

Planning Committee Meeting

**Moot Hall, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 09 December 2021 at 18:00

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

Audio Recording, Streaming, Mobile phones and other devices

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

Access

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

Facilities

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

Evacuation Procedures

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Covid 19

Please could attendees note the following:-

- Hand sanitiser, wipes and masks will be available.
- Do not attend if you feel unwell with a temperature or cough, or you have come in to contact with someone who is unwell with a temperature or cough.
- Masks should be worn whilst arriving and moving round the meeting room, unless you have a medical exemption.
- All seating will be socially distanced with 2 metres between each seat. Please do not move the chairs. Masks can be removed when seated.
- Please follow any floor signs and any queue markers.
- Try to arrive at the meeting slightly early to avoid a last minute rush.
- A risk assessment, including Covid 19 risks, has been undertaken for this meeting.

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 09 December 2021 at 18:00

The Planning Committee Members are:

Pauline Hazell
Robert Davidson
Lyn Barton
Helen Chuah
Michael Lilley
Jackie Maclean
Roger Mannion
Beverley Oxford
Martyn Warnes

Chairman
Deputy Chairman

The Planning Committee Substitute Members are:

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

Councillors:

Kevin Bentley	Tina Bourne	Roger Buston	Nigel Chapman
Peter Chillingworth	Nick Cope	Pam Cox	Simon Crow
Paul Dundas	Andrew Ellis	Adam Fox	Jeremy Hagon
Dave Harris	Mike Hogg	Sue Lissimore	Derek Loveland
A. Luxford Vaughan	Sam McCarthy	Patricia Moore	Beverley Oxford
Gerard Oxford	Chris Pearson	Lee Scordis	Lesley Scott-Boutell
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

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

Please note that Agenda items 1 to 2 are normally dealt with briefly.

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

Live Broadcast

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their

microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves.

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Have Your Say(Hybrid Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of each planning application. Each representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee either in person or remotely need to register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date. In addition for those who wish to address the committee online we advise that a written copy of the representation be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each

6 Minutes of Previous Meeting

The Committee will be invited to confirm that the minutes of the meetings held on 19 August 2021, 9 September 2021 and 30 September 2021 are a correct record.

Planning Committee Minutes 190821

9 - 14

Planning Committee Minutes 090921

15 - 26

7 Planning Applications

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

7.1 202695 Land to west of the village and Adjoining Birch Road, Laver de La Haye 33 - 110

Construction and operation of a solar photovoltaic ('PV') farm and associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping.

7.2 212506 Chesterwell Day Nursery Cordelia Drive, Colchester 111 - 130

Mixed use development comprising nursery at ground floor level and residential units at first floor with associated parking and landscaping as a part of Neighbourhood Centre NC2

7.3 212272 Land at Queen Street, Colchester 131 - 148

Demolition of former bus depot buildings in preparation for the implementation of planning permissions granted under applications refs 182120 and 202780

7.4 211588 Crown House, Crown Street, Dedham 149 - 172

Application for a detached dwelling with detached garage, parking and access

7.5 212804 Former Colchester Rugby Football Club, Mill Road, Colchester 173 - 196

Demolition of existing Rugby clubhouse and erection of a new two storey community centre with associated parking and landscaping.

Planning Committee Information Pages v2 (1) 197 - 208

8 Exclusion of the Public (not Scrutiny or Executive)

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

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

PLANNING COMMITTEE
19 AUGUST 2021

<i>Present: -</i>	Councillors Hazell (Chairman), Barton, Chuah, Lilley, Maclean and Mannion
<i>Substitutes: -</i>	Councillor Moore for Councillor Davidson Councillor G. Oxford for Cllr B. Oxford Councillor Pearson for Councillor Warnes
<i>Also in attendance:</i>	Councillors Harris* *Attended remotely

869. Minutes

RESOLVED that the minutes of the meeting held on 17 June 2021 be confirmed as a correct record.

Councillor Chuah (in respect of her position as an Ambassador and member of the China Association) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

870 200910 Odeon Cinema, Crouch Street, Colchester

The Committee considered an application for the demolition of the former cinema buildings, the reconstruction of the Foyer Buildings and the erection of a new apartment block in place of the auditorium to provide 55 apartments, 2 retail units (A1) and 32 basement car parking spaces. The application had been referred to the Committee as it had been called in by Councillor Goacher for the reasons set out in the report.

The Committee had before a report in which all information was set out.

Simon Cairns, Development Manager, presented the report to the Committee and assisted the Committee in its deliberations. He explained that the former cinema was a considerable architectural presence in Crouch Street and was included on the Council's adopted list of Buildings of Local Architectural or Historic Interest. There was some surviving original detail on the street frontage. The surrounding area was rich in heritage with many buildings of significance surrounding the site. The existing approved scheme retained the façade of the building, with the new development located behind it. This application was for development which would be one storey higher to accommodate a penthouse floor, together with further car parking provision. The additional floor would be set back from the frontage and built above the principal gable on the frontage. The development also proposed two commercial units fronting onto Crouch Street. The development included 55 units, as opposed to

46 in the approved scheme, and was richly provided with balconies on the south elevation.

Robert Pomery addressed the Committee in support of the application pursuant to the provisions of Meetings General Procedure Rule 8(3) explaining that the site was a problem both for the applicant and the town. It had been vacant for 19 years. The application was supported by expert heritage advice. Two main issues had been identified by officers: scale and the frontage. In terms of scale it was accepted that the building was not an exact replica but was sufficient to preserve the character of Crouch Street and the Conservation Area and once complete would be broadly the same. The additional floor had been added for viability reasons. The harm caused was minimal. Demolition of the frontage would aid viability and construction, and once the scheme was complete the appearance would be broadly similar. The cinema was not a listed building. The applicant was fully committed to the scheme and would deliver it if approved. Whilst the applicant was open to offers on the site, no credible offer had been received in the past six years. If a viable alternative use was possible the applicant would have brought it forward. If the Committee were satisfied with the scheme they should defer for officers to negotiate suitable measures to enable the scheme to be developed, such as a bond or unilateral undertaking. This proposal offered the best prospect of a viable scheme being developed on the site.

Committee members expressed concerns about a number of aspects of the scheme, including the demolition of the cinema frontage. The building meant a lot to the people of Colchester and whilst the frontage would be replaced, it would not be an exact replica. Whilst the building was not nationally listed, it was on the local list, which was indication of local feeling of the importance of the building. It was noted that the frontage was an important example of a style that was unique in Essex and its loss would be detrimental to the street scene. The retention of the façade was one of the main conditions included in the sale of the site and the purchaser had been aware of this

The additional floor made the building too tall, bulky and overbearing and would lead to a considerable change in the character of the area. Concerns were also expressed about the lack of car parking, and clarification was sought as to the provision of cycle storage and electric charging points. The Development Manager confirmed that there was provision for both these elements in the scheme.

The Committee also sought clarification as to what would happen to the site if the application were not approved. The Development Manager explained that the Council had statutory powers to prevent further deterioration of the building, which had already been used. A long term solution needed to be found, but there were significant problems with this scheme, and the officer recommendation was supported by expert advice. Any replacement scheme needed to preserve the character and appearance of the area.

The Committee noted the suggestion that it defer the application for suitable measures to ensure delivery of the scheme. The Development Manager explained that if the Committee were minded to approve the scheme, then the Council would

need to seek a legal mechanism to ensure that the development could be completed, if the developer were unable to do so.

RESOLVED (UNANIMOUSLY) that the application be refused for the reasons set out in the report.

871. 211010 9 Mayberry Walk, Colchester

The Committee considered an application for a Certificate of Lawful Use to confirm the use of the property as a house in multiple occupation under use class C4. The application was referred to the Committee as it had been called in by Councillor Harris for the reasons set out in the report.

The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

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

Kate Crellin addressed the Committee against the application pursuant to the provisions of Meetings General Procedure Rule 8(3) to express concern about the lack of commitment to promises made when this application had previously been considered by the Committee. In addition to concerns about the building control process and the quality of the build, local residents were of the view that the proposed material changes were substantial and would not warrant a Certificate of Lawful Use without planning permission. A spacious three bedroom house had been changed to a cramped four bedroom dwelling, with an additional ground floor flat and kitchen. The use of the premises was now commercial rather than residential. Clarification was sought as to the definition of a material change. There had been misconnections of waste water by the owner of the property. Work had been undertaken by non-specialist trades people and in addition neighbour's property had been trespassed on and Anglian Water property damaged, Who would be responsible for ensuring those living in the accommodation were fit and proper persons, and for ensuring that rents remained affordable, given that it was classified as affordable housing? This would set a precedent for other properties in Mayberry Walk.

Councillor Harris attended remotely and with the consent of the Chair addressed the Committee. The Willows was an estate built in the 1970s with an emphasis on family use, and was a diverse and welcoming community. However, residents were increasingly concerned about the conversion of houses into HMOs. What checks would be made on the property to ensure that the limits on occupation were complied with? Was it up to residents to report infringements or would checks be made by a public authority? There were also concerns about the quality of the building works and Building Control had not confirmed to the local community that they had visited the property and whether there were concerns. This was important not just to the residents of 9 Mayberry Close but to those living on either side of the property. The Committee should instruct the relevant officers to undertake the necessary tests and checks to reassure residents of Mayberry Close.

The Committee expressed concerns about the conversion of the property into an HMO and the lack of control that the Permitted Development system gave the Council as planning authority. The Committee expressed particular concerns about fire safety and emphasised the need to ensure that housing provided in Colchester was of a good standard. It was suggested that a refusal of a Certificate of Lawful Use would send a message that housing needed to meet safety standards and was fit for purpose.

In response to the Committee's concerns and the views of public speakers, the Senior Planning Officer emphasised that the rental of rooms did not require planning permission. Officers from the Council's Private Sector Housing and Building Control Teams had undertaken inspections. The latest position in respect of Building Control was set out on the Amendment Sheet. The results of Building Control inspections were not made public. If the application were to be refused, the Committee needed to bear in mind that the conversion of a residential dwelling to a HMO was allowed under Class L of the Permitted Development Rights. The Certificate of Lawful Use was a tool to confirm the legal position, and refusal of the application would not impact upon the legality of the conversion.

The Committee explored whether it could defer its consideration until the Inspections by Building Control and Public Sector Housing had been completed. The Development Manager reiterated that planning permission was already given under Permitted Development Rights: the Committee were just being invited to approve a Certificate of Lawful Use to confirm it. Safety matters were for Private Sector Housing and Building Control, but because this was not a material change of use, Building Control powers were limited. The Private Sector Housing Inspector had provided a detailed report and they would seek to enforce their standards. However that was not dealt with by planning legislation and so was not a matter for the Planning Committee to enforce.

The Senior Planning Officer also explained that any refusal would need to be based on planning grounds and explain why the conversion did not fall under the proposed C4 use. Any such refusal could be appealed. The Development Manager suggested that given its concerns the Committee could add an informative to its decision to confirm the need for compliance with Private Sector Housing and Fire Service requirements, and the need to seek planning permission for the creation of a self-contained flat as that was not in the scope of the permitted change of use.

The Committee welcomed this proposal but remained concerned about the issue raised by this application and the lack of control local authorities had to regulate and control development under Permitted Development Rights. The Chair indicated she would be willing to write to the Secretary of State on this point.

RESOLVED (FIVE voted FOR, TWO voted AGAINST and ONE ABSTAINED from voting) that the application be approved for the reasons set out in the report together with an information confirming the need for compliance with Private Sector Housing and Fire Service requirements and that the creation of a self-contained flat would require planning permission and would not be in scope of this permitted change of use.

PLANNING COMMITTEE
09 September 2021

Present: - Councillors, Barton, Chuah, Hazell, Lilly, Maclean and Warnes.

Substitutes: - Councillor Chillingworth for Councillor Davidson.
Councillor Hagon for Councillor Mannion.

Also in attendance: - Councillor Harris*
Councillor Cope*
Councillor Lissimore
Councillor Buston

*attended remotely

872. Site Visits

Councillors Barton, Hagon, Hazell, and Maclean attended a site visit in respect of application 201304, land between 7 and 15 Marlowe Way.

873. Minutes

The minutes of the meeting held on 8 July 2021 were confirmed as a correct record.

874. 202025 Land South of Berechurch Hall Road

Councillor Hazell (by reason of the fact that she was a supporter of the Eudo Road Tennis Centre) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Barton (by reason of the fact that she was a supporter of the Eudo Road Tennis Centre) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Warnes declared a pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5), and left the room while the item was being considered by the Committee.

The Committee considered a planning application for the development of 153 dwellings with associated parking, landscaping, open space, drainage and infrastructure and the formation of new access and alternations to existing access onto Berechurch Hall Road.

Eleanor Moss, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of site photographs, aerial views and sketches of the proposed site layout and property design, including street scene illustrations. The Committee heard that the proposal was considered to be sustainable development and had been allocated within the emerging section 2 of the Local Plan for residential development.

The Committee had before it a report and an amendment sheet in which all information was set out.

Mary Stuttle, a local resident, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in opposition to the application. The Committee heard that Berechurch Hall Road had become extremely busy since the construction of the Solus estate, and there were significant concerns about the impact that a further 153 dwellings would have on the road. Although there was a thirty mile per hour speed limit, there were concerns that this was not obeyed by motorists, and the proposed entrance to the new development was unsuitably located and had the potential to create an accident black spot. Concerns were also raised about the removal of hedgerows to accommodate the development, and the pressure that more houses could place on local services such as doctor surgeries, which were already struggling to meet demand.

Stuart Willshire of Persimon Homes addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support to the application. The Committee heard that the site in question had been identified as an allocated site in the emerging Colchester Local Plan for residential development. The proposal before the Committee was for 153 mixed dwellings consisting of a variety of houses and flats and including 46 affordable homes which met identified affordable housing needs in the borough. Care had been taken with the design of the development to ensure that it was aesthetically appropriate for the area and it incorporated planting elements which would provide biodiversity. The scheme provided a toucan crossing on Berechurch Hall Road, as well as two bus stops and the Highway Authority were supportive of the scheme. A package of planning contributions including healthcare, open space, education and community benefits would be provided via a Section 106 agreement which was to be signed. The attention of the Committee was drawn to the Officer's report, which stated that the benefit of the site convincingly outweighed any adverse impacts.

Councillor Harris attended the meeting and, with the consent of the Chair, addressed the Committee. He was addressing the Committee in his role as a County Councillor for the area, and echoed concerns raised by local residents with regard to the negative impact on road safety on Berechurch Hall Road which could be caused by the proposal. A number of local residents had contacted him about the safety of pedestrians crossing the road, and the Committee was urged to do all that it could to ensure that the development did not go ahead without the necessary infrastructure for road safety and highways improvement.

Members of the committee raised concerns about traffic provisions in the area, although welcomed the introduction of the toucan crossing. An enquiry was made whether a mini roundabout could be introduced at the junction of Maypole Green

Road to assist road users exiting the road, as the area was already very busy and likely to become more so. A wish was expressed that the proposed cycle path could be installed to the level requested by the Colchester Cycling Campaign, and badger sets in the area be left undisturbed and supported through the introduction of a wildlife corridor. Concerns were raised about the added strain that additional residents in the area would place on local doctor surgeries which were already struggling to meet demand, and the location of the proposed scheme in a semi-rural area with few transport links would drive residents to use their cars instead of more sustainable methods of transport.

It was recognised by the Committee that many of the concerns that had been raised about the proposal were concerned with highway issues, and it was noted that a representative from Essex County Council Highways was not in attendance to provide any answers to the questions that had been asked, which would have been very helpful to the Committee.

The Committee sought clarification on the access that would be provided to the development from Berechurch Hall Road, and in particular for pedestrians using the road. It was noted that some of the proposed housing did not seem to have any car parking spaces, which would force vehicles to be parked on the road or pavement in a potentially obstructive manner, and a request was made for more green space to be incorporated into the plan with mature trees being introduced.

In response to the questions and concerns expressed by the Committee, the Senior Planning Officer confirmed that the access to the proposed site would be incorporated with the access point to the adjacent development which had already received planning permission, and both sites would be accessed by this entrance. Consideration had been given to a secondary access point to the site, but the Highway Authority had taken the view that this was not required given the size of the proposed site and the negative impact on road safety that a second access point would have. The Committee heard that badgers were a protected species, and that an ecology report has identified an active set on site with two subsidiary sets, and a further ecological report would be provided prior to the start of construction. It was not proposed to close the main set if this was still active. Car parking had been provided in line with the Council's car parking standards Supplementary Planning Document (SPD), together with cycle parking. The toucan crossing was proposed to be installed before the site was occupied, however, the mini roundabout that had been suggested by the had not been recommended by the Highways Authority. The Senior Planning Officer had met with the Colchester Cycling Campaign and had passed their concerns to the Highway Authority who had taken the view that the improvements requested were not required for a development of this size.

It was explained to the Committee that a condition could be imposed requiring proposed traffic calming measures to be provided to the Planning Authority in writing prior to the development being occupied to ensure that highway safety had been carefully considered.

The Committee repeated its concerns about the volume of traffic that used Berechurch Hall Road and it was suggested that the decision on the application be deferred in order to allow a representative from Essex County Council Highways to

attend to provide answers to the questions that had been posed in relation to road safety issues.

RESOLVED (UNANIMOUSLY) that:- the decision on the application be deferred to a future meeting of the Committee in order that a representative from Essex County Council Highways could attend and provide answers to the questions of the Committee.

875. 201686 Land South of West Bergholt Cricket Club

Councillor Maclean (by reason of the fact that her daughter lives opposite the cricket club) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an outline application for up to 18 dwellings with access to be determined and all other matters reserved. The application was referred to the Planning Committee as it was a major application and would require a S106 agreement to secure planning obligations/contributions. The land had been allocated for the development in the West Bergholt Neighbourhood Plan Policy PP9 under Policies SG8 and SS15 of the Emerging Local Plan. The application site was part of one of the allocated sites (Site B) included in the Neighbourhood Plan as indicated in Policy PP9 and Map PP9/2. Due to the presence of a badger sett and the requirement for a wildlife buffer zone, the site does not accord entirely with the area as defined by Map PP9/2. However, it was considered that the area proposed was acceptable and that the proposed site was compliant with Policy PP9 of the Neighbourhood Plan. The proposal was therefore acceptable in principle.

The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the outline application be approved subject to legal agreement.

876. 201882 Former Lookers Renault, 72-78 Military Road

The Committee considered an application for the demolition of existing car showroom buildings and construction of a sheltered housing facility comprising 44 1 and 2 bedroom apartments and the construction of a residential apartment building comprising 10 1 and 2 bedroom dwellings together with associated access, basement and above ground parking and landscaping. The application was referred to the Committee as it had been called in by Councillor Cope for the reasons set out in the report and in addition to this, the application constituted a major application

and was the subject of a S106 legal agreement under the Town and Country Planning Act 1990.

The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

John Miles, Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of site photographs, aerial views and sketches of the proposed site layout and property design, including street scene illustrations and detailed proposed floorplans.

A written representation had been submitted by Catherine Spindler, a local resident, and in opposition to the application, which was read to the Committee by Richard Clifford, Lead Democratic Services Officer. Although the provision of sheltered accommodation and low income housing was fully supported, concerns were raised about the proposed development itself, including woefully inadequate parking for residents, visitors, medical vehicles and carers. It was also considered that there was insufficient green space for a development likely to house children, and the proposed dwellings were not in keeping with the local area. The Committee were asked to request that the application be re-submitted with amended plans showing additional parking, a more sympathetic design and more green space to include vegetation separating the sheltered accommodation from the apartments.

Councillor Cope attended the meeting, and, with the consent of the Chair, addressed the Committee. The Committee were requested to take note of some objections which had been received, including concerns raised about the lack of local doctor and school provision, and a serious issue that had been raised by Anglia Water in relation to the possibility of flooding, and a request that the applicant compile a feasible drainage strategy to counteract this. Additionally, there appeared to be no storage provided for mobility scooters, which residents would be likely to use, and it was considered that residents using these vehicles would need to park them near to their own property, and in a manner that did not create a hazard to other residents. Last minute changes to the proposal were noted, for example provision of a space for an emergency vehicle to park, although concerns about elements of the design remained, and the Committee heard that the Military Road area deserved to be enhanced.

The Planning Officer responded to the concerns that had been raised and questions that had been asked, and confirmed to the Committee that with regard to parking, there were 45 spaces provided in the basement area of the sheltered housing accommodation, which represented an overprovision against Colchester Borough Council's adopted standards. The overprovision was acceptable because there were good local transport links and the ability to walk into town meant that it was considered that sustainability credentials would not be undermined. With regard to the C2 units, 10 spaces were offered which were not allocated and could be used by residents and visitors. This was below the Council's adopted standards, although Development Policy DP19 did state that a lower standard of parking provision may be acceptable where it can be demonstrated there is a high level of access to services. The National Health Service had been contacted, and they had requested the sum of £23,000 to mitigate against the impact that the proposed development may have, which had been agreed in principle. Anglia Water had confirmed that there was adequate capacity for

the waste water flow anticipated and with regard to surface water disposal they had also confirmed that the information submitted with the application was considered acceptable, and a request had been made that an agreed strategy be reflected in the planning approval. Essex County Council had been consulted as the lead local flood authority, and a number of conditions had been recommended in relation to sustainable urban drainage systems. The site was in a flood zone with a low risk of flooding and was considered suitable for all types of development from a flood risk perspective. It was confirmed that there was a large scooter storage facility contained within the facility, and proposed cycle parking was shown on the plans. A landscaping strategy had been submitted which would be the subject of conditions.

In response to a number of questions raised by the Committee, the Planning Officer confirmed that electric vehicle charging points would be provided in accordance with an agreed condition. The Council's archaeological advisor had also been consulted, and there were no grounds to recommend a potential refusal on the grounds of potential damage to archaeological assets, and a condition was proposed which would cover initial investigatory works and monitoring throughout construction to ensure that any discovered archaeological assets were protected. The Committee were advised that the provision of a defibrillator in a public location could be included as an informative, together with the suggestion that solar panels be installed. Sprinkler systems and other fire safety matters were more appropriately dealt with via Building Regulations, but a consultation response had been received from Essex Fire Service and an informative had been included welcoming the inclusion of sprinklers in the development.

Concerns had been raised by the Committee that there was potential for the development to overlook neighbouring properties, as the proposed development was taller than the existing buildings on the site. The Planning Officer explained that although the height of the existing two storey building was being increased to three storeys, the new building was located nearer to the centre of the site, and it was therefore not considered that there would be a material difference between the imposition of the structures. Furthermore, the Committee were assured that a number of steps had been taken to ensure that overlooking from the sheltered housing block was kept to a minimum, including the use of obscured glazing and oriel windows to ensure that any angles of overlooking were kept away from neighbouring properties.

RESOLVED (UNANIMOUSLY) that the application be approved subject to prior execution of a Section 106 agreement, with additional informatives that the installation of solar panels and a publicly accessible defibrillator be considered.

877. 210304 Land between 7 and 15 Marlowe Way, Colchester

The Committee considered an application for the demolition of brick boundary wall at Lexden Manor and the construction of three 4-bedroom detached houses, each with internal garage, plus individual private driveways connecting to Marlowe Way with the retention of two Tree Protection Order trees. The application was referred to the Committee as it had been called in by Councillor Lissimore for the reasons set out in the report.

The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of site photographs, aerial views and sketches of the proposed site layout and property design, including street scene illustrations and detailed proposed floorplans. In terms of the unilateral undertaking, whilst the monitoring fee had been paid, the unilateral undertaking had not been finalised. A comment had been received from the Member of Parliament, Will Quince, requesting that the Committee pay particular attention to the concerns that had been raised by local residents, including the appearance of the proposed properties and their height. Reference was also made to concerns that part of the wall had already been demolished, but it was confirmed to the Committee that removal of part of the wall would not have required planning permission. Since the report had been written, eight further letters of objection had been received which were largely re-iterating concerns raised previously in respect of the size and design of the proposed properties, parking and overlooking issues.

The Committee were advised that overall this was a very finely balanced scheme which had attracted a lot of objections. The existing area was a very nice mix existing properties and open spaces, which contributed to the overall value of the area. In terms of the principle of the development, it was within the settlement limits and the National Planning Policy Framework (NPPF) gave a presumption in favour of such sustainable development, and therefore the proposal should be judged on its planning merits. Although there would be some loss of open space to the front of the proposed properties, there would be a condition applied to ensure that there were no enclosures on the frontage area, and it was not considered that the loss of open space would be so significant to constitute supporting a refusal on these grounds.

The building of Lexden Manor was a pleasant building but one which was not listed or locally listed, which reduced the level of protection attributed to it. Some views of the manor would be lost if three dwellings were built in front of it, although some additional sight lines may be opened up between the proposed houses with the removal of the existing wall. It was not considered that the loss of the view of Lexden Manor and its setting was so significant that a refusal could be justified on those grounds, as indicated in the report.

With regard to the form of the development, the proposed design was different to the surrounding area, which was comprised of dwellings with no particular architectural merit but which comprised a pleasant urban context. It was recognised that the proposed development represented good design in terms of a sharp contemporary scheme and with the use of high quality materials could fit in with the character of the area. The designs showed a traditional gable width, coupled with more modern features on the front, and with the use of high quality materials with a variation in the middle dwelling including the roof material meant that the properties could fit into the setting. It was therefore not considered that the proposals should be refused on the grounds of design, scale and form.

The Committee heard that the garden areas did exceed the area required for dwellings of this nature and scale, and in this regard it was difficult to argue that the proposal represented an over-development of the site. The dwellings were considered far enough away from neighbouring properties to avoid an overbearing impact or loss of light, and although the rear of the proposed dwellings did look over Lexden Manor, obscure glazing conditions would ensure that windows did not overlook any private amenity spaces. It was considered that there were adequate parking spaces on site, with two spaces to the front of the property in addition to the garage. The Committee were advised that a condition could be added to require that the garages be retained as garaging if it wished.

This was a very finely balanced case. It was possible to say that there would be some loss of open space and some loss of the view of Lexden Manor, while on the other hand this was a sustainable development with design considered acceptable to the character of the area and no highways issues, retained trees and some openness on the site. The recommendation was therefore that the application be approved subject to the finalisation of the unilateral undertaking.

Simon Sorrell, a local resident, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in opposition to the application. The Committee heard that Marlowe Way was situated in an area with its own character, no through traffic and houses of similar design and uniform height on low density plots. Equally important were the open, publicly accessible green spaces, which were vital to the streets' attraction and amenity of local residents and wildlife. The Committee were requested to refuse the application in order to protect the open area of land that was the subject of the application, together with other such areas in the locality. The demolition of the section of the wall that had taken place was described as a flagrant breach of planning control, and concerns were expressed that the objection that had been received from residents had been given insufficient weight on the Officer's report, which seemed to favour the applicant. The Committee heard that the proposal conflicted with policies DP1 and DP15. The proposed scheme design seemed to be in conflict with policy DP1, which required designs that respected the character of the immediate area, and the proposed houses were three floors high and higher than any other dwellings in the area. Marlowe Way enjoyed a particular character which deserved to be recognised, and the Committee were requested to consider the concerns that had been raised by so many, the detrimental impact that the proposal would have on Marlowe Way, and to refuse the application.

By way of a point of clarification, the Chair explained to the Committee that the partial removal of the boundary wall was considered to be permitted development, and as such no planning permission would have been required for these works.

Robert Pomery, a Planning Consultant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support to the application. The Committee heard that both national planning policy, and the Council's own Local Plan supported the use of land in locations which were accessible to schools, shops and other services, and the use of such sites reduced the need for housing growth on greenfield land. The site was described as a 'windfall site', which made an important contribution to the Council's housing supply and it was important that these sites continued to be developed. The site in question had emerged through the

simultaneous purchase of Lexden Manor by the applicant, and the area of frontage on Marlowe Way which had afforded the opportunity to combine the two sites. The Committee was referred to the Local Plan Policies, and were informed that the land did not benefit from any protections or other designations, other than the trees subject to Tree Protection Orders, and the land was not public open space. The scheme was compliant with the policies of the Council in every respect and included the provision of solar panels, electric vehicle charging points for every property and ground source heat pumps. Although the proposed buildings had been described as three storey, this was incorrect as the buildings were two storey with accommodation in the roof space. Officers were content that there were no aspects of the proposal that would sustain or support refusal of planning permission.

Councillor Lissimore attended the meeting, and, with the consent of the Chair, addressed the Committee. The Committee heard that the application had been called in much earlier in the year, and the length of time that been taken to bring it before the Committee demonstrated that it was not a straightforward application. It was felt that the proposed design of the scheme was out of keeping with the locality, and the fact that the proposals had been described as 'finely balanced' meant that approval was by no means guaranteed. It was suggested that the development was out of character for the area and was not a good design. The Committee were directed to the street scene illustration that had been shown, which it was suggested did not demonstrate that fact that houses to both the left and right of the proposed development were chalet style properties which although two storey buildings, were not full height two stories. Similar style properties were commonly located in the area immediately surrounding the proposed scheme, many of which had very low roof lines and restricted roof height. The proposed development properties had roof heights that were at least 1.8 metres higher than all neighbouring properties, and properties within the estate. The Committee's attention was drawn to the report which stated that the design of the proposed properties differed significantly in design from neighbouring properties. Local residents and Councillors believed that the design went against the Council's own design policies, and was in fact in breach of National Planning Policy Framework section 12 in respect of achieving well designed places, DP1 design and amenity in the Council's development policy, in addition to DP12 and DP14 in that the development did not enhance the site or surroundings. Given the acknowledged and significant design differences from neighbouring properties, the Committee was urged to reject the application on the grounds of design.

Councillor Buston attended the meeting, and, with the consent of the Chair, addressed the Committee. The Committee heard that there were sufficient material planning considerations, including deviations from the Council's own policies to justify refusing the application. The unique character of the area was characterised by mostly low rise, mostly chalet bungalows which presented a uniformity of a fundamentally open plan aspect, with open green publicly accessible spaces of key importance to the area. The proposal before the Committee was completely at odds with the unique character of the locality, and the design did not respect or reflect the character of the site, its context or surroundings. Councillor Buston referred to a similar application which had been made in the area which had been refused, as the presumption in favour of sustainable development did not override the harm that would have been caused to the character of the local area. He suggested that the parallels to be drawn between the two cases were compelling, and reminded the Committee again that the land currently in question

was publicly accessible. He suggested that the application would not make Marlowe Way a better place for its residents, and called for the reinstatement of the wall that had been partially removed from the boundary of the site.

