment and Conservation Payment Certificate (IACPC) with Natural England was submitted. This confirms that the scheme is eligible under the district level licencing regime. It is possible to use the district level licensing regime as both of the mitigation licences for Springfield Lyons and Buttercup Montessori have now expired (in 2018 and 2019). This has been confirmed by Natural England.

- 6.34. The signed IACPC uses a pond count of three ponds within a 250m buffer of the site. In contrast, there are known to be 7 present within this area; 5 extant ponds and 2 which were created for mitigation. All 7 ponds are in situ. Details of these ponds have been submitted to Natural England who advised that they will re-calculate the costs required under the district level licence. Once re-calculated, a new countersigned IACPC is required.
- 6.35. At the time of writing the corrected countersigned IACPC has not been provided with the application. On this basis, there is not sufficient evidence to demonstrate that the scheme would not likely harm Great Crested Newt, a European Protected Species. The development would therefore be contrary to Policy DM16(D) of the Local Plan which seeks to avoid negative impacts on biodiversity or, as a last resort, compensate for those residual impact, as well as the objectives of the National Planning Policy Framework (NPPF; paragraph 175(a)).
- 6.36. The ecological report recommends further surveys for reptiles. No detailed surveys accompany the application and therefore the presence of reptiles is unknown. This means that it has not been demonstrated that likely harm would not be caused to protected species as a result of the proposed development. This is a further conflict with Policy DM16(D) and the NPPF (paragraph 175(a)).
- 6.37. Finally, the proposed development would result in the loss of species-poor semi improved grassland, trees and scrub. Policy DM16(D) says that all development proposals should *"Deliver a net gain in biodiversity where possible, by creating, restoring and enhancing habitats, and enhancing them for the benefit of species."*
- 6.38. The ecological report recognises biodiversity net gain, however no further detail has been provided to understand net loss or gain. A baseline assessment of linear and area habitats using the published Defra 2.0 metric is required with results used against the development proposals and landscaping to identify the change in biodiversity habitat levels (gain/loss). This would identify where further mitigation and compensation is required.
- 6.39. In the absence of this information it has not been demonstrated the development complies with Policy DM16(D) or the NPPF at paragraph 175(d) in respect of delivering biodiversity net gain.

(e) Trees & Landscaping

- 6.40. The application site contains trees that are preserved by Tree Preservation Order reference TPO/2004/010. The preserved trees on site consist of two Ash trees on the western side of the site. An off-site Oak tree is preserved by the same Tree Preservation Order and is located along the northern boundary of the site.
- 6.41. One of the Ash trees has previously been identified as requiring removal due to its poor structural form and health. The removal of this tree for the development is acceptable.
- 6.42. The tree survey submitted with the application records the other Ash tree as also having poor physiological condition through the presence of fruiting brackets which cause stem or branch failure, and significant dieback and major deadwood.
- 6.43. The loss of this second Ash tree would see the mature treescape reduced and there would be a loss to public visual amenity. Nonetheless, it is unlikely the tree will recover and will further decline over time. The removal of the tree is therefore acceptable subject to suitable compensatory planting.

- 6.44. In addition to the Ash trees to be removed, the proposal would also remove four individual trees and one group. The removal of these trees cannot reasonably be resisted as they are not preserved or worthy of preservation.
- 6.45. The preserved Oak would be unaffected by the development.
- 6.46. The revised layout submitted during the life of the application allows for greater and more meaningful landscaping and compensatory planting. This would include 38 new trees comprising of 10 species which would create a diverse treescape. This is sufficient to compensate for the loss of the existing trees. The proposed planting locations are suitable for the anticipated land use (hard/soft areas) with a deliberate emphasis made to the strengthening of the northern and eastern boundaries.
- 6.47. Overall, the proposal would be acceptable, subject to conditions had the application been recommended for approval, in respect of trees and landscaping.

(f) Traffic & Parking

- 6.48. The application proposes a new vehicular access to the site, as well as alterations to the existing Chelmer Village Way carriageway to provide a lay-by bus stop and re-align the existing cycle and footway.
- 6.49. The scheme proposes 125 parking spaces, including accessible spaces, parent and child spaces and spaces of Electric Vehicle charging.
- 6.50. Deliveries to the store would be made from the new access. The vehicles would access the loading bay situated within the north-east corner of the building by using the car park layout. The layout has been designed to allow a vehicle to move around spaces and reverse into the loading bay.
- 6.51. A consultation response from Essex County Council as the Highway Authority is awaited. This will be reported on the Green Sheet when it is available.

