

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AN	04/02/2020
Planning Development Manager authorisation:	TF	10/02/2020
Admin checks / despatch completed	CC	10/02/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	10/2/2020

Application: 19/00338/FUL **Town / Parish:** Clacton Non Parished

Applicant: Hawkstone Vale (Clacton) LLP

Address: Old Gas Works Site Old Road Clacton On Sea

Development: Redevelopment of former Gasworks site comprising a mixed use Trade Counter led development classes A1, A3, A5, D2, B1, B2, B8 and Sui Generis uses plus car parking, landscaping, totem sign, reconfigured access arrangements and associated works.

1. Town / Parish Council

N/a

2. Consultation Responses

Environmental Protection (Amended) Thank you for your email. See my comments below;

I have reviewed the amended application and do not have any objections subject to recommendations of the following conditions in regards to the proposed car wash;

1. Acoustic barriers to be erected along all residential boundary (ies). Details of an acoustic barrier, to be erected along the boundary (ies) of the site, including details of its ongoing maintenance shall be submitted to and approved by the Local Planning Authority and once approved this shall thereafter be installed and permanently retained.
2. Installation of any equipment shall include sound attenuation measures for any jet wash, vacuum and air/water facilities were necessary. Such agreed works shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.
3. The proposed car wash shall not operate outside the hours of 8.00 - 18.00 daily.
4. There shall be no audible signal device provided to any jet wash or vacuum cleaner.

Reason: To ensure that occupiers of nearby residential premises do not suffer a loss of amenity by reason of noise nuisance from use of the proposed premises.

Environment Agency

Thank you for your consultation received on 26 March 2019. We have inspected the application, as submitted, and we consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below, without these conditions we would object to the development.

Land Contamination

Whilst we recognise the investigation work undertaken to date at the site, there are a number of issues which still need to be addressed. We have reviewed the DTS Raeburn Review of Historical Data, Supplementary Ground Investigation and Remediation Strategy dated September 2018. The report has provided a useful summary of the work undertaken to date at the site and we have the following comments to make:

- The chemical testing results appear to indicate more than one source of contamination. Contaminants associated with the former gas works are clearly evident but also high BTEX /MTBE in the north western corner indicating petroleum hydrocarbons. It seems likely that the source of this contamination may have been an underground tank. Further information is needed to investigate this contamination source. - The Advisian DQRA for free cyanide appears reasonable. However, site specific parameters are always preferred particularly for key parameters such as hydraulic conductivity which is easily obtained in the field.

-Section 6.3.1 - The compliance point will need to be 50m for all hazardous substances in all aquifers for contaminants already in groundwater. For non-hazardous substances in groundwater with a local resource potential a distance greater than 50m can be agreed but this should not exceed 250m <https://www.gov.uk/guidance/land-contamination-groundwater-compliance-points-quantitative-risk-assessments#compliance-points-distances-for-resource-protection>

-The DQRA should also consider ammonical nitrogen and MTBE.

-The results of groundwater monitoring to date may indicate the effects of seasonal fluctuation in groundwater levels mobilising contamination in a smear zone. Given the last groundwater sampling event was in 2016 we recommend additional sampling is carried out. We recommend low flow sampling techniques are used. The stabilising parameters used in this method also provide useful data about the aquifer chemistry. Additional analysis of determinands which reflect biodegradation potential should be added to the analytical suite. The results of which can be fed back into the risk assessment.

Once the additional groundwater sampling has been undertaken and the risk assessment updated, we will be in a better position to review the proposed remediation.

Condition 1

<Prior to each phase of development approved by this planning permission no development / No development approved by this planning permission> (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses

- potential contaminants associated with those uses

- a conceptual model of the site indicating sources, pathways and receptors

-potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4)

A verification plan providing details of the data that will be collected in

order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved. Condition 2 No occupation <of any part of the permitted development / of each phase of development> shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved. Condition 3

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority. Condition 4 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason for Conditions:

To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 170 and 178), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7. National Planning Policy Framework (NPPF) paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178). No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been

demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details. Reason
Infiltration through contaminated land has the potential to impact on groundwater quality.
Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

Building Control and
Access Officer

No comments at this stage.

Waste Management

No comments.

ECC Highways Dept
(Amended)

Essex County Council in their capacity as Highway Authority has thoroughly assessed the highways and transportation information submitted in support of the above planning application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework in particular, the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures.

The additional information supplied for this application have been duly considered and site visits have been undertaken. The outstanding issues have now been addressed therefore the conclusions of the Highway Authority are as follows:

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

Prior to commencement:

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

- a. Construction Traffic Management Plan, which shall be adhered to during the construction phase of development, shall be submitted to and approved in writing by the Local Planning Authority.

The Plan should include details regarding any temporary traffic management/signage and wheel cleaning facilities for the duration of the construction phase to prevent the deposition of mud or other debris onto the highway network/public areas, turning and parking facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site

Reason: In the interests of highway safety and efficiency.

Prior to occupation

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

1. The highway works as shown in principle on Proposed site/block plan drawing no. 18-1704/600a, dated October 2019.
2. A financial contribution of £35,000 (to be index linked) towards sustainable transport measures to include the design only of the on-street cycle routes for West Avenue (5) and/or Ellis Ave/Rosemary Road West and Hayes Road (3) as featured in the Tendring Cycling Action Plan and/ or the implementation of the

proposed Zebra crossing for Valley Road near the junction with Old Road.