The Senior Planning Officer responded to the concerns that had been raised, and confirmed that the case was finely balanced, with arguments both for and against the scheme. The Committee heard that it was a judgement on whether a more contemporary design was to be favoured in the area, and although it was the opinion of the Senior Planning Officer that the difference in the street scene was not enough to justify a refusal, this was again a matter of judgement. It was confirmed to the Committee again that the partial removal of the wall did not require planning permission. Although there were similarities between this case and the case that Councillor Buston had referenced, there were also significant differences in the impact that building on a green space would have had in each area, and each case was to be determined on its own merits.

The Committee carefully considered the points that had been made, and acknowledged that the application was finely balanced and that accordingly the views of residents should be carefully considered. Concern was expressed about the modern design of the houses, and although some Committee members favoured the style of design in itself, serious reservations were voiced as to whether it was appropriate in the setting. Of particular concern to the Committee was the height of the proposed properties in comparison to the rest of the locality, and the fact that the proposed buildings were very distinctive in design and not at all in keeping with the area.

A Committee member voiced a particular concern in respect of the requirement of obscured glazing, considering that the ability to open windows was of key importance in a family home. Consideration was given to the Lexden Manor overlooking the scheme, although it was acknowledged that the Manor already overlooked existing properties in the area.

A Committee member raised questions about the green space which was the subject of the application, seeking clarification on rights of access over this land, and who had been responsible for maintaining it up until this point. The Committee recognised that although the green space would not be entirely lost, it would be punctuated by tarmac driveways, and the view of the Manor impeded.

The Committee did acknowledge the environmentally sustainable elements of the design, but sought clear assurances from Officers that the scheme was in keeping with the policies that had been referenced by Councillor Lissimore.

By way of response, the Senior Planning Officer confirmed that other design options were possible for the site, and while the design could not be referred to as poor in and of itself, it was a judgement as to whether it was in keeping with the character of the area. The ownership and maintenance of the land prior to the acquisition by the applicant had not been established, but whether or not the area had been maintained by the highway authority, it was now private property. The Committee heard that it was possible to fit obscured glazing that could be opened above a height of 1.7 meters above the floor level to allow for ventilation. The Senior Planning Officer suggested

that if the Committee was minded to refuse the application, then it should be very clear on the grounds for the refusal.

With regard to the queries that Councillor Lissimore had raised, the Committee were advised that it was for it to make a judgement in terms of the design. Both the Essex Design Guide and the National Policy Framework did promote a variety of designs and encouraged contemporary design in some areas, but a judgement was required in terms of context.

There was some discussion in the Committee about the current and present ownership of the land, and Simon Cairns, Development Manager, explained that he believed through anecdotal evidence that the land had previously been owned by the original developer. Although there may be issues of prescriptive rights relating to access of the land, this was not a material planning issue, and would be a civil law matter. The main planning consideration was the character of the proposed development and whether it would result in material harm.

A Committee member asked for clarification from the Officers as the chance of an appeal being successful should the Committee be minded to refuse the application, and the Senior Planning Officer confirmed that in his opinion an appeal could go either way. He did consider it highly unlikely that costs would be awarded against the Council, as he considered that a refusal would not be viewed as unreasonable, but urged the Committee to be clear and careful when determining the specific grounds for refusal, if this was the route that it wished to go down. Any refusal reason would be key to any propose development on the site in the future, as the Committee could indicate that it was opposed to all development on the site and the loss of the green space, or that it would consider a modified proposal in the future. As the land was privately owned, there was a right to apply for development, and as the land was within settlement limits there was a presumption to approve a sustainable development, but the Committee could decide that it did not consider the site was suitable for development at all because of the loss of open space and the setting of Lexden Manor.

A Committee member suggested that they considered that the site would be developed in the future, but that the Committee had the opportunity to try to ensure that any future design was more in keeping with the locality. The Committee considered whether the Council would be placed at risk of a costs order being made against it should a refusal be appealed the subject of an appeal, and debated whether or not the matter should be deferred to allow the applicant to return with updated designs. The Development Manager did not consider that there was a risk of costs being awarded against the Council as matters that were being considered were within the context of the application, and the Committee had a variety of options before it.

The Committee considered whether or not to refuse the application in principle, but a number of Committee members indicated that they could not support this approach, and it was considered that a proposal more in character with the area would be considered more favourably.

RESOLVED (UNANIMOUSLY) that the application be refused on the basis that the proposed design, scale and form was out of character for the local area.

878. 211821 Open spaces Pondfield Road

The Committee considered an application for the installation of a 26m length of fencing 2.4m in height alongside existing palisade fencing in order to prevent public access to the railway line. The application had been referred to the Committee in the interests of clarity because the applicant was the Borough Council. The application was recommended for approval.

The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved.

879. 211958 The Orchard, Foxes Lane, Eight Ash Green

The Committee considered a request to discharge an existing Section 106 agreement in respect of The Orchard, Foxes Lane, Eight Ash Gren. The Section 106 Agreement applies to planning application COL/98/1681 which granted permission for the erection of an agricultural workers dwelling. The Section 106 Agreement provided that the dwelling erected under application reference COL/98/1681 shall be occupied only by a stockman (together with his immediate family) employed to supervise the livestock located at Thurgoods Farm. In April 2021, the Council issued a Certificate of Lawful Existing Use (reference 211311) for the occupation of the dwelling by persons who are not solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependents. Subsequently, in July 2021, the Council granted permission for the removal of condition 5 of application COL/98/1681 (reference 210547) which restricted the occupation of the dwelling to persons who are solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependents. Application COL/98/1681 is therefore no longer the subject of any occupancy restrictions. The Section 106 agreement is therefore considered no longer relevant.

The Committee had before it a report and amendment sheet in which all information was set out.

RESOLVED (UNANIMOUSLY) that the Section 106 Agreement be discharged.

PLANNING COMMITTEE
30 SEPTEMBER 2021

<i>Present: -</i>	Councillors Hazell (Chairman), Chuah, Lilley, Maclean, Mannion and Warnes
<i>Substitutes: -</i>	Councillor McCarthy for Councillor Barton Councillor Moore for Councillor Davidson Councillor G. Oxford for Cllr B. Oxford
<i>Also in attendance:</i>	Councillors Harris* *Attended remotely

880. Minutes

The minutes of the meeting held on 29 July 2021 were confirmed as a correct record.

Councillor Warnes (in respect of his spouse owning land adjacent to the site) declared a disclosable pecuniary interest in the following item pursuant to the provisions of paragraph 7(5) of the Meetings General Procedure Rules and left the meeting during its consideration and determination.

Councillor Hazell and McCarthy (as ward councillors for Shrub End ward) and Cllr G. Oxford (as Chair of the Local Plan Committee) declared a non-pecuniary interest in the following item.

881. 202025 Land South of Berechurch Road, Colchester

The Committee considered an application for the development of 153 dwellings with associated parking, landscaping, open space, drainage and infrastructure and formation of new access, together with alterations to existing access onto Berechurch Hall Road. The application had been referred to the Planning Committee because it was a major application which was a departure from the Adopted Local Plan, although not a departure from the Emerging Local Plan, and a number of objections had been received. The application had been considered at the Planning Committee meeting on 9 September 2021 but had been deferred to enable Essex County Council Highways to attend and advise members on highways issues pertaining to the application.

The Committee had before a report in which all information was set out together with additional information on the Amendment Sheet.

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

Mary Stuttle addressed the Committee in opposition to the application pursuant to the provisions of Meetings General Procedure Rule 8(3). The developers had driven out both wildlife and local residents, who had felt compelled to move due to safety issues relating to the site. There was a history of traffic accidents in the area including one this week. The application had been brought back to Committee with no changes to reflect the concerns of residents or Councillors. A toucan crossing was now proposed, rather than a zebra crossing, which would bring noise and increased pollution. A better solution would be to make the temporary access the main entrance to the site. This temporary entrance would be in use for a considerable period of time whilst the site was built and once people were used to it, it would be shut. The proposed entrance would mean that there were three roads and five mews discharging onto Berechurch Hall Road in close proximity. The site traffic alone had made it difficult to exit their property safely. It was not clear where the bus stops would be located and they may cause further difficulties. Only the minimum of hedgerows and trees should be removed and any removed should be replaced by mature species as this would help with pollution.

Paige Harris addressed the Committee in support of the application pursuant to the provisions of Meetings General Procedure Rule 8(3). Before the previous Committee the applicants had ensured that the application was clear of statutory obligations and complaints. The comments made at the previous Committee had been considered and the applicants had ensured that they were covered by the proposals. The main concern had related to Highways and it was noted that ECC Highways were still supportive of the scheme. A cohesive approach had been taken to issues such as design and access with the adjacent scheme. Provision of a central access had been considered essential by all key stakeholders and the temporary access on the adjacent site was required to close and revert to a footway. Care was taken to retain as much boundary vegetation as possible with the addition of a ribbon of established trees running through the site. The scheme would deliver policy compliant levels of affordable housing. The Highways Authority had required sustainable transport links with the town centre and therefore the application was amended to include a footway along the front of the site which would link with the cycleway on the front of the adjacent site and the toucan crossing. Two new bus stops would also be provided on Berechurch Hall Road. Electric vehicle charging points would also be provided. The application would deliver a biodiversity net gain and the applicant's ecological consultant had determined that the badger setts on the site boundary were unused. A fence would be installed on the eastern boundary to ensure the development would not impact on future badger activity. There were also significant planning obligations providing improvements to local healthcare facilities and open space provision. The site was allocated for residential development in the Emerging Local Plan, and the Inspector had raised no concerns about the allocation. The site was also part of the 5 year housing land supply.

Councillor Harris attended remotely and with the consent of the Chair addressed the Committee. In respect of badger setts, concerns had been expressed that badgers had been interfered with on land that did not belong to the developer, and it was

queried whether the developer needed to be held to account for this. Residents were not averse to development but there was no reason to disrupt wildlife unnecessarily. The Committee had previously indicated that active badger setts needed to be kept open. As County Councillor for the area he supported the comments made by the speaker against the application. The change in the access arrangements was very confusing. Concerns had also been raised about compliance with national safety standards including LTN 1/20. These issues needed to be resolved at this stage and not referred to the Local Highway Panel. A toucan crossing would be an aid to residents of care homes in the area, as well as residents of the new development.

A statement from the Councillor Lyn Barton was read to the Committee expressing disappointment that the application had returned to the Committee quickly without time to address her concerns or those of residents. Berechurch Hall Road was a busy road with a history of accidents. The plans did not go far enough in improving safety as speeding was not addressed and access from local roads remained a major issue. This was a large development which would impact badly on residents. No explanation had been given as to why a mini roundabout at the Maypole Green junction could not be provided. In terms of the badger setts, they were a protected species and a wildlife corridor should be provided to protect their habitat. The trespassing onto adjoining land to block entrances to the setts was appalling and should be investigated.

Martin Mason, Essex Highways, was invited to address the Committee. In terms of highway safety, it was their role to ensure that the impact of a development was mitigated. Therefore they could only ask for improvements which would mitigate a development and could not require a developer to rectify existing problems. The proposed point of access on to Berechurch Hall Road met all existing design standards. Essex Highways had requested only one point of access for this and the adjacent development as they sought to minimise the number of junctions on the networks. This reduced the risk of accidents as junctions were points of conflict in highways terms. In terms of accessibility, the National Planning Policy Framework put an emphasis on sustainable transport and they had requested two new bus stops adjacent to the site, footways, cycleways and a toucan crossing over Berechurch Hall Road which would give safe access to local schools and facilities and onwards into Colchester.

In discussion, members of the Committee sought clarification of a number of Highways issues:-

- The concerns raised about noise and pollution from a toucan crossing;
- The increased traffic generated from the development would make a significant difference to the safety of the road and that therefore the developers should be obliged to provide extra measures such as cycleways to mitigate the development.
- The width of the footway and cycleway;
- Whether there was any possibility of introducing a 20 mph speed limit on this stretch of Berechurch Hall Road;
- The location of the bus stops and the potential impact they would have on traffic flow on Berechurch Hall Road as buses would stop on the carriageway.

Whether residents could safely access the bus stops without walking in the carriageway;

- The parking policy allowed the same number of cars for a four bedroom property as for a two bedroom. This led to the internal estate roads being clogged by parked vehicles.
- Concerns expressed by Colchester Cycling campaign who believed that the pathway was not suitable and was only half the width required for shared use and whether it complied with government guidance LTN 1/20.

In response Martin Mason explained that a toucan crossing did emit a bleeping sound when in use. The package of highway measures proposed would have the effect of calming the traffic environment and have an impact on the speed of traffic. Direct traffic calming measures could not be implemented on the road due to its place in the road hierarchy. The potential speed of roads was assessed against the Speed Management Strategy, which had defined criteria. This specified that speed limits should be appropriate and as far possible self-enforcing. Most traffic complied with the 30mph limit and 20 mph would not be appropriate on this stretch of Berechurch Hall Road. 20 mph was largely used on residential estates. The widths of the improved footway/cycleway would allow shared use on the southside. On the northside it was slightly narrower but still within standard. The precise location of the bus stops had not been decided yet but there was scope to deliver them and Essex Highways would work with the developers on the location. There would need to be a safe footway access to the bus stops. In terms of impact on traffic flow, buses should be given priority and would help manage traffic speed. The buses were unlikely to be extremely busy and therefore the impact on traffic flow would not be too great. Parking was not a Highways matters but the development met the parking standards adopted by Colchester Borough Council.

The comments made by Colchester Cycling Campaign related to Camaludonum Way which would be widened as part of the scheme. In terms of LTN 1/20 this was not mandatory although ECC was encouraging its use. Work was ongoing to update policies to incorporate its requirements but at this stage developers could not be compelled to meet its requirements. In addition Berechurch Hall Road was quite constrained and so there were limits on what could be introduced. ECC Highways were satisfied that the proposals were safe and could be delivered in the space available. In terms of the site itself, traffic speeds would be low as it was likely to be a 20 mph area and so it would be safe for cyclists.

The Senior Planning Officer explained that on respect of the concerns raised about interference with badger setts off the site, this had not been instigated by the Council and had been reported to the police, the police had subsequently closed their investigation. A landscaping condition was proposed and the Committee could add an informative asking the developer to ensure the eastern boundary of the site took account of the need to protect local wildlife. There also a condition on ecological mitigation proposed. The landscaping provision had been reviewed by the Landscaping Officer and the conditions proposed required a 10% gross increase in canopy cover.

Members of the Committee remained concerned about highway safety issues. The Development Manager advised the Committee that they had received clear advice from ECC Highways that the vehicular access to Berechurch Hall Road met their standards, the toucan crossing would provide a safe method of crossing Berechurch Hall Road and safe cycleway and footways were provided. On this basis there were no grounds for refusal of the application on highways issues. The site was a well advanced allocation in the Emerging Local Plan and no issues had arisen since the allocation to impact this.

Some concern was expressed by the Committee at the lack of information about some key aspects such as the location of the bus stops and felt the application should not have returned to Committee until these issues had been addressed. The Development Manager indicated that the details of the bus stops would normally be agreed by ECC Highways based on their technical criteria. The Committee could require that ward councillor views be consulted once the scheme was agreed. However, that would be highly unusual. It was also suggested by a member of the Committee that the application be deferred for a site visit, but it was explained that this was a well-known site and that little could be gained from a site visit.

Karen Syrett, Lead Officer for Housing, Planning and Economic Growth, stressed that this was an allocated site in the Emerging Local Plan that was at an advanced stage. No modifications had been proposed to the site by the Inspector. Therefore, policy supported the application, and this should carry very significant weight. The NPPF required that applications that complied with the Local Plan be approved without delay.

RESOLVED (FOUR voted FOR, THREE voted AGAINST and ONE ABSTAINED from voting) that the application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting in accordance with paragraph.15.1 of the report. In the event that the legal agreement was not signed within 6 months, authority be delegated to the Assistant Director to refuse the application, or otherwise to be authorised to complete the agreement. The permission would also be subject to the conditions and informatives as set out in the report.

882. 190605 Colchester Mercury Theatre Ltd, Mercury Theatre, Balcerne Passage, Colchester CO1 1PT

The Committee considered an application to vary or remove conditions 2-22 of planning permission 171964 and for proposed landscaping as well as to regularise works already undertaken for the extension and alteration of the Mercury Theatre. The application was referred to the Committee for transparency and probity reasons as the Mercury Theatre site land was owned by the Council and the Council was heavily involved as the project lead in the “Mercury Rising” project to extend the Mercury Theatre.

The Committee had before it a report in which all information was set out.

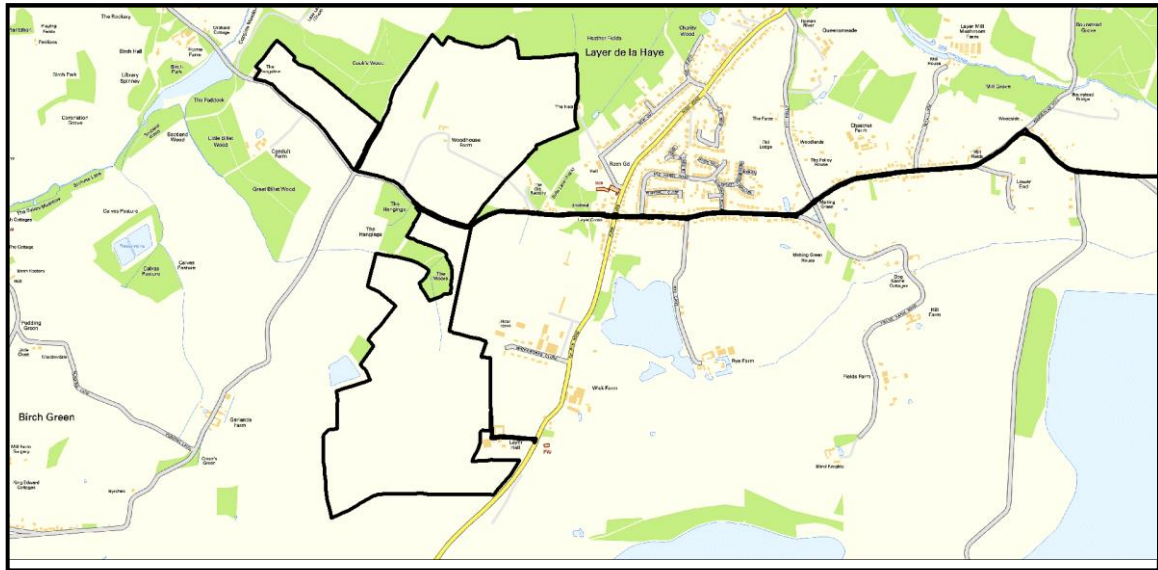
RESOLVED that the application be approved subject to the conditions and informatives as set out in the report.

883. 212055 2&3 Portal Precinct, Sir Isaacs Walk, Colchester CO1 1JJ

The Committee considered an application for secure cycle storage. The application was referred to the Committee for transparency and probity reasons as the Council was the applicant.

The Committee had before it a report in which all information was set out.

RESOLVED that the application be approved subject to the conditions and informatives as set out in the report.



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Item No: 7.1

Application: 202695

Applicant: Mr James Hartley-Bond, Laver Solar Farm Limited

Agent: Mr Nick Bowen, Dwd Property + Planning

Proposal: The construction and operation of a solar photovoltaic ('PV') farm and associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping.

Location: Land to West of the Village and adjoining, Birch Road, Laver De La Haye

Ward: Marks Tey & Laver

Officer: James Ryan

Recommendation: Approval subject to prior completion of a legal agreement.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application with objections and is also a departure from the Development Plan.

2.0 Synopsis

- 2.1 Officers recommend that planning permission is granted. This report explains how officers have reached this conclusion.
- 2.2 The application proposes the construction and operation of a solar photovoltaic farm and associated infrastructure. The application includes an underground cable connection route from the Proposed Development to Abberton substation. The panels would generate up to 49.99 megawatts (MW), enough to power over 16,000 homes. Based on the scale and nature of the proposal, it is Environmental Impact Assessment (EIA) development and the application is therefore accompanied by an Environmental Statement (ES).
- 2.3 Planning permission is sought to operate the plant for 40 years, at which point it would be decommissioned and the land returned to its previous state. The development includes the following equipment:
- *Ground mounted rows of solar PV panels running from east to west across the site with approximately 3-4m between each row of arrays.*
 - *At the lowest edge the arrays would be approximately 0.9 m from the ground and up to 2.8 m at the highest edge.*
 - *The solar panels would be laid out in rows running from east to west across the Site. There would be a gap of approximately 3-4 m between each row. The panels would be mounted on a frame, to be installed using spiked foundations of approximately 1 to 2 m deep.*
 - *Approximately 25 inverters within units similar to shipping containers (12m x 2.5m and 3m high).*
 - *A substation compound of up to 50m x 50m consisting of overhead electrical busbars and other electrical equipment along with a control building and a switch room. These structures would be up to approximately 12.5m x 5.5m x 6m high.*
 - *Stock-proof perimeter fencing (mesh with wooden posts or similar) to a height of approximately 2m along the outer edges of the site.*
 - *A system of CCTV / infra-red cameras on poles up to approximately 3m high, spaces at approximately 50m intervals along the security fence.*
 - *Internal access tracks*

- 2.4 The applicant has not fixed all of the details of the development at this stage because the final technology selection and layout would be determined by an appointed contractor. The applicant has therefore sought to incorporate sufficient design flexibility into the application in relation to the dimensions and layout of the structures.
- 2.5 The assessments that form part of the application and EIA have therefore been undertaken adopting the principles of the “Rochdale Envelope.” This approach involves assessing the maximum parameters for the elements where flexibility is required and provides a worst-case scenario. For example, the solar panels have been assessed for the purposes of landscape and visual impact as being a maximum of 2.7m high, when then may be lower at around 2.5m.
- 2.6 The application has been updated and consulted upon on several occasions with additional information submitted in relation to heritage, archaeology, biodiversity net gain and glint and glare. This included an update to the ES to include a trial trenching information and mitigation regarding a scheduled monument. These inputs are covered in further detail in this report.
- 2.7 The environmental and technical reports that form part of the planning application submission demonstrate that there would be no unacceptable environmental impacts, and there are no technical objections to the proposal. Suitable planning conditions have been provided by consultees in order to secure the relevant mitigations for the project. The proposals are strongly supported by both local and national planning policy, as well as the Borough’s own commitments following its declaration of a climate emergency in 2019.

3.0 Site Description and Context

- 3.1 The Site is located on parcels of agricultural land west of Layer-de-la-Haye, near Colchester. The parcels are separated by Birch Road. The Site is entirely within the administrative area of Colchester Borough Council. The application site extends to 96.8 Hectares in area.
- 3.2 The Site currently comprises a number of agricultural fields with small sections of shrubs and trees surrounding each field and areas of woodland bordering the north of the Site. There is no development currently on the Site, aside from an overhead electricity line and pylons that cross the southern section of the Site. As discussed above, the Site also includes land within the application boundary for the buried cable connection to Abberton Substation. The Cable Connection Route passes through the centre of Layer-de-la-Haye but is within the highway boundary.
- 3.3 The topography of the Site and the surrounding area is characterised by relatively flat land with limited topographical change. The Site itself is fairly uniform in topography, varying only in elevation of between approximately 35 and 40 m Above Ordnance Datum (AOD). The Cable Connection Route passes through an area of lower ground in the vicinity of the connection to Abberton Substation, where the elevation is approximately 15 m AOD at its lowest point.

3.4 Flood Zone Classification

The Site is located entirely within Flood Zone 1 (lowest risk of flooding as defined by the Environment Agency).

3.5 Agricultural Land

An agricultural land classification (ALC) survey has been undertaken for the Site (see Appendix 2A: Agricultural Land Classification Survey Report (ES Volume II) for the full report). The report concludes that the Site predominantly has clay soils and soils over gravel, with a land quality of subgrade 3b agriculture land by wetness (approximately 76% of land within the Site). There are also sections of loamy soils of subgrade 3a quality land within the northern half of the Site (approximately 22% of the Site). The other 2% of the Site is not considered to be arable land and was excluded from the survey. This matter will be dealt with in the relevant section below.

3.6 PRoW

No public rights of way (PRoW) cross the Site but a number of PRoW border the Site. One runs between parcels. This includes a footpath to the south of the Site, a bridleway and footpath to the north-east of the Site and a footpath to the north-west of the Site. National Cycle Route number 1 passes along the Garland Road west of the southern land parcel. At the junction with Birch Road, the Cycle Route continues north along a track to the west of the northern land parcel.

3.7 Neighbours and other receptors

There are a number of residential and commercial buildings located adjacent to the Site. Directly to the east of the Site is a farm with residential buildings and multiple outbuildings as well as a residential property located off Birch Road which is directly adjacent to the Site. There are a number of residential properties on New Cut with the closest property to the Site within 100 m. There is a further residential property located along a track off New Cut which is directly adjacent to the Site. Along Waterworks Close there are commercial properties within 100 m of the eastern boundary of the Site.

To the west of the Site along Birch Park the closest residential property is located directly adjacent to the Site. Conduit Farm is also located directly adjacent to the Site.

There are no buildings located within 100 m of the north or south of the Site, with farmland and woodland to the north and farmland to the south of the Site.

The majority of land between within 2 km of the Site is farmland and woodland with the town of Layer-de-la-Haye situated approximately 300 m to the east of the Site, which includes residential and commercial properties. However, the Cable Connection Route passes through Layer-de-la-Haye, past a number of residential properties.

3.8 Designated Sites

There are a number of designated sites within 2km of the application site – Abberton Reservoir Ramsar/SSSI/SPA being the nearest. This matter will be covered in more detail below but the ES sets these out in full at 2.3.9.

4.0 Description of the Proposal

4.1 The Proposed Development would comprise the following elements:

- Rows of solar PV panels;
- Inverters within an enclosed structure (approximately 25);
- A meter room and one customer switchroom;
- A 33 kV – 132 kV transformer substation compound and cable connection to Abberton Substation (the ‘Cable Connection Route’);
- Internal buried cabling;
- Internal access tracks;
- Perimeter fence; and
- CCTV cameras.

4.2 The south-facing solar PV panels are typically mounted in four horizontal rows, with one row fixed directly above the other, and angled at the optimum position for absorbing year-round solar irradiation. At the lowest edge the arrays would be approximately 0.9 m from the ground and up to 2.8 m at the highest edge.

4.3 The solar panels would be laid out in rows running from east to west across the Site. There would be a gap of approximately 3-4 m between each row. The panels would be mounted on a frame, to be installed using spiked foundations of approximately 1 to 2 m deep.

4.4 The inverters would be located within containerised units, similar to shipping containers. Each unit would measure approximately 12.2 m long, 2.5 m wide and 2.9 m high. Each unit would be placed on a concrete base (with 1m deep foundations).

4.5 The inverters would convert the direct current (‘DC’) generated by the solar panels into alternating current (‘AC’). Transformers, contained within the inverter cabins, convert the low voltage output from the inverters to high voltage suitable for feeding into the local electricity distribution network.

4.6 The connection into the grid network would require a transformer substation compound (measuring up to 6 m in height) to allow for the voltage step-up from 33 kV to 132 kV connection at the Abberton bulk supply point substation – approximately 2.8 km east of the Site. The Cable Connection Route would be buried within the road from the Proposed Development to

the substation. Further details on the construction methods are outlined in the sections below.

- 4.7 The new substation compound within the Site would measure up to 50 m by 25 m. This would become partly adopted by the District Network Operator (DNO) [District Network Operator is the company responsible for distributing electricity from the National Grid to your home or business. When installing solar PV or any form of electricity generation to a grid connected property, the local DNO will need to be informed] for their assets. This would consist of overhead electrical busbars and other electrical infrastructure along with a DNO control building and a customer switchroom housing the metering equipment. These structures would measure up to approximately 6 m high.
- 4.8 The DNO control building would measure approximately 6 m long, 8 m wide and 4.1 m high. From the substation compound, a cable would be installed to DNO substation and then on to a customer switchroom on-site. Each would be placed on a concrete base. They would either be clad in brick or wood to comply with local vernacular, or coloured green (or in any other colour) to minimise any visual impact.
- 4.9 The substation, inverters and solar panels would be connected by underground electrical cables (buried approximately 1 - 1.5 m below ground level).
- 4.10 The number of access points has been kept to a minimum using existing access points where possible. This will be addressed below.
- 4.11 It is envisaged that stock-proof fencing (mesh with wooden posts or similar) to a height of approximately 2 m would be installed along the outer edges of the Site in order to restrict access.
- 4.12 This would be sited inside the outermost hedges/trees/vegetation, ensuring that the fence is visually obscured, and access is available for hedge trimming and maintenance. Gates would be installed at the access point for maintenance access. These would be the same design, material and colour as the fencing.
- 4.13 The perimeter of the Site would be protected by a system of CCTV cameras and/or infra-red cameras, which would provide full 24-hour surveillance around the entire perimeter. An intelligent sensor management system would manage the cameras. The cameras would be on poles of approximately 3 m high, spaced at approximately 50 m intervals along the security fence. There would be no lighting within the Site at night-time.

5.0 Land Use Allocation

- 5.1 The land is currently unallocated agricultural land.

6.0 Relevant Planning History

6.1 None relevant to this scheme.

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- UR2 - Built Design and Character
- PR2 - People-friendly Streets
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP8 Agricultural Development and Diversification
- DP9 Employment Uses in the Countryside
- DP14 Historic Environment Assets
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

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

N/A

7.5 The site is not within a Neighbourhood Plan area.

7.6 Colchester Borough Local Plan 2017-2033

The Colchester emerging Local Plan (eLP) was submitted to the Planning Inspectorate in October 2017. The Plan is in two parts with Section 1 being a

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shared Strategic Plan for the North Essex Authorities (Colchester, Braintree, and Tendring). Following Examination in Public (EiP) the Section 1 Local Plan was found sound and Colchester Borough Council adopted the Section 1 Local Plan on 1 February 2021 in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004.

Submission Colchester Borough Local Plan 2017-2033:

The hearing sessions for Section 2 of the emerging Local Plan have now taken place and the Inspector's modifications have been consulted upon. The consultation has now ended.

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

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

The Emerging Local Plan is held to be at an advanced stage having been Examined and with the Inspector's suggested modifications having now been consulted upon. It is therefore, considered to carry some weight in the consideration of the application. Further details are set out below and in the main report.