(g) Amenity

- 6.52. The application site is close to a large number of properties both to the south on the opposite side of Chelmer Village Way (Dairy Cottage and properties within Barlows Reach) as well as properties to the east in Cuton Grove.
- 6.53. Policy DM29 of the Local Plan relates to protecting living and working environments. The policy firstly requires new development to safeguard the living environment of the occupiers of any nearby residential property by ensuring that the development is not overbearing and does not result in unacceptable overlooking or overshadowing. The development shall also not result in excessive noise, activity or vehicle movements. The second part of the policy seeks to ensure development is compatible with neighbouring uses in relation to noise, smells, light, vibrations and fumes.
- 6.54. The proposed building itself would be sufficiently set away from neighbouring properties to ensure that it is not overbearing or overshadowing as well as not cause harmful overlooking.

- 6.55. The application proposal would increase activity within the site, footfall and traffic on the road. This is not, however, harmful in itself. Chelmer Village Way is already a busy traffic route where vehicle movements and footfall are already common and expected. On this basis, this increase in activity would not be so out of the ordinary or harmful to warrant a refusal of planning permission.
- 6.56. The introduction of a supermarket within the site has the potential to cause noise disturbance to nearby residents mainly through delivery and collections. An acoustic report has been submitted with the application. This finds that most of the noise generated from the operation of the store would be within relevant guidelines and criteria. The report does highlight the possible disturbance from noise from deliveries during night time hours. This has been reviewed by Public Health and Protection who agree with the findings and suggest a planning condition to limit the hours within which deliveries and collections could take place (only between 7am and 11pm). Had the application have been recommended for approval this condition could have been added to protect local residents from noise disturbance overnight.
- 6.57. The development of the site for a supermarket use is unlikely to generate a harmful level of light pollution, smells, fumes or vibrations. The proposal would therefore, subject to a condition had it been recommended for approval, not harm the amenity of nearby properties.

(h) Retail Impact

- 6.58. Policy S12 of the Local Plan relates to the role of city, town and neighbourhood centres and states that, through policies and proposals, the Council will promote the continued strengthening of the following Designated Centres in their varied roles and functions to positively contribute towards the viability, vitality, character and structure of these centres.
- 6.59. Policy S12 requires retail proposals above 500sqm gross floorspace outside of Designated Centres to undertake an impact assessment. This is because the Chelmsford Retail Capacity Study (2015) found that retail developments of less than the default national threshold of 2,500sqm could have an impact on existing centres outside Designated Centres. It concluded that unrestricted comparison goods retail floorspace outside of Chelmsford City Centre has the potential to impose a competing retail destination and thus potentially harm both the health of the centre and investment within it.
- 6.60. The Chelmsford Retail Capacity Study does not consider it necessary for the Local Plan to include provision for additional comparison goods floorspace in Chelmsford. However, the study does indicate a need for 11,500sqm of food retail floorspace in Chelmsford in the Local Plan period. This is allocated to be met (as set out in Policy S7 of the Chelmsford Local Plan) in previously developed sites within the Chelmsford Urban Area (location 1).
- 6.61. The proposal is for 1414 square metres of retail floor space. Of this, 80% would be for convenience goods and the remaining 20% for comparison goods. A retail impact assessment has been submitted with the application. The report notes a number of distinct differences between Lidl and other retailers offer, including a limited number of product lines, not a full retail offer with constantly changing 'non-food specials', shorter trading hours and a more compact catchment area.
- 6.62. The Retail Impact Assessment submitted as part of the application has been considered by the Council's Economic Development and Implementation Team. They have no detailed criticisms to make of the assessment and there is no contrary evidence available to demonstrate that the

proposal would adversely affect the vitality and viability of Designated Centres or existing centres outside of Designated Centres. The proposal is therefore acceptable in this respect.

Open Space Enhancements

- 6.63. The application proposes a package of enhancements to the existing open space adjacent to the application site. This area includes the Bronze Age Enclosure. The enhancements proposed include gravel pathways, benches, information boards, bins, log piles, bird and bat boxes as well as areas of woodland planting, wildflower grass, specimen planting, an area of wet land and a grass area for an informal 5-a-side football pitch.
- 6.64. Although the premise of the proposed enhancements is welcomed, and they would be beneficial for public access to the area, there are a number of concerns which undermine the enhancements.
- 6.65. Firstly, linked to concerns addressed earlier about the absence of a biodiversity net gain matrix, the baseline conditions of the site and wider open space have not been established. This means that we cannot ascertain how much of a gain, if at all, would be provided because the existing condition has not been valued.
- 6.66. Secondly, the open space enhancements have not been considered with regard to the site's function as a mitigation and receptor area for Great Crested Newt (GCN). The open space enhancements may physically impact GCN, such as through the creation of pathways and carrying out new planting. It is not clear whether these works would impact GCN. Further, the enhancements would increase access to the area which would subsequently increase the risk to the species and their habitat.
- 6.67. Although a wet land area is shown to be created it is not clear how this would be achieved. The area for the wet land does not appear to be particularly low-lying and it is unclear how the land would be retained as a wet land (such as what source of water it would rely on).
- 6.68. Overall there is no clear management or maintenance strategy for the proposed enhancements. This, in addition to the absence of full thought and evidence above, undermines the benefit the 'enhancements' would truly have. As such they can be afforded very little weight. In addition, the enhancements would be outside of the application site, on land not owned by the developer, and the application does not provide a mechanism to secure the proposals (such as a section 106 agreement). This means that the already limited weight attributed to the enhancements is lessened further.
- 6.69. The enhancements put forward do not provide sufficient public benefit to clearly outweigh the harm that the development would cause to the nearly Listed Buildings. They also do not outweigh the loss of the existing open space and the harm that would arise to both the character of the area and quality of life as a result of this.