3. The site access to the development as shown proposed site/block plan drawing no. 18-1704/600a. Access shall include but not be limited to a visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be retained free of any obstruction at all times.

4. The introduction of tactile paving and minor improvements to the Waterglade Retail Park arm of the Old Road roundabout; to the existing pedestrian refuge island at the entrance to the Waterglade Retail Park to be provided entirely at the Developer's expense. The precise details to be agreed with the Highway Authority.
Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated between the two retail parks as a result of the proposed development in accordance with policy DM1, DM9, DM10 and DM17.

5. The provision of a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

6. There shall be no discharge of surface water onto the Highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

7. The vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall always be retained in this form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

9. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.
Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

10. The submission of a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £5,000 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.
Reason: In the interests of reducing the need to travel by car and

promoting sustainable development and transport in accordance with policies DM9 and DM10.

The above requirements should be imposed by way of negative planning conditions or a planning obligation and ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

NOTES:

(i) In response to the Stage 1 Road Safety Audit and as part of the detailed design stage, skid resistance survey /testing is undertaken on the existing carriageway for Old Road for both approaches to the proposed access to the site.

Reason: In the interests of highway safety and efficiency.

(ii) In response to the Stage 1 Road Safety Audit and as part of the detailed design that the junction geometry and the initial length of the development site access road should be modified, in order to prevent vehicles to overswing the carriageway for delivery vehicles egressing to the north; Due to existing constraints on the site and the detrimental affect the widen access junction would have on pedestrians an option of providing a pedestrian refuge should be explored as part of these investigations.

Reason: In the interests of highway safety and efficiency.

(iii) Internal Layout - Full details of the internal roads and footways (including layout, levels, gradients, surfacing, and means of surface water drainage, construction details and any lighting requirements) will be agreed during the Reserved Matters application.

(iv) The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.

Informative 1: In situations where retaining walls or other similar methods are required to support land directly adjacent to the highway, their design, construction or composition (in the case of embankments) should be agreed in advance with the Highway Authority.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety

ECC SuDS Consultee
(Amended)

audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Thank you for your email received on 28 November 2019 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

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:

Condition 1

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

- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

Condition 4

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

Reason

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

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.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More

information about consenting can be found in the attached standing advice note.

- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

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

Appendix 1 - Flood Risk responsibilities for your Council

The following paragraphs provide guidance to assist you in determining matters which are your responsibility to consider.

- Safety of People (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements)

You need to be satisfied that the proposed procedures will ensure the safety of future occupants of the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise LPAs formally consider the emergency planning and rescue implications of new development in making their decisions.

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals as we do not carry out these roles during a flood.

- Flood recovery measures (including flood proofing and other building level resistance and resilience measures)

We recommend that consideration is given to the use of flood proofing measures to reduce the impact of flooding when it occurs. Both flood resilience and resistance measures can be used for flood proofing.

Flood resilient buildings are designed to reduce the consequences of flooding and speed up recovery from the effects of flooding; flood resistant construction can help prevent or minimise the amount of water entering a building. The National Planning Policy Framework confirms that resilient construction is favoured as it can be achieved more consistently and is less likely to encourage occupants to remain in buildings that could be at risk of rapid inundation.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the

building at a high level so that plugs are located above possible flood levels. Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Further information can be found in the Department for Communities and Local Government publications 'Preparing for Floods' and 'Improving the flood performance of new buildings'.

- Sustainability of the development

The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF recognises the key role that the planning system plays in helping to mitigate and adapt to the impacts of climate change, taking full account of flood risk and coastal change; this includes minimising vulnerability and providing resilience to these impacts. In making your decision on this planning application we advise you consider the sustainability of the development over its lifetime.

Environmental Protection

I have reviewed the application and have the following comments to make;

I have reviewed the applicant's Acoustic report and Construction logistic plan, both are satisfactory. Proposed mitigation measures mentioned in both reports to be implemented. Contaminated land report recommends remediation.

Suggested conditions;

1) A detailed remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

2) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 1. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To ensure any contaminated land is adequately dealt with.

3) Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. (www.theilp.org.uk)

Anglian Water Services
Ltd

ASSETS

Section 1 - Assets Affected

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within

either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Jaywick Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

Section 3 - Used Water Network

The sewerage system at present has available capacity for these flows via a gravity connection to manhole 2801. 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. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included

in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

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. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is acceptable via a gravity connection to manhole 2851 at a maximum discharge rate of

5l/s. We request that the agreed strategy is reflected in the planning approval

Section 5 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

Surface Water Disposal (Section 4)

CONDITION No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority. REASON To prevent environmental and amenity problems arising from flooding.

FOR THE ATTENTION OF THE APPLICANT - if Section 3 or Section 4 condition has been recommended above, please see below information:

Next steps

Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. We therefore highly recommend that you engage with Anglian Water at your earliest convenience to develop in consultation with us a feasible drainage strategy.

If you have not done so already, we recommend that you submit a Pre-planning enquiry with our Pre-Development team. This can be completed online at our website

<http://www.anglianwater.co.uk/developers/pre-development.aspx>

Once submitted, we will work with you in developing a feasible mitigation solution.