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

The Essex Design Guide
Sustainable Construction
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
Planning Out Crime

8.0 Consultations

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

8.2 Archaeologist (in-house)

The applicant has completed an archaeological trial trenching evaluation in line with the brief issued by my predecessor Dr Hoggett, and submitted a satisfactory report to support their planning application (L-P Archaeology 2021). This was a low percentage evaluation (circa 1%) designed to give some indication of the background level of archaeology present on the site, and to satisfy the requirements of NPPF para 194. Pockets of prehistoric, Roman, medieval, and post-medieval archaeology were identified, and the upper layers of Oliver's Dyke were excavated. It was agreed that a further 3% of the site would be sampled post determination, in order to comprehensively evaluate the nature and extent of the archaeological resource.

I note that, due to the recent Scheduling of Oliver's Dyke the north eastern field has been removed from the development and is now proposed for open space. The acceptability or otherwise of this approach is a matter for Historic England, however I welcome it, given limited time to make amendments to the scheme. Application documentation has been updated appropriately to reflect the changes in significance of the archaeological resource within the development red line, and to reflect the new level of impact that the proposed development will have on cultural heritage.

Given the amendments to the scheme there are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 205), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

8.3 CBC Arboriculture Planner

Condition buffer zones and tree protection.

8.4 Cadent

You can now proceed with your planned work with caution. This outcome is based on the information you gave us. If your plans change you must let us know so we can assess them.

Although there are Cadent gas pipes in the area you're planning to work, as long as you proceed with caution and in line with the attached guidance the pipes shouldn't be affected by the work you are doing.

8.5 Chelmsford City Council

Chelmsford City Council would want to be satisfied that all the relevant statutory and non-statutory consultees are content with this proposal, especially Historic England with regard to the historic impact of the proposal.

8.6 Contaminated Land

It would appear that the site could be made suitable for the proposed use. Should you be minded to approve this application, Environmental Protection would recommend inclusion of a precautionary Condition and Informative.

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

8.7 Environment Agency

We have reviewed the application as submitted. An Environmental Statement has been submitted in support of this application, however, there are no constraints within the Environment Agency's remit within the site boundary. Therefore, we have no objections or comments to make.

8.8 Environmental Protection

No objection – conditions suggested.

8.9 Essex County Council Low Carbon Team

Support the proposal.

It has been recognised that there will be associated greenhouse gas emissions (GHG) with the construction, operation and decommissioning. As such we would like to highlight the importance of minimising all GHG emissions throughout the lifetime of the project, by for example electrifying the construction and maintenance fleet or by offsetting embedded emissions from the production and construction of the site.

Would like to see community benefits.

8.10 Essex Country Fire and Rescue

More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

8.11 **Essex Police**

Essex Police have the following observations related to this development and would encourage the applicant to incorporate Crime Prevention Through Environmental Design (CPTED) into this site by integrating the nationally approved, Police preferred, Secured By Design (SBD) Commercial accreditation.

We have the following points for consideration;

- An isolated site of high value solar PV panels & associated equipment in a location without adequate protection is likely to attract criminality. The applicant proposes use of deer fencing as a boundary, however this will not offer adequate security. It is recommended the proposed fencing is replaced with proven security perimeter fencing and screening. The proven security perimeter will act as a deterrent whilst allowing controlled vehicular access and can restrict view and access. Entry gates should meet PAS68:2013 standard.
- CCTV – the Design and Access statement states the site will be protected by infra-red CCTV. Consideration should be given to installing a 24/7 monitored CCTV system which includes a microphone and speaker function attached to each camera for real time interaction.
- Further examples of security measures within the site would be to overtly and covertly property mark equipment along with securing equipment with appropriate tamper proof fixings.

8.12 **Forestry Commission**

It is noted that the Environmental Statement. Vol. 1. Ecology, includes the National Planning Policy Framework with regard to the importance and need for protection of Ancient woodlands. Ancient woodlands are irreplaceable. They have great value because they are very biodiverse, important in the cultural landscape and are heritage sites with many features remaining undisturbed.

Adjacent to the proposed solar farm there are two ancient woodlands,

1. Chess Wood (at grid reference TL 9634 2082)
2. Cook's Wood (at grid reference TL 9592 2080)

In addition to no loss or disturbance to the woodlands, we recommend that the Government guidance on the creation of 'buffer zones' is applied for the protection of the ancient woodlands and that any cabling associated with the solar farm is similarly excluded from the buffer zone.

8.13 **Health and Safety Executive**

Wind turbines and Solar Farms are not relevant developments in relation to land-use planning in the vicinity of major hazard sites and major accident

hazard pipelines. This is because they do not, in themselves, involve the introduction of people into the area.

HSE's land use planning advice is concerned with the potential risks posed by major hazard sites and major accident hazard pipelines to a new development; it does not deal with the potential risks which a new development may pose to a major hazard site or major accident hazard pipeline. The Office for Nuclear Regulation (ONR) however does wish to be consulted over such proposals.

8.14 Highway Authority (ECC)

Apologies for the protracted delay in a final response to this application which includes the additional information provided on the 18 January 2021 and the applicants response to the HA concerns, which have been noted.

There doesn't appear to be standard conditions for all eventualities that can be adapted to suit this application so I have listed below with explanation what the HA would consider to be reasonable conditions which you may be able to adapt to comply with any planning conditions should your Council be minded to approve this application. (See conditions section of main report)

8.15 Historic Buildings and Areas Officer

No objection - See main body of report.

8.16 Historic England

Full response is on the file but in summary:

We confirm our view that the proposed development will result in harm to the significance of the adjacent scheduled monument through development within its setting. This is given the close proximity of the development to the (newly designated) scheduled monument. We consider the harm would be less than substantial.

The policy tests in the NPPF for the historic environment state that, when deciding whether or not to grant planning permission, the Local Planning Authority will need to have considered two main elements - whether the scheme can justify the harm to the significance of the designated heritage asset (paragraphs 199 and 200) and whether the application can deliver any additional public benefit (paragraph 202).

In relation to justification, this is a matter for the Council to consider with reference to the submission, and with reference to local and national planning policies and local planning need. With regards to the case for public benefit for the historic environment, we consider this would be delivered by removal of the scheduled monument from arable agriculture to

managed grassland, and we welcome the revised indicative site layout that has been submitted in October 2021.

We are of the view that an adequate no-development buffer zone, beyond the edge of the scheduled monument, has been provided. A substantial hedgerow has been proposed along the side (and outside) of the buffer zone, to reduce the visual impact of the development. In addition, the proposed security fencing has been removed from the scheduled area, which is also welcomed.

We would recommend that a landscape management plan for the area of the scheduled monument should be secured by a condition attached to any planning permission (if granted) or via s.106 with wording agreed with Historic England. We would also recommend that an interpretation panel is provided in a suitable, publicly accessible location (e.g. an adjacent footpath), to improve public perception and understanding of the scheduled monument. We would recommend this is also secured via s.106.

We wish to advise that any planning permission should be also conditional on a scheme of archaeological work being secured, in accordance with the NPPF paragraph 205. The archaeological advisor to the Local Planning Authority will be able to advise on the scheme of the archaeological investigation.

8.17 Landscape Advisor

The landscape content/aspect of the strategic proposals lodged under Part 6 of the Environmental Statement (ES) (the Landscape & Visual Amenity assessment (LVA), the Design & Access Statement (DAS) dated November 2020, the Agricultural Quality Report 1706/1, drawings 410558-MMD-XX-BA07-DR-C-0001, LCS022- PL-02 REV 02 and LCS-SD-01 to 08, 11, 13, 15 & 16, all lodged on 10 & 16/12/20, and drawings 410558-MMD-XX-BA07-DR-C-0005 & 0006, 'Viewpoint 10 photomontage' & 'Applicant's response to landscape comments' lodged on 23/02/2021, would appear satisfactory.

It is noted that the site includes 22.2 hectares of higher grade (grade 3a) agricultural land and that as such Natural England have been consulted on this loss as a statutory consultee under Schedule 4 paragraph (y) of the Development Management Procedure Order 2015.

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

8.18 Lead Local Floor Authority (ECC SuDS team)

No objection subject to conditions.

8.19 Maldon District Council

No objection.

8.20 Minerals and Waste Planning (ECC)

The MWPA therefore considers that the proposed development is not likely to result in the sterilisation of mineral in perpetuity. However, due to the absence of any statement confirming this assumption in supporting information, the MWPA requests that the case officer requests such confirmation from the site promoter or else is otherwise independently satisfied that this assumption is correct; namely that the development would not result in the sterilisation of mineral resources. Should the determining officer be satisfied that this is the case, the MWPA removes its holding objection.

(LPA emailed 13/1/2021 to confirm this is the case)

8.21 Ministry of Defence

No comment received.

8.22 NATS (Air Traffic Body)

No objection.

8.23 National Highways

National Highways is a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). In respect to this planning application, the nearest SRN Trunk Road is the A12.

We have reviewed the details and information provided. The location of the development site is remote from the A12 Trunk Road, and is not linked to any larger development. Therefore, there is unlikely to be any adverse effect upon the Strategic Road Network. Consequently, we offer No Comment.

8.24 Natural England

NO OBJECTION - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

8.25 Place Services (Ecology)

No objection subject to securing biodiversity mitigation and enhancement measures.

We have reviewed Chapter 7 of the Environmental Statement (AECOM, November 2010) and the Badger Survey Report (Landscape Science Consultancy, October 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, irreplaceable habitat, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

8.26 Tendring District Council

Having considered the proposal I can confirm that in this instance Tendring District Council have no comments to make upon the proposal.

8.27 Transport and Sustainability (in-house)

Colchester Borough Council declared a Climate Emergency in July 2019. In relation to renewable energy the council made the following commitments:

- Collaborate with regional and neighbouring local authorities, as well as communities, to encourage practical measures to reduce emissions, reduce carbon footprints and develop community-based renewable energy projects.
- Encourage all sectors of the economy across the borough to take steps to reduce waste and become carbon neutral.
- Develop a roadmap for Colchester Borough Council to go carbon neutral by 2030.

We have reviewed the planning application and make the following comments.

Renewable Energy

It is noted that the renewable energy generated would flow to a local substation in Abberton and would power as many as 16,581 homes.

Biodiversity

The proposal has clearly considered how to mitigate the impact of the solar farm including maintenance of hedges surrounding the site, planting of native tree species around the site. It also looks to increase the ecological value of moderate quality agricultural land by planting a species of rich grassland underneath the panels with sheep grazing between the panels.

We note Natural England have responded confirming they do not object to the development.

Birds

The impact on birds is a concern in relation to nesting on the site and flying across the site due to its close proximity to Abberton Reservoir. These issues have been considered including bird strike and mitigation proposed to address these.

The Essex Wildlife Trust have fed into the bird surveys.

Visual impact

We appreciate that the solar farm is quite large and will appear industrial in this rural location, impacting on the landscape of the area and changing the view for local residents and walkers and cyclists using the public rights of way.

However the visual impact needs to be balanced against the fact that we are in a Climate Emergency with an urgent need for renewable energy to replace fossil fuels and to supply the demand that will grow as electricity replaces gas and fuel in heating systems and cars.

Conclusion

We note that Essex Wildlife have not submitted a formal response to the planning application. However Natural England and Place Services have provided a number of recommendations that we would support.

We would also urge the applicant to take note of the comments from the Essex Climate Commission regarding community involvement and potential community investment.

If the application is successful, we recommend that work is prioritised to bring the community on board to embrace and be proud of the fact that their village is generating solar energy to power over 16,000 homes. Ideas could include information boards along the Public Rights Of Way, school visits, community participation in developing the ecological diversity etc.

8.28 **Office for Nuclear Regulation**

This application falls outside of any GB nuclear consultation zone, therefore ONR has no comment to make.

8.29 **Ramblers**

Excellent to see the Public Rights of Way shown clearly and accurately on the plans. Also good to see the permissive route alongside Birch Road has been acknowledged though it is a shame it can't extend eastwards past the second half of the narrow double bend. The application will obviously make a difference to walking in the area as several paths will henceforth be near to and parallel with the site fencing - all efforts to help the routes continue to be scenic and enjoyable for walkers will be appreciated.

9.0 **Parish Council Responses:**

9.1 **Layer De la Haye**

Layer de la Haye Parish Council is keen to support Green Projects.

We are in ongoing discussions with the applicants to ensure the best possible outcome for the Village should the application be approved.

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Bearing in mind that Colchester Borough Planning department will not be determining the outcome of the application for at least 4 months, we would like to be kept informed and consulted about any amendments or changes made to the application.

We do have concerns over the route of the "feed in" supply to the substation on Abberton Rd. This is likely to cause a great deal of inconvenience to the residents of the Village, so we would expect a robust traffic plan to be put in place.

We have asked for more screening opposite St John the Baptist Church, to preserve the ambiance of this Grade 1 building.

9.2 **Birch PC**

Whilst the Parish Council do not disagree that there is a need for green energy and that climate change needs to be addressed, this should not be to the detriment of the countryside, both visually and ecologically. Our general view is that this project is far too large for this particular area. It is a very open area which can be viewed from a considerable distance around for both residents and walkers in what is currently a beautiful country landscape. Its proximity to the reservoir also will detract from the natural beauty and have an effect on the ecological system.

Of course Low Carbon are putting forward suggestions in response to visual and wildlife protection, etc but the Parish Council feel that overall the general consensus is that the local residents are not happy with the project.

Additional hedging etc will take many years to mature to a size that would provide adequate screening. There are already 2 local solar farms within the Birch parish, both of which are in areas that are much more discreet and do not detract from the natural beauty of the local countryside.

9.3 Marks Tey Parish

Marks Tey Parish Council support this application

10.0 Representations from Notified Parties

- 10.1 The Council consulted over 600 addresses and as the Environmental Statement was updated within the application period this 30 day consultation happened twice. A number of representations were received from interested neighbours. 73 objected, 32 noted general observations and 5 supported the scheme. Some of the representations received are very detailed. They can all be read online. The table below breaks these into broad themes and provides a brief officer response. Further information is provided in the report below that.

Theme	Comment	Response
Scale	<ul style="list-style-type: none">• The scale of the Solar Farm is far too big.• The scheme is overdevelopment.• There must be scope for a smaller scheme.• This is the same size as Layer De La Haye itself.• The Solar Farm could be expanded further at a later date.	<p>There is a significant and quantifiable need for the deployment of solar farms which is being driven by government at local and national level in the UK. Section 2.0 of the submitted Planning Design and Access Statement (PDAS) sets out the rationale for maximising the megawattage of a Site in light of the Government's net zero by 2050 target, and the National Infrastructure Commission's (NIC) recommendations for eight-fold increase to existing UK solar output to meet the renewable demand by 2050. The PDAS notes that each local planning authority (LPA) has a role to play in increasing the UK's solar energy output, with each of the 382 LPAs across the country needing to provide approximately 6 solar farms the size of Layer Solar Farm in order to meet the 2050 required megawattage quoted by the NIC.</p> <p>In terms of the Site itself, the Applicant notes that the Proposed Development has been designed so as to practically fulfil its purpose of generating electricity. It has also been designed as far as possible to avoid adverse impacts by ensuring sensitive siting and layout which is</p>

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Theme	Comment	Response
		<p>compatible within its location, together with improving the quality of the area by introducing landscape and biodiversity enhancements. The Applicant notes that the Site is not subject to any statutory or non-statutory landscape or land designations.</p> <p>Section 8.0 of submitted PDAS assesses the Proposed Development and demonstrates that the Proposed Development complies with planning policy and there are significant benefits associated with it. The environmental and technical reports that form part of the planning application submission demonstrate that there would be no unacceptable environmental impacts from a project of this scale, and there are a number of added benefits, including habitat creation and biodiversity gains.</p> <p>Factors such as the above, when combined with the significant need for renewable energy, mean that the planning balance (and, in particular, when considered in the context of the tests under Section 38(6) Planning and Compulsory Purchase Act 2004) is weighted significantly in favour of the Proposed Development.</p> <p>The Climate Change Act 2008 has committed the UK Government to significantly reduce GG emissions by 2050 and steps to support decarbonising of the UK energy economy is an important part of this strategy and aligns with CBC's declaration of a climate emergency.</p>
Landscape and Visual Impact	<ul style="list-style-type: none"> This scheme will be highly visible from the surrounding roads and public rights of way. 	<p>The planning application is accompanied by a LVIA (ES Volume I Chapter 6), photomontages and Figure 6.6 (Rev.02): 'Mitigation Planting Proposals'. The design of the Proposed Development has been subject to significant input from a landscape architect.</p>

Theme	Comment	Response
	<ul style="list-style-type: none"> It will harm the quality of the countryside in visual terms. 	<p>Following National Guidance, well-established principles of design have been incorporated into the proposed site layout, taking a range of constraints into consideration to minimise effect. The layout of the panels has been designed to be sympathetic to the local landscape, retaining the existing structural landscape features, such as hedgerows and tree groups, and including a comprehensive landscape scheme. These are set out in detail in the submitted LVIA.</p> <ul style="list-style-type: none"> The LVIA notes that whilst some effects could be experienced by PRoW and Sustrans users whilst mitigation planting is beginning to establish, by the stage of full maturity, no significant effects on the visual amenity of these receptors is expected. In terms of selected nearby properties, gradual mitigation planting measures would establish and add further filtering and screening of views of the solar panels. By the stage of full maturity, no significant effects on the visual amenity of these residents is expected. <p>Whilst the LVIA identifies the above effects, it should be noted that these are largely initial impacts at the start of operation whilst proposed mitigation planting matures. By the stage of full maturity most of the above impacts are considered to be substantially reduced. Therefore, it is considered that the significant effects on landscape and visual amenity as a result of the Proposed</p>

Theme	Comment	Response
		<p>Development would be extremely limited in this location.</p> <p>The submitted LVIA also confirms that there would not be any residual significant effects on landscape fabric, landscape designations or any of the other identified Landscape Character Areas located within the 3.0 km radius LVIA study area of the Site. There would be no significant effects on the visual amenity of the vast majority of residential receptors or on the visual amenity of visitors to any of the visitor attractions, within the LVIA study area.</p> <p>It is considered that, on balance, the Proposed Development complies with the aforementioned planning policies relating to landscape and visual impact, whilst making a considerable and positive contribution to the Government's targets for 2050. This is on the basis that the vast majority of impacts are not significant, and the significant mitigation proposals have further reduced the anticipated degree of impact.</p> <p>Please refer to the submitted Planning Design and Access Statement, LVIA and Landscape and Biodiversity Scheme for more information on the visual impact and mitigation proposed as part of the planning application.</p>
Alternative Sites/Visual Impact	<ul style="list-style-type: none"> There are far better sites that would be less visually intrusive. 	<p>The Site is not located in an area which is subject to any statutory or non-statutory landscape or land designations, nor is it designated in any capacity for openness.</p> <p>The Alternative Site Assessment ('ASA') report that forms part of the planning application submission demonstrates the process that the Applicant went through to identify the Site, including the consideration</p>

Theme	Comment	Response
		<p>of previously developed land and lower grade agricultural land. The overall aim of the assessment is to demonstrate that the Applicant has given due consideration to the benefits and constraints associated with the Site when selecting it for development.</p> <p>The assessment concludes that there are no alternative sites that are more suitable than the Site, when considered relative to the applied criteria, including avoiding designated sites, using lower grade agricultural land (Grade 4 – not Best and most Versatile), and avoiding areas subject to a higher risk of flooding. Please refer to the ASA itself or ‘Site Selection’ in Section 3 of the submitted Planning, Design and Access Statement for further detail.</p>
Planning balance	<ul style="list-style-type: none"> • The harm this scheme causes far outweighs the benefits in terms of low carbon power generation. 	<p>The principle of renewable energy, such as solar power, is supported by local and national planning policy. Furthermore, the Council has declared a climate emergency and the UK Government has committed to meeting a legally binding target of net-zero carbon emissions by 2050.</p> <p>The Proposed Development complies with planning policy and there are significant benefits associated with it. The environmental and technical reports that form part of the planning application submission demonstrate that there would be no unacceptable environmental impacts, and there are a number of added benefits, including habitat creation and biodiversity gains.</p> <p>These factors, when combined with the significant need for renewable energy, mean that the planning balance (and, in particular, when considered in the context of the tests</p>

Theme	Comment	Response
		under Section 38(6) Planning and Compulsory Purchase Act 2004) is weighted in favour of the Proposed Development.
COVID-19	<ul style="list-style-type: none"> Is the village even aware this application is in or is the pandemic a distraction? 	<p>The Applicant has demonstrated that it has carried out a meaningful pre-application consultation exercise in respect of the Proposed Development, primarily focused on the local community, but also including consultation with Colchester Borough Council and other stakeholders. A Consultation Report is submitted with the planning application.</p> <p>The Consultation Report illustrates that the Applicant has listened to the views expressed by consultees, including the local community, and has made changes to the Proposed Development to help address and mitigate concerns. The report includes details regarding the use of a virtual consultation platform ('CommonPlace') which was implemented in order to better engage with and receive comments from the local community during the ongoing COVID-19 pandemic.</p> <p>Examples of the consultation materials produced, including leaflets and extract from the CommonPlace platform, are appended to the Consultation Report that forms part of the planning application submission.</p>
Alternative renewables	<ul style="list-style-type: none"> Offshore wind is far more appropriate for our country. 	<p>The UK Government has committed to meeting a legally binding target of net-zero carbon emissions by 2050 and the Council has declared a climate emergency. This requires major investment in proven technologies, such as both solar and wind, which are supported by planning policy at local and national level. Whilst more offshore wind is</p>

Theme	Comment	Response
		needed, the Proposed Development (and other solar schemes nationwide) will also help to address the need by generating clean and renewable energy.
Nature of the Development	<ul style="list-style-type: none"> This is a major industrial development. 	Points relating to scale are covered in the above entries. It should also be noted that the Proposed Development is temporary and the land would be reinstated to its pre-working quality, there are also no suitable alternative sites on previously developed or lower quality land. Further information on the selection of the Site, against other in the surrounding area, can be found in the submitted Alternative Site Assessment Report.
Ecology	<ul style="list-style-type: none"> It will be extremely harmful to ecological interests. 	<p>The Proposed Development has been designed to result in no unacceptable impacts to local ecology and instead provide numerous biodiversity enhancements for the Site. A full Environmental Impact Assessment (including Environmental Statement) was prepared and submitted with the planning application for the Project. The impact of the Proposed Development on biodiversity is considered in at Chapter 7 (Ecology) of the ES, this included data from the following Phase 1 and Phase 2 surveys:</p> <ul style="list-style-type: none"> Extended Phase 1 Habitat Survey; Wintering Bird Surveys (2019 and 2020); Badger Survey; and GCN eDNA surveys. <p>Chapter 7 also concluded that no likely significant impacts are predicted to arise from the Proposed Development in relation to designations such as Abberton Reservoir RAMSAR & SPA. It should</p>

Theme	Comment	Response
		<p>be noted that avoidance and mitigation measures have been 'designed-in' to the Proposed Development, such as the implementation of a buffer zone from the Reservoir in the south east part of the Site.</p> <p>In terms of enhancing biodiversity, the ES and application documents propose Mitigation-by-design within the Proposed Development including: the sowing of pasture below solar panels, the sowing of wildflower margins along the edges of solar panels and boundary features, as well as the strengthening and extension of the existing hedgerow network through additional shrub and tree planting. The measures will result in beneficial impacts to habitat and species receptors within and adjacent to the Proposed Development site, resulting in a significant net gain for biodiversity post-development.</p>
Biodiversity Net Gain (BNG)	<ul style="list-style-type: none"> Biodiversity gains must be secured if this is to go ahead. 	<p>A Biodiversity Net Gain Assessment Report ('BNG Report') was submitted in September 2021 to Colchester Borough Council ('CBC'). The BNG Report used Metric 3.0 calculations to confirm that the Proposed Development would result in an 84.86% net gain in habit units, significantly higher than the 10% requirement coming forward in emerging local and national planning policy.</p>
Heritage	<ul style="list-style-type: none"> The scheme will harm the setting of designated and non-designate heritage assets. 	<p>The application site is set in an area that includes a number of designated and non-designated heritage assets, within its boundary and within the Study Area that was reviewed by the submitted Desk Based Assessment.</p> <p>The Project would not materially affect any listed buildings, although a development of this scope has the potential to affect the landscape</p>

Theme	Comment	Response
		<p>character of the area and affect the wider setting of built heritage assets in its vicinity. However, the impact of the scheme on the setting of the listed sites in the perimeter of the site would be mitigated by their physical separation and the design and landscape mitigation strategy that aims to alleviate the development's visual impact on the wider area.</p> <p>For the above reasons it is not considered that the proposed development would have any adverse impact on the special interest of the designated heritage assets that are identified in the Heritage Gazetteer and therefore, there are no objections to its support on heritage grounds.</p>
Traffic	<ul style="list-style-type: none"> This will cause unacceptable traffic problems. 	<p>Due to the nature of the Proposed Development, during the operational phase it would only generate a limited number of trips associated with servicing and maintaining the equipment. Approximately 4 vehicles (car or transit van type vehicles) would be expected to visit the site each week, generally spread out across multiple days. In the event that a new or replacement item for equipment is required, it is estimated that 1 HGV trip may occur per annum. No abnormal loads are anticipated.</p> <p>The number of construction vehicle trips during the construction phase is also expected to be relatively limited, with approximately 6-8 HGV deliveries expected typically across each working day, over a 16-week period. The number of construction vehicle trips is expected to be quite limited and there should not generally be a build-up of trips at any particular point in the programme, or construction traffic related congestion.</p>

Theme	Comment	Response
		<p>Following consideration of highway access option for the Site, it has been concluded that the proposed accesses are fit for purpose for both construction and operation. The assessment includes vehicle tracking and visibility splays.</p> <p>The submitted Transport Report includes a framework Construction Traffic Management Plan ('CTMP') and it is proposed that a detailed plan is to be secured by planning condition. The CTMP would be sufficient to adequately manage the limited transport impacts associated with the Proposed Development and it is therefore considered that the Proposed Development complies with the relevant planning policy.</p>
Site Selection	<ul style="list-style-type: none"> The alternative site selection report is flawed and is too constrained with a number of unreasonable restrictions imposed. 	<p>There is no formal requirement to undertake any sequential assessment of alternative sites. In an appeal at Westerfield Farm, Carterton, Oxfordshire (APPD3125/A/14/2214281) the Inspector observed, at para. 43, that: "It is not local or national policy for a developer to be required to prove that there is no better alternative location for a development before planning permission may be granted." Notwithstanding this, the Applicant has undertaken and submitted an Alternative Site Assessment ('ASA') of sites within a 4.5 km radius of the connection point to the substation at Layer de la Haye. The assessment considered previously developed land and lower grade agricultural land, land availability, site parcel size, environmental constraints, distance to the point of connection and other factors.</p> <p>The Applicant considered that none of the other considered sites provided a more feasible alternative to the one proposed.</p>

Theme	Comment	Response
Cable Run	<ul style="list-style-type: none"> The installation of the cable run will cause terrible disruption. 	<p>In order to connect the Proposed Solar Farm to the wider grid, a cable connection will be formed, which will be laid in the verge of Malting Green Road and Abberton Road. Under the New Roads and Street Works Act, in due course a Section 50 Road Opening Licence will be applied for to permit the installation of the cable. Associated liaison with the street works co-ordinator at the highway authority will then determine the programming of the cable works and any requirements for traffic management. Residents will be kept informed and access within the work areas will be maintained 24 hours a day, but the impact of these works on traffic movements is anticipated to be limited.</p>
Electronic Disruption	<ul style="list-style-type: none"> We are concerned about the impact of the inverters on our personal electronic equipment. 	<p>The Project (including its inverters and cable route) will not disrupt existing electrical supply to the surrounding area. The Applicant has confirmed the project has a connection offer accepted with the local network operator, UK Power Networks. The connection offer is made up of commercial and technical parts, with the technical focused on compliance with the Distribution Code or 'D Code'. D Code standards are managed by the Electrical Networks Association who support all of the network operators along with National Grid.</p> <p>The Applicant notes that detailed electrical studies will be completed to ensure the required standards are met. The electrical studies are supplied to UK Power Networks and signed off as part of the connection process. UK Power Networks need to be satisfied that project will be compliant with all D Code requirements before the project is energised. On energisation, a connection agreement is put in</p>

Theme	Comment	Response
		place between the project and UK Power Networks with obligations on both parties to continue to meet the requirements of the D Code.
Site Use	<ul style="list-style-type: none"> We need more farms producing food. 	<p>The site is located in an agricultural location, however it is generally accepted that solar farms are a use that may be appropriate in these locations.</p> <p>It is also notable that the Proposed Development is located on land that is classed as Grade 3b (moderate quality) agricultural land, thereby avoiding best and most versatile land as required by planning policy. The Alternative Site Assessment demonstrates that there are no more suitable sites located on lower grade land in the area and the development of the Site would mean that the area's high-quality agricultural land is preserved. Importantly, it should also be noted that agricultural land use at the Site would be retained. This is because the land can be grazed once the Proposed Development is in operation, meaning that the land would have to dual benefit of being agriculturally productive whilst providing for the generation of renewable energy.</p>
Flooding	<ul style="list-style-type: none"> This will cause flooding. 	<p>The entirety of the Site is located within Flood Zone 1, the zone with the lowest risk of flooding according to the Environment Agency (EA).</p> <p>It should be noted that runoff rates for surface water are unlikely to increase as a result of the Proposed Development (due to existing impermeable conditions, small area of the Site in hardstanding and the existing drainage system); hence, impact on the surrounding area is not expected. The drainage strategy is the FRA recommends that</p>

Theme	Comment	Response
		swales/filter drains should be located around the Site. Runoff would be directed into the swales from the hardstanding areas into existing drains. The retention of grass between and underneath the solar panels should maintain the original greenfield runoff rates within the Site.
Solar panels on buildings	<ul style="list-style-type: none"> Solar Panels should be on all commercial buildings not on agricultural land. 	<p>The Applicants Alternative Site Assessment confirms that commercial rooftops are not considered because (i) there are no known rooftops of sufficient size in the local area; and (ii) assessing the potential for development of multiple rooftops is not comparable or realistic, relative to a ground-mounted solar PV farm.</p> <p>Furthermore, the Government's National Planning Practice Guidance on renewable and low carbon energy sets out in paragraph 013 regarding ground-mounted solar farms that the focus should be on the effective use of previously developed and non-agricultural land or agricultural land where it can be justified, however, rooftops are not mentioned.</p> <p>In addition to the above, whilst the site is located in an agricultural location, it is generally accepted that solar farms are a use that may be appropriate in these locations. Sites large enough to accommodate the proposed MW output and that make a significant contribution to meeting the challenging 2050 target are extremely difficult to find in settlements and/or on previously development land, as is demonstrated by the Alternative Site Assessment.</p>

Theme	Comment	Response
Glint and Glare	<ul style="list-style-type: none"> The glare will be unacceptable. 	<p>The applicants note that Glint and glare is not considered an issue with modern solar panels such as those proposed at this site, which are low in reflection. It was more of an issue with the older solar farms built circa 10 years ago however technology has significantly moved on since then.</p> <p>To ensure that this matter was dealt with in a wholly satisfactory manner and on the basis of evidence, the applications were asked to commission a Glint and Glare assessment. This has been carried out by Neo Environmental and specifically by an engineer who is trained in and specialises in making such assessments.</p> <p>This concluded that Solar reflections are possible at 30 of the 36 residential receptors assessed within the 1km study area. The initial bald-earth scenario identified potential impacts as High at 27 receptors, including four residential areas, Low at three receptors, including two residential areas, and None at the remaining six receptors. Upon reviewing the actual visibility of the receptors, glint and glare impacts remain High at six receptors, including one residential area, Low at seven receptors, and None at 23 receptors, including three residential areas. Once mitigation measures were considered, impacts for all receptors reduced to None.</p> <p>Solar reflections are possible at 32 of the 36 road (i.e. points on the public highway) receptors assessed within the 1km study area. Upon reviewing the actual visibility of the receptors, glint and glare impacts remain High at 12 receptors and reduce to None at the remaining 24 receptors. Once mitigation measures were</p>

Theme	Comment	Response
		considered, impacts reduce to None for all receptors.
Technology	<ul style="list-style-type: none"> Solar Panels are not an efficient way of generating power nor are they low carbon, they are however effective at generating cheap electricity. 	In order to meet the Net Zero targets, planning policy at both local and national levels is supportive of proven technologies, such as solar. The Proposed Development would help to meet these urgent targets by generating clean and renewable energy without the need for subsidies.
Commercial Viability	<ul style="list-style-type: none"> This is simply a money-making scheme. 	It is widely accepted that Solar Farm schemes such as this one must be commercially viable in order to come forward.
Consenting Regime	<ul style="list-style-type: none"> The 49.9MW peak output is only 0.1MW less than what would be an Nationally Significant Infrastructure Project. 	It is common practice for solar farm schemes to be designed to generate up to 49.9Megawatts in England, so as to be considered under the Town and Country Planning Regime as opposed to the Planning Act 2008 (via Development Consent Order) for those over 50MW. Nationally Significant Infrastructure Projects tend to be a minimum of 5-6 times larger than 49.9MW.
Property Values	<ul style="list-style-type: none"> There will be an adverse effect on property values. 	Not a planning consideration.
Benefit	<ul style="list-style-type: none"> Could a hard surfaced bridleway be installed? 	A permissive right of way has been proposed as part of the scheme in response to requests from multiple members of the community.