Conclusion – Planning Balance

- 6.70. The National Planning Policy Framework (NPPF) clarifies that the starting point for decision making is the Local Plan. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate the plan should not be followed (NPPF paragraph 12).

- 6.71. As discussed within this report, the proposed development results in the loss of open space and an important green buffer. This is contrary to policies DM21 and DM23 and is consistent with previous appeal decisions which are a material consideration. The building itself, particularly the south-east elevation, would be poorly designed as a result of its function and lack of activity, contrary to part B of Policy DM23. The scheme would cause further harm to the setting of nearby Grade II Listed Buildings contrary to Policy DM13.
- 6.72. The application fails to demonstrate that Great Crested Newts and reptiles would not likely be harmed by the development and also fails to properly assess and demonstrate that there would be a biodiversity net gain as a result of the development. This is contrary to Policy DM16.
- 6.73. Overall, the proposal is contrary to the adopted Local Plan.
- 6.74. The proposed enhancements to the adjacent open space are unclear, unevidenced and may give rise to other issues in relation to the protection of Great Crested Newts. They carry very limited weight in favour of the proposed development and cannot be relied upon. The enhancements do not provide a sufficient basis (as a material consideration) to deviate from the plan-led outcome of the refusal of planning permission.

7. Community Infrastructure Levy (CIL)

- 7.1. The development may be CIL Liable and a CIL charge may be payable should any subsequent appeal be allowed.

RECOMMENDATION

The Application be REFUSED for the following reasons:-

Reason 1

Policy DM21 of the adopted Chelmsford Local Plan relates to protecting community facilities. Part B relates specifically to open space and states that the change of use of premises or redevelopment of existing open space, sports and recreational buildings and land, including playing fields forming part of an education establishment, will only be permitted where: i. an assessment has been undertaken which clearly shows the facility is surplus to requirements; or ii. the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or iii. the development is for alternative provision, the needs of which clearly outweigh the loss.

The site is designated open space. It is Natural Green Space. The open space is important both in terms of its use as public open space but also for its open and pleasing aspect, visual relief and a sense of openness and rurality within fairly dense urban surroundings. It is a 'green lung' within an otherwise urban environment. The open space is not surplus to requirements. The open space lost to the redevelopment would not be replaced by equivalent or better provision in terms of quantity and quality. The development does not propose an alternative provision.

The proposal does not comply with Policy DM21(B) in relation to the loss of open space. This loss would be detrimental to the quality of life of local residents and would be detrimental to the character of the area as the Natural Green Space provides an important 'green lung' function in the otherwise urban environment.

Reason 2

Policy DM23 of the adopted Chelmsford Local Plan states that planning permission will be granted for development that respects the character and appearance of the area in which it is located. Part B of Policy DM23 relates to the design of all new buildings. New buildings must be of a high-quality design, well-proportioned, have visually coherent elevations and have active elevations visible from public vantage points.

The site provides a physical and visual break from surrounding development in an otherwise intense urban environment. The sense of openness would be eroded and, at some points, lost through the presence of the proposed development. The development of the site would be harmful to the character of the area and would remove an important green buffer which currently softens and separates commercial development close to residential properties. The proposal fails to respect the character and appearance of the area in which it is located and is not compatible with the important landscape function of the green buffer.

The position of the building means that the south-east and south-west elevations would be visible from vantage points along Chelmer Village Way, the public footpath to the east and other positions along public highways near the site. The south-east elevation (labelled as south on the submitted plans) would not appear overly active or visually coherent due to its length and predominant function for servicing, warehouse and staff access. This is a noticeable contrast with the primarily glazed south-west elevation (labelled as west). The large areas of cladding, 'back-of-house' functional fenestration and the servicing area would be unattractive, would lack activity and interest and would be highly visible.

The proposal would fail to comply with Policy DM23 of the adopted Local Plan and the objectives of the National Planning Policy Framework.

Reason 3

Policy DM13 of the adopted Chelmsford Local Plan relates to designated heritage assets and states that where there is less than substantial harm to the heritage asset this will be weighed against the public benefits of the development proposal, including securing the optimum viable use of the heritage asset.