If a foul or surface water condition is applied by the Local Planning Authority to the Decision Notice, we will require a copy of the following information prior to recommending discharging the condition:

Foul water:

Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:

Development size

Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s)

Connecting manhole discharge location (No connections can be made into a public rising main)

Notification of intention to connect to the public sewer under S106 of the Water Industry Act (More information can be found on our website)

Feasible mitigation strategy in agreement with Anglian Water (if required)

Surface water:

Feasible drainage strategy agreed with Anglian Water detailing the discharge solution, including:

Development hectare size

Proposed discharge rate (Our minimum discharge rate is 5l/s. The applicant can verify the site's existing 1 in 1 year greenfield run off rate on the following HR Wallingford website -

<http://www.uksuds.com/drainage-calculationtools/>

greenfield-runoff-rate-estimation. For Brownfield sites being demolished, the site should be treated as Greenfield. Where this is not practical Anglian Water would assess the roof area of the former development site and subject to capacity, permit the 1 in 1 year calculated rate)

Connecting manhole discharge location

Sufficient evidence to prove that all surface water disposal routes have been explored as detailed in the surface water hierarchy, stipulated in Building Regulations Part H (Our Surface Water Policy

can be found on our website)

Environmental Health I have reviewed the acoustic report dated February 2019 by WSP; Environmental protection deems the content satisfactory and meets requirements. Although EP would recommend the following conditions;

1. All deliveries to the proposed units (rear of the units) should only occur in the daytime period between 07:00 - 22:00 hours. The mitigation measures mentioned in the acoustic report in regards to deliveries on proposed site are to be adhered to.
2. The proposed tyre centre should operate in such a way as to not cause noise nuisance. It is suggested that Monday - Friday (08:00-18:00 hours), Saturday (08:00-17:00 hours) and closed on Sunday/Bank holidays would be appropriate.
3. Prior to the commencement of the development, details of an acoustic barrier, to be erected along the proposed boundary(ies) of the development site, including details of its ongoing maintenance shall be submitted to and approved by the Local Planning Authority and once approved this shall thereafter be installed and permanently retained.
4. In regards to plant noise; when the type, location and configuration of plant items are decided by the developers a further assessment should be undertaken. Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority.

3. Planning History

00/01662/TELCO M	Installation of telecommunications mast and equipment	Determination	09.11.2000
01/00757/FUL	Use of land for open retail market and ancillary car parking	Withdrawn	30.05.2001
01/01135/FUL	Use of land for open retail market and ancillary parking	Approved	11.10.2001
94/01248/FUL	(Old Gas Works Site, Old Road, Clacton on Sea) Retention of seven temporary buildings (renewal of planning permission TEN/1775/89)	Approved	17.11.1994
07/01811/ADV	2 x 48 sheets free standing with overhead illumination.	Approved	19.12.2007
13/00309/DEMCO N	Demolition of 2 de-commissioned gasholders and boiler room	Determination	18.04.2013
15/00772/FUL	Re-location and replacement of existing gas equipment.	Approved	10.07.2015
16/01416/FUL	Variation of condition 2 (approved plans) of planning permission 15/00772/FUL.	Approved	25.10.2016

18/30197/PREAPP	Construction of nine trade counter units (Class B1, B2 and B8), one tyre centre (Class B2), six retail/leisure units (Class A1 and/or A3) and one drive-thru unit (Class A1/A3//A5).	19.12.2018
19/00166/EIASCR	Request for screening opinion for the development of the above site.	19.02.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL4 Supply of Land for Employment Development

QL6 Urban Regeneration Areas

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER31 Town Centre Hierarchy and Uses

COM1 Access for All

COM2 Community Safety

COM22 Noise Pollution

COM23 General Pollution

EN6A Protected Species

EN13 Sustainable Drainage Systems

TR1A Development Affecting Highways

TR3A Provision for Walking

TR5 Provision for Cycling

TR7 Vehicle Parking at New Development

CL10 Extension to the Waterglade Centre

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SPL3 Sustainable Design

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

PP1 New Retail Development

PP2 Retail Hierarchy

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission

should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Proposal

- Redevelopment of former Gasworks site comprising a mixed use Trade Counter led development comprising use classes A1, A3, A5, D2, B1, B2, B8 and Sui Generis plus car parking, landscaping, totem sign, reconfigured access arrangements and associated works.
- The application has been subject to numerous amendments since original submission in March 2019. Due to overriding highway safety concerns the original two storey McDonalds restaurant and drive thru at the front of the site has been amended to a single storey coffee restaurant and drive thru. This has removed the requirement for delivery by articulated lorries, rear servicing, and significantly reduces the estimated number of visitors to the unit. The sui generis tyre centre use also now includes a car wash canopy. The amended proposal has been subject to reconsultation which has now expired.

Planning History

- 18/30197/PREAPP for CONSTRUCTION OF NINE TRADE COUNTER UNITS (CLASS B1, B2 AND B8), ONE TYRE CENTRE (CLASS B2), SIX RETAIL/LEISURE UNITS (CLASS A1 AND/OR A3) AND ONE DRIVE-THRU UNIT (CLASS A1/A3/A5) was considered by response letter dated 17/12/18 concluding likely support subject to addressing detailed issues.
- The proposal was screened under the Environmental Impact Assessment Regulations and was deemed not to be EIA development on 19/02/2019.