10.2 A number of support comments were also received. In summary they noted:

>I would be happy to support this scheme as climate change is a huge concern.

>I would be proud to say we have a Solar Farm in the village.

>Investment in schemes such as this are vital.

>This will actually increase biodiversity in the area due to the significant amount of planting proposed.

11.0 Parking Provision

11.1 None required as no public access to site.

12.0 Accessibility

12.1 This scheme is not intended to be visited by the public and will not therefore be expected to be fully accessible.

13.0 Open Space Provisions

13.1 No open space is proved as this is not a residential scheme where it is required.

14.0 Air Quality

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

15.0 Planning Obligations

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

A contribution of £17,533.00 to for the display of any Archaeological finds and in order to update the Historic Environment Record.

16.0 Report

16.1 Planning Policy Principle

National planning policy on renewable energy development is set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance: Renewable and Low Carbon Energy (PPG). Both documents set out very clear support for renewable energy development.

Chapter 14 of the NPPF; ‘Meeting the challenge of climate change, flooding and coastal change’ sets out the following relevant policy.

At paragraph 152, the NPPF sets out its support for renewable energy development. It states that *“The planning system should support the transition to a low carbon future in a changing climate,... It should help to:....support renewable and low carbon energy and associated infrastructure.”*

The NPPF continues at Paragraph 153 to state: *“Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.”*

Paragraph 158 states: When determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas

The NPPG makes it clear that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable. (Paragraph: 001 Reference ID: 5-001-20140306).

Adopted Core Strategy Policy ER1 (Energy, Resources, Waste, Water and Recycling) of the Core Strategy states that *“the Council will encourage the delivery of renewable energy projects, including micro-generation, in the Borough to reduce Colchester’s carbon footprint.”*

The supporting text on page 80 of the Core Strategy states *“Stand alone renewable energy projects that are sympathetic to landscape character and local amenity will also be supported”*.

Adopted Policy DP25 (Renewable Energy) of the Development Policies DPD states that *“the local authority will support proposals for renewable energy schemes”* along with their ancillary land based infrastructure. The policy also highlights the need for all types of renewable energy schemes to be located and designed to minimize all impacts.

In terms of the Emerging Local Plan, Draft policy CC1 (Climate Change) of the emerging Local Plan 2017-2033 states that a low carbon future for Colchester will be achieved through a number of measures including *“encouraging and supporting the provision of renewable and low carbon technologies.”* Draft policy DM25 (Renewable Energy, Water, Waste and Recycling) states the Council *“will support proposals for renewable energy*

projects including (inter alia) solar farms...at appropriate locations in the Borough to help reduce Colchester's carbon footprint".

It is therefore held that there is strong national and local policy for development of this type also long as its impacts can be mitigated sufficiently.

16.2 Background to EIA Development

This scheme is EIA (Environmental Impact Assessment) development and has therefore been accompanied by an Environmental Statement.

The legislative framework for EIA is set by the EIA Directive 2014/52/EU (European Commission, 2014) on the assessment of the effects of certain public and private projects on the environment; this is known as the 'EIA Directive'. The EIA Directive is concerned with ensuring that the likely environmental effects of proposed development projects are considered thoroughly in order to inform the decision makers in the development consent process.

Since the UK has a number of different development consent regimes for different types of projects, the EIA Directive (and its predecessors) has been transposed into UK law through a number of Statutory Instruments. In the case of the Proposed Development, permission is being sought through a planning application to Colchester Borough Council (CBC). The Statutory Instrument implementing the EIA Directive for the purposes of planning applications, and under which this ES is submitted, is the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (HMSO, 2017), as amended. These regulations are hereafter referred to as the 'EIA Regulations'.

Under the EIA Regulations, the Proposed Development falls within Schedule 2, Part 3(a):

"industrial installation for the production of electricity, steam and hot water (unless included in Schedule 1)".

In July 2020, the Applicant requested an EIA Screening Opinion from CBC in their capacity as determining authority. CBC issued a formal EIA Screening Opinion which stated that the proposal is held to be EIA development and the planning application must be accompanied by an ES.

The ES is a lengthy and detailed document split into a number of chapters, appendices and plans/figs attached. There are all available on the website and members are encouraged to view them. There is also a non-technical summary.

16.3 The Scope of the EIA

As set out in chapter 3 of the ES, establishing the scope of the EIA is a key step in the assessment process.

Based on the information available regarding the Proposed Development, a review of information relating to the Site and surroundings and planning policy, a judgement has been made on which environmental topics or particular aspects of them should be 'scoped in' and 'scoped out' of the EIA.

Issues that are scoped into the EIA are judged likely, without effective mitigation, to have the potential to cause significant adverse environmental effects. Issues that are scoped out of the EIA are those which it is considered are not likely to lead to significant effects. Where insufficient information is available to make a reasonable judgement, a precautionary approach has been adopted and that issue scoped in. The decision to scope out issues is based upon factors such as a high degree of development-receptor separation, the lack of impact pathways or the known low value or low sensitivity of impacted resources/ receptors.

It is considered that the Proposed Development has the potential to result in significant effects on landscape and visual amenity, biodiversity, and cultural heritage. As such, these environmental assessments topics have been scoped into this EIA. The reasons for inclusion within this EIA are outlined within the following sections:

Chapter 6: Landscape and Visual Amenity,
Chapter 7: Ecology and
Chapter 8: Cultural Heritage.

All other matters were scoped out of the EIA and Chapter 3 of the ES sets out why that is from (ES para 3.4.6 onwards). These matters will still be dealt within this report and were covered by the Planning Statement/DAS that also accompanied the scheme.

It is noted that this report will deal with the three matters that have been scoped in first, before turning to other matters for consideration.

16.4 Landscape and Visual Amenity

Chapter 6 of the ES deals with this matter.

At a national level the NPPF (2021) has a number of relevant paragraphs: 174. Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

(plus other criterion not as relevant to this scheme)

Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of its landscape setting.

A pre application report was submitted to CBC requesting pre application advice for a solar farm on the Site. In addition, a suggested scope of work for the LVIA was submitted to the Landscape Officer at CBC, including viewpoint suggestions, proposed extent of Study Area and proposed visualisation type.

The ES sets out in significant detail how the best practice assessment model was followed throughout.

The Proposed Development would be situated within a series of arable fields to the west and southwest of Layer-de-la-Haye. The field pattern across the Site varies, but is broadly rectangular, where the fields are generally bound by hedgerows. Several areas of deciduous woodland and tree belts are located adjacent to the Proposed Development, particularly in the north. The cable connection route to Abberton Substation would follow a route underground on the public highway from the connection compound by Birch Road and along Abberton Road to the substation.

The landform of the Site very gently undulates between heights of 30 m and 40 m AOD. A pylon line passes through the southern portion of the Site, with a further pylon line situated approximately 300 m southeast of the Site. A number of power lines on poles cross through various parts of the Site.

No public rights of way (PRoW) cross through the Site itself, although several are located in close proximity to the Site, including PROW 124_23, PROW 124_24 and PROW 141_4 close to the northern portion of the Site, and PROW 141_20 close to the southern boundary of the Site. Sustrans Cycle Route 1 travels along a local road and along PROW 124_24 close to the northern portion of the Site. The Site is separated into two sections by Birch Road, a local road running west from Layer-de-la-Haye.

In terms of landscape fabric, the proposed solar farm development would be located across a series of fields to the west of Layer-de-la-Haye. These fields are a series of arable fields bounded by hedgerows, tree belts and woodland blocks where the landscape elements are the hedgerows and tree belts forming field boundaries within the Site.

The relevant ES chapter sets out how at a national level, Natural England has divided England into 159 National Character Areas (NCAs). The entire Study Area falls within NCA 111: Northern Thames Basin. This is a diverse area extending from Hertfordshire in the west to the Essex coast in the east. The suburbs of North London as well as historic towns and cities such as St

Albans and Colchester are included within this area. The area contains a diverse range of landscapes with urbanisation mixed in throughout. The proximity to London has put increased pressure on the area, in particular from housing developments and schools etc, with a consequential reduction in tranquillity.

The Site and Study Area are characterised in more detail as part of the Colchester Borough Landscape Character Assessment (CBA, 2005). Within the 3km study area this assessment identifies five Landscape Character Areas (LCAs) within two Landscape Character Types (LCTs) (River Valley and Farmland Plateau LCTs). The Site itself is located almost entirely within LCA B1 – Layer Breton Farmland Plateau, with a very small part of the Site boundary (although not the solar farm itself) located within LCA A2 – Wooded Roman River Valley.

It is important to note that there are no national or local landscape designations that cover the site nor are within the 3.0 km radius Study Area.

The ES chapter sets out how the design of the Proposed Development has taken a range of constraints into account in order to minimise potential adverse effects wherever possible. Additional mitigation planting has been proposed to strengthen and enhance existing landscape features and also to minimise potential visibility of the solar farm.

The ES looks at the construction phase, the operational phase and the decommissioning phase.

The indicative layout of the solar panels retains existing structural landscape elements, such as hedgerows and tree groups and reinforces these elements at several points through the mitigation planting proposals – a key benefit of the scheme in landscape terms. The solar panels would be located over pasture grassland which would be managed through grazing over the lifetime of the proposed development.

Following initial studies, the location of nearby residential properties and PRowS have been considered and the solar farm layout and mitigation planting proposals have been designed accordingly. An exclusion zone has been maintained along the corridor under the pylons in line with National Grid policy and space has been made within the layout for wayleaves and watercourses.

As noted above, whilst the site is 96.8 hectares with the solar panels set within the existing field pattern, 28.9 hectares of this area will be left without solar panels or Site infrastructure.

The solar panel arrays would be fixed into the ground on galvanised frames so that the total height above ground of the highest part of the panels would be approximately 2.8 m. No concrete foundations would be required, instead using pile-driven metal frames supported by metal posts. The panels would be positioned in regular rows facing south with a spacing of approximately 3.2m between rows, and would be dark blue/ black in colour.

The associated infrastructure such as the inverters/ transformers and the substation compound, would be set within the solar arrays and/ or in well screened parts of the Site, taking advantage of the screening provided by surrounding vegetation and the solar panels themselves. This follows best practice for such developments.

A deer fencing style of security fencing would be utilised at the site so as to blend into the local landscape but still provide the security essential to such an operation. This would reach a height of approximately 2m. This would be located inside the existing vegetation surrounding the Site ensuring that the fence is visually obscured and access is available for hedge trimming and maintenance. The perimeter of the Site would be protected by a system of CCTV and/or infra-red cameras set at approximately 50 m intervals along the deer fencing and set upon poles of a height up to 3 m. These are relatively discreet items and are not held to have a material landscape impact. It is noted that the Police would like to see more substantial fences erected around the site but this is not held to be appropriate in this location.

It is also important to note that part of the scheme comprises an electrical connection route would also be laid to the Abberton Substation. This would be connected entirely underground along the existing road network and is therefore held to have not material impact on landscape interests.

The ES has made a very detailed assessment of the impact of the development over its lifespan from construction, to operation and then to decommissioning. The assessment made from all reasonable receptors, be they residential dwellings in the search area, public rights of way, the road networks, long distance paths and visitor attractions (for example Colchester Zoo and Abberton Reservoir EWT visitor centre).

The ES has highlighted some key significant residual effects:

- The character of the landscape of the Site and parts of LCA A2 – Wooded Roman River Valley on its fringes with the Site around the edges of Chest Wood and Cook's Wood.
- The visual amenity of an extremely limited number of residents in individual properties in the surrounding landscape local to the Site. Gradually mitigation planting measures would establish and add further filtering and screening of views of the solar panels. By the stage of full maturity, no significant effects on the visual amenity of these residents is expected.
- The visual amenity of users of a few sections of local footpath proximate to the site (PROWs 124_24, 141_4 and 141_20) and a limited section of Sustrans Route 1. Whilst mitigation planting is beginning to establish, some significant effects would occur, although by the stage of full maturity, no significant effects on the visual amenity of these receptors is expected.

These impacts have been carefully considered by both your Planning Officers and by the Council's In-house Landscape Advisor. It is held that with the mitigation that is proposed and is suggested to be secured by condition, the scheme will not have a materially harmful impact on the Landscape.

16.5 Ecology

Chapter 7 of the ES deals with this matter.

The National Planning Policy Framework ('NPPF') states at para 180:

'When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'

At paragraph 181 it says: The following should be given the same protection as habitats sites: a) potential Special Protection Areas and possible Special Areas of Conservation; b) listed or proposed Ramsar sites⁶⁴; and c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

Adopted Core Strategy DPD Policy ENV1: Environment, states that The Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The Council will safeguard the Borough's biodiversity, geology, history and archaeology through the protection and enhancement of sites of international, national, regional and local importance. In particular, developments that have an adverse impact on Natura 2000 sites ... will not be supported.

Adopted Development DPD Policy DP21: Nature Conservation and Protected Lanes states that Development proposals where the principal objective is to conserve or enhance biodiversity and geodiversity interests will be supported in principle. For all proposals, development will only be supported where it:

- i. Is supported with acceptable ecological surveys where appropriate. Where there is reason to suspect the presence of protected species, applications should be accompanied by a survey assessing their presence and, if present, the proposal must be sensitive to, and make provision for, their needs;
- ii. Will conserve or enhance the biodiversity value of greenfield and brownfield sites and minimise fragmentation of habitats;
- iii. Maximises opportunities for the restoration, enhancement and connection of natural habitats in accordance with the Essex Biodiversity Action Plan; and
- iv. Incorporates beneficial biodiversity conservation features and habitat creation where appropriate.

The Emerging Section 2 Colchester Borough Local Plan 2017-2033 Policy ENV1: Environment states the Local Planning Authority will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The Local Planning Authority will safeguard the Borough's biodiversity, geology, history and archaeology, which help define the landscape character of the Borough, through the protection and enhancement of sites of international, national, regional and local importance. In particular, developments that have an adverse impact on the integrity of:

European sites, Sites of Special Scientific Interest or the Dedham Vale Area of Outstanding Natural Beauty (including its setting) will not be supported. Development proposals within designated areas or within the Coastal Protection Belt will need to comply with policies ENV2 and ENV4. Development proposals where the principal objective is to conserve or enhance biodiversity and geodiversity interests will be supported in principle.

The ES demonstrates how the proposed development has been designed to respect the character of the landscape and use the strong field boundaries to integrate the scheme into the landscape as far as practicable. Existing landscape features would be protected and strengthened and all trees and hedgerows on or around the Site would be retained and additional planting provided where necessary, to fill gaps in the existing boundary planting to retain field enclosures.

The specific landscaping and biodiversity proposals for the Site include the following:

- *the inclusion of additional non-development areas within the planning application boundary, to allow for habitat enhancement areas and standoffs from sensitive features to be secured by any planning permission and managed as part of the Proposed Development;*

- *Removing panels from the southern boundary of the Site to provide a buffer to protect birds from the statutory designated ecological sites at Abberton Reservoir;*
- *standoffs from sensitive ecological features e.g. field margins hedgerows and Ancient Woodland.*
- *maintain site boundary hedgerows to 3.0m in height, maintain new hedgerows and hedgerow infill sections to 3.0m in height, maintain existing outgrown hedges as tree belts to link with newly planted tree belt sections. All these elements would minimise the visibility of the Proposed Development beyond the Site.*
- *Removing panels from the northern parcel of land within the Site to maintain south-facing views for residents of Woodhouse Farm;*
- *removing panels from the north western parcel of land within the Site to maintain east-facing views from residents of The Bungalow;*
- *any gaps within existing hedge lines infilled to maintain visual continuity and the boundary hedges thickened in parts of the Site;*
- *all planting comprising of native indigenous species common within the local area, such as hawthorn, blackthorn, hazel and common oak.*
- *a buffer zone in the south east section of the Site, where no panels or other infrastructure would be placed;*

As the Council does not have an in-house ecologist, Place Services were engaged to provide the LPA with an independent assessment of the scheme in ecological terms. After careful consideration, they have no objection to the scheme subject to a series of conditions which are suggested to be imposed at the end of this report.

The Proposed Development will predominantly affect the existing arable habitats within the Site during the construction phase. The Council's consultants have therefore recommended that a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be secured as a condition of any consent. This should include details for the protection and retention of all boundary features onsite. This should also include details badger protection methods as outlined in the confidential Badger Survey Report (Landscape Science Consultancy, October 2020).

The Wintering Bird Survey Report (Landscape Science Consultancy, March 2020) states that *"Although the southern edge of the Survey Site is in close proximity to Abberton Reservoir (RAMSAR, SPA & SSSI), the results of the wintering bird surveys indicate that the predominantly intensive arable habitats within and surrounding the Survey Site are not regularly used for roosting by notable populations of wintering wetland birds"* and further reports that *"in consideration of impacts to surrounding roosting resources*

for wintering wetland birds only, the potential for a future PV solar array development within the Survey Site to have 'likely significant impacts' on qualifying features of Abberton Reservoir Ramsar/SPA is considered to be negligible."

It is therefore concluded that the Development Site is not considered functionally linked to Abberton Reservoir, as it is not utilised by any of the Qualifying bird features of the SPA and Ramsar site. This information was used by the LPA in its HRA screening report and that recommended a conclusion of no likely significant effect is predicted from the development.

The Council's consultants have stated that although surveys for Priority farmland birds have not been undertaken, breeding for Skylark is assumed onsite. A mitigation strategy for breeding farmland birds should therefore be secured and implemented as a condition of any consent. This will need to include the provision of off-site nest plots for Skylarks in nearby arable fields or setaside land for a period of ten years. If the applicant has access to additional (blue line) land then delivery of this compensatory habitat can be included in the condition details.

It is also noted that the scheme and the Council's HRA screening record have been assessed by Natural England and they have no objection to the scheme. On that basis the proposal is held to preserve the interests of on and off site ecology and with the imposition of the conditions set out by the Council's consultants, will provide biodiversity net gain.

16.6 Cultural Heritage

Chapter 8 of the ES deals with this matter.

The Ancient Monuments and Archaeological Areas Act imposes a requirement for Scheduled Monument Consent for any works of demolition, repair, and alteration that might affect a designated Scheduled Monument.

The Planning (Listed Building and Conservation Areas) Act 1990 (herein referred to as 'the Act') (HMSO, 1990) sets out the principal statutory provisions which must be considered in the determination of any application affecting either listed buildings or conservation areas.

Section 66(1) of the Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. By virtue of Section 1(5) of the Act, a listed building includes any object or structure within its curtilage.

Section 16 of the NPPF deals specifically with the historic environment. Where changes are proposed, the NPPF sets out a clear framework to

ensure that heritage assets are conserved, and where appropriate enhanced, in a manner that is consistent with their significance.

194. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

195. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

197. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

The most relevant Adopted Local Plan Development Policy is DP14. The emerging Local Plan has one policy relating to heritage, Policy DM16: Historic Environment.

This policy outlines the considerations for developments in relation to the historic environment. In particular, any development which would substantially harm heritage assets must have 'substantial public benefits that outweigh the harm or loss' to be allowed to proceed.

Developments should also seek to conserve and enhance the significance of affected heritage assets. There would be 'an expectation that any new development will enhance the historic environment or better reveal the significance of the heritage asset, in the first instance, unless there are no identifiable opportunities available'.

Setting of Heritage Assets

Heritage Asset: Summary Of Significance

The application site covers an area of approximately 96.8 hectares and comprises two parcels of agricultural land, separated by Birch Road, to the west of Layer de la Haye. The application includes a Historic Environment

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Desk-Based Assessment in Appendix 8B of the Environmental Statement (revised 02 March 2021) which identifies the designated and non-designated heritage assets within the site and a study area that extends to 500m from the site boundary; the report records the site in a Heritage Gazetteer appended to the document.

There are no designated heritage assets within the application site but twenty three designated heritage assets are situated within the Study Area, including two scheduled Monuments and twenty one listed buildings. The two Scheduled Monuments are Gosbecks Iron Age and Roman site (LEN1002180) and the remains of St Mary's Church to the North of Birch Hall (LEN 1002144), which is also listed at Grade II* (NHLE 1110898). The listed buildings include the Church of St John the Baptist (NHLE 1223841) which is listed at Grade I and twenty sites which are listed at Grade II.

Fifty non-designated assets were identified within the Study Area, including a locally listed structure (the cast iron road signpost at the junction of Birch Road and High Road), forty six assets included in the Colchester HER and three assets identified by the Desk based Assessment. Thirteen of these assets are situated within the site boundary, including Iron Age remains, possible medieval field boundaries and undated cropmarks.

Relevant Statutory Duties

The relevant legislation for the review of the application from a heritage perspective includes Planning (Listed Buildings and Conservation Areas) Act (1990), whose Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The National Planning Policy Framework (2019) is an additional consideration. Section 16, par. 193 requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Par. 194 clarifies that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Whereas paragraph 195 deals with substantial harm to a designated heritage asset, Par. 196 states that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Additionally, Par. 197 clarifies that the decision of applications should consider their effect on the significance of a non-designated heritage asset and when applications directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The requirement to protect heritage assets and the historic environment is reflected Colchester Local Plan 2001-2021 policies CS ENV1 and DP14.

Analysis of Impact Upon Heritage

The present comment focuses on the assessment of the proposal's impact on built heritage ; the impact on underground and above-ground archaeology and sites of potential archaeological interest (undated cropmarks, non-designated section of Oliver's Dyke etc) has been covered in the 'Archaeology' paragraph below.

The proposed development would not have a material impact on built heritage. The impact of the scheme on the designated sites within the Study Area would derive from its impact on the character of the landscape that provides their context and its potential impact on their setting . The greatest concerns involve the Grade I listed Church of St John's The Baptist (NHLE 1223841) to the east of Church Road. Although there is a section of the application site that fronts onto Church Road, Development Zones 11 and 12 are set back approx. 200m from the road boundary which helps to mitigate the impact of the proposed development on the setting of the Church. The Church would also be affected by the use of the existing farm access off Church road during construction which requires some widening in order to be used by heavy vehicles and would also result in increased traffic and noise close to the Church. However, the access point would be used only during the construction period and therefore, the anticipated disturbance to the listed Church would be temporary.

With regard to other designated heritage assets within the Study area, the Grade II listed Wick Farmhouse (NHLE 1267123) further north to the east of Church Road would be separated from the proposed development by undeveloped land and further screened by the existing development to the west of the Farmhouse.

The majority of the designated heritage assets within the Study Area are grouped together within Layer-de-la- Haye to the east of the site and are less likely to be affected by the scheme by virtue of the woodland and existing development that screens the site to the north and east. The listed sites that are located closer to the site boundary are the Grade II Old Vicarage (NHLE 1223837) and Outbuilding to the North-west of the Old Vicarage (NHLE 1223838). A belt of mature trees screens the listed buildings from the application site while the additional planting on the boundary would enhance the visual separation between the proposed development and the listed buildings.

To the West of the site , the impact of the proposed development on sites that include the Remains of St Mary's Church (also a Scheduled Monument) and the South Lodge To Birch Hall, the listed buildings at Conduit Farm and the listed buildings at Garlands Farm would be mitigated by the degree of separation between them and the solar farm and the design and landscape mitigation strategy , as set out in Part 4 and 6 of the Environmental Statement , the Design and Access Statement and the accompanying drawings.

In conclusion, the application site is set in an area that includes a number of designated and non-designated heritage assets, within its boundary and within the Study Area that was reviewed by the submitted Desk Based

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Assessment. The project would not materially affect any listed buildings, although a development of this scope has the potential to affect the landscape character of the area and affect the wider setting of built heritage assets in its vicinity. However, the impact of the scheme on the setting of the listed sites in the perimeter of the site would be mitigated by their physical separation and the design and landscape mitigation strategy that aims to alleviate the development's visual impact on the wider area. For these reasons, it is regarded that the proposed development would not have any adverse impact on the special interest of the designated heritage assets that are identified in the Heritage Gazetteer and therefore, there are no objections to its support on heritage grounds.

Archaeology

The ES set out the archaeological background to the site in some detail. As can be seen from both the in-house Archaeologist's comments and comments from Historic England, a significant amount of trial trenching has occurred pre-determination. This involved 1% of the site being trial trenched. Archaeological trial trenching of the Site was carried out between the 1st June and 25th June, and 16th August and 7th September 2021. This comprised a total of 125 trenches which were excavated in order to assess the archaeological potential of the Site. The trenches are shown in Appendix 8C of the ES. These formed part of an initial 1% sample of the Site area, with a further 3% sample to be undertaken at the post-determination stage.

In terms of finds, archaeological features were largely evident in the northern area of the Site (north-east of Woodhouse Farm), with evidence of Oliver's Dyke observed in Trenches 116 and 120. When excavated in full, the dyke exceeded 1.20 m in depth and was largely filled with post-medieval remains, although a single flint was recovered from the base.

To the east of the dyke, a burnt pit was observed in Trench 121, whilst Prehistoric pottery was recovered in Trench 126. To the west of the dyke, in Trench 111, three postholes were identified whilst a burnt pit was evident in Trench 107. These features are all within 100 m of the dyke area and possibly related to activity surrounding the defensive feature.

Several ditches were observed in the north-eastern area of site, all of which correlate with linear trends identified from the geophysical survey. Pottery recovered indicated a post-medieval use for these ditches, with no evidence of earlier origin recovered. The features in the north-western field (south of Cook's Wood) provided no dating evidence.

The features, albeit limited within the middle fields of the North Birch Road area (south of Woodhouse Farm), correlate with some of the geophysical survey anomalies although dating evidence indicated these features to be post-medieval.

In the southern section of the Site (south of Birch Road), the ditch in Trench 26 provides evidence of earlier ditches in the area whilst at the field to the south-east, Trench 35 provides a large quantity of medieval pottery which

may indicate an earlier presence within the landscape than indicated by the postmedieval agricultural activity recorded in the immediate vicinity. Several linear features were also recorded in the southern section of the Site, including a post-medieval boundary ditch in Trench 64 and further undated boundary ditches in Trenches 56 and 74, as well as an undated ditch in Trench 47.

Other features recorded in this section of the Site also include an undated rounded pit in Trench 49 with evidence of *in situ* burning, identified as a possible fire pit, and an undated circular post hole and gully in Trench 83, both of which recorded evidence of burning. Frequent plough scars and shallow topsoil could indicate that agricultural activity, documented from cartographic sources from at least the 18th century, may have truncated or removed any evidence of earlier archaeological activity.

The ES argues that this initial phase of evaluation has found that archaeological features are heavily concentrated within the northern section of the Site, particularly the north-east corner, either side of Oliver's Dyke, whilst features excavated in the south of the Site, south of Birch Road, suggests potential for earlier activity in this area.

The results of the initial trenching sample suggest some well-preserved archaeological deposits survive, especially in the north-east of the Site, and areas of archaeological activity have been identified, dating from the prehistoric to the post-medieval period.

Both Historic England and the Council's own in-house advisor have been heavily involved with this scheme throughout the pre-app and application process and are satisfied that sufficient Archaeological investigation has been carried out. A condition has been suggested to deal with a further 3% trial trenching.

A financial contribution of £17,553 towards a display case for any finds that are made has been secured via a legal agreement. This would fall away if none are made however. It is noted that the legal agreement red line will only encompass the northern section of the site. This has been agreed with the in-house Archaeologist. This is because of land ownership issues meaning a legal agreement pursuant to the southern half of the site is not a legal possibility. The condition noted above will however cover the whole site area.