The application site is close to two Grade II Listed Buildings. The heritage assessment provided with the application identified a low-moderate impact on the setting of the Listed Buildings due to the visual impact of the development taking account of the changed setting and the proposed landscaping scheme. The large expanse of hard surfacing, car parking and built form, and likely adverts, would change the character of the site. There would be a low level of harm to the setting of the listed buildings.

The harm to the setting of the listed buildings, even at a low level, amounts to less than substantial harm for the purposes of the National Planning Policy Framework (NPPF), to be balanced against any public benefit delivered by the scheme. The application proposes enhancements to the adjacent open space and Bronze Age enclosure however the benefit and practicalities of this has not been fully established or demonstrated as part of the application. The delivery, management and maintenance of the enhancements are not secured as part of the application.

Public benefit does not clearly outweigh the harm to the setting of the listed buildings. The proposal is contrary to Policy DM13 and the objectives of the NPPF.

Reason 4

Policy DM16 (part D) of the adopted Chelmsford Local Plan states that All development proposals should: i. Conserve and enhance the network of habitats, species and sites (both statutory and non-statutory, including priority habitats and species) of international, national and local importance commensurate with their status

and give appropriate weight to their importance; and ii. Avoid negative impacts on biodiversity and geodiversity, mitigate unavoidable impacts and as a last resort compensate for residual impacts; and iii. Deliver a net gain in biodiversity where possible, by creating, restoring and enhancing habitats, and enhancing them for the benefit of species.

The development site and adjacent land form a Great Crested Newt mitigation and receptor area following development to the north (Springfield Lyons) and to the west (Buttercup Montessori). Within the Buttercup Montessori site is a pond known to contain newts together with the collection of ponds in Bronze Age settlement to the north-east.

The scheme is eligible under Natural England's District Level Licensing however the countersigned Impact Assessment and Conservation Payment Certificate (IACPC) submitted as part of the application is based on an incorrect pond count. This therefore provides inadequate mitigation. There is not sufficient evidence to demonstrate that the scheme would not likely harm Great Crested Newt, a European Protected Species.

The submitted ecological report recommends further surveys for reptiles. No detailed surveys accompany the application and therefore the presence of reptiles is unknown. It has not been demonstrated that likely harm would not be caused to protected species as a result of the proposed development.

The proposed development would result in the loss of species-poor semi improved grassland, trees and scrub. The ecological report recognises biodiversity net gain, however no further detail has been provided to understand net loss or gain. A baseline assessment of linear and area habitats has not been provided. In the absence of this it has not been demonstrated that the development would deliver a biodiversity net gain.

The development would be contrary to Policy DM16(D) of the Local Plan which seeks to avoid negative impacts on biodiversity or, as a last resort, compensate for those residual impact, as well as the objectives of the National Planning Policy Framework.

Background Papers

Case File

Essex County Council Highways

Comments
No response received

Anglian Water Services Ltd

Comments
<p>14.12.2020</p> <p>Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.</p> <p>The foul drainage from this development is in the catchment of Chelmsford Water Recycling Centre that will have available capacity for these flows.</p> <p>The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.</p> <p>The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.</p> <p>Anglian Water has reviewed the submitted documents (Flood Risk Assessment) and can confirm that these are acceptable to us. We require these documents to be listed as approved plans/documents if permission is granted.</p> <p>Note to applicant - Surface Water Hierarchy evidence will need to be submitted at 106 application stage.</p> <p>No condition required. We require these documents to be listed as approved plans/documents if permission is granted. Note to applicant - Surface Water Hierarchy evidence will need to be submitted at 106 application stage.</p>

Essex County Council (SUDS)

Comments
<p>09.04.2021</p> <p>We previously recommended no objection with conditions for this application and no changes are being proposed to the surface water drainage strategy therefore we have no further comments.</p>

12.02.2021

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

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

We are removing the objection to this application based on conditions however it should be noted that we will also expect to see some treatment provided for the roof water to the north of the site prior to entering the attenuation tank.

22.12.2020

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:

- o Water treatment - all water leaving the site, including roof water needs to be shown to be treated in line with the simple index approach in chapter 26 of the ciria suds manual. Currently not all water is being treated. An assessment using the simple index approach needs to be carried out for the site.

We also have the following advisory comments:

- o We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively.

In the event that more information was supplied by the applicants then the County Council may be in a position to withdraw its objection to the proposal once it has considered the additional clarification/details that are required.

Essex and Suffolk Water

Comments

No response received

Police - Designing Out Crime

Comments

24.03.2021

NPPF section 8 "Promoting Healthy and Safe Communities" paragraph 91(b), and section 12 "Achieving Well Designed Places" paragraph 127(c) address creating places that are safe. Chelmsford Local Plan DM23 & DM24 addresses security through "High Quality Design" and "Place Shaping" with a reasoned justification 9.6 - "The layout and design of a development are important in creating a safe environment where people

are comfortable to live, work and visit".

Whilst there are no apparent concerns with the layout to comment further we would require the finer detail boundary treatments and physical security measures.