Representations

One letter of objection to the original proposal has been received summarised below:

- No need for a third McDonalds in the town
- Will increase the number of vehicles using surrounding roads
- The take away food businesses and drive-thru will increase the volume of litter in the area
- Some of the uses are not very neighbourly due to issues such as noise, will be situated close to existing residential dwellings
- Potential for anti-social behaviour by visitors to the development.

Two comments have been received on the amended proposal summarised below:

- Town needs this regeneration and retail park
- Do not need another Mcdonalds

Site Description

- The application site consists of approximately 1.12 hectares of land known as the Old Gas works. It is located on the western side of Old Road and is within the Settlement Development Boundary for Clacton-on-Sea as established in the saved and draft local plans. Currently the site consists largely of extensive areas of hardstanding enclosed by a steel palisade fence. Whilst there is some gas company infrastructure currently on the site, the largest structures - the two large gas meters - have been demolished and the site has been partially cleared.
- Land surrounding the site contains a mix of land uses which include: adjacent to the southern boundary is the Waterglade Retail Park with a large communal customer car park. To the east of the site is Old Road, with two storey residential properties on the opposite side of the road to the site. To the west there is electricity distribution plant and an area used for storage with the rear gardens of properties on Park Road beyond that. To the north is Anchor Road and the Anchor Road Industrial Estate, a car park; and further residential properties. To further emphasise the mixed-use nature of the area a short distance to the north of the site, long Old Road, there is Aldi and Lidl foodstores and the Century Cinema and bingo.

Proposal

- The application seeks planning permission for the redevelopment of the site to provide a mixed-use development of commercial units. Three separate buildings are proposed and the site layout plan shows a total of eighteen units of varying sizes.
- The first building, occupying the site frontage, will be a stand-alone single storey drive-thru restaurant/take away (Class A3/A5). The building would be located in the south-eastern corner of the site, with the drive through passing between the restaurant building and the footway on Old Road. The application indicates that the unit will likely be operated by a Starbucks coffee shop.
- The largest building, occupying the middle of the site comprises 15 units at ground floor 14 of which are flexible use class A1, A3, A5, B1, B2 and B8, with one sui generis unit indicated to be occupied by Topps Tiles. At first floor level at the front of this block is a use class D2 gym with separate stair and lift access.
- At the rear of the site is a single storey sui generis unit to be occupied by a tyre centre with car wash canopy and car wash lane round the rear of the building.
- The proposal originally comprised separate blocks of A1/A3/A5 retail units (at the front of the site) with B1/B2/B8 trade counter units behind. The applicant describes a 'trade counter' use as a commercial operation which comprises the storage and distribution of goods, primarily to trade persons. The typical format of these stores is that goods are ordered from a sales area or 'counter' at the front of the unit. The trade counter area may also include small displays of specific products or services depending on the operator. The ancillary retail trade counter area typically accounts for between 10 and 30% of the GIA of the premises.
- The applicant has now requested flexibility in terms of the A1/A3/A5 and B1/B2/B8 uses so change of use will not be required between these uses for the vast majority of units on the development. This reflects the seriously declining retail market and will enable the applicant greater flexibility to secure occupation of the units. This is discussed within the body of the report.
- The application also includes the creation of a new priority junction on Old Road to provide vehicular access to the site; the provision of a service yard along the northern side of the site; scheme of hard landscaping including the provision of 109 car parking spaces; cycle parking; and soft landscaping.

Principle of Development

- The site lies within the Settlement Development Boundary for Clacton and the Clacton Town Centre Boundary as defined with the Tendring District Local Plan 2007 (Saved Local Plan) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (Emerging Local Plan). The Saved Local Plan also contains a policy specific to this site (CL10 - Extension to the Waterglade Centre); no such policy is carried forward in the Emerging Local Plan.
- Saved Policy CL10 states that 'land north of the Waterglade Centre is allocated for mixed-use comprising non-food bulky comparison retail goods and leisure activities. Permission for the accommodation of a non-bulky retail goods element will be dependent on the nature of the proposals, the application of a sequential assessment and consideration on the likely impact on the highway network and on the vitality and viability of the town centre.'
- When assessing the permissible range of the uses for this site it should also be noted that within the preamble to the policy CL10, acknowledges at para 8.49 "Whilst the Waterglade Centre is physically separated from the primary shopping area by housing, it performs an anchor role to the western part of the Town Centre and there is strong evidence of linked trips between the two. Therefore, the Council considers that the Waterglade Centre should be recognised as a complementary part of the town centre in shopping policy terms and accordingly it is included, along with Rosemary Road West, within the defined town centre." It goes on to state at Para 8.50 adds "Development could also take the form of a mixed-use retail/leisure scheme to supply the town centre's "evening economy"."
- Policy ER31 of the Saved Local Plan states that development involving the provision of town centre uses must be properly related in their scale and nature to the hierarchy which identifies Clacton-on-Sea Town Centre as a Major Town Centre. Within the retail hierarchy set out in Policy PP2 of the Emerging Local Plan Clacton is defined as a major town centre - this area will be the focus for 'town centre uses' which include retail, leisure, commercial, office, tourism and cultural, community and residential development. The Council will promote a mix of appropriate uses within defined centres with 'active street frontages' at ground floor level.
- The site also lies within an Urban Regeneration Area as defined by the Saved Local Plan and within the Emerging Local Plan lies within a priority area for regeneration. Policy QL6 of the Saved

Local Plan states that within Urban Regeneration Areas permission will be granted for development that reinforces and/or enhances the function, character and appearance of the area and contributes towards regeneration and renewal. In particular, the Urban Regeneration Areas will be the focus for:

- i) Investment in social, economic and transportation infrastructure; and
- ii) Initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility.