The Setting of the Monument

The application site is partly located within the scheduled monument of 'Gosbecks Iron Age and Romano-British site' (List Entry Number 1002180): The complex commonly known as Gosbecks is an extensive area of settlement, military and ceremonial activity dating from the pre-Roman Iron Age to the 4th century AD. This was part of – and according to Historic England, potentially the central part – of the late Iron Age territorial centre or oppidum of Camulodunon, a capital for British tribal kings.

The oppidum was defended by an extensive dyke system. The significance of the centre was such that it was the main strategic objective of the Roman invasion force in AD 43, and the place where the victorious emperor Claudius accepted the submission to Roman rule of a number of British tribes. Clearly, Gosbecks remained an important ceremonial centre into the Roman period, with the construction of a fort, temple enclosure and theatre.

Specifically, the site incorporates a section of late Iron Age linear earthwork, known as Oliver's Dyke, aligned N to S across the northeast part of the application site. This section has been identified during the pre-application assessment and it has been scheduled, as part of Gosbecks Iron Age and Romano-British site, since the submission of the Environmental Statement. This means it was scheduled after the ES was updated and the ES was then updated again to recognise this. The site layout was also amended to remove a whole section of panels to improve the setting as advised by Historic England.

The extent of the new scheduled area of Oliver's Dyke is c.430m long N to S x c.35m wide East to West.

The scheduled monument has demonstrably high potential to contain important stratified archaeological deposits that could considerably increase our understanding of this significance of this archaeological feature. Buried artefacts and palaeoenvironmental remains will also have potential to increase our knowledge of the social and economic functioning of the monument and surrounding landscape.

The Councils in-house team has deferred to Historic England on the matters of the setting of the Monument in question. Historic England have stated:

We confirm our view that the proposed development will result in harm to the significance of the adjacent scheduled monument through development within its setting. This is given the close proximity of the development to the (newly designated) scheduled monument. We consider the harm would be less than substantial.

The policy tests in the NPPF for the historic environment state that, when deciding whether or not to grant planning permission, the Local Planning Authority will need to have considered two main elements - whether the scheme can justify the harm to the significance of the designated heritage asset (paragraphs 199 and 200) and whether the application can deliver any additional public benefit (paragraph 202). In relation to justification, this is a matter for the Council to consider with reference to the submission, and with reference to local and national planning policies and local planning need.

With regards to the case for public benefit for the historic environment, we consider this would be delivered by removal of the scheduled monument from arable agriculture to managed grassland, and we welcome the revised indicative site layout that has been submitted in October 2021.

Therefore Historic England have not recommended a refusal but have requested that the LPA weigh up the less than substantial harm to the setting of the Monument with the planning benefits of the scheme.

As will be set out below, the very real need for low carbon power generation is a significant public benefit. It is also held that this scheme delivers heritage benefits in the shape of the removal of the Monument from agricultural production to become managed grass land with an interpretation panel located nearby, both of which will enable the public to appreciate the Monument more clearly.

Therefore on balance it is held that the less than substantial harm to the Monument is outweighed by the public benefits of the scheme.

16.7 The Need/Climate Crisis

There is a significant and quantifiable need for the deployment of solar farms and other renewable energy generation, which is being driven by government at local and national level in the UK.

In June 2019 the Government raised the UK's ambition on tackling climate change by legislating for a net-zero greenhouse gas emissions target for the whole economy by 2050. Decarbonising the power sector is integral to achieving this goal and requires major investment in proven technologies, such as solar, which are supported by planning policy at local and national level.

In October 2021, the Government published the ‘Net Zero Strategy, Build Back Greener’, which sets out its vision to end our contribution to climate change, and reverse the decline of our natural environment, leading the world to a greener, more sustainable future. The policy paper sets out that we need to act urgently and reduce emissions globally to limit further global warming. The sooner we act on climate change the lower the costs will be. Globally, the costs of failing to get climate change under control would far exceed the costs of bringing greenhouse gas emissions down to net zero. Delaying action would only serve to put future generations at risk of crossing critical thresholds resulting in severe and irreversible changes to the planet, the environment, and human society. On the other hand, early and ambitious action would help protect lives and livelihoods, while maximising the co benefits for people, society, the environment, and the economy.

This Strategy commits to take action so that by 2035, all our electricity will come from low carbon sources, subject to security of supply, bringing forward the Government’s commitment to a fully decarbonised power system by 15 years, and it explicitly seeks to accelerate deployment of low-cost renewable generation, including wind and solar. It also notes that our exposure to volatile gas prices shows the importance of our plan for a strong home-grown renewable power sector to strengthen our energy security into the future. The Net Zero Strategy was published in advance of the COP26 summit held this month in Glasgow, which will bring parties together to accelerate action towards the goals of the Paris Agreement and the UN Framework Convention on Climate Change.

In addition to the above, the Government is currently consulting upon Draft National Policy Statement for Renewable Energy Infrastructure (EN 3) which sets out that:

“Solar farms are one of the most established renewable electricity technologies in the UK and the cheapest form of electricity generation worldwide. Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large-scale solar is now viable in some cases to deploy subsidy-free and at little to no extra cost to the consumer. The Government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions. As such solar is a key part of the government’s strategy for low cost decarbonisation of the energy sector.”

Once designated, NPS EN-3 may be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended) and although it carries limited weight at present, the direction of travel of Government policy is clear.

The National Infrastructure Commission (‘NIC’), the official advisor to the Government on infrastructure provision, produced a report (in March 2020) setting out the infrastructure required in order to meet the 2050 net zero

target, including the amount of new renewable energy development that would need to be deployed.

Importantly, the NIC recommends the generation mix is up to around 90% renewables. At page 18 the report recommends that across all scenarios significant solar, onshore wind, and offshore wind, with between 129–237 GW of renewable capacity is in operation by 2050, including:

- **56 – 121 GW of solar;**
- 318 – 27 GW of onshore wind; and
- 54 – 86 of offshore wind.

The above NIC figures require a monumental increase in installed capacity, including up to 9x more solar than is currently installed in the UK, which is presently around 13 GW. The figures illustrate the need for large scale solar projects to come forward across the country, with all local planning authorities sharing responsibility in delivering this.

It is also relevant that Colchester Borough Council has declared a Climate Emergency and has committed to being carbon neutral by 2030.

The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.

This report has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is estimated that the solar panels would generate enough electricity to power approximately 16,581 homes. This is a very significant benefit of the scheme.

16.8 Loss of Agricultural Land

On a development of this scale, it is important to consider the impact the scheme will have on agricultural land.

The applicants commissioned an agricultural land classification (ALC) survey for the site (see Appendix 2A: Agricultural Land Classification Survey Report (ES Volume II) for the full report). The report concludes that the Site predominantly has clay soils and soils over gravel, with a land quality of subgrade 3b agriculture land by wetness (approximately 76% of land within the Site). There are also sections of loamy soils of subgrade 3a quality land within the northern half of the Site (approximately 22% of the Site). The other 2% of the Site is not considered to be arable land and was excluded from the survey.

As 22% of the site is higher category 3b land, Natural England were consulted on this matter. They had no objection. Natural England have clarified their comment with the following:

To clarify as the solar farm is a temporary structure, in the terms of soils this is short term and therefore will not result in the permanent loss of over 20ha of BMV land.

The scheme is therefore held to be acceptable on that basis.

16.9 Design and Design Flexibility

The DAS set out how construction work on the proposed development, assuming planning permission is granted, would not commence until a final investment decision has been made by the Applicant and a contractor appointed. Following the award of the contract(s), the appointed contractor would carry out a number of detailed studies to inform the layout and design before starting work at the Site.

It follows that it has not been possible for the Applicant to fix all of the design details at this stage. The Applicant has therefore sought to incorporate sufficient design flexibility. This relates to the dimensions and layout of structures forming part of the proposal, including the precise layout of the site and the height of the solar panels.

In order to ensure a robust assessment of the likely significant environmental effects of the Proposed Development, the assessments that form part of the planning application have been undertaken adopting the principles of the 'Rochdale Envelope'.

The approach involved assessing the maximum (and where relevant, minimum) parameters for the elements where flexibility is required. For example, the solar panels have been assessed for the purposes of landscape and the visual impact as being a maximum of 2.8 high, which is the worst-case but in practice they may be lower. A condition is therefore suggested limiting 2.8m as the maximum permissible height.

The approach also involved defining development zones, rather than having a defined layout. This allows the future contractor to optimise the layout of the solar farm following any grant of planning permission, rather than being bound to a precise layout.

The zones define where certain infrastructure should be located within the Site, but there is flexibility, in terms of the layout within each zone. The infrastructure that is proposed within each zone is as follows:

- Development Zones 1 – 6 and 8 – 12: solar panels, inverters and associated infrastructure; and
- Development Zone 7: substations, solar panels, inverters and associated infrastructure.

A condition is therefore suggested to enable the LPA to agree precisely what will be located where, but that flexibility will only be within the development zones as set out in the supporting plans. Outside of the development zones there is an expectation that only landscaping and or ecological mitigation will be proposed.

16.10 Impact on Amenity

Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

Whilst the scheme is large in scale, for the most part the scheme consists of solar panels sitting on the land. They will have very limited impact on neighbouring amenity as they are inanimate structures.

In terms of sound impact, the solar panels are silent but are isolated from neighbours by buffer zones and planting. Generally, noise levels associated with solar farms, which considered relatively benign as there are no moving parts, are very minimal and well below the levels required by the British standards for rating and assessing industrial and commercial sound. Inverters, situated away from the site boundaries make an audible sound, but this drops to ambient levels at the site boundaries, in part muffled by the solar panels. Given the distances between the inverters and the nearest residential properties there is unlikely to be any noticeable noise at all.

Glint and Glare must also be considered. Glint and glare are essentially the unwanted reflection of sunlight from reflective surfaces. Glint is a “*A momentary flash of bright light*” whereas Glare is a “*A continuous source of bright light*”.

The applicants argue that Glint and glare is really not an issue with modern solar panels such as those proposed at this site which are low in reflection. It was more of an issue with the older solar farms built circa 10 years ago however technology has significantly moved on since then.

To ensure that this matter was dealt with in a wholly satisfactory manner and on the basis of evidence, the applications were asked to commission a Glint and Glare assessment. This has been carried out by Neo Environmental and specifically by an engineer who is trained in and specialises in making such assessments.

This concluded that Solar reflections are possible at 30 of the 36 residential receptors assessed within the 1km study area. The initial bald-earth scenario identified potential impacts as High at 27 receptors, including four residential areas, Low at three receptors, including two residential areas, and None at the remaining six receptors. Upon reviewing the actual visibility of the receptors, glint and glare impacts remain High at six receptors, including one residential area, Low at seven receptors, and None at 23 receptors, including three residential areas. Once mitigation measures were considered, impacts for all receptors reduced to None.

Solar reflections are possible at 32 of the 36 road (i.e. points on the public highway) receptors assessed within the 1km study area. Upon reviewing the actual visibility of the receptors, glint and glare impacts remain High at 12 receptors and reduce to None at the remaining 24 receptors. Once mitigation measures were considered, impacts reduce to None for all receptors.

The report states that no Glare impacts are predicted on aviation receptors at Earls Colne Aerodrome. Therefore, the impacts are None.

The proposed mitigation includes hedgerows to be infilled/gapped up and maintained to a height of 3-4m along Birch Road on the southern boundary of the Northern Array and along the southern boundary of the Southern Array in the Proposed Development. Also, native tree belts to be planted and infilled along the southern and eastern boundaries of the Northern Array and along the western and eastern boundaries of the Southern Array in the Proposed Development, as well as hedgerows gapped up/infilled along the western Boundary of the Southern Array of the Proposed Development. This is all included within the mitigation planting proposals.

In conclusion, the effects of glint and glare and their impact on local receptors has been analysed in detail and the impact on all receptors is predicted to be 'not significant' as long as the mitigating planting is installed.

Whilst some of the representation received have noted concerns about glare and noise from the inverters, both matters have been carefully considered by officers and is not held to warrant the refusal of this scheme. Further, Environmental Health and the Highway Authority who have also consider the Glint and Glare report, have no objection to the scheme subject to the mitigation the report suggests.

The impact upon horses and the horse-riding community has also been considered. As the panels will be well screened by buffer planning, it is not held that the potential for the panels to 'spook' horses is a matter that cause a level of harm that would warrant a refusal of a scheme of this nature.

The Project (including its inverters and cable route) will not disrupt existing electrical supply to the surrounding area. The Applicant has confirmed the project has a connection offer accepted with the local network operator, UK Power Networks. The connection offer is made up of commercial and technical parts, with the technical focused on compliance with the

Distribution Code or 'D Code'. D Code standards are managed by the Electrical Networks Association who support all of the network operators along with National Grid.

The Applicant notes that detailed electrical studies will be completed to ensure the required standards are met. The electrical studies are supplied to UK Power Networks and signed off as part of the connection process. UK Power Networks need to be satisfied that project will be compliant with all D Code requirements before the project is energised. On energisation, a connection agreement is put in place between the project and UK Power Networks with obligations on both parties to continue to meet the requirements of the D Code.

16.11 Highways

Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).

The scheme has been carefully assessed by the Highway authority who have no objection to the scheme subject to conditions.

The assessment and consideration of the transport arrangements for the Proposed Development is set out in the Transport Report that forms part of the planning application submission. Due to the nature of the development, once constructed and operational it would only generate a limited number of trips associated with servicing and maintaining the equipment.

Approximately 4 vehicles (car or transit van type vehicles) would be expected to visit the site each week, generally spread out across multiple days. In the event that a new or replacement item for equipment is required, it is estimated that 1 HGV trip may occur per annum. No abnormal loads are anticipated. This is therefore a low intensity use in highway terms.

The transport report also looks at the construction phase. It states that the number of construction vehicle trips during the construction phase is also expected to be relatively limited, with approximately 6-8 HGV deliveries expected typically across each working day, over a 16-week period. The number of construction vehicle trips is expected to be quite limited and there should not generally be a build-up of trips at any particular point in the programme, or construction traffic related congestion.

In terms of access points, the swept path analysis has been proved to show that the existing Church Road access (the southernmost access to the main southern parcel) is acceptable. It has been improved in recent years.

The access to the southern parcel from the north (and access to the substation) is also using an existing access point. It is an oblique access angle but once again but its use is supported by swept path justification and it makes sense to utilise an existing access point.

The proposed access for the Northern Parcel is an existing access located along Birch Road. The existing access will require some localised widening within the adjacent verge on the southern side of the bell-mouth, in order to facilitate turning movements of construction vehicles to and from the northern parcel. The access is currently constructed of a bound surface but the widening and over-runnable area is planned to be reinforced.

The northern parcel west of the footpath will be served by a new access point in the same position as the existing field access and that is held to be acceptable.

Representations have noted the disturbance/inconvenience the roadworks to facilitate the cable run would bring. This have been carefully considered but as long as it is dealt with in a sensitive manner, it is not considered to cause material harm to the highway network in terms of safety or efficiency.

16.12 Trees

The scheme has been assessed by the in-house Arboriculture Planner who has asked for the buffer zones between trees and solar panels/infrastructure to be conditioned. This is in line with the advice from the Forestry Commission. This should ensure the woodlands close to the site have at least 15m of buffer between them and the proposed solar panels. The standard tree protection condition will as be imposed to ensure all trees that are already on site and not shown to be removed on the drawings are protected in line with the current British Standard.

16.13 SuDS/Flood Risk

Representations have noted the implications of the scheme in terms of run off from rainfall.

The Council undertook a Level 2 Strategic Flood Risk Assessment to support the development of the current adopted Local Plan. The assessment does not consider the Site to be included within one of the critical drainage areas.

The adopted Local Plan sets out policy DP20 "Flood Risk and Management of Surface Water Drainage" which states: 'All development proposals shall incorporate measure for the conservation and sustainable use of water. These measures shall include appropriate SuDS for managing surface water runoff within the overall design and layout of the site and measures to conserve water within individual building designs. The size of SuDS will be particularly important as part of greenfield development to manage surface

water run-off rates, and in areas close to underground aquifers and landfill sites to reduce the risk of pollution’

The entirety of the Site is located within Flood Zone 1, the zone with the lowest risk of flooding according to the Environment Agency (EA).

The overwhelming majority of the built form in this application will be the introduction of the solar panels. The panels are clearly impermeable and in a rain event water will roll off of them onto the ground below. The retention of grass between and underneath the solar panels should maintain the original greenfield runoff rates within the Site. It is notable that the solar panels are spiked onto the ground, rather than being placed on impermeable concrete (or similar) foundations. The impermeable areas associated with the proposed development are therefore very limited.

The FRA concludes that the Site is generally considered to be at low risk from surface water flooding and advises that impermeable components, such as inverters, are positioned to avoid surface water flows. This has been factored into the design of the proposal. As part of the Proposed Development a suitable drainage system, employing Sustainable Drainage System (SuDS) where possible, will be designed to deal with surface water within the Site. It is proposed that the detail of this is secured by a pre-commencement planning condition.

Runoff rates for surface water are unlikely to increase as a result of the Proposed Development (due to existing ground conditions, the small area of the Site in hardstanding and the existing drainage system); hence, impact on the surrounding area is not expected. The drainage strategy is the FRA recommends that swales/filter drains should be located around the proposed buildings, such as the inverters and substations. Runoff would be directed into the swales from the hardstanding areas into existing drains.

The LLFA are satisfied with the scheme and have recommended conditions. This matter is therefore held to be acceptable.

16.15 Land Contamination

Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.

The scheme has come with a report '*TerraConsult, Layer Solar Project, Phase 1 Desk Study and Preliminary Risk Assessment Report, Ref 10589/R01, Issue 1, dated September 2020*' which has identified some potential contaminative uses of the site, where there is the possibility of contamination, and has recommended all groundworks/excavations for the development are placed within greenfield areas.

The Contaminated Land Officer has assessed the scheme and is satisfied that as long as the applicant ensures that the development does not encroach on the areas of potential concern identified on Drawing 10589/2/001 it is satisfactory from a contaminated land point of view.

A condition has been suggested that will deal with any unexpected contaminated that may be found during the construction phase.

16.16 Biodiversity Net Gain (BNG) and Canopy Cover

The emerging Section 2 Local Plan 2017-2033 has a requirement for 10% biodiversity net gain and 10% increase in canopy cover for all major applications.

This scheme has come with a BNG assessment that utilises the BNG metric 3.0 which is held to be the most up to date and relevant metric to use. This is the metric that will be mandatory two years after the Environment Bill reaches Royal Ascent, albeit a potentially updated version by that time.

In terms of Habitats Units, Based on the completed Metric 3.0 calculations, the Proposed Development (inclusive of on-site intervention) would result in an **84.86% net gain** in habitat units.

The percentage of net gain is held to be significant, and is due to Solar farm installations requiring only very minor areas of built development which would otherwise fully and permanently remove existing habitats returning no biodiversity units (habitats can be retained or created under solar panels).

Also, over the whole area of panel coverage and along the margins of the solar panels, grazed pasture (Modified Grassland) and wildflower swards (Neutral Grassland) are to be sown and converted over arable land which per Ha are worth more biodiversity units. There is, therefore, a clear 'trading up' of habitat types over an expansive area of the Proposed Development.

In terms of Hedgerow Units Based on the Biodiversity Metric 3.0 calculations, the Proposed Development (inclusive of on-site intervention) would result in an **36.66% net gain** in hedgerow units.

This is also a very healthy percentage net gain and that is due to no hedgerows are to be removed to facilitate the Proposed Development but approximately 3km of hedgerows (with trees) would be planted or enhanced.

It has therefore been demonstrated that the scheme will provide significant biodiversity net gain.

Canopy Cover

In terms of canopy cover, no trees are proposed to be removed as set out above. The applicants are proposing the planting 0.72ha of **new** broadleaf tree belt planting. This is on top of the existing 0.52ha of existing canopy cover, equating to a **135.86%** increase compared to the baseline. As around 3km of new hedgerows with trees are to be planted, the emerging requirement of an increase in 10% on site canopy cover is well exceeded.

16.17 Site Selection

There is no formal requirement to undertake any sequential assessment of alternative sites. In an appeal at Westerfield Farm, Carterton, Oxfordshire (APPD3125/A/14/2214281) the Inspector observed, at para. 43, that: "It is not local or national policy for a developer to be required to prove that there is no better alternative location for a development before planning permission may be granted." Notwithstanding this, the Applicant has undertaken and submitted an Alternative Site Assessment ('ASA') of sites within a 4.5 km radius of the connection point to the substation at Layer de la Haye. The assessment considers previously developed land and lower grade agricultural land.

The Applicant noted that the ASA search area featured a lot of heavily constrained land in its northern extent, located in and around Colchester, in addition to Abberton Reservoir to the south west. The remainder comprised predominantly agricultural land a number of previously developed and strategic sites in and around the urban area but all (with the exception of one) were too small to be considered as feasible alternatives to the Proposed Site. The vast majority of the agricultural land was unconstrained, but due to the presence of physical features such as roads, woodland and residential areas much of this agricultural land was divided into plots too small to be considered as feasible alternative sites. On the basis of the above, the Applicant considered that none of the other considered sites provided a more feasible alternative to the one proposed.

16.18 Equality and Diversity

The matter of Equality and Diversity has been considered. It is not held that this scheme would materially impact upon the special protected characteristics of neighbours or third parties.

17.0 Conclusion

17.1 The environmental and technical reports that form part of the planning application submission demonstrate that there would be no unacceptable environmental impacts, and there are no technical objections to the proposal.

17.2 The NPPF and local policy seeks to approve sustainable development. The NPPF 2021 sets out three strands in its definition at paragraph 8:

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

This scheme will have a modest **economic** benefit from the jobs created during construction and the fact the scheme will be run as a commercial operation once fully operational. A scheme of this scale comprises a significant infrastructure investment in the Borough.

This scheme will have a neutral **social** benefit.

This scheme will have a strong **environmental** objective. Whilst it is accepted that the proposed development will have a degree of visibility from some viewpoints the impact has been demonstrated not to be significant

once mitigated with planting. As set out in the report it will cause less than substantial harm to the setting of non-designated and designated Heritage Assets, including a recently designated Schedule Ancient Monument.

The Project will actively and tangibly contribute to the Borough's climate crisis by providing low carbon energy for over 16,000 homes, whilst helping to make sure the UK has a secure energy supply. The Project could be argued to be the most significant step towards fighting climate change the Borough has been offered to date. It will also result in large scale additional hedge and tree planting as a further contribution towards ecological interests to ensure biodiversity net gain significantly in excess of policy requirements.

When assessed as an overall package, officers consider that the planning balance tips strongly in favour of a temporary approval of this scheme, subject to the following conditions:

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

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

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

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

2. Temporary Permission – Within one year of the site ceasing power production or 40 years of the date of this permission (whichever is the least), the site shall be cleared of all infrastructure, panels, cables, fencing and all associated paraphernalia in accordance with a scheme that will have been agreed in writing by the Local Planning Authority. The Scheme shall set the methodology that will be followed to decommission this site in its entirety and ensure the land be returned to beneficial agricultural use and the approved methodology shall be carried out in full prior to the expiration of the 40 years.

Reason: This scheme is a temporary one and this condition is needed to ensure the site is decommissioned in an appropriate manner.

3. Plans Condition - The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:

Layer Solar Farm – Development Zones Plan – LCS022-DZ-01_Rev.09

Layer Solar Farm – Indicative Site Layout Plan – LCS022-PL-01_Rev.06

Layer Solar Farm – Site Location Plan - LCS022-PL-01 Rev.05

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

4. Detailed Layout Plans – Prior to their installation, a set of detailed drawings showing the precise locations of the solar panels and all other on site infrastructure, including the substation and associated infrastructure, including all access points, shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall then be carried out in complete accordance with the approved drawings.

Reason: As the submitted application does not contain sufficient details on such matters. It is assumed that the final approved detailed drawings will with be broadly in accordance with the indicative approved drawings noted above.

5. Approval of Type of Panels and other Structures - Prior to their installation, drawings showing the precise type, size and manufacturer of the solar panels and inverter cabins shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall then be carried out in complete accordance with the approved drawings.

Reason: As the submitted application does not contain sufficient details on such matters.

6. Power Output – The scheme hereby permitted shall at no point generate more than 49.9MW peak power output.

Reason: This is the basis on which the application was made and is the basis on which it has been assessed.

7. Archaeology - No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

8. Landscape - No works shall take place above ground level until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.

Minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, lighting etc.).

- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans.
- Written specifications.

- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

- Implementation timetables and monitoring programs.

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

9. Landscape Management Plan - Prior to the first operation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules the whole site, including the area of and surrounding the Scheduled Ancient Monument be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area and to ensure the public benefit of the correct landscaping and management of the Scheduled Ancient Monument.

10. Glint and Glare - No solar panels shall be erected on site until such time as the Landscape Management Plan (required under the condition above) has been confirmed to support and align with the conclusions set out in the approved Glint and Glare Assessment (September 2021). Written evidence from a suitably qualified person to demonstrate this compliance shall be submitted to and approved in write by the Local Planning Authority.

Reason: To ensure the mitigation suggested by the Glint and Glare Assessment is included within the Landscape Management Plan and is therefore carried out on site in the interests of amenity and highway safety.

11. Tree Buffer - Prior to the installation of any structures on site, drawings showing the precise location and depth of an at least 15 meter deep no-build buffer to afford protection to existing boundary and hedges shall be submitted to and agreed in writing by the Local Planning Authority. This scheme shall also show how all trees that are not shown to be removed on the plans shall be protected by fencing in line with the relevant British Standard during the construction phase. The scheme shall then be carried out in complete accordance with the approved drawings.

Reason: As the submitted application does not contain sufficient details on such matters to ensure appropriate mitigation is delivered.

12. Ecology - ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

“All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Chapter 7 of the Environmental Statement (AECOM, November 2010) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

13. Ecology - PRIOR TO COMMENCEMENT: FARMLAND MITIGATION STRATEGY

“A Farmland Mitigation Strategy shall be submitted to and approved by the local planning authority to compensate the loss of any farmland bird territories. This shall include provision of the evidenced number of Skylark nest plots, to be secured by a condition of any consent, on land labelled as ‘skylark mitigation area’ as on identified on the approved Indicative Site Layout Plan ref. LCS022-PLE-01 Rev.06 prior to commencement.

The content of the Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for proposed Skylark nest plots;
 - b) detailed methodology for the Skylark nest plots following Agri-Environment Scheme option: ‘AB4 Skylark Plots’;
 - c) locations of the Skylark plots by appropriate maps and/or plans;
 - d) persons responsible for implementing the compensation measure.
- The Skylark Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for a minimum period of 10 years.”

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

14. Ecology - PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

“A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority”

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

15. Ecology - PRIOR TO OCCUPATION: LANDSCAPE ECOLOGICAL MANAGEMENT PLAN

“An Landscape Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how

contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.”

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species)

16. Ecology - PRIOR TO BENEFICIAL USE: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate maps and plans;
 - d) timetable for implementation demonstrating that works are aligned with any proposed phasing of development;
 - e) persons responsible for implementing the enhancement measures;
 - f) details of initial aftercare and long-term maintenance (where relevant).
- The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

17. Ecology - PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

“A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other

external lighting be installed without prior consent from the local planning authority.”

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

18. Environmental Protection

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

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

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

19. Environmental Protection

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

20. Environmental Protection

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

21. Contaminated Land

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

Reason: The submitted report: '*TerraConsult, Layer Solar Project, Phase 1 Desk Study and Preliminary Risk Assessment Report, Ref 10589/R01, Issue 1, dated September 2020*' has identified some potential contaminative uses of the site, where there is the possibility of

contamination and has recommended all groundworks/excavations for the development are placed within greenfield areas.

22. SuDS

No works except demolition 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:

Any formal connections into watercourse, drains or ditches should be limited to the 1 in 1 year Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated.

Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus climate change storm event. It will also have to be shown that the base of any infiltration feature is a minimum of 1m from the highest annual average ground water level and that all infiltration features are 5m from any foundations.

Final modelling and calculations for all areas of the drainage system. It should be shown that the site is in no circumstances increasing the discharge rate.

Suitable mitigation against channelisation. Detailed plans should be provided. All areas of the site should have the vegetation beneath and around the solar arrays maintained.

The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. Detailed engineering drawings of each component of the drainage scheme.

A final drainage plan which details exceedance and conveyance routes, and ground levels, and location and sizing of any drainage features. The drainage plan should additionally detail exactly how channel creation mitigation is proposed to be done in line with site characteristics.

A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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.

23. SuDS

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

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

24. SuDS

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. It should be noted that all crushed aggregate roads will have to be suitably maintained to avoid compaction throughout their lifetime. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

25. SuDS

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

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

26. SuDS

The development hereby permitted shall not be commenced until such time as a soil management plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: Soil compaction can cause increased run-off from the site. Therefore a soil management plan should show how this will be mitigated against. 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.

27. Highways

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities
- v. HGV Routing plan
- vi. The locations of local direction signage for large construction vehicles delivering during the construction phases

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

28. Highways

No development shall take place, until the locations of any temporary access and or haul roads have been submitted to and approved in writing by the Local Planning Authority.

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

29. Highways

No construction activities whatsoever shall take place alongside or adjacent to Public Footpaths Nos 20 (Layer De La Haye) or 24 (Birch) until suitable physical barriers / fencing are erected on the proposed development side of each footpath, maintaining the correct width of each footpath.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

30. Highways

The public's rights and ease of passage over Public Footpaths No. 20 (Layer De La Haye) and 24 (Birch) shall be maintained free and unobstructed at all times and there shall be no access for any construction activities from the footpaths.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

31. SAM Interpretation Panel

Prior to the site becoming operational, a scheme to show an interpretation panel highlighting the designated monument on site and its history and context including the size, shape and proposed location of the panel, shall be submitted in and agreed in writing by the LPA. The interpretation panel shall then be erected at a suitable location (in agreement with Colchester Borough Council and Historic England), which is in a publicly visible position, where it shall be retained permanently.

Reason: Part of the public benefit of this scheme is the potential to increase the public's knowledge of the monument that runs through the northern part of the site. This condition is needed to ensure the interpretation panel is of an acceptable quality and is provided on site.