We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with these policies by achieving a Secured by Design Commercial award.

Essex County Fire & Rescue Service

Comments
<p>20.04.2021</p> <p>Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and appears to be acceptable subject to satisfactory compliance with Building Regulations B5.</p> <p>More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.</p> <p>The architect or applicant is reminded that additional water supplies for fire fighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters.</p> <p>There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.</p> <p>Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.</p> <p>15.12.2020</p> <p>Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and appears to be acceptable subject to satisfactory compliance with Building Regulations B5.</p> <p>More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.</p> <p>The architect or applicant is reminded that additional water supplies for fire fighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters.</p> <p>There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every</p>

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Recycling & Waste Collection Services

Comments

No response received

NHS Mid & South Essex Sustainability & Transformation Partner

Comments

No response received

ECC Historic Environment Branch

Comments

29.03.2021

My earlier comment still apply to this amended application.

15.12.2020

The proposed development lies adjacent to an area of known, regionally-important archaeological remains. Archaeological excavation over the last 30 years has revealed the nationally important Bronze Age Springfield enclosure lying immediately to the north-east of the proposal area. Excavations carried out 1981-1991 recorded a fragment of the western side of a probable Neolithic causewayed enclosure in the easternmost part of the site, a Late Bronze Age settlement within a causewayed enclosure, an Early Saxon cremation and inhumation cemetery and a Late Saxon manorial settlement site. Recent excavations within Springfield Business Park have added to this information, defining the western extent of the Saxon cemetery and further Bronze Age and Iron Age features. Plot N of the Business Park lies adjacent and showed a low density scatter of Roman remains and residual finds across the whole plot. This reflects the site's position within the hinterland of the Roman settlement at Chelmsford and its location close to the London to Colchester road.

Recommendation: Full Condition - Strip, map and assess

(i) No development or preliminary ground works shall take place within the site until a written scheme of

investigation for the programme of archaeological work has been submitted to and approved in writing by the local planning authority.

(ii) No development or preliminary ground works shall take place until such time that the programme of archaeological work has been carried out in accordance with the approved Written Scheme of Investigation.

ECC Minerals & Waste Planning

Comments

11.12.2020

The Mineral Planning Authority has no comment to make in relation to this application as the area of the proposed development site located within the sand and gravel Mineral Safeguarding Area is below the minimum Minerals Local Plan 2014: Policy S8 threshold of 5ha.

Parks & Open Spaces

Comments

26.01.2021

The proposed development involves the loss of public open space which is currently extensively used by the local community for informal recreation; this loss of open space is not acceptable and cannot be mitigated nearby. The site is located within an area where few alternative larger open spaces exist and where, in accordance with current planning policy standards, there is a shortfall of open space provision.

This open space provides a break in the build environment between the industrial/retail estate to the north of the proposed development site and the residential areas to the south, providing welcome separation, whilst the wider open space is also the setting of a registered ancient monument. This wider open space is available for public access and the proposed development will impede such access whilst further enclosing the site of the ancient monument.

The site is a naturalising open space and provides habitat and wildlife refuge. The loss of local ecology as result of the proposed development cannot be mitigated elsewhere in the vicinity and would most likely be lost entirely, as result of the development.

It is understood that the site is not listed within the local plan as a development site at present and that the open space designation of the site needs to be maintained.

The proposed development for food retail purposes does not appear to satisfy an identified community benefit or need with an abundance of similar food retail outlets nearby, whereas the provision of open space is an identified community need.

Leisure & Heritage Services

Comments
No response received

Ramblers Association

Comments
No response received

Springfield Parish Council

Comments
<p>07.04.2021</p> <p>Springfield Parish Council object to this application for the following reasons:</p> <p>(a) The application site occupies land, under S106 agreement dated 18th October 1999, which was designated in its entirety as a public open space. Within the current Chelmsford City Council local plan (adopted until 2036) the land is designated open space. Approval of the proposal would therefore prevent fulfilment of this agreement;</p> <p>(b) The proposal does not meet the requirements of policy DM21 in the Local Plan adopted in May 2020 (Protecting Community Facilities) because it fails to demonstrate that the loss of open space would be replaced by equivalent or better in terms of quality and quantity;</p> <p>(c) The proposal does not accord with the City Councils Planning Policy DM29 Protecting Living and Working Environments;</p> <p>(d) An overall reduction in the amount of open space available at the location and removal of 'buffer zone' between Springfield Lyons Industrial Park and Chelmer Village;</p> <p>(e) Loss of habitat for wildlife and vegetation in particular concerns with the proposed Landscape design and species of plants selected such as Ceanothus Thyrsiflorus Repens which is not in keeping with the current environment;</p> <p>(f) Loss of trees including TPO trees and TO5 Ash (drawing number 20-41-05) with 40+ years of remaining life;</p> <p>(g) Loss of recreational amenity;</p> <p>(h) Traffic concerns, volume increases on a very busy road, proximity of site access/egress to existing roundabout/footpath/cycle path. Potential right turn onto main road within proposal has not been addressed;</p> <p>(i) Already adequate provision of food providers within the local vicinity.</p>

(j) Concern about proximity of the proposed store buildings positioning in relation to adjacent nursery, in particular their children's play area.