- Policy PP14 of the Emerging Local Plan states that these areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.

- Paragraph 86 of the NPPF states "Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered."

- As set out above Saved Policy CL10 requires a sequential assessment to demonstrate that there are no sequentially preferable sites within Clacton Town Centre. However the site is located within the defined Clacton Town Centre in both the saved and emerging local plans. The site is located outside of the Primary Shopping Area which should be the focus for new retail.

- The applicant has undertaken a sequential assessment and searched for any vacant sites or premises within the Primary Shopping Area which may be sequentially preferable. The applicant has been unable to identify any sequentially preferable site that could provide the entire floorspace proposed, along with the necessary car parking and servicing arrangements. The Council's Economic Regeneration Team monitor the availability of sites and units and whilst there are a number of units which are currently vacant, they have not identified any suitable sites within the Primary Shopping Area.

- The NPPF lists main town centre uses as including retail, leisure, health and fitness centres, restaurants, and drive-thrus. The proposed mixed use of A1/A3/A5/B1/B2/B8/gym/sui are therefore considered appropriate for this town centre location, adjacent to the existing Waterglade retail park and would not harm the vitality or viability of the town centre.

- The applicant has requested flexibility in terms of the A1/A3/A5 and B1/B2/B8 uses so change of use will not be required between these uses for the vast majority of units on the development. This reflects the seriously declining retail market and will enable the applicant greater flexibility to secure occupation of the units. This is considered acceptable subject to conditions limiting the maximum floorspace for A1, A3 and A5 uses to prevent harm to the primary shopping area in the core of the town centre.

- It is therefore concluded that the application site is the most sequentially preferable site to accommodate the proposed development and given the above policies the development of this site for the purposes proposed is supported subject to the detailed considerations set out below.

Design and Layout

- Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Policy SPL3 of the Draft Local Plan carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.

- The large central building contains the majority of the units within a single storey building, with a first floor element at the eastern end of the building containing the gym.

- With the exception of the Tyre Centre, at the western end of the site, all the units either face onto Old Road or the Waterglade Centre encouraging linked trips and increased footfall and promoting legibility and natural surveillance. The Tyre Centre is located within a separate single storey building with its principal elevation facing towards the main car park area.

- The scale and design of the proposed buildings replicate that of the existing Waterglade Retail Park and are therefore considered to be acceptable in this location. The proposed external materials are all synonymous with developments of this type - pitched roof surfaces will be in powder coated standing seam metal cladding with eaves and rain-water goods in powder coated metal; external wall surfaces of the Tyre Centre and main building finished with powder coated

insulated metal wall panels; external doors, windows and curtain walling will all be in powder coated metal.

-The single storey drive-thru restaurant is proposed to have a wider variety of wall cladding including: cladding panels, clay facing brick slips, vertical boarding and laminated membrane to the roof. The design and appearance of the buildings is considered to be acceptable subject to a condition securing full materials details.

- There are extensive areas of hardstanding proposed and a range of the materials has been proposed to break this up and improve the visual appearance of the development. High quality materials are proposed for use on the footways and pedestrian circulation areas. Small areas of soft landscaping and different means of enclosure have also been proposed to add visual relief and interest.

- The site is located within the defined town centre and the ability of the site to provide for linked trips and to add to the overall offer of Clacton Town Centre are seen as being important elements of the proposal. Officers have requested revisions to the pedestrian footway leading into the site, to strengthen pedestrian links to the town centre, and also to provide two potential pedestrian footway connections to the neighbouring retail park. The applicant has been required to provide these connections to the site boundary and it is anticipated that the adjoining landowner will facilitate these connections to encourage customers to make full use of the facilities on both developments.

- The removal of the steel palisade fence and redevelopment of the site has the potential to significantly improve the streetscene and increase activity and vitality to this part of Old Road.

Impact on Neighbouring Amenity

- Policy QL11 of the Saved Local Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Whilst Policy SPL3 of the Emerging Local Plan states that 'new development should be compatible with surrounding uses and minimise any adverse environmental impacts - the development will not have a materially damaging impact on the privacy, daylight or other amenities of nearby properties'.

- The nearest residential properties are those on the opposite side of Old Road and those along the northern boundary of the site in Old Road and Anchor Road.

- The amended layout removes the rear service road which was required for artics serving the removed mcdonalds. Servicing will now be by smaller vehicles which will exit from parking spaces or turn at the western end of the site removing the majority of traffic from the northern site boundary. The two-storey mcdonalds also resulted in a significantly higher trip generation for vehicles and associated noise from customers accessing on foot or using the outdoor seating area. There is no outdoor seating area associated with the amended coffee shop drive-thru so noise impacts are significantly reduced. An amended noise assessment has been submitted also considering the addition of the car wash canopy to the south side of the tyre centre.