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

4. Highway Authority Informative

The Highway Authority strongly recommends that banksmen are provided when and where articulated delivery vehicles cross (Birch Road) from the southern section to the northern section of the proposed development site or return, together with MoT standard temporary advance warning traffic signs alerting highway users that slow moving vehicles may be in the carriageway ahead at appropriate locations either side of each access points and are maintained throughout the duration of construction and deliveries

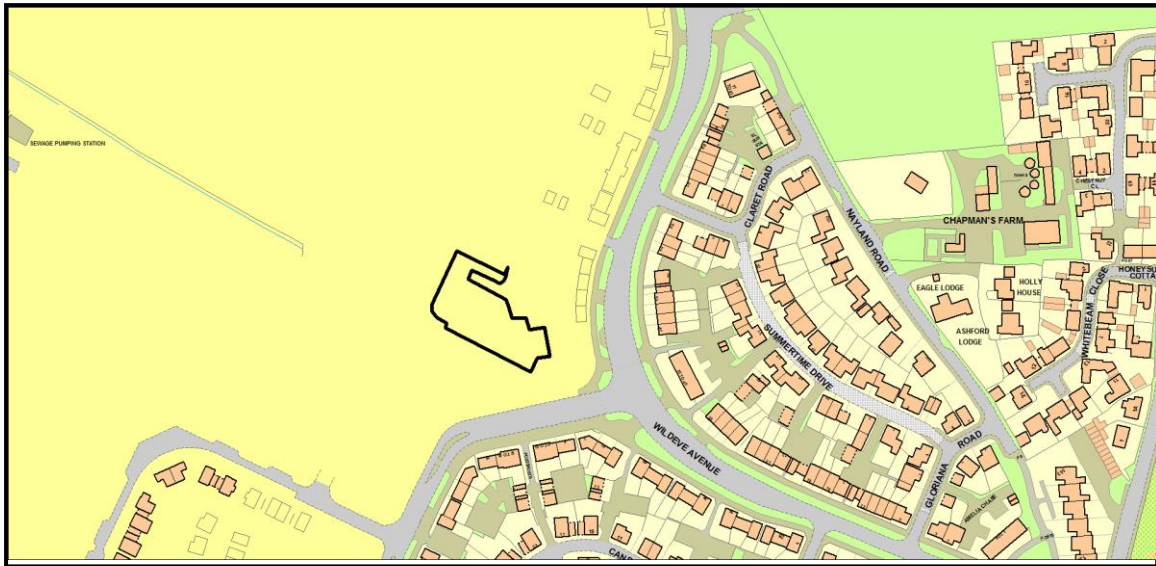
5. Land Contamination Informative

The submitted report: *'TerraConsult, Layer Solar Project, Phase 1 Desk Study and Preliminary Risk Assessment Report, Ref 10589/R01, Issue 1, dated September 2020'* has identified some potential contaminative uses of the site, where there is the possibility of contamination, and has recommended all groundworks/excavations for the development are placed within greenfield areas. The applicant is therefore advised to ensure that the permitted development does not encroach on the areas of potential concern identified on Drawing 10589/2/001.

The applicant's specialist advisers have identified some potential sources of contamination within the site boundary and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from these use(s) of land in this locality. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

6. Landscape Informative

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



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Item No: 7.2

Application: 212506

Applicant: Victoria Player, L3 Properties Limited

Agent: Stanley Bragg Architects Limited

Proposal: Mixed use development comprising nursery at ground floor level and residential units at first floor with associated parking and landscaping as a part of Neighbourhood Centre NC2

Location: Chesterwell Day Nursery, Cordelia Drive, Colchester

Ward: Mile End

Officer: Nadine Calder

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application (on site area) and is the subject of a legal agreement. It has also attracted one letter of objection.

2.0 Synopsis

- 2.1 The key issues for consideration are the proposed use, design, layout and scale of the development together with the provision of parking and landscaping.
- 2.2 It is considered that the proposed development represents an appropriate use for this area, is acceptably designed, fits in well with development in the surrounding area and avoids any materially harmful impact on existing built development surrounding the site.
- 2.3 The application is subsequently recommended for approval subject to conditions and a legal agreement.

3.0 Site Description and Context

- 3.1 The application site relates to the north eastern part of the neighbourhood centre, also known as Parcel NC2, which is located centrally within the wider Chesterwell development and is accessed via Carris Close off Wildeve Avenue to the north east.
- 3.2 Immediately to the south west of the site, beyond the Plaza, is the neighbourhood centre building 2 location (also known as Parcel NC1b), beyond which lies building 1 (Parcel NC1a) which is currently under construction. To the north east of the site as well as on the opposite side of Wildeve Avenue to the east and Cordelia Drive to the south there are completed and occupied residential dwellings. To the north east is the secondary school site of Parcel EDU1.

4.0 Description of the Proposal

- 4.1 The proposed development relates to the construction of a two storey, five-bay asymmetrically gabled building, comprising a children's nursery at ground floor and four residential units at first floor, together with associated parking and landscaping.

5.0 Land Use Allocation

- 5.1 The site is allocated as a Neighbourhood Centre as part of the wider Chesterwell development (please refer to Relevant Planning History below).

6.0 Relevant Planning History

- 6.1 Key to the consideration of this application is the outline planning permission that was granted for a mixed-use development comprising 1,600 residential units, retail and education uses, open space and green infrastructure and highway works (reference 121272) (and any subsequent non-material amendments which include amendments to the size of the neighbourhood centre).
- 6.2 Planning permission was granted conditional upon reserved matters being submitted in accordance with the Development Framework Plan, which is supported by further Parameter Plans. These set out a number of requirements for development, including in relation to development areas, green spaces and building heights.
- 6.3 The site, which is also referred to as 'Building 3' or 'Parcel NC2' within the neighbourhood centre, already benefits from planning permission (reference 191933) for a mixed-use development comprising flexible commercial units and 4 residential units, however, it is understood that this application will not be implemented in favour of the proposed development the subject of this current application. This is beneficial as the approval is at odds in terms of design with the other approved structures (buildings 1 and 2) and would not deliver a cohesive design aesthetic across the neighbourhood centre.
- 6.4 This current application is a so called 'drop-in' application which means that it is a standalone application for full planning permission and not an application for the approval of reserved matters following the outline permission. The approved parameters of the outline permission, whilst informative, do therefore not have to be complied with although to some degree, for example when assessing the design, layout and scale of the proposed development, they can act as a guide.
- 6.5 As set out above, this application is an alternative to the previously approved development on this site known as parcel NC2 and if Members are minded to approve this current application, to avoid any confusion and in the interest of proper planning, it is suggested that a condition is imposed to ensure only one of the two permissions is implemented.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD3 - Community Facilities
CE2c - Local Centres
H1 - Housing Delivery
H2 - Housing Density
UR2 - Built Design and Character

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP7 Local Centres and Individual Shops
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:
SA NGA1 Appropriate Uses within the North Growth Area
SA NGA2 Greenfield Sites in the North Growth Area
SA NGA3 Employment Uses in the North Growth Area
- 7.5 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.
- 7.6 Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan underwent examination in April 2021 and consultation on the Inspector’s modifications has now been completed. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website [here](#).

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

Emerging Section 2 Local Plan

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 progressing to examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

- 7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - External Materials in New Developments
 - EPOA Vehicle Parking Standards
 - Community Facilities
 - Open Space, Sport and Recreation
 - Sustainable Construction
 - Managing Archaeology in Development.
 - Myland Parish Plan AND Myland Design Statement

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Archaeology Advisor confirmed that the proposed development is at a location that was previously archaeologically evaluated as part of the greater Colchester northern expansion planning application. This area of trenches was negative for significant archaeology. There are therefore no archaeological recommendations in relation to this new application.
- 8.3 The Contaminated Land Officer does not object to the proposed development subject to conditions.
- 8.4 Environmental Protection raise no objection to the proposal subject to a condition that restricts the hours of work.
- 8.5 The Landscape Officer raised no objections to this application on landscape grounds.
- 8.6 The Urban Design Officer does not object to the proposal in principle but has raised concerns with regards to the detailed design features (mainly with regards to an unfortunate mix of symmetry and asymmetry in the same elevation).
- 8.7 The Highway Authority does not object to the proposed development on highway safety grounds subject to conditions.

9.0 Parish Council Response

- 9.1 The Parish Council have stated that they support the application but would make the following observations:
- Can it be assured that the 11 car parking spaces for the nursery will not create parking/congestion problems for the 24 employees.
 - Has any thought been given to housing an electric charging point on the nursery premises?

10.0 Representations from Notified Parties

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

10.2 One letter of objection from the Colchester Cycling Campaign was received stating that there should be additional cycle provision for both the residential development and nursery staff as well as spaces for non-standard cycles, including cargo bikes.

11.0 Parking Provision

11.1 The application includes 11 vehicle parking spaces for the nursery and 8 for the residential dwellings. In addition to that, a total of 14 cycle spaces are proposed.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of potential direct or indirect discrimination.

13.0 Open Space Provisions

13.1 The proposed development includes appropriate provision of private amenity space and there is no need for any public open space to be provided.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations/contributions that would be required as part of any planning would be:

Parks & Recreation - £14,996.08 Offsite

Project: Mile End Sports Ground

Community - £6,180.24

Project: Contribution towards furnishing the Chesterwell Community Centre which will serve as a multi-use and inclusive community space for the residents of Mile End. Funding is required to ensure maximum provision of a variety of services and activities to meet the needs of the community.

Highways - £5,000 (index linked)

Contribution to be spent towards introducing waiting restrictions if pick up and drop off becomes such a problem that the Highway Authority should intervene.

Contribution to be retained for a maximum of five years from payment (prior to occupation) and any unspent monies plus interest to be returned after the five years.

16.0 Report

Principle of Development

- 16.1 The site forms part of the neighbourhood centre for the wider Chesterwell development which comprises commercial, retail and residential uses. Planning permission was previously granted for the site to provide a mixed use development comprising flexible commercial units and 4 residential units. The proposed Class E(f) (former D1) use, more specifically, the proposed children's nursery (as should be specified as part of any permission granted), together with the proposed residential use at first floor, is considered compatible with the general function of the neighbourhood centre and is therefore acceptable in principle.
- 16.2 Given that this is a standalone application for full planning permission, the proposed development does not have to be assessed against the approved parameters of the outline permission, however, with development in the neighbourhood centre currently being under construction, it will be important to ensure that the proposed development would fit in with and complement the wider design, scale, layout and function of the neighbourhood centre. The following paragraphs will deal with the details of the scheme.

Design, Layout and Appearance

- 16.3 The National Planning Policy Framework (the Framework) recognises the importance of good design which is reflected in Development Policy DP1 and Core Strategy Policy UR2 as well as Section 1 Plan Policy SP7. These policies state that all proposals should be well designed, having regard to local building traditions, and should be based on a proper assessment of the character of the application site and the surrounding built and natural environment.
- 16.4 The application building is located on the northern end of the commercial aspect of the neighbourhood centre which will consist of three larger structures. Buildings 1 and 2 which sit to the south west of the proposed development were recently granted permission (references 201014 and 210851) and are currently under construction. Building 1 as approved presents a series of parallel gabled vernacular forms, with predominant materials varied between ground and first floors. Cohesion between the two floors was achieved by a consistent rhythm, relying on horizontal symmetry, dictated by the gables. Pedestrian scale was established by recessed brickwork bays at ground floor level. The proportions of openings varied but maintained the horizontal symmetrical rhythm and contributed to an element of vertical symmetry between floors. As a result of these characteristics the structure established a distinctive identity.
- 16.5 Building 2 replicates building 1's series of parallel gabled vernacular forms and predominant use of materials. Albeit the ridges sit perpendicular to those of

building 1, the gables are of slightly reduced scale and adopt a slightly varied pitch. The building also utilises recessed brickwork bays to achieve pedestrian scale at ground floor level. In this regard, the structure achieves conformity and consistency with the design of building 1. Building 2 also features an additional asymmetric gable which sits perpendicular to the series of gables identified above. This gable sits in a prominent location within the street scene and seeks to establish a focal point or landmark.

- 16.6 Building 3, the structure the subject of this application, builds on the architectural approach that has been adopted for the two other buildings and proposes a series of asymmetric gables with a central front projecting gable. This extruded bay, which contains the entrance to the ground floor, however, lacks emphasis. Similarly, unlike buildings 1 and 2, this current building lacks a consistent rhythm due to the manner in which materials and openings are applied to the gables. There is also a lack of synergy between the ground and first floor. This is a result of the fact that the first floor residential units are a mirror of each other around a central core and the design of each gable cannot therefore be the same. Some changes to the central gable to add emphasis were secured (by removing the terrace and bringing the glazing further forward) and this is considered to enhance the appearance of the building and tie it in more appropriately with previously approved development within the neighbourhood centre. Subject to this, it is considered that, on balance, the detailed design and appearance of the proposed building would appear broadly similar to the approved buildings, thus forming a cohesive group.
- 16.7 The proposed materials include bricks at ground floor, within which a variety of textures, signage and glazed elements are proposed, and coloured horizontal and vertical cladding at first floor. Windows and doors would be made of colour coated metal frames and the roof would be a colour coated metal standing seam. The proposed materials are consistent with buildings 1 and 2 and are therefore acceptable.
- 16.8 There are no policies or guidance within the Myland and Braiswick Neighbourhood Plan or the Myland Parish Plan and Myland Design Statement that would contradict the above assessment.
- 16.9 Overall, it is considered that the design of the proposed development is acceptable.

Impact on the Surrounding Area

- 16.10 The site has been granted permission for a neighbourhood centre as part of the outline planning permission. Neighbouring development comprises mixed-use buildings to the south west, educational use to the north west and residential use to the north, east and south. The proposed mixed-use development is considered to be an appropriate use for this location. Landscaping features will provide softening effects on the wider area and the arrangement would ensure that no material harm would be caused to the amenities of neighbouring occupiers, be it residential, commercial or educational uses. As a result, it is held that the proposal would have an acceptable impact on the surrounding area.

Impacts on Neighbouring Properties

- 16.11 Section 1 (CBLP 2017-2033) Policy SP7 and Development Plan Policy DP1 require all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity.
- 16.12 Residents to the north, east and south of the site are sufficiently far removed from the proposed development so as to not have an impact on the private amenity of these residents, either through overlooking, overshadowing or appearing overbearing on their outlook. Furthermore, the principle of the use of this site (i.e. the provision of a neighbourhood centre with associated infrastructure) is established and previous commercial and residential development on this site was approved (with this permission still being extant). There are therefore no real concerns that the development would cause any harmful impact on existing residential occupiers in the vicinity of the site.
- 16.13 The commercial premises at ground floor are proposed to be occupied by a children's day nursery, with welfare/training facilities being provided on the first floor. The private amenity space for the residential units at first floor, which is provided in the form of a balcony, is proposed to the front of the building, thus not being adversely affected by the outside play space for the nursery, which is provided to the rear of the site. The balconies would also provide natural surveillance to the plaza area which the building fronts on to.
- 16.14 The outside play area for the nursery itself has the potential to be overlooked by the proposed bedroom windows. This was raised as a potential issue with the applicant prior to the submission of this formal application, however, they are content that, as a result of the residential development being managed by themselves, should any issues arise, they could be addressed directly between the relevant parties.

- 16.15 Furthermore, in terms of noise, the proposed development was assessed by Environmental Protection and no concerns were raised or conditions suggested with regards to any mitigation required as a result of the nearby A12 / A134 or the proposed residential use over a children's nursery.
- 16.16 On the basis of the above, it is considered that the proposed development does not cause any materially harmful impacts on the amenities of existing residents nearby or future occupiers of the proposed building.

Private Amenity Space

- 16.17 Each of the four residential units would benefit from a balcony although it is noted that these may not be policy compliant in that they are smaller in area than the required 25sqm. Notwithstanding this, it would provide an area for residents to undertake normal domestic activities, for example drying their clothes. The site is located in close proximity to a number of extensive public open spaces across the wider Chesterwell development. Furthermore, it is not uncommon for flats above commercial premises to benefit from limited outdoor space. As such, considering the fact that there is some private amenity space provided and ample opportunity to access a wide range of public open spaces within a short walking distance, it is considered that the conflict with Development Policy DP16, which sets out minimum private amenity standards for residential development, is not significant enough to warrant a refusal.

Landscape

- 16.18 Development Plan Policy DP1 also requires development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.
- 16.19 The Landscape Officer has confirmed that they are satisfied with the proposed landscape element. The principle of this is therefore considered acceptable, with the details to be the subject of a discharge of condition application in order to assess full details of both hard and soft landscape proposals.

Parking and Highway Matters

- 16.20 Vehicular access to the site is proposed to north of the site, from Carris Close off Wildeve Avenue. This would lead to the rear of the proposed building where a total of 19 parking spaces are proposed. Eight of these spaces would be allocated to the four residential units with the remaining eleven being used by the nursery.
- 16.21 The Vehicle Parking Standards SPD, to which Development Policy DP19 refers, provides the parking standards for commercial and retail development. For residential development, dwellings with two or more bedrooms require a minimum of two off street parking spaces, plus 0.25

visitor spaces per unit. The proposal is therefore one space short of this requirement (i.e. a visitor space). Whilst this is not ideal, it is not considered that a refusal on this basis could be justified given the parking spaces available in the wider neighbourhood centre and the sustainable nature of the location.

- 16.22 With regards to the commercial use, prior to the new use classes E and F coming into force, the requirement for the proposed use would have been a maximum of 1 space per full time equivalent staff plus drop off/pick up facilities. The application form states that 24 FTE jobs would be created.
- 16.23 The application is supported by an interim Travel Plan which states that a total of 20 FTE jobs would be created. It also explains that out of the 11 spaces, five would be for pick up and drop offs and six for staff. The Travel Plan explains that it is expected staff will *“typically live close to the sites and can therefore easily walk or cycle to work. The operator has an established focus on recruitment within the local community and has developed strong links with schools and colleges in Colchester.”* New members of staff will be provided with a welcome pack which encourages walking or cycling to the site, using public transport, a taxi or car share.
- 16.24 It is also understood that with a nursery, drop off and pick up times are not set times and whilst there are core hours, children will be dropped off and picked up throughout the day, rather than at fixed times. Similarly, this is a community use, and it is expected that some parents will walk to the nursery with their children. Cycle racks and a buggy store are provided to encourage walking and cycling to and from the site. Taking into account all of the above, and being mindful of the parking standards setting out maximum requirements, it is considered that the proposed parking provision is acceptable in this instance. The provision of electric charging facilities can be encouraged via informative.
- 16.25 The proposal includes the provision of one disabled space, which would be compliant with the policy requirement.
- 16.26 With regards to cycle parking, secure and covered cycle spaces for the residential units are provided. As set out above, a further 10 spaces are provided for the nursery. Whilst the latter provision would not be policy compliant, it should be noted that the majority of children are too young to cycle to the site. For staff, the proposed provision is held to be acceptable. On this basis, whilst noting the objection that was submitted by Colchester Cycling Campaign, taking a pragmatic approach, and having regard to the proposed use, it is held that the proposed provision is acceptable.

Refuse & Recycling

- 16.27 The proposal includes an externally accessed and secure refuse storage area in the proposed car park. The facilities are accessible and sufficiently convenient. No objection was raised by Environmental Protection, and this is therefore considered to be acceptable.

Contamination

- 16.28 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 16.29 The Contaminated Land Officer notes that this proposed mixed use development would be particularly vulnerable to any contamination, if present on site, due to the proposed residential use. The supporting information states that contamination matters were 'covered by the overall Neighbourhood Centre planning consent'. However, from the information provided, the Contaminated Land Officer is unable to confirm whether or not the information being relied upon includes sufficient and appropriate contamination risk assessment. Consequently, as agreed with the agent, any permission should be subject to the standard contaminated land conditions.

Other Matters

- 16.30 A Habitat Regulation Assessment was carried out which concluded that subject to an appropriate financial contribution towards Recreational disturbance Avoidance and Mitigation Strategy (RAMS) being made, the impact of the proposed development would be acceptable. This relevant mitigation payment will be secured via the legal agreement.

17.0 Conclusion

- 17.1 The Framework makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide significant economic benefits through the creation of a minimum of 20 FTE jobs together with temporary jobs during the construction phase.
- 17.2 The social role of sustainable development is describe as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The design of the proposed development, on balance, is considered satisfactory as it is considered to broadly complement buildings 1 and 2 in the neighbourhood centre which are currently under construction, thus providing the area with an identity. The proposal would also provide a service to the community in the form of a childcare provider.
- 17.3 In respect of the third dimension (environmental), the proposal would have a neutral to positive impact on the environment. The site is currently a greenfield site, albeit of low biodiversity value, and it has been granted outline permission to be developed for the purpose of a neighbourhood centre. The loss of the greenfield site has therefore been accepted. The

provision of soft landscaping features would provide an improvement in terms of biodiversity.

- 17.4 The proposed development would therefore represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. The proposal is therefore considered to be acceptable.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

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

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM – Development to accord with approved drawings

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

6743/1101 Site Location Plan & Block Plan

6743/1104 Proposed Site Plan

6743/1201 Proposed Ground Floor Plan

6743/1202 Proposed First Floor Plan

6743/1301 Proposed Elevations

6743/1601 3D Views

Framework Travel Plan (Job Number: VN212124, dated 17/11/21)

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

3. ZBB – Materials as stated in application

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

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

4. ZAK - *Alternative to Previous Permission only*

This permission shall not be exercised in addition to the extant permission 191933 granted by the Local Planning Authority on 191933 but shall be an alternative to that permission. Should one of the permissions be implemented the other permission shall not be implemented.

Reason: In order to ensure that the two permissions are not both implemented as this would be considered to be an overdevelopment of the site and the implications of such a proposal would need to be carefully considered.

5. ZFE – Landscape management plan

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

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

6. Non Standard condition - Landscape Details

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

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

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

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

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

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

11.ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 10.

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.

12.Non Standard condition - Construction Traffic Management Plan

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

Reason: To protect highway efficiency of movement and safety.

13. Non Standard Condition – Parking to be laid out

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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

14. Non Standard condition – Residential Travel Packs

Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

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

15. ZEA - *Removal of PD - Part 3 of Article 3, Schedule 2 Changes of Use*

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the commercial aspect hereby approved shall be used as a children's day nursery and for no other purpose including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

16. ZGA - *Restriction of Hours of Operation*

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

Weekdays: 07:00 – 18:00

Saturdays: not at all

Sundays and Public Holidays: not at all

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

17. ZPD - Limits to Hours of Work

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

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: None

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3. ZTG - Informative on Section 106 Agreements

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

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

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

5. Landscape Informative

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage: https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169](https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169) under Landscape Consultancy by clicking the 'read our guidance' link').

6. EV Charging points

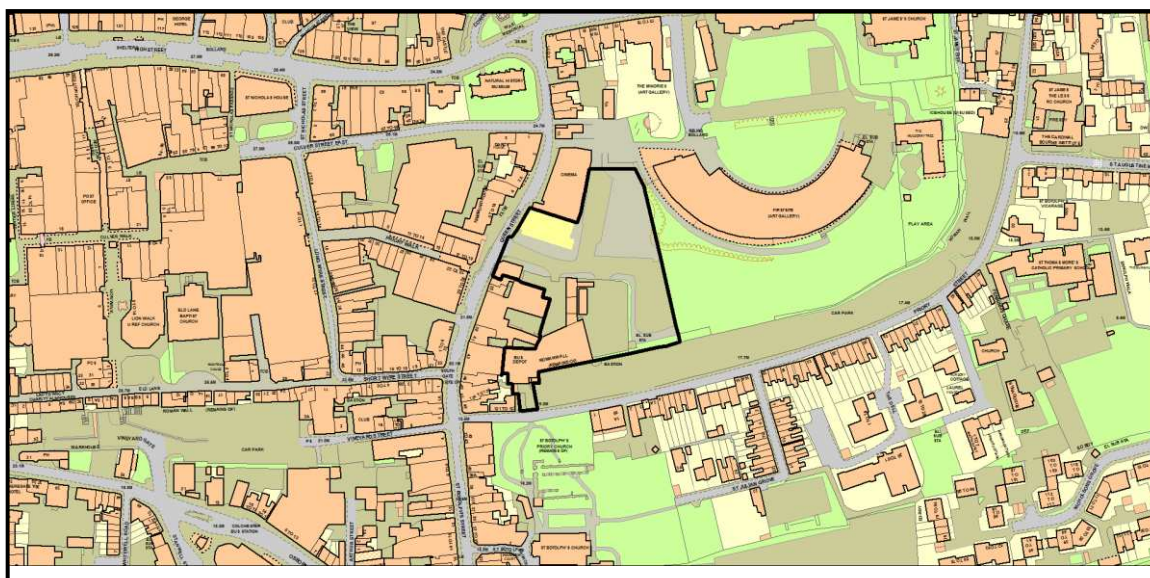
Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per

unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated).

INS – Highways

All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to

development.management@essexhighways.org



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Item No: 7.3

Application: 212272

Applicant: Colchester Borough Council

Agent: Mrs Julia Cameron, Inkpen Downie Architecture

Proposal: Demolition of former bus depot buildings in preparation for the implementation of planning permissions granted under applications refs 182120 and 202780

Location: Land At, Queen Street, Colchester

Ward: Castle

Officer: Majid Harouni

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 The application is referred to the Planning Committee as the application has been submitted by Inkpen Downie architects on behalf of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of demolition on the character and appearance of this part of Colchester Town Centre Conservation Area, the impact of the demolition methodology on the integrity of the scheduled monument Town Wall, archaeology, stability of the adjoining buildings, amenities of the adjoining and surrounding occupiers and town centre users from noise, dust, vehicular movement associated with the demolition works, and time scale for the implementation of the developments approved under ref 182120 and 202789 to ensure that the site is not left vacant thus harm the scheduled monument, the character of the conservation area and vitality of the town centre.
- 2.2 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and its surrounding

- 3.1 The application site is situated on the east side of Queen Street and forms part of continuous street frontage that runs from the former bus station access to the north to Priority Street in the south. The main portion of the site is located to the north of the Town Wall.
- 3.2 The site was the location of the Theatre Royal (1812) which was destroyed by fire in 1918 and then replaced by the current building. The bus depot was last used in 2015 and has been vacant since that time.
- 3.3 The bus depot structure is utilitarian in appearance consist of a white façade frontage with Queen Street with a latticed steel structure behind. The bus depot building is not considered to be of any intrinsic architectural merit. However, embedded within the façade is a historic tiled street sign which identifies Queen Street as formerly being called Southgate Street. The sign is included on the Council's Local List. Internally, the bus depot provides a large unobstructed space together with ancillary accommodation.
- 3.4 To the north of the site is a group of listed buildings. Immediately adjacent to the bus depot are nos. 39-41 which have a C18 façade with five sash windows on the first floor. Next is no.37 Queen Street an imposing red brick mid-C18 building, built as the Soldiers' Home and Institution, later used as a police station, and now is used as a creative Arts centre. The street frontage to this building is three storeys and the main block is symmetrical station and now used as a creative arts centre. with central door, first floor pediment and roundel above. To the north is a single bay range containing an arched doorway. Beyond this are nos. 33 & 35 which comprise a modest two-storey building of timber-framed construction with a late C18 / early C19 facade. To the south of the application site is a group of nineteenth-century

buildings (nos. 46-49) of a stripped classical design. Queen Street is composed of continuous frontage development comprising two and three-storey buildings which mostly date from the mid and late 19th century. All the buildings, despite their differences of form and style, have group value as a row of town buildings lining a major street and illustrating the organic development of this part of the town. The application site is in the Colchester Conservation Area No.1 (Town Centre CA).

- 3.5 The town wall is most apparent from Priory Street. It is a Scheduled Monument and Grade I listed building and is the highest historic significance which forms part of the south boundary of the site and is concealed by the bus depot shed structure itself from the north.

4.0 The Proposal

- 4.1 The application seeks planning permission to demolish the former bus depot buildings excluding the town wall (scheduled monument) part of the building in advance of the preparation of the site for the implementation of the developments granted planning permissions under refs 182120 and 202780.

5.0 Land use Allocation

- 5.1 The site forms part of the mixed-use central area allocation

6.0 Relevant Planning History

212117	Details pursuant to the conditions 4, 6, 7, 8 and 13 of planning permission 202780	Approved 15/09/2021
212704	Details pursuant to condition 3(written Scheme of investigation) of planning permission 202780	To be determined
202780	Demolition of former bus garage and erection of new office/studio space and cafe bar for the creative digital sector	Approved by the Planning Committee and granted 05/03/2021
182120	The demolition of existing buildings/structures and redevelopment to provide purpose-built student accommodation, hotel, commercial space (Use Classes A1, A3, A4, B1(c) and D2), artists' studios and associated vehicular access and public realm improvements.	Refused by the Planning Committee 7/03/2019 Allowed on appeal 13/12/2019 subject to conditions.

7.0 Policy and Statutory considerations

- 7.1 Regard has been given to section 74 of the Listed Building and Conservation Area Act.38(6) of the Planning and Compulsory Purchase Act 2004 requires applications be determined in accordance with the development plan unless material considerations indicate otherwise.

In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), special regard has been paid to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. Section 72(1) of the LBCA Act requires special attention has been paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The 1979 Ancient Monument and Archaeological Areas Act provides statutory protection for the Town Wall as a scheduled monument. Monument Consent must be obtained for all works to the monument from Historic England.

The National Planning Policy Framework (NPPF2021) together with the accompanying Planning Practice Guidance (PPG) provide national planning policy and must be taken into account in planning decision making. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

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

SD1- Sustainable Development Locations

CE2- Mixed Use Centres

CE2a –Town Centre

UR1- Regeneration Areas

UR2- Built Design and Character

ENV1- Environment

- 7.3 The adopted Colchester Borough Development Plan Policies (adopted 2010, reviewed 2014), the following are the most relevant policies:

DP1- Design and Amenity

DP6- Colchester Town Centre Uses

DP10- Tourism, Leisure and Culture

DP14- Historic Environment Assets

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

SACE1- Mixed Use Sites

SA-TC1- appropriate Uses within the Town Centre and North Station Regeneration Area.

7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing. Section 1 of the plan was adopted in February 2021. The examiner's report suggested major modifications to a number of the policies in Section 2 of the plan.

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

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

The Emerging Local Plan Section 2 of the Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the applications, but as it is yet to complete a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

7.6 The following adopted guidance is relevant to this application:

- Essex Design Guide;
- Delivery Strategy Managing Archaeology in Development;
- Town Centre Public Realm Strategy;
- St Botolph's Masterplan;
- Air Quality Management Guidance Note, Areas & Order;

8.0 Consultations

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

8.2 Highways

The highway Authority does not object to the proposals as submitted but recommends the following informative to be added to any permission.