(k) A request is made to Chelmsford City Council Ward Councillors to call in the application to be discussed by Chelmsford City Council Planning Committee.

13.01.2021

Springfield Parish Council object to this application for the following reasons:

(a) The application site occupies land, under S106 agreement dated 18th October 1999, which was designated in its entirety as a public open space. Within the current Chelmsford City Council local plan (adopted until 2036) the land is designated open space. Approval of the proposal would therefore prevent fulfilment of this agreement;

(b) The proposal does not meet the requirements of policy DM21 in the Local Plan adopted in May 2020 (Protecting Community Facilities) because it fails to demonstrate that the loss of open space would be replaced by equivalent or better in terms of quality and quantity;

(c) The proposal does not accord with the City Councils Planning Policy DM29 Protecting Living and Working Environments;

(d) An overall reduction in the amount of open space available at the location and removal of 'buffer zone' between Springfield Lyons Industrial Park and Chelmer Village;

(e) Loss of habitat for wildlife and vegetation in particular concerns with the proposed Landscape design and species of plants selected such as Ceanothus Thyrsiflorus Repens which is not in keeping with the current environment.

(f) Loss of trees including TPO trees and TO5 Ash (drawing number 20-41-05) with 40+ years of remaining life;

(g) Loss of recreational amenity;

(h) Traffic concerns, volume increases on a very busy road, proximity of site access/egress to existing roundabout/footpath/cycle path. Potential right turn onto main road within proposal has not been addressed;

(i) Already adequate provision of food providers within the local vicinity.

(j) A request is made to Chelmsford City Council Ward Councillors to call in the application to be discussed by Chelmsford City Council Planning Committee.

Public Health & Protection Services

Comments

17.03.2021

No PH&PS comments with regard to this amended application however the previous consultation response still applies.

21.01.2021

The introduction of a supermarket to this site has the potential to cause noise disturbance to nearby residents. However, I note the submitted acoustic report and its findings that most of the noise generated from the operation of the store will be within relevant guidelines and criteria. The report does highlight the possible disturbance from noise from deliveries during night time hours. For this reason I would recommend that a condition be imposed that restricts deliveries to, and collections from, the store to 0700 hours to 2300 hours on any day.

Non-residential development should provide EV charging points equivalent to 10% of the total parking provision.

Local Residents

Comments

Letters of representation received from 141 local residents; 17 supporters and 124 objectors.

Support (17)

There is a need for a Lidl in the area.

Would take pressure off Army & Navy roundabout.

Good competition for other local supermarkets.

Employment and job opportunities.

The site is overgrown, unused and an eyesore.

Supermarket would be within walking distance of residential properties and would encourage walking.

Proposals would improve open space.

Open up the archaeological site.

Object (124)

Reasons for dismissed appeal are still valid.

Objections to land disposal by Essex County Council.

Open Space

Loss of green buffer.

Loss of open space.

Loss of recreation land.

Open space is valued.

Wild space.

Heritage

Adverse impact on archaeology.

Detrimental to natural beauty and history.

Harm to heritage.

Trees & Ecology

Loss of wildlife, biodiversity, ecosystem and habitats.

Loss of and harm to preserved trees.

Not enough spaces like this in Chelmsford.

Character & Design

Out of scale with housing.

Not sympathetic to area.

Buffer to industrial land.

Poor layout and design.

Harmful to character of the area.

Lack of screening and landscaping.

Amenity

Air, noise and light pollution.

Overlooking to residential properties.

Harm to amenity.

Increased litter.

Increased footfall.

Decrease in property value.

Traffic & Parking

Traffic increase.

Traffic report inaccurate.

Risk of road accidents (highway safety).

Lack of parking.

Need & Retail Impact

No demand or need; already well served by other stores.

Outside of development area in local plan.

Other units and buildings nearby could be used.

No growth around Chelmer Village, allocated growth around Beaulieu.

Brownfield land should be used.

Inadequate retail assessment; assumptions for Aldi, Sainsburys and Asda are inaccurate.