- In terms of the relationship between the proposed new commercial buildings and adjoining residential properties this is considered acceptable. The service yard access provides separation between the proposed buildings and dwellings on Anchor Road. The Drive Through restaurant is at the front of the site on Old Road. There are residential properties on the opposite side of Old Road but the restaurant is single-storey building so would not result in loss of privacy.

- The Council's Environmental Protection team have reviewed the Acoustic report and Construction logistics plan, and both are considered satisfactory. To protect neighbouring amenity conditions are recommended to restrict opening and delivery hours, for details of an acoustic fence along the northern boundary, sound attenuation to jet wash, vacuum and air/water facilities for the car wash,

Highway safety

- The Highway Authority have been in consultation with the applicant to resolve their initial objections. Due to overriding highway safety concerns the original two storey McDonalds restaurant and drive thru at the front of the site has been amended to a single storey coffee restaurant and drive thru. This has removed the requirement for delivery by articulated lorries, rear servicing, and significantly reduces the estimated number of visitors to the unit. The amendments have also resulted in an additional 4 parking spaces.

- The Essex Parking Standards states that the preferred bay size for cars is 5.5mx2.9m and that only in exceptional circumstances bay sizes of 5m by 2.5m (as proposed) are considered acceptable. The applicant has proposed that the minimum sizes are used within the car park at this development. Given the sustainable location, close proximity to a variety of on and off street public

car parking in the town centre, and likelihood of linked trips the minimum bay size is considered acceptable.

- In terms of the number of car parking spaces the Parking Standards establish the maximum standards for provision. The level of provision here is below these maximum standards, however this a town centre location that is considered to be a sustainable location, next to the existing Waterglade Centre which is expected to share a significant number of linked trips between the two developments. As such it is considered that the maximum standards will not be required.
- Cycle parking is also provided for visitors and covered stands within the service yard for employees to use.
- Following detailed discussions and submission of additional information the Highway Authority have confirmed no objection subject to conditions as detailed within the report. The final wording of conditions in this recommendation has been agreed with the Highway Authority. A S106 agreement has been completed to secure the required highway works and the £5000 Travel Plan monitoring fee. The proposal is therefore acceptable in terms of highway safety.

Contaminated Land

- The historic processes undertaken on the previous gas site mean that the condition of the land is such that remediation will be necessary.
- The submitted remediation strategy has been reviewed by Environmental Health and the Environment Agency. Neither object to the application. The EA recommend that some further work is required to ensure that the remediation strategy deals robustly with all the necessary issues and recommend four conditions which are included within the recommendation to ensure the site is safe for proposed users of the development.

Flood Risk

- The site lies within Flood Zone 1 but as the site area is over 1 hectare a Flood Risk Assessment is required and this has been amended following introduction of the car wash. ECC SUDS initially requested further information which was provided.
- Following receipt of this additional information the SuDS team at ECC have confirmed they have no objection to the SuDS strategy proposed subject to conditions as imposed.

Habitats and Protected Species

- A Preliminary Ecological Appraisal has been provided which confirmed the site supports areas of grassland, tall ruderal vegetation and regenerating bramble scrub suitable for reptile and habitats suitable for nesting birds. Recommendations therefore include submission of a reptile presence/likely absence survey and tree/scrub removal during the period mid-September to February (inclusive) to be outside of the typical bird nesting season; or a check for nesting birds by a suitably experienced ecologist prior to vegetation removal. If any active nests are discovered, these will need to be retained and protected in situ until they are no longer in use by nesting birds.
- The reptile survey was not originally provided but was then undertaken at the optimum time of year. No reptiles were recorded during the survey. Based on the survey results, the application site is of negligible importance for reptiles and the report confirms no additional survey, assessment or mitigation is required with regards to reptiles. Paragraph 3.30 of the reptile survey states If commencement of site works is delayed beyond 18 months of the date of completion of the reptile survey (i.e. beyond mid-March 2021), an update site visit may be required to re-assess the quality of habitats on site with respect to reptiles, and the likelihood of reptiles having colonised the site. A condition is therefore recommended to secure this should works not commence by the end of March 2021.

Conclusion

- The sites historic use has ceased and the gas holders and most ancillary structures have already been removed pending redevelopment. The site has been allocated for development within the Adopted 2007 local plan but has not formally come forward until this application. The site is currently in a poor visual condition dominated by metal fencing and detracting from the appearance of the area.
- The site is within the town centre boundary of Clacton and has been identified in the adopted Local Plan as a site suitable for redevelopment, to compliment / extend the Waterglade Retail Park.

- Officers are content that subject to the imposition of reasonable planning conditions that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the town centre, in a part of the town where there is already a vibrant mix of commercial and residential development and activity. Furthermore, the proposal would add to and complement the existing commercial offering on the adjoining Waterglade Retail Park boosting the towns economy and reducing the need for residents to travel outside the town to access these types of businesses. The applicant has stated that the development will generate a significant number of employment positions, having a positive impact on local economic growth, job creation and local earnings. Overall, they estimate there will be approximately 100 jobs created at the scheme. The proposal is therefore recommended for approval.