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

The applicants should contact the Development Management Team by email or post.

8.3 Historic England

Based on the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological adviser as relevant.

8.4 Archaeological Officer

I have no specific comment to make regarding the appropriateness of demolishing this structure, and its impact on the conservation area. The structure should, however, be appropriately recorded first to Historic England Level 2, as per condition 6 of the planning consent on planning ref. 202780. While I have seen a historic building recording report on the building, it does not appear to have been carried out to the required level.

Any demolition of this building needs to take into account the impact on the adjacent Roman Wall, which is a scheduled monument. The submitted Demolition Specification and Indicative Methodology document does not go into too much detail on this. Item 7 of the Proposed Methodology (para 3.5) introduces one potential method to protect the wall from scaffolding works. This document undertakes to submit a further, more detailed method statement regarding the protection of the wall prior to works taking place. This is acceptable, provided such a statement assesses any impact the proposed insulation boarding etc. will have on the wall, as per Edward Morton's comments.

Notwithstanding condition 3 of planning consent 202780, it is recommended that any below ground impact caused by this demolition should be covered by an archaeological watching brief condition.

8.5 Environmental Protection Officer

No comments received

8.6 Environmental Protection Contamination

Raise no objection subject to conditions

Note that previous reports, including with reference to 182120, have identified *above ground diesel and heating oil tanks in the Bus Depot area and possible petrol tanks in the Old Police Station area*. These are not specifically mentioned in the submitted demolition specification: care must be taken to ensure that all such structures (together with any additional, unexpected structures encountered during the demolition and site clearance works) are appropriately decommissioned and removed from the site, to prevent the creation of any new contamination pathways. The agreed Remediation Strategy for 182120 requires additional inspection, investigation and characterisation of contamination risks, post-demolition (see EP consultation comments, attached).

Also note that the GEMCO Phase 2 contamination risk assessment report, appended to the demolition specification, only assesses the potential contamination risks on a part of the area proposed for these demolition works (in connection with application 202780); additional contamination risks may therefore exist on the application 212272 site.

An Asbestos Survey, *Kadec Asbestos Management, Refurbishment and Demolition Survey for the Former Bus Depot, Queen Street, Ref CATL-9386, dated 8/4/21* is appended. Asbestos-containing material has been identified in existing structures and must be appropriately dismantled and disposed of, in accordance with all duties and obligations under the Control of Asbestos Regulations 2012, to prevent the creation of new contamination pathways.

Conisbee, Structural Visual Inspection and Remedial Repair Specification – Colchester Roman Town Wall, Ref 210234/S Prior, V1, dated 10/8/21

Does not provide any additional information about contamination risk assessment matters and relates to the Roman Wall repairs only.

The Contaminated Land Officer, therefore, has no objection to the demolition of the Former Bus Depot Buildings but reminds the applicant of the presence of above-ground diesel and heating oil tanks and the additional, post-demolition, contamination risk assessment required and conditioned under application reference 182120.

8.7 Historic Buildings and Areas Officer

Planning Permission 182120 was granted on appeal on 13 December 2019 for the partial demolition of the Bus Depot and redevelopment of the site to provide student accommodation, hotel, commercial space, and artist studios. Planning Permission 202780 was granted on 5 March 2021 for the demolition of the Bus Depot building that was not covered by application 182120 and its replacement by new office/studio space and cafe bar for the creative digital sector. The present application covers separately the demolition of the bus depot building prior to the implementation of the above permissions as the site is located within a Conservation Area.

The proposal for the removal of the building was reviewed and agreed in principle for the consideration and decision of applications 182120 and 202780.

In summary, the former Bus Depot is a utilitarian building with very limited intrinsic architectural merit. Its plain façade on Queen Street disrupts the continuity of the east frontage and does not sit comfortably among the adjacent listed and locally listed buildings. The structure behind the Queen Street elevation is essentially an industrial shed whose south range is built directly onto the Town Wall. The volume of the former garage detracts from the heritage significance of the Town Wall and has a particularly detrimental impact on its views and appreciation from Priory Street.

By virtue of its redundant state and deteriorating condition, its poor relationship with the adjacent buildings, as well as its adverse impact on the fabric and appearance of the Town Wall, the former Bus Depot has a detrimental impact on the character and quality of the Conservation Area, the setting of the nearby designated and non-designated heritage assets and the Town Wall in particular. Having in mind its low merit and its overall

harmful impact on built heritage, there are no objections to the removal of the former Bus Depot.

With regards to the details of the demolition, it should be noted that the historic tiled street sign which is embedded on the Queen Street elevation and identifies Queen Street as formerly being called Southgate Street is included in Colchester's Local List. Condition 8 of Planning Permission 202780 was attached to the decision to ensure the safe removal, storage and reinstatement of the sign. It is regarded pertinent to repeat this provision in the present decision, should the application be approved.

Condition 12 of permission 182120 and Condition 6 of permission 202780 require that a programme of building recording and analysis shall have been undertaken and a detailed record of this Bus Depot shall have been made prior to the commencement of its demolition. The present application does not include sufficient material to satisfy this requirement and as such a new condition should stipulate the duty to compile a record of the building to the required standard.

The demolition of the building has the potential to impact the overground and underground section of the Town Wall, as well as the adjacent listed and locally listed buildings. The application includes the document "Structural Visual Inspection and Remedial Repair Specification - Colchester Roman Town Wall". The objective of this report is to identify the significant defects and past interventions to the Town Wall and provide recommendations and specifications for the remedial repairs and conservation of the section which falls within the application site. Any works that relate to the fabric of the Town Wall require Scheduled Monument Consent and Listed Building Consent and the relevant content of the report will be reviewed during their consideration. The part which is relevant to the present application includes the recommendations for the "Protection of the Town Wall During Demolition / Development Works" Section 7.5, p.25). The recommended measures are incorporated in the submitted 'Demolition Specification and Indicative Methodology' (Section 3.5, Par.7, p.17-18) which was peer-reviewed by The Morton Partnership. Given the highly technical nature of the proposals, I have no reason to disagree with the comments, recommendations and conclusions of the review, as summarized in the letter dated 15 November 2021 (including the recommendation for further assessment of the protective measures for the Town Wall, Point 7 of the letter) and I do not have further comments to add on the matter.

9.0 Parish Council Response

- 9.1 The area is not part of any parish.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No representations have been received.

11.0 Parking Provision

- 11.1 Not applicable as the proposal only relates to the demolition of the Queen Street bus depot.

12.0 Open Space Provision

- 12.1 The proposed demolition does not demand provision for open space but preparing the bus depot land for the implementation of the developments already granted.

13.0 Air Quality

- 13.1 The site is within an Air Quality Management Area and will potentially result in a positive impact by creating a temporary opening on the eastern side of Queen Street frontage thus allowing for greater free flow and dilution of air at the local level until the already approved developments are constructed.

14.0 Planning Obligations

- 14.1 Having regard to the 'non-major' nature of the application, there was no requirement for the Development Management Team to seek Planning Obligation via Section 106 of the Town and Country Planning 1990.

15.0 Appraisal

- 15.1 The main issues to consider in this case are:
- The Principle of Demolition
 - Impact on the Surrounding Conservation Area.
 - Impact on the Neighbouring/Adjoining premises and town wall.
 - Impact on the Archaeology
 - Mitigation of Contamination

Principle of Demolition

- 15.2 The application site is situated within the areas of the historic walled town and within the Colchester No.1 Conservation Area. The statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area is the overriding consideration in the determination of this application for demolition. It is established practice that in the case of buildings that are judged to make a negative or neutral contribution to the character of conservation area or heritage assets that the principle of demolition should be made contingent on a satisfactory scheme for the redevelopment of the site.
- 15.3 In this instance, members will be aware that planning permission has been granted under ref 202780 (see planning history above) for the redevelopment of the bus depot site. The proposed demolition of the Queen Street bus depot formed part of the description of the application and members approved the planning application with full understanding that the bus depot will have to be demolished to facilitate the re-development of the Queen Street bus depot site. As such there, it can be argued that members have already approved in principle the demolition of the bus depot.

- 15.4 The proposed demolition works and associated site clearance works will prepare the ground for the delivery of the approved schemes and thus help to enhance the character and appearance of the conservation area. It is therefore considered the principle of demolition to be acceptable.

Impact on the Surrounding Conservation Area

- 15.5 The uncharacteristic scale, design and appearance of the ex-bus depot building represent an incongruous built form that is harmful to the historical setting, character and appearance of the wider Conservation area and the adjoining listed buildings. In addition, the garage building and its street elevation detract from the streetscape and by partially concealing the town wall scheduled monument along its eastern flank elevation diminishes from the wall's historic context and significance. It is considered that the bus depot building has no intrinsic value and its removal would not detract from the Queen Street frontage and town centre streetscapes equality or historic character of the area. Therefore, the demolition and removal of this out of character structure will not be materially detrimental to the conservation area.

Impact on the Neighbouring/Adjoining Premises and Town Wall

- 15.6 The bus depot building is a mid-terrace building and is attached to the adjoining listed buildings and the scheduled monument town wall. It is therefore paramount that the demolition works are carried out with total precision and sensitivity to the protection and preservation of the structural stability and integrity of these heritage assets during the demolition process. To demonstrate that the proposed demolition works can be undertaken without causing harm, the applicant has submitted a Demolition Specification and Indicative Methodology report. This document has been appraised by an expert external consultant and has been found substantially sound subject to some amendment/additional information. The applicant has revised the Demolition Specification and Indicative Methodology and incorporated the consultant's suggestion in full.

- 15.7 The consultant also picked up references in the Demolition Specification and Indicative Methodology to the demolition works where the depot building is attached to the adjoining buildings, the requirements for party wall awards, potential cellars to the adjoining buildings, etc. and advises:

"Whilst it is clear the building to be removed is a later building which should be largely not reliant on the Bus Depot structure, this cannot be guaranteed, and of course structural alterations or changes of condition of the structure may have changed. We also note that the specification advises at least some elements of the structure to be removed bear onto party walls Bus Depot – Front Section."

- 15.8 To minimise any unforeseen structural issues and reliance on the demolition contractor and their advisors to take mitigation measures in an ad-hoc way; it is recommended to provide greater certainty that the adjoining building will not be adversely affected by the demolition works, Structural Surveys should be undertaken and submitted to the LPA for approval prior to the commencement of the demolition works. The surveys will provide a better understanding of the existing structures and inform the need for any

temporary or permanent measures that might be deemed necessary to safeguard the adjoining buildings. To this end, it is recommended that a condition be imposed seeking submission of additional structural surveys to the LPA for approval prior to the commencement of any demolition works.

- 15.9 Also having regard to the heritage importance of the town wall and its fusing with the bus depot eastern flank, it is recommended that a bespoke detailed method statement is necessary for the demolition works and separating the town wall from the bus depot and the town wall protection during the demolition works.
- 15.10 In response to this issue, the applicant has revised the demolition method statement and provided additional information which is acceptable.
- 15.11 In view of the above that supplementary information to the Demolition Specification has been provided, it is important to note that the details submitted pursuant to condition 7 (Demolition Method Statement) of planning permission ref 202780 which were submitted under ref 212117 and approved under delegated powers on 15/09/2021 are now out of date. The applicant therefore should be reminded of this and accordingly an informative is recommended.
- 15.12 Furthermore, to control the environmental and highways impact of the development, normally, it would have been necessary to impose a Construction Environmental Management Plan (CEMP) condition to ensure that the demolition works are carried without causing harm to the amenities of the surrounding occupiers and the highways safety. As condition no 5 of the permission for the development of the site 202780 has imposed such a condition which states:

“No development (including any groundworks or works of demolition) shall take place until a Construction Management Plan (CMP) has been submitted to, and approved in writing, by the Local Planning Authority....”

- 15.13 It is not necessary to repeat the same condition. However, as condition 5 has not covered the operating hours and lorry movements, a condition dealing with these issues is recommended. In addition, it is recommended that an informative be added to remind the application that the demolition works should not commence until such time that the details of condition no5 of the planning permission ref 202780 have been submitted and discharged in writing by the LPA.

Impact on the Archaeology

- 15.14 The application site is situated within an area known for its high archaeological potential. The Council's Archaeological advisor has reaffirmed the consultant's advice regarding the importance of the demolition method statement concerning the eastern flank of the bus depot with the Town/Roman Wall.
- 15.15 The archaeological advisor has also stated that any below ground impact caused by the demolition works should be covered by an archaeological watching brief condition.

- 15.16 Members will recall that condition 3 of planning permission granted under ref 202780 for the development of the bus depot also imposed a watching brief condition and as the planning history above shows details pursuant to condition no.3 of 202780 has already been submitted under ref 212704 for approval of the LPA. This discharge condition application is yet to be determined.
- 15.17 In this case, removal of the bus depot concrete floor would also demand evaluation of the site archaeological potential involving trial-trench assessment in advance of the implementation of the developments already approved.
- 15.18 To ensure that any archaeological find is properly recorded and protected the watching brief condition is recommended.

Mitigation of Contamination

- 15.19 It is considered that the fabric of the bus depot structure and its previous use may contain asbestos material and be contaminated by petroleum. To ensure that these are safely and properly extracted during the demolition process, removed, and safely disposed of appropriate conditions are recommended.

Highway Matters

- 15.20 It is considered that the site is of sufficient size to accommodate operative vehicles during the demolition process, and the traffic associated with this is not considered to cause demonstrable harm to highway safety and to be acceptable subject to satisfactory compliance with the informative recommended by the Highway Authority and the above-mentioned CEMP condition.

16.0 Conclusion

- 16.1 In conclusion, it is considered the proposed demolition would serve to free the Town Centre Conservation Area from an incongruous and out of character building and disentangle the Roman Wall scheduled monument and adjoining listed heritage assets so to better reveal their significance and make a greater contribution to the heritage values of the Town Centre Conservation Area in compliance with relevant local plan policies and NPPF. The proposal is therefore recommended for approval.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for Approval of planning permission subject to the following conditions:

1- ZAA - Time Limit for Full Permissions

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

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

2- Non-Standard Condition - Approved drawings and documents

The demolition works shall be undertaken in accordance with the following approved documents:

- Site plan drawing A-2028-DEM-01
- Heritage Structural visual inspection and remedial repair specification-Colchester Roman Town Wall prepared by Consibee and dated 10/08/2021.
- Demolition specification and indicative methodology dated 1 July 2021 and following additional information received on 19/11/2021.
- A-2028-rec-02 Existing Building Record - GF Plan Outlining areas to be demolished
- A-2028-rec-03 Existing Building Record of wider Bus shed - outlining areas to be demolished
- A-2028-rec-04 Existing Building Record outlining street sign to be retained
- A-2028-rec-05 Mortar Sample Areas for pointing and stone repair
- A-2028-rec-06 Existing Building Record of South West Facing elevations outlining areas to be demolished
- A-2028-rec-07 Existing Building Record of Queen Street Elevation outlining areas to be demolished
- A-2statement028-rec-10 Scheduled Monument Record Outlining Demolition and Protection Strategy around Roman Wall
- CON-TOBD - Wall restraint post detail (P1)
- Lime Mortar Analysis Folder containing 5 samples (from the Lime Centre)

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out strictly in accordance with the approved details and specification/methodology.

3- Non- Standard condition – Construction Environmental Management

No demolition, remediation or lorry movement shall take place outside of the following times:

Weekdays: 08.00 – 18:00

Saturdays: 08:00 – 13.30

Sundays and Public Holidays: Not at all

Reason: To ensure that the development does not prejudice highway safety and amenities of the local occupiers and town centre users and in compliance with policies DM1 of the Highway Authority's Development Management Policies 2011.

4- Non-Standard condition – Archaeology

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

- a. The programme and methodology of site investigation and recording.
- b. Provision to be made for analysis of the site investigation and recording.
- c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
- d. Provision to be made for archive deposition of the analysis and records of the site investigation.
- e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Adopted

Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

5-Non-standard condition – Building Recording

Prior to the commencement of any demolition works, a programme of building recording and analysis to Historic England Level 2 shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

6-Non-Standard Condition - Structural survey

No demolition works shall commence until a detailed structural survey report of the adjoining attached listed buildings and associated cellars if any, shall have been carried out to establish the degree of reliance, if any, of these buildings on the structure of the Bus Depot building for standing erect. The structural survey report shall be submitted to and approved in writing by the Local Planning Authority. The report shall detail any measures required to mitigate the impact of the demolition on neighbouring structures together with a timetable for implementation.

Reason: To enable the Local Planning Authority to be satisfied that the demolition of the Bus Depot will not be prejudicial to the structural integrity of these listed buildings and in the interest of safety.

7-Non-Standard Condition - Contamination

In the event that historic building and land contamination is found at any time when carrying out the demolition works, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. The development shall not recommence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

8-Non- Standard Condition - Replacement Development

The demolition works hereby authorised shall not be carried out before a contract for the carrying of the works for which planning permission has been granted under ref 202780 has been made. The demolition works shall not take place more than 12 months before the commencement of those works.

Reason: To ensure a proper standard of development and to maintain the appearance of the area in the interests of conserving the character and appearance of the conservation area and the setting of designated heritage assets.

9- Non Standard - Masonry Sample Panel

Prior to reinstating any masonry as part of any works of making good of the revealed structures following demolition, a sample panel of the proposed mortar shall be set out on site including details of the proposed location of the works, mortar specification and details of the masonry to be used. The panel shall thereafter be approved in writing by the lpa and the work executed strictly in accordance with the approved details.

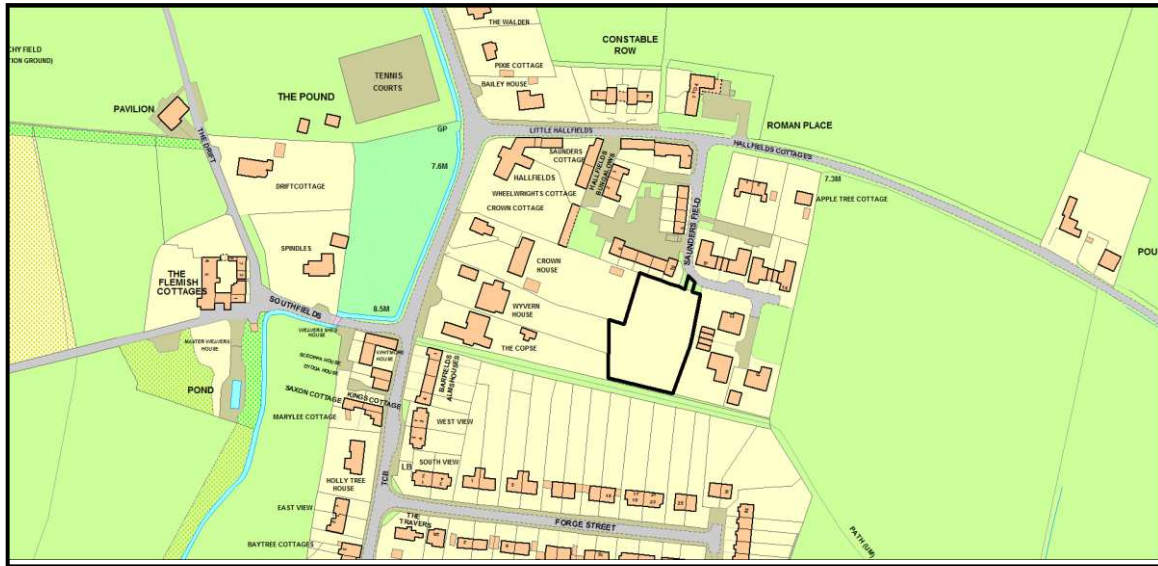
Reason: To ensure that the making good is executed in accordance with good building conservation practice using materials appropriate to context having regard to the sensitivity of the site adjoining the Scheduled Monument of the Town Wall and neighbouring listed buildings within the Colchester Conservation Area No.1.

19.0 Informatives

1. The applicant of the presence of above-ground diesel and heating oil tanks and the additional, post-demolition, contamination risk assessment required and conditioned under application reference 182120.
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 contact the Development Management Team by email or post.
3. The applicant is reminded that no demolition works shall commence until details pursuant to conditions 3 and 5 of planning permission granted under ref 202780 have been submitted to and approved in

writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

4. The applicant is reminded that the demolition method statement submitted under ref 212117 pursuant to condition no7(demolition method statement)of 202780 has now been superseded with the demolition specification details submitted as part of this application. Therefore, a revised discharge condition about condition no7 of 202780 should be submitted to and approved in writing by the LPA.
5. Informative on Demolition Notices
PLEASE NOTE that it is a requirement of the Building Act 1984 that you must serve a demolition notice upon the Council prior to carrying out any demolition of buildings. Further advice may be obtained from the Building Control Team on 01206 282436.



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Item No: 7.4

Application: 211588

Applicant: Mr & Mrs A Barge

Agent: Mr Board

Proposal: Application for 1No detached dwelling with detached garage, parking and access

Location: Crown House, Crown Street, Dedham, Colchester, CO7 6AG

Ward: Rural North

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a Departure from Policy as the site proposed for the dwelling lies just outside the settlement boundary as outlined in the adopted Local Plan.

2.0 Synopsis

- 2.1 The key issues for consideration are policy principle of the proposal along with detailed issues such as the layout and design, impact upon the Area of Outstanding Natural Beauty, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The application is subsequently recommended for Approval. In policy principle terms it is considered there are material reasons to warrant a Departure from the adopted Local Plan. The plot is surrounded by dwellings to the North, East and West, with gardens and further dwellings to the South. The dwellings to the North and West were recently approved and constructed beyond the settlement boundary as part of a scheme to provide affordable dwellings. In addition some of these are substantial dwellings that are private housing to fund the affordable housing, which, combined with substantial vegetation almost completely screen the site from wider views. The site is also considered to lie in a sustainable location, being quite close to facilities that are within Dedham. Accordingly given that the site is substantially surrounded by residential development, some of which is recent and there would be no visual harm to the character countryside or AONB and the site is sustainably located, it is considered there are material reasons to allow a Departure to the settlement policy of the adopted Local Plan.
- 2.3 With regard to detailed planning considerations, the site can accommodate the dwelling and garage without appearing cramped. The dwelling is considered to be of an appropriate design, scale and form. There would not be any detriment to highway safety, neighbouring residential amenity or to vegetation or the wider Dedham & Stour Valley AONB..

3.0 Site Description and Context

- 3.1 The site is part of the existing residential curtilage of Crown House and mainly consists of mown grass. It lies just outside the village settlement limits boundary and is within the Area of Outstanding Natural Beauty. It is surrounded by dwellings to the North, East and West, with gardens and then dwellings to the South. There is vegetation on the Southern and Western boundaries and some on the Northern boundary. A public footpath runs to the South between the site and neighbouring gardens.



Figure 1: Hatched area is site, black line is settlement boundary

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of a detached two storey, 4 bedroom dwelling with detached garage, parking and access.

5.0 Land Use Allocation

- 5.1 Outside settlement limits. Garden land.

6.0 Relevant Planning History

- 6.1 Adjacent site:
146334
21/11/2014 - Full (13 Week Determination)
Hallfields Farm, Manningtree Road, Dedham Colchester CO7 6AE
Application for demolition of farm outbuildings and erection of 9 affordable homes, 8 market homes, associated works and access/parking amendments to App. Refs:112426/131074
Approve Conditional - 04/06/2015

- Rural exception site: Development needs to meet local need based on an approved local needs survey
- Evidence the number of market houses proposed are required to cross subsidise the affordable homes
- The number of affordable units should always be higher than the number of market units
- Consistent standard of design quality and public spaces

7.0 Principal Policies

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

Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:
SD1 - Sustainable Development Locations
SD3 - Community Facilities
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
DP1 Design and Amenity
DP3 Planning Obligations and the Community Infrastructure Levy
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP22 Dedham Vale Area of Outstanding Natural Beauty
- 7.4 The site is unallocated.
- 7.5 The Neighbourhood Plan: N/A
- 7.6 Submission Colchester Borough Local Plan 2017-2033:

Local Plan 2017-2033 Section 1- Adopted Feb 2021 and carries full weight

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

Adopted Local Plan and Emerging Local Plan Status

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to be examined, with hearing sessions scheduled for two weeks between 20 and 30 April 2021. Section 2 policies must be assessed on a case by case basis in accordance with

NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website [here](#).

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

Emerging Section 2 Local Plan

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

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

Section 2 is at an advanced stage having undergone examination hearing sessions in April 2021 and currently undergoing consultation on modifications.

DC0901MWeV9.3

Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

5 Year Housing Land Supply

Section 1 of the Emerging Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

Although the Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan which is still to complete examination. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings (5 x 920 + 5%).

The Council's latest published Housing Land Supply Annual Position Statement (August 2021) demonstrates a housing supply of 5,597 dwellings which equates to 5.79 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2021/2022 through to 2025/2026.

The LPA's 5YHLS has been tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

Section 2 Policies:

Policy OV2: Countryside
Policy DM12: Housing Standards
Policy DM15: Design and Amenity
Policy DM16: Historic Environment
Policy DM19: Private Amenity Space
Policy DM22: Parking
Policy ENV4 Dedham Vale AONB

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Affordable Housing
Sustainable Construction
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
Dedham Vale AONB Management Plan
Dedham Parish Plan
Dedham Village Design Statement

8.0 Consultations

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

8.2 **Landscape Officer states:**

"The landscape content/aspect of the strategic proposals lodged on 11/06/2021 would appear satisfactory for the most part. This provided that, to comply with the requirements of Core Policy ENV1 (under the Colchester Borough Landscape Character Assessment, Area A7):

1 The Planning Officer is satisfied the proposed unit *'is of an appropriate scale, form, design and uses materials which respond to (the) historic settlement character (of Dedham)'*. The Urban Design Officer may be best placed to advise on this requirement.

2 To *'conserve the landscape setting of Dedham'*, in this case when viewing the settlement edge from the highway & PRow network to the east, it is graphically demonstrated that the roofline does not project above and is not higher than the existing principal properties to Saunders Fields. This thereby ensuring the screen planting agreed and implemented to the Saunders Field development (native hedge and hedgerow trees to developments eastern boundary) will be sufficient to also filter screen the proposed unit from the open countryside of the Dedham Vale to the east.

2.0 Conclusion:

2.1 In conclusion; there are no objections to this application on landscape grounds, subject to the above being satisfied.

8.3 Dedham Vale AONB & Stour Valley Team states:

“The site lies within the Dedham Vale AONB. The site is located within Dedham village but just outside the settlement boundary of Dedham in both the adopted Local Plan and in the new Local Plan (Section 2) for Colchester.

The AONB team does not object to the principle of the site being developed for residential use.

Residential development has already been permitted further east of the site. The proposed dwelling would be screened in eastern views from the AONB by this recent development. From the south, north and west the proposed dwelling would be viewed in the context of existing buildings in Dedham village. The site is also visually well contained by established mature vegetation growing along all four boundaries to the site which would also help screen the new dwelling. As such impacts on the defined qualities of the AONB are unlikely to be significant and the proposal is not considered to be in conflict with adopted policy DP22 or emerging policy ENV4.

The vegetation bordering the site forms part of a larger green sward that partially defines the character of this part of Dedham. We recommend that as much of the vegetation growing around the site boundaries is retained to maintain this character and to screen the dwelling. This is necessary to conserve the defined qualities of the AONB. If the Local Planning Authority is minded to approve this scheme, any trees or hedges removed to facilitate the development e.g. at the access, should be replaced with appropriate species agreed with Adam John, the landscape officer. This is necessary to enhance the AONB as required by para 172 of the NPPF and to comply with the policy in section 3.2.7 of the Dedham Vale AONB Management Plan 2016-2021 (support development that contributes to the conservation and enhancement of local character).

Opportunities to deliver biodiversity enhancements at the site e.g. bird boxes and bat boxes or bat bricks should be discussed with a qualified ecologist and secured via condition if approval is granted.”

8.4 Natural England states (precised):

“It has been identified that this development falls within the ‘Zone of Influence’ (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS);” Advise undertake appropriate Habitat Regulations Assessment. Assess impact upon AONB.

8.5 Highway Authority states:

The Highway Authority is advised that the creation of the new vehicular access is dependent upon the Grant of planning permission and the relevant and necessary legal documentation between the land owner and applicants being in place prior to any development taking place at the site which is also likely to be the subject of a planning Condition. The precise location, dimensions of the vehicular access and the provision of a reasonable degree of intervisibility, clear to ground should be included in the legal documentation.

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

- Vehicular access
- No unbound materials.
- Turning area
- Bicycle storage
- Construction management plan
- Informative1: All work within or affecting the highway...

8.6 Archaeologist states:

The proposed new dwelling would be adjacent to where prehistoric and Roman remains were found during archaeological investigations in 2015. The present site retains a similar archaeological potential, despite the southern half of the area within the red line being a historic gravel pit. The northern, less disturbed, half of the site is where most new structures likely to impact on archaeological remains will be situated under the proposed plans.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

The following archaeological condition **(Z00)** is recommended:

No works shall take place until the implementation of a programme of archaeological work has been secured....(full condition in conditions section.)

8.7 Environmental Protection recommend the following condition:

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

ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

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

8.8 Contaminated Land officer states:

It would appear that this site could be made suitable for the proposed use, with contamination matters dealt with by way of condition. Consequently, should this application be approved, we would recommend inclusion of the following conditions:

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

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

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

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

ZG3 - *Validation Certificate*

8.9 Tree Officer : could move garage back or use appropriate tree protection conditions.

9.0 Parish Council Response

9.1 Dedham Parish Council “have considered this application and taken note of residents’ concerns both expressed in correspondence and in person at its meeting 5 July 21. The Council object for the following reasons:

The site sits outside of the parish building envelope and there are no grounds to make this an exception site which would also be against Local Plan Policies and National Policies regarding the protection of AONB. It is also against the Essex Design Guide. Residents raised a number of valid points which we include in the objection. Over development, loss of trees and wildlife, loss of the right to tranquillity and privacy, congestion from works, damage to common areas. At the meeting residents expressed safety concerns regarding children being able to walk to school as there is no pavement and their own safety due to the area being congested already. It was stated that there had already been a near miss between a pedestrian and a vehicle and that tourists use this area

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to park, adding to the issues. It was felt that this development would increase these problems. It is also noted that CBC Planning has received twelve objections from local residents.”