Open Space Enhancements

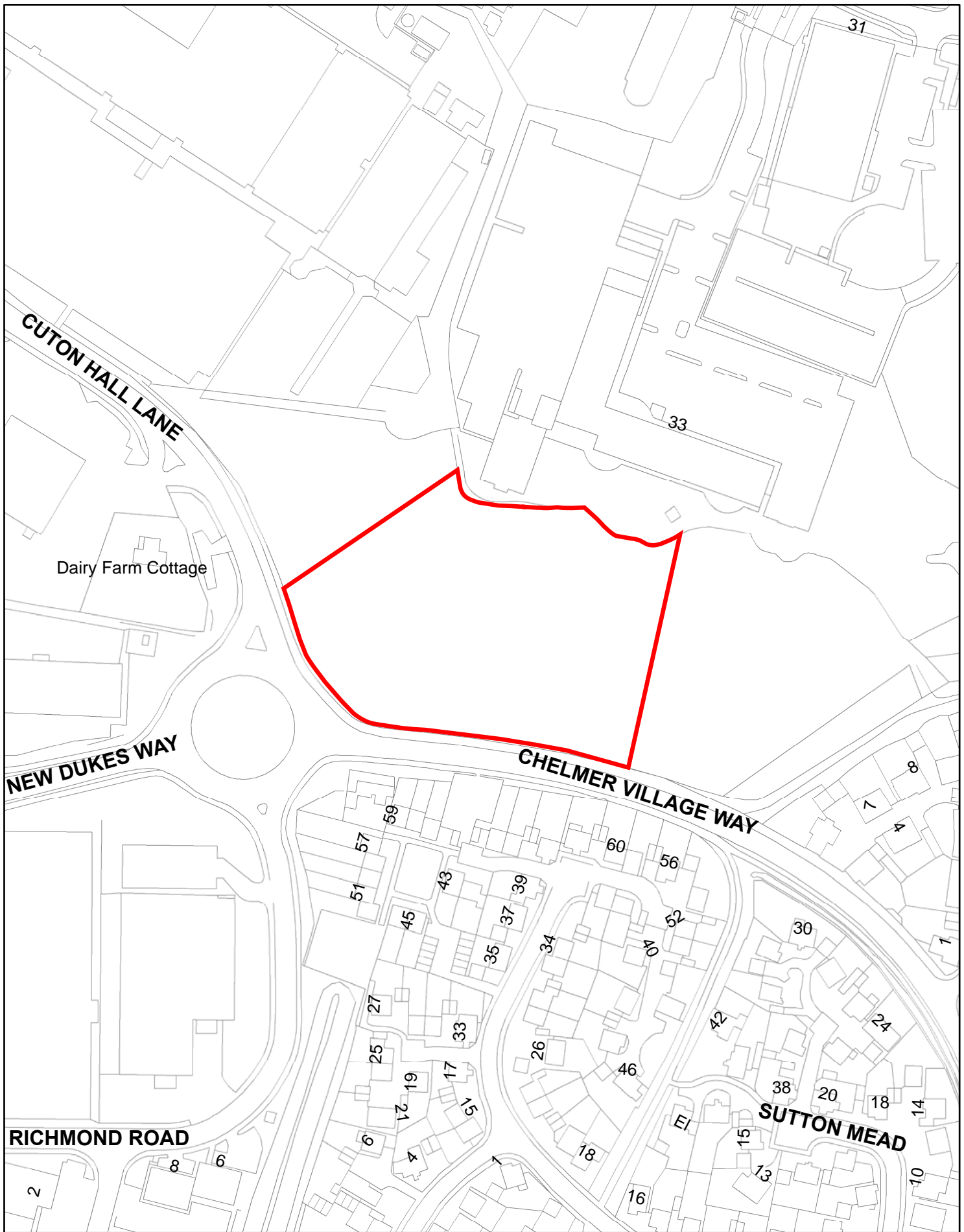
Replacement park not appropriate (funding, lighting, traffic, noise, wildlife, maintenance).

Football pitch is unnecessary.

Increased vandalism.

Wetland not viable.

Increased footfall and disturbance on footpaths.