6. **Recommendation**

Approve

7. **Conditions**

- 1 The development hereby permitted shall begin not later than three years from the date of this decision

Reason - This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan - Ref: 18/1704/L

Proposed Site/Block Plan - Ref: 18/1704/101p

Proposed Floor & Roof Plans - Ref: 18/1704/102d

Proposed Floor & Roof Plans - Ref: 18/1704/103e

Proposed Plans & Elevations A3 Restaurant - Ref: 18/1704/104e

Proposed Elevations & Sections - Ref: 18/1704/105d

Proposed Totem Sign 18-1704/106

Boundary Treatment & Service Yard Gate Elevations 18-1704/107

Acoustic Report ref 70050045 February 2019

Site-specific Flood Risk Assessment and Surface and Foul Water Drainage Strategy Ref 6072-003 November 2019

Transport Assessment Ref 70050045-TA2 November 2019

Preliminary Ecological Appraisal ref 5055-LLB-RP-EC-0003-S4-P01 29/11/2018

Reptile Report Ref 5055-LLB-RP-EC-0001-S4-P01 25 September 2019

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) Units A1, A- H, and J-P as shown on Drawing Ref: 18/1704/101p can be used flexibly within Class B1 and/or B2 and/or B8, along with the ancillary retail function associated with a trade counter (for the avoidance of doubt, 20% ancillary retail would be acceptable) and for no other purpose without the approval of the Local Planning Authority.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding areas and to ensure an appropriate mix of uses for the town centre site.

- 4 Notwithstanding Condition 3, Units 2 and E shown on Drawing Ref: 18/1704/101p can be used flexibly within Class B1 and/or B2 and/or B8, along with the ancillary retail function associated with a trade counter (for the avoidance of doubt, 30% ancillary retail would be acceptable) and/or the following sui generis uses:
 1. Storage, distribution and sale of hard wall and floor finishes and associated products

2. Auto centre involving fitting and associated sale of tyres and car parts

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding areas and to ensure an appropriate mix of uses for the town centre site.

- 5 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) Units J, K, L, M, N and P as shown on Drawing Ref: 18/1704/101p can be used flexibly within Class A1, A3 and/or A5. Notwithstanding, this the total Class A5 floorspace within Units J, K, L, M, N and P shall not exceed 254 sq. m gross.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding areas and to ensure an appropriate mix of uses for the town centre site.

- 6 No development, including any site clearance, shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

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

- 7 Prior to first use of any of the buildings hereby permitted a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall have been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

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

- 8 No development shall take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures

shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

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

- 9 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

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

- 10 The development hereby approved shall be carried out in accordance with a workplace travel plan to be submitted to and approved in writing by the Local Planning Authority. The approved travel plan shall be actively implemented for a minimum period of 5 years from first occupation.

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

- 11 No works hereby approved shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to a final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features. The scheme shall subsequently be implemented prior to occupation.

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

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

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

- 13 No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason - Infiltration through contaminated land has the potential to impact on groundwater quality.

- 14 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times: Monday to Friday 0800 hours - 1800 hours, Saturday 0800 hours -1300 hours, and Sundays, Public and Bank Holidays - no working.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 15 No development shall take place, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- Safe access to / from the site including the routing of construction traffic;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing and underbody washing facilities;
- Measures to control the emission of dust, dirt and mud during construction;
- a scheme to control noise and vibration during the construction phase, including details of any piling operations;
- details of how the approved Plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of pollution control and residential amenity for nearby occupiers.

- 16 Prior to commencement of any above ground works, full details of the types and colour of the materials to be used in the external finishes shall have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason - To ensure that the development does not prejudice the appearance of the locality.

- 17 The enclosures as indicated on the approved layout plan shall be erected prior to first use/occupation of the development hereby approved and shall be permanently maintained as such thereafter.

Reason - In order to secure the satisfactory development of the site and in the interests of visual and residential amenity.

- 18 Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason - To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

- 19 Prior to commencement of any above ground works a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall

incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the local planning authority.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason - To enhance the appearance of the development and in the interests of amenity.

- 20 No deliveries shall be taken at or despatched from the site outside the hours of 0700 - 2300 Monday to Saturday, and 0800 - 19:00 Sundays and Bank or Public Holidays.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 21 The service yard at the rear of Units A1, A-H, K and J shall be laid out and operated in accordance with the recommendations of the Acoustic Report, produced by WSP, PROJECT NO. 70050045 , contained at Paragraph 5.2.20.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 22 The Tyre Centre hereby permitted shall not be open for business outside the following hours:- Monday to Friday 0800 hours - 2000 hours Saturdays 0800 hours - 2000 hours Sundays, Public and Bank Holidays 0900 hours - 1700 hours.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 23 The Drive-Thru Restaurant hereby permitted shall not be open to customers either in-store or using the Drive Thru lane, or preparing food for home delivery, outside the hours of 05:00 - 00:00 daily.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 24 The use hereby permitted in Units J, K, L, M, N & P shall not be open to customers, or preparing food for home delivery, outside the following times 0600 - 2200 Monday to Saturday, and 0800 - 22:00 Sundays and Bank or Public Holidays.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 25 Prior to commencement of any above ground works, details of an acoustic barrier, to be erected on the northern boundary of the development site, including details of its ongoing maintenance shall be submitted to and approved in writing by the Local Planning Authority. The acoustic barrier shall be installed prior to the first use of any building on the site and permanently maintained as such.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 26 Prior to installation, details of any external refrigeration, ventilation or air handling / extraction equipment to be installed within the site shall be submitted to and agreed in

writing by the local planning authority. Details of any proposed external refrigeration, ventilation or air handling / extraction equipment shall include means of minimising the transmission of structure borne sound. The plant shall be installed and maintained in accordance with the approved details.