0 15 30 60 Metres

1:1,753

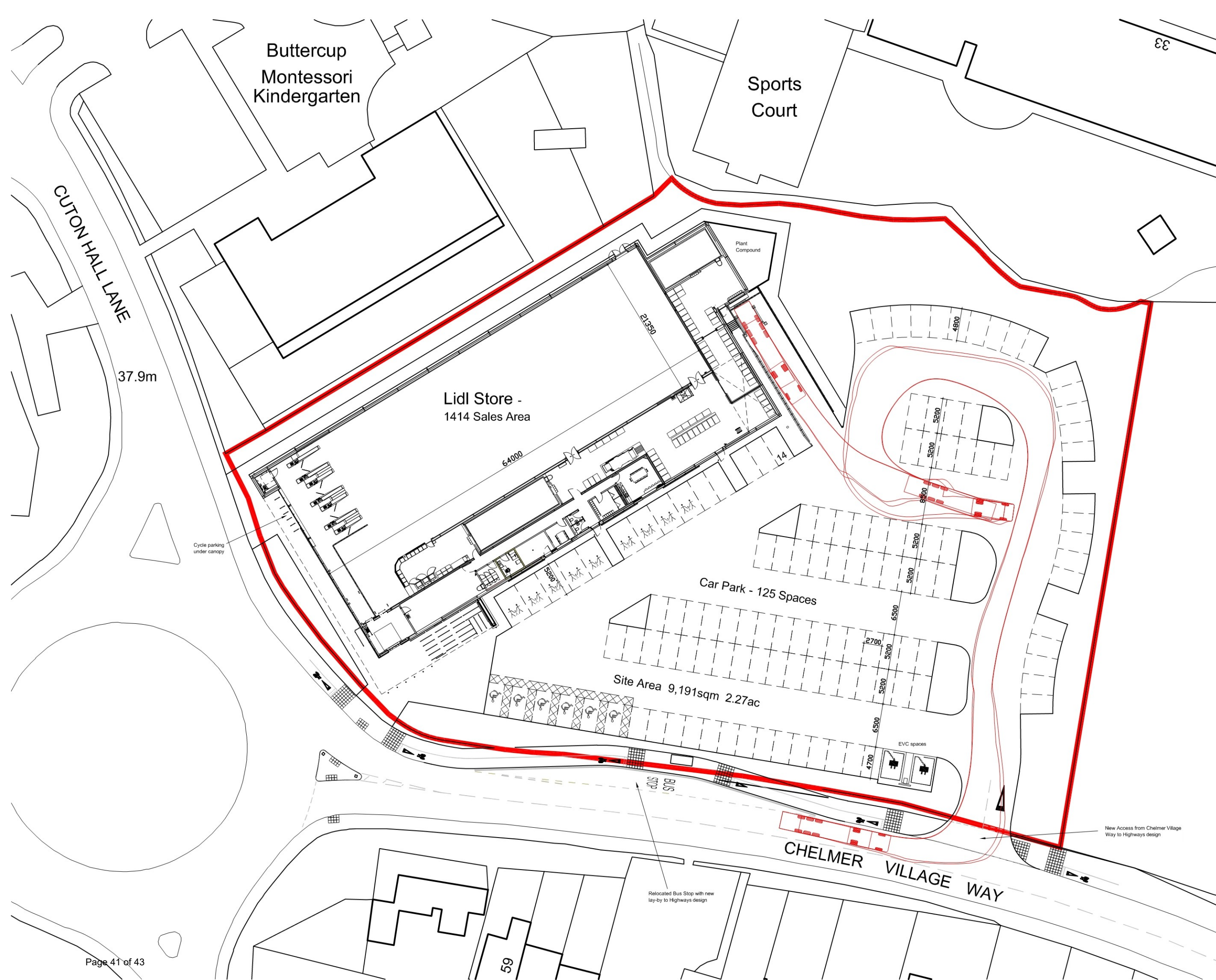


Planning Committee
20/01813/FUL

Planning & Development Management
Directorate for Sustainable Communities

PO Box 7544 Civic Centre
Duke Street, Chelmsford, CM1 1XP

Telephone: 01245 606826



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REV.	DATE	DESCRIPTION
1		

North arrow pointing North.

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Site Layout	
Store Name	Chelmer Village Way
Sales Area	1,414sqm
Ancillary	283sqm
Warehouse	552sqm
GIA	2,249sqm
Site Area	9,191sqm
Total Car Spaces	125
Scale	1:500@A3

client
Lidl UK GmbH

project
New Lidl Store
Cuton Hall Lane
Chelmsford

drawing
Proposed Site Plan

scale
1:250@A1, 1:500@A3

date
Mar 21

drawn
RM

checked

drawing no.
7680L-16

revision

john roberts architects

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www.jrarchitects.co.uk



1:500 at A1



Appeals Report

Appeal Decisions received between 31/03/2021 and 21/04/2021

PLANNING APPEALS

Total Appeal Decisions Received	1	
Dismissed	1	100%
Allowed	0	0%
Split	0	0%

Written Reps

37 Arbour Lane Chelmsford CM1 7RG

Reference	19/01395/FUL
Proposal	Demolition of existing buildings and construction of three separate buildings to accommodate 10 x residential apartments, together with associated car parking facilities, bin storage and cycle provision.
Appeal Decision	Appeal Dismissed - 15/04/2021
Key Themes	Character and appearance of the area; neighbour amenity; living conditions of future occupiers; Essex Coast RAMS, accessible and adaptable dwellings.
Agreed with CCC on	Inadequate accommodation (below Nationally Described Space Standards). Insufficient amenity space. Detrimental effect on residential occupiers.
Disagreed with CCC on	Acceptable impact on the character and appearance of the area. No detrimental impact on the living conditions of adjoining occupiers through loss of privacy or outlook. Accessible and adaptable dwellings could have been secured through a planning condition.
Costs Decision	None

Notes: The Inspector found that it was not necessary to fully explore the necessity for a contribution towards the Essex Coast RAMS as the appeal was dismissed on other substantive issues.