Reason - To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 27 The development shall not be occupied until the car parking area indicated on the approved plans, including any parking spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times. The car park shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason - To ensure appropriate parking facilities are available for users of the development.

- 28 The bicycle parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development and retained at all times.

Reason - To ensure appropriate bicycle parking is provided in accordance with the Council's adopted Parking Standards.

- 29 All hard landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme to be agreed in writing by the local planning authority.

Reason - To ensure that there are suitable facilities for pedestrians to move around the site and to control the appearance of the development in the interests of visual amenity.

- 30 There shall be no outdoor storage or display of equipment, plant, goods or materials within the site whatsoever.

Reason - To ensure that the proposed development does not prejudice the appearance of the locality and to ensure that parking areas and circulation areas for pedestrians and vehicles are kept clear of obstructions.

- 31 If development is not commenced by the end of March 2021, a site visit by a suitably qualified ecologist shall be undertaken to assess the likely presence/absence of reptiles on the site. No work shall commence on site until the report and any required mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. Any required mitigation shall be carried out in accordance with the approved details.

Reason: To re-assess the quality of habitats on site with respect to reptiles, and the likelihood of reptiles having colonised the site in the 18 months since the original phase 2 reptile survey.

- 32 Prior to the installation of any equipment associated with the approved car wash details of sound attenuation measures for any jet wash, vacuum and air/water facilities shall be submitted to and approved in writing by the Local Planning Authority. Such agreed measures shall be fully implemented prior to the commencement of the use and shall be maintained in the approved form while the premises are in use for the permitted purpose.

Reason: To ensure that occupiers of nearby residential premises do not suffer a loss of amenity by reason of noise nuisance from use of the proposed premises.

- 33 The hereby approved car wash shall not operate outside the hours of 8.00 - 18.00 daily.

Reason: To ensure that occupiers of nearby residential premises do not suffer a loss of amenity by reason of noise nuisance from use of the proposed premises.

- 34 Any vegetation or scrub clearance should be carried out outside the main bird breeding season (March to September inclusive). If this is not possible a search should be undertaken to confirm the presence/absence of nesting birds prior to clearance works commencing. If nesting birds are found then work must be delayed until the nest is no longer in use.

Reason - In the interests of protecting wildlife that may be using the site.

- 35 No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan should include details regarding any temporary traffic management/signage and wheel cleaning facilities for the duration of the construction phase to prevent the deposition of mud or other debris onto the highway network/public areas, turning and parking facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site. The Construction Traffic Management Plan as approved shall be adhered to throughout the construction phase of development.

Reason: In the interests of highway safety and efficiency.

- 36 No occupation of the development shall take place until the site access, the detail of which to be previously submitted to and approved in writing by the Local Planning Authority, has been completed. Access details shall include:

(i) In response to the Stage 1 Road Safety Audit and as part of the detailed design stage, skid resistance survey/testing on the existing carriageway for Old Road for both approaches to the proposed access to the site.

(ii) In response to the Stage 1 Road Safety Audit and as part of the detailed design that the junction geometry and the initial length of the development site access road should be modified, in order to prevent vehicles overswinging the carriageway for delivery vehicles egressing to the north. Due to existing constraints on the site and the detrimental affect the widened access junction would have on pedestrians an option of providing a pedestrian refuge should be explored as part of these investigations.

(iii) a visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility plays shall be retained free of any obstruction at all times.

Reason: In the interests of highway safety and efficiency.

- 37 Prior to first occupation of the development and in accordance with details to have been previously approved in writing by the Local Planning Authority, the following works shall be completed: Introduction of tactile paving and minor improvements to the Waterglade Retail Park arm of the Old Road roundabout; to the existing pedestrian refuge island at the entrance to the Waterglade Retail Park.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated between the two retail parks as a result of the proposed development.

- 38 Prior to first occupation of the development the provision of a vehicular turning facility, of a design to have been previously approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

39 There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Financial contribution towards highway works and monitoring fee for Workplace Travel Plan.

Anglian water informatives

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

- Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991.

- A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

- No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water.

- The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact Anglian Water's Development Services Team. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

In respect of all of these matters the applicant is advised to contact Anglian Water's Development Services Team 0345 606 6087.

Advertisement informative

- The permission hereby granted should not be construed as authorising the erection of advertisement signage within the application site, including the totem advertisement, for which the separate grant of advertisement consent is required.

Highways Informatives

- In situations where retaining walls or other similar methods are required to support land directly adjacent to the highway, their design, construction or composition (in the case of embankments) should be agreed in advance with the Highway Authority.

- All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 - Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ

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

- Internal Layout - Full details of the internal roads and footways (including layout, levels, gradients, surfacing, and means of surface water drainage, construction details and any lighting requirements) will be agreed during technical approval stage.