10.0 Representations from Notified Parties

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

10.2 **20 letters of objection** have been received which raise concerns about the following issues:

- Loss of our privacy. Less than 15m from common boundary- does not comply with Essex Design Guide. Access opposite front window.
- Loss of views. Blocks sunlight. Visible from footpath 29.
- Devalues property
- Noise and Light pollution.
- Access not on land owned by applicant
- 90 degree bend- highway safety. Narrow road. No footpath- dangerous for children. People already park on road. Access for emergency vehicles.
- Danger to elderly pedestrians. Nearly injured from motorised scooter.
- Visitors could block access to Saunders Field residents.
- Nowhere for workmen to park.
- In AONB and outside settlement limits. No case for allowing development in countryside.
- Mature trees have been felled. Should be replaced.
- Loss of green, open space. Overdevelopment.
- Dust and fumes.
- Drainage and sewage problems.
- Additional buildings in future?
- Contaminated land.
- Services impact.
- Impact upon wildlife.
- Purely for financial gain.
- Height should be lower than dwellings in Saunders Field.

10.3 **One letter** of general observation has been received:

- Proposed site entrance transverses a common area within the Saunders Field development, and it is likely that vehicles supporting the works will drive/park on common areas, will the applicant be responsible for repairing damage to common areas caused by works vehicles? Currently residents of the development pay for maintenance of common areas.
- What conditions put in place to ensure that parking of works vehicles within the Saunders Field development does not impede access/movement of resident, emergency, delivery and refuse vehicles?

11.0 Parking Provision

11.1 At least two car parking spaces plus garaging.

12.0 Accessibility

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DP17 (Accessibility and Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

13.0 Open Space Provisions

13.1 Not applicable.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990. A unilateral undertaking has been secured for contributions towards enhancing Community and Sport & Recreation facilities.

16.0 Report

Principle

16.1 The hierarchical settlement elements of the adopted Local Plan policies SD1 and H1 of the adopted Local Plan and Policy SP1 of the Emerging Local Plan aim to direct such development as this to the most sustainable locations. These settlement policies aim to strictly control development that is beyond the defined settlement boundaries. Accordingly it is considered that as it is proposed to site this dwelling beyond the settlement limits boundary, the proposal is a Departure to the Development Plan and has been advertised as such. It should also be noted that under the Emerging Local Plan, Dedham would not have a settlement limits although Emerging Local Plan Policy OV2 provides that development outside settlement limits needs to demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity. These Emerging Local Plan Policies do not carry full weight at this time.

16.2 Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case it is considered there are material considerations to warrant a Departure from the adopted Local Plan. The plot is

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surrounded by dwellings to the North, East and West, and there are also gardens and then dwellings to the South. The dwellings to the North and West were recently approved and constructed beyond the settlement boundary as part of a scheme to provide affordable dwellings. In addition some of these are substantial private housing dwellings (that funded the affordable housing) which, combined with substantial vegetation almost completely screen the site from wider views. The site is also considered to lie in a sustainable location, being quite close to facilities that are within Dedham. Accordingly given that the site is substantially surrounded by residential development, some of which is recent and there would be no visual harm to the character of the countryside or AONB and the site is sustainably located, it is considered there are material reasons to allow a Departure to the settlement policy of the adopted Local Plan.

16.3 The National Planning policy Framework has a presumption in favour of sustainable development.

16.4 The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

Layout, Design and Impact on the Countryside and AONB

16.5 In terms of the planning merits of the proposal, it is considered that the scheme represents an acceptable layout and dwelling design that is in keeping with the character of the area and does not represent an overdevelopment of the site. The plot is substantial in size so the dwelling and garage would not look cramped. The design, scale and form of the dwelling is also considered appropriate in this location. It is of similar height to the recently approved private dwellings in Saunders Fields and has elements of traditional form and design including gable widths, roof pitch and fenestration. The materials proposed are also sympathetic to the character of the area, being buff brick, weatherboarding and slate. The garage is single storey and would not be particularly prominent in the street scene.

16.6 As the dwelling would be so well screened by existing dwellings and substantial vegetation and is of an appropriate height and scale it is not considered there would be any significant visual impact upon the surrounding countryside or Area of Outstanding Natural Beauty. There would also not be a detrimental impact upon the amenity of the users of the public footpath close to the Southern boundary of the site.

16.7 It is not considered that the existing garden space is of such significance in the street scene in terms of its amenity value or contribution to the character of the area that would warrant its retention in its entirety and the proposal would therefore not conflict with Policies DP1 and DP15 in this respect. Adequate private amenity space would be provided for the new dwelling and retained for the original dwelling so the proposal complies with Policy DP16 in this respect.

16.8 Overall, in terms of layout, design and impact on surroundings, including AONB, it is considered the proposal would therefore comply with Policy UR2 of the Local Plan Core Strategy which provides that the Borough Council will secure high

quality and inclusive design in all developments to make better places for both residents and visitors.

- 16.9 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout. Policy DM15 of the Emerging Local Plan has similar provisions. Owing to the quality of design and hidden nature of the site the proposal would not conflict with Policy DP22 which aims to protect the landscape character and qualities of the AONB. Emerging Local Plan policy ENV4 has similar provisions.
- 16.10 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. It is also considered to comply with the revised NPPF section 12 which promotes well-designed places.

Impact on Neighbour Amenities:

- 16.11 It is not considered there would be a significant impact upon neighbouring residential amenity from the proposal. The dwelling and single storey garage are positioned far enough from the boundaries of neighbouring properties to avoid an overbearing impact. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.12 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.13 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. With regard to the two first floor openings on the side elevation of the dwelling, these are bathroom windows and a condition can be applied to ensure that openings, including rooflights, are obscure glazed and non-opening where they are not above 1.7 m above floor level. The front facing and rear facing first floor windows look predominantly forward and backwards and the distances from neighbouring property, combined with existing vegetation and also the proposed garage would ensure no overlooking of significance of adjacent properties to the side, front or rear of the site.
- 16.14 The objections received regarding construction works are noted and appropriate conditions can be applied to minimise disruption including a construction management plan and control over hours of working. Environmental Protection have made no objections. It is not considered the use of the access serving a single dwelling would cause an unacceptable level of noise and disturbance.
- 16.15 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid

unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking. Policy DM15 of the Emerging Local Plan has similar provisions.

Highway Matters:

- 16.16 The Highway Authority has raised no objection to the scheme subject to conditions which can be applied. Revised plans have been submitted showing the access driveway widened and a condition will need to be applied to ensure the access is in place prior to occupation of the dwelling given that the access land is in separate ownership. Appropriate notices have been served. The access is considered to allow for adequate visibility splays. The proposal complies with Policy DP19, in terms of parking space provision.
- 16.17 The comments received from objectors regarding highway safety have been carefully considered. However, given the fact that the Highway Authority has raised no objections, adequate visibility splays are provided and that one extra dwelling is a relatively minor intensification, it is not considered there is a justification to refuse on highway safety grounds. That includes consideration of danger to pedestrians including adults and children. A Construction Management Plan condition can be applied to ensure construction vehicles access the site in a safe manner and there is room within the site for construction vehicles to park and manoeuvre in the interests of avoiding obstruction in the road.
- 16.18 The Essex Design Guide provides that “The overarching aim is to ensure that in new residential and mixed-use environments, the circulation and movement of people is pleasant, convenient, safe, responds to local context and combines with good place-making. Motorised vehicle movement must efficiently service development without predominating...” It is not considered the proposal contravenes these aims of the Essex Design Guide. It would also not cause a severe impact upon the Highway network, as referred to in the NPPF (para.111).

Impact Upon Vegetation:

- 16.19 It is considered that the proposed dwelling and garage are positioned far enough away from the boundary vegetation to avoid significant impact. Conditions can be applied to ensure appropriate tree protection measures are in place, including protective fencing and foundation detail in a very small area by the garage. In addition, a condition will be applied to agree the precise extent of hard surfacing closest to the East boundary to ensure this vegetation remains unaffected. The submitted Arboricultural Impact Assessment can be an approved document.

Wildlife issues:

- 16.20 As the site is not overgrown and is mainly cut grass and no older or timber framed buildings would be demolished it is not considered that a phase 1 Ecological survey is required. Accordingly it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity or to Emerging Local Plan Policy ENV1.
- 16.21 In any case, a RAMs wildlife payment has been made as the new dwelling would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts. An appropriate Habitat Regulation assessment has been undertaken.

Unilateral Undertaking:

- 16.22 A Unilateral Undertaking is required to be completed in order to secure the required SPD contributions for community facilities and sport & recreation facilities and this has been completed.

Environmental and Carbon Implications

- 16.23 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that, on balance, the application can contribute to achieving sustainable development. The site is considered to be in a sustainable location and would minimise carbon emissions from trips generated to access services.

Other

- 16.24 Finally, in terms of other planning considerations, the proposed development does not raise any wider concerns. There is no impact upon the character of the Conservation Area which lies some distance to the West and no impact upon the setting of any Listed Buildings which lie further away to the West. An archaeological programme of works condition can be applied. (Policy DP14). The site is not within a flood zone so there is no flood risk issue (DP20).
- 16.25 Relevant contaminated land conditions can be applied as per the recommendation from Environmental Protection.
- 16.26 It is not considered the proposal conflicts with the aims of the Dedham Vale AONB Management Plan, Dedham Parish Plan and Dedham Village Design Statement given that the dwelling and garage would be so unobtrusively located and would not impact the AONB in any significant way.

17.0 Conclusion

17.1 In conclusion the proposal is considered acceptable for the following reasons:

- Whilst the site lies outside the Settlement Limit boundary it is considered there are material considerations to warrant a Departure from the adopted Local Plan. The site is substantially surrounded by residential development, some of which is recent and there would be no visual harm to the character of the countryside or wider AONB. The site is sustainably located.
- The site can accommodate the dwelling and garage without appearing cramped.
- The dwelling is of an appropriate design scale and form.
- There would not be any detriment to highway safety, neighbouring residential amenity or to vegetation.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development In accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 349-01-01 (as amended by access block plan), 349-01-04, 05, 06, 07, 08, 09 Rec'd 11.6.21, Arboricultural Impact Assessment Rec'd 23.6.21 349-01-03 Rec'd 8.10.21.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3. ZBB- Materials As Stated in the Application.

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

4. Non Standard Condition- Vehicular Access

Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be provided where shown on the amended site plan numbered 349-01-03, constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

5. Standard condition- No Unbound Materials

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

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

6. Non Standard Condition - Parking/Turning Area

The development shall not be occupied until such time as the turning area and off street parking has been provided in accord with the details shown in Drawing Numbered 349- 01-03. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

7. Non Standard condition - Cycle storage.

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

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

8. ZPA Construction Method Statement

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

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

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

9. ZNL- Programme of archaeological works

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

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

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

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

10. ZFI- Tree or shrub planting

The development hereby permitted shall not be occupied until details of tree and/or shrub planting and an implementation timetable have been submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

11. Z00 – Electric Charging Points

Prior to first occupation of the dwelling, one electric vehicle charging point shall be provided for each dwelling and thereafter retained as such.

Reason: To encourage the use of sustainable transport.

12. ZDF- Removal of PD- Obscure Glazing.

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1st floor side windows on the East elevation shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity both to a level a minimum of 1.7 m above floor level before the development hereby permitted and all shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

13.ZCL- Surface Water Drainage

No works shall take place until details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: To minimise the risk of flooding.

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

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

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

(ii) an assessment of the potential risks to:

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

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

This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with

those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 14, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 15, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified

in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 16.

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

18. ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 15.

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

19. ZFS- Tree Protection

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

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

20. Non Standard condition - Tree Protection and hard surfaces

Prior to commencement of the relevant works, precise details of the following shall be submitted to and agreed in writing by the Local Planning Authority:

- (i) Foundations of the garage within root protection area
- (ii) Extent of hard surfacing adjacent to the Eastern boundary notwithstanding the submitted details.
- (iii) Access and frontage hard surfacing materials

Reason: In the interests of tree protection and visual amenity.

21. Non-Standard Condition- Enclosures

Prior to their installation precise details of the, siting, design and materials of any screen walls, gates and fences shall be submitted to and agreed, in writing, by the Local Planning Authority. Only the approved details shall be implemented.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to amenities and the surrounding context.

22. ZCE Refuse and Recycling Facilities

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

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. Non Standard Informative – Highways

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

The applicants should be advised to contact the Development Management Team email at development.management@essexhighways.org or by post to:
SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT

2. ZT0 – Advisory Note on Construction & Demolition

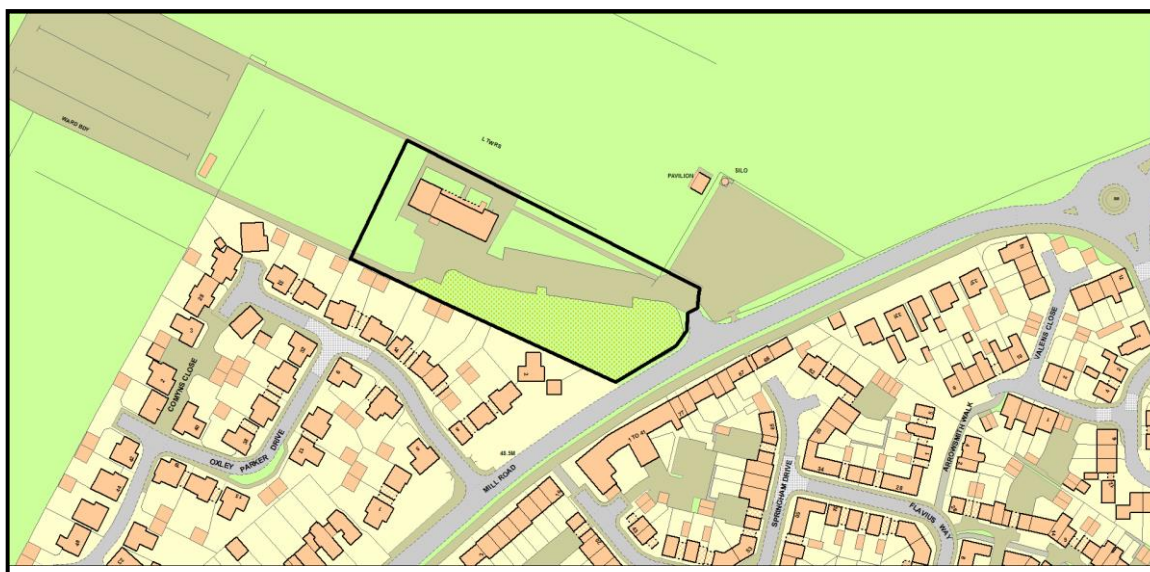
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

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

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

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

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



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Item No: 7.5

Application: 212804

Applicant: Alison Fogg, CBC

Agent: Kevin Whyte, Barefoot and Gilles

Proposal: Demolition of existing Rugby clubhouse and erection of a new two storey community centre with associated parking and landscaping.

Location: Former, Colchester Rugby Football Club, Mill Road, Colchester, CO4 5JF

Ward: Highwoods

Officer: Chris Harden

Recommendation: Authority to Approve subject to review of any requirement for any further minor revisions in respect of the relationship of hard surfaces to trees.

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues for consideration are the policy principle of the proposal along with detailed issues such as the layout and design, impact upon the street scene, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The proposed redevelopment of the Rugby Club has been included in the Emerging Local Plan to provide enabling development to help deliver the new sports hub. This is affirmed by emerging local plan policy NC1.
- 2.3 The proposal provides a community facility in place of an existing Rugby Club building and the design, scale and form of the development would be visually acceptable. The proposal is acceptable in terms of its impact upon neighbouring residential amenity, highway safety and wildlife. If any further minor revisions are required in respect of the relationship of hard surfaces to trees, then these can be undertaken. The proposal complies with the Neighbourhood Plan. Consequently approval is recommended.

3.0 Site Description and Context

- 3.1 The application site is located to the North of Mill Road and is part of the area known as Colchester Northern Gateway (South) (CNG). It consists of the former Rugby Club building with elements of associated parking and service areas.
- 3.2 There are a number of mature trees within the site.
- 3.3 The locality, which includes the site in its entirety and areas in the immediate vicinity which have been developed, is allocated as part of the Colchester North Regeneration/ Strategic Growth Area. These areas have been noted in Core Strategy Policy CE1 and Policy SA NGA3 in the Development locations Document of the LDF.
- 3.4 Policy NC1 of the Emerging Local Plan (2017-2033) is also relevant. It states that all land and premises within the North Colchester and Severalls Strategic Economic Area including the areas known as the Northern Gateway and Severalls and Colchester Business Parks will be safeguarded for the identified uses based on a zoned approach.

4.0 Description of the Proposal

- 4.1 The proposal seeks the demolition of the existing Rugby clubhouse and erection of a new two storey community centre with associated parking and landscaping. The replacement building would be in a similar position to existing

clubhouse but reorientated so that its gable would look towards the proposed village green which is to be approved under application 190665.

- 4.2 The building proposed would measure approximately 22 metres in length and 10.5 metres in width and have a height to roof ridge of 11.5 metres. It is indicated to be finished in standing seam dark blue metal for the roof and first floor of the wall and buff bricks for the ground floor walls. 32 car parking spaces are proposed, 3 motor cycle spaces and 14 cycle spaces.
- 4.3 An outdoor seating area adjacent to the indoor café is proposed along with a refuse/recycling compound. The aim is to retain the existing trees that are on the site and an Arboricultural Impact Assessment has been submitted.

5.0 Land Use Allocation

- 5.1 Adopted Local Plan Proposals Map: primarily designated as open space (Rugby pitches).

Site Allocation Policy SA NGA3 Employment Uses in the North Growth Area (To North)

Emerging Local Plan Policy NC1: North Colchester and Severalls Strategic Economic Area.

6.0 Relevant Planning History

- 6.1 190665 Authority to Approve granted at Committee:-
Hybrid planning appln - Outline appln for healthcare campus (5ha) of up to 300 older people's homes (C3), 4,300sqm private acute surgical hospital (C2), (1,200sqm.) medical centre (D1), 3,600sqm, 75-bed care home (C2), up to 45,100sqm offices (B1a); up to 350 homes (C3), with ancillary retail & food & drink of up to 1000m² of retail (A1), up to 500m² of food and drink (A3), digital network of ultra fast broadband; 2 points of vehicular access from public highway, pedestrian boulevard & community green (4.5ha). All matters apart from access to be reserved in relation to outline elements of proposals. Detailed consent for a 1st phase of infrastructure to include the creation of a pedestrian boulevard and associated landscaping, and a renewable energy centre & heat distribution network.
Between Via Urbis Romanae & Mill Road, Land South of, Axial Way, Colchester

200079 Detailed consent for a first phase of infrastructure to include the creation of a pedestrian 'Walk' (previously known as the Boulevard) and associated landscaping and a renewable energy centre and heat distribution network. Approved 20.4.20

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework

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(NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
UR2 - Built Design and Character
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP4 Community Facilities
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP25 Renewable Energy

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

SA TC1 Appropriate Uses within the Town Centre and North Station
Regeneration Area
SA NGA1 Appropriate Uses within the North Growth Area
SA NGA2 Greenfield Sites in the North Growth Area
SA NGA3 Employment Uses in the North Growth Area
SA NGA4 Transport measures in North Growth Area
SA NGA5 Transport Infrastructure related to the NGAUE

- 7.5 The Neighbourhood Plan for Boxted / Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

- 7.6 Submission Colchester Borough Local Plan 2017-2033:

Local Plan 2017-2033 AdoptedSection 1

- SP1 Presumption in Favour of Sustainable Development
- SP3 Spatial Strategy for North Essex
- SP7 Place Shaping Principles

Adopted Local Plan and Emerging Local Plan Status

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan underwent examination, with hearing sessions in April 2021. The Examiner's letter proposed a series of major modifications that have now been subject to public consultation. Section 2 policies must now be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website [here](#).

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

Emerging Section 2 Local Plan

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

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

Section 2 is at an advanced stage having undergone examination hearing sessions in April 2021 and currently undergoing consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

Relevant Section 2 CB Local Plan 2017-2033 Policies:

Policy NC1 of the Emerging Local Plan (2017-2033) is particularly relevant and can be given significant weight. This states:

“Policy NC1: North Colchester and Severalls Strategic Economic Area

All land and premises within the North Colchester and Severalls Strategic Economic Area including the areas known as the Northern Gateway and Severalls and Colchester Business Parks will be safeguarded for the identified uses based on a zoned approach as indicated below.

A master plan will be prepared to provide a detailed guidance covering parts of the economic area. Proposals which are in accordance with the agreed masterplan will be supported.

All proposals within the North Colchester and Severalls Strategic Economic Area will be required to provide good public transport, pedestrian and cycle links ensuring good connectivity within the area, with neighbouring communities, to the Colchester Orbital Route, and to and from the town centre and Colchester Station.

Development will be expected to contribute to the cost of infrastructure improvements where necessary and identified in the Infrastructure Delivery Plan (IDP) or subsequent evidence.

Zone 1: as defined on the Policies Map (existing and proposed employment land) will be the primary focus for B class employment uses and as such, alternative non- B Class uses will only be supported where they;

- (i) *Are ancillary to the existing employment uses on the site intended to serve the primary function of the site as an employment area and;*

- (ii) *Provide the opportunity to maximise the sites potential for economic growth and support the continued operation of existing employment uses within the economic area and;*
- (iii) *Do not generate potential conflict with the existing proposed B class uses / activities on the site; and*
- (iv) *There is no reasonable prospect of the site being used for B class employment.*

Proposals for main town centre uses will not be permitted within zone 1 of North Colchester and Severalls Economic Area.

Zone 2: The area defined on the policies map as zone 2 (adjacent to the Stadium) is being developed by the Council as a leisure / community hub and will be safeguarded for a mix of uses including sport, leisure and recreation. Uses will be permitted where they clearly demonstrate the potential for job creation and provided that they do not undermine or constrain the main purpose of the economic function of the wider area. Uses may include an appropriate scale of leisure and commercial space, open space and green infrastructure to enhance connectivity. No retail use will be permitted unless it is ancillary to another use and meets the requirements of the sequential test and impact test if required.

Zone 3 as defined on the Policies Map (including areas known as the Northern Gateway area north of the A12) land will be safeguarded primarily for a range of sport and recreation uses within Use classes D, subject to up to date evidence supporting a need for such use. Proposals will need to be in accordance with an agreed master plan.

Allocation for Residential and Open Space Uses

The area shown on the policies map which comprises the existing Rugby Club will be safeguarded for employment use (as set out above) as well as residential use to provide enabling development to deliver the sport and leisure / community uses in Zone 3. Development of the site will provide for approximately 300 new dwellings, 260 units of Extra Care accommodation and community space which may include a church. Access will be taken from Axial Way unless other considerations prevent this.

Proposals will be permitted in accordance with a masterplan to be approved by the Local Planning Authority which will incorporate an appropriate design approach and enhanced public realm to ensure the different uses can be accommodated in a compatible way.”

Policy SG8: Neighbourhood Plans

Policy NC3: North Colchester

Policy DM2: Community Facilities

Policy DM15: Design and Amenity

Policy DM16: Historic Environment

Policy DM22: Parking

Policy DM24: Sustainable Urban Drainage Systems

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Community Facilities
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
North Colchester Growth Area
Myland Parish Plan AND Myland Design Statement

8.0 Consultations

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

8.2 Highways Authority states:

Having reviewed the submitted information, I confirm that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirement:

- a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities.

8.3 Environmental Protection states the following:

Should planning permission be granted Environmental Protection wish to make the following comments: (conditions- in full in conditions section)

ZPA – Construction Method Statement

ZGA - *Restriction of Hours of Operation

ZGA - *Restriction of Hours of Operation

ZGB - *Restricted Hours of Delivery

ZGE - Restriction of Amplified Music

All external doors and windows must be kept closed, other than for access and egress, in all rooms when events involving amplified sound are taking place. No access is permitted to the balcony or outdoor seating area when amplified sound is taking place in the adjacent room. Use of the outdoor seating area and balcony during private functions shall cease at 22.00.

ZGG - Site Boundary Noise Levels

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

No refuse, bottles or cans to be put outside after 22.00 No refuse or recycling collection before 08.00.

No access to the outdoor stores is permitted between 22.00 and 08.00.

ZGR - *Light Pollution for Minor Development*

The Northwest boundary adjacent to the proposed new residential development and the southwest boundary adjacent to existing residential properties shall be 1.8m high and constructed of brick or close board fully sealed to the ground with no gaps or penetrations.

8.4 **Natural England** “ No comments...standing advice.”

8.5 **Contaminated Land officer:** states “it would appear that this site could be made suitable for the proposed use, with the remaining contamination matters dealt with by way of condition.

Consequently, should this application be approved, Environmental Protection would recommend inclusion of the following Conditions and Informative:

Conditions:

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

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

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

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

ZG3 - *Validation Certificate*

Informative - Asbestos in Existing Buildings

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

8.6 **Landscape Officer** has no objections and recommends the following conditions and informative:

Standard:

ZFE – Landscape management plan

Bespoke:
Landscaping scheme

- 8.7 **Colchester Cycling Campaign** States: Convenient secure cycle parking should be provided for visitors and staff.

9.0 Parish Council Response

- 9.1 Myland Community Council "Support the proposal welcomes the provision of this new community facility and supports the application.
We would ask for clarification that the lift provided is suitable for access to the first floor for users who for different reasons are unable to use the stairs - for instance those in mobility scooters - and not just for standard wheelchairs.
We welcome the provision of electric car charging points but would like consideration to be given to the accessibility of these points - whether they would be available for use 24 hours a day, and whether they would only be used by users of the community centre.
We note concerns raised about the potential noise from the facility and look forward to further information on the licensing hours."

10.0 Representations from Notified Parties

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

- 10.2 **Two letters of support** has been received which makes the following points:

- Long overdue, long needed additional community centre. For Highwoods, for residents soon to arrive in the nearby new developments, and for nearby Mill Road and Mile End residents.
- Welcome a new build and a community led design that looks likely to provide a great set of flexible spaces, for all, as well as investments in the nearby green space helpful to biodiversity. Many residents will share this view.
- Will be an essential and much-used facility within Highwoods and Myland.
- It promises to be a popular community hub in the day time, with the coffee house to draw people in, and also activities in the evenings.
- There will be links between the community centre trustees and Myland Community Council in order to ensure a good relationship between the community centre and the adjacent village green.
- The sustainable features of the design plans look great and it is my hope that this can be a "green" building.

- 10.3 **One letter of general observation** makes the following points:

- Local residents previously blighted by late night noise, disco music and misbehaviour.
- We had to fight to prevent illegal verge parking and to secure noise limitations and similar.

- Been blighted by travellers and motorcycle hooligans, smelly fish & chip vans and nuisance simply resulting from having the Rugby Club as neighbours.
- Promised a "village green".
- Been one broken promise after another from Amphora Ltd.
- Already suffered for three years with bore holes and other construction close to our homes.
- Originally promised NO new construction anywhere near our properties at the original public consultations, hence we didn't object then and same promise is being broken!
- Not objecting in principle to the Community Centre, residents seek assurances that we are not going to go backwards.
- Concern is what will it be used for? Local residents do seek assurances that;
 1. There will be no revival of noisy late night activity (such as discos, live bands and similar).
 2. An alcohol licence will NOT be granted.
 3. That this venue will not be allowed to become a meeting place for undesirables.
- Boulevard and Cafe (even when the latter is closed) seem to be an ideal location for problem with undesirables.
- Need agreements to lock the gates when no sports activity. Need proper enforcement of the original agreements that when the Rugby Club (now Community Centre) is NOT in use the car park is locked to keep travellers and undesirables out.

11.0 Parking Provision

11.1 32 car parking spaces are proposed, 3 motor cycle spaces and 14 cycle spaces.

12.0 Accessibility

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DP17 (Accessibility and Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Policy Principle

- 16.1 In terms of the principle of the proposal, the application is considered to be policy compliant with the adopted Local Plan, Emerging Local Plan and National Planning Policy Framework. The proposed redevelopment of the Rugby Club has been included in the Emerging Local Plan (NC1) and provides enabling development to help deliver the Sports Hub. Weight may be given to this policy. Accordingly, with relocation of the Rugby Club the existing building falls to be replaced with a more appropriate, up to date Community building which accords with Policies DP4 of the adopted Local Plan and DM2 of the Emerging Local Plan which cover the provision of community facilities.
- 16.2 The proposal also accords with the Northern gateway Masterplan which was reviewed in August 2016 and again in December 2017 to reflect the Local Plan.
- 16.3 The site lies within the settlement limits and is deemed to be sustainable development and the National Planning policy Framework has a presumption in favour of sustainable development. Accordingly it is considered that, overall, the principle of the proposal can be supported and the proposal should be judged on its planning merits.

Layout, Design and Visual Impact

- 16.4 In terms of the planning merits of the proposal, it is considered that the proposed design, scale and form of the proposed building is acceptable and would represent a marked visually improvement to the area compared to the existing building it replaces. The use of buff bricks and blue, seemed metal roofing has the potential to give a sharp contemporary, attractive appearance and a condition requiring the submission of the precise details of the materials will be applied.
- 16.5 Ancillary associated structures are also considered visually acceptable and would not be particularly prominent as existing mature vegetation will be retained which would help screen them from wider views beyond the site. Existing hard surfaces are utilised for parkin and manoeuvring and there will be some additional hard surface added to provide appropriate parking.

- 16.6 Overall, in terms of layout, design and impact on surroundings, it is considered the proposal would therefore comply with Policy UR2 of the Local Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.
- 16.7 The proposal is also considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout. Policy DM15 of the Emerging Local Plan has similar provisions. It is also considered to comply with the revised NPPF section 12 which promotes well- designed places.

Impact on Neighbour Amenities:

- 16.8 It is not considered there would be a significant impact upon neighbouring residential amenity from the proposal. The main building and ancillary structures are positioned far enough from the boundaries of neighbouring properties to avoid an overbearing impact. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.9 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.10 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas. Rear facing glazing at first floor level can have a condition applied to ensure that it is glazed in obscure glazing and is non-opening where it is not above 1.7 m above floor level. The side facing glazing is far enough away from neighbouring properties and there is intervening vegetation to ensure no overlooking of significance of properties.
- 16.11 The objections received regarding noise and disturbance from the proposed use and from construction works are noted. Appropriate conditions as suggested by Environmental Protection can be applied including hours of use, delivery times and noise levels in order to minimise any disturbance. It should be noted that the site was already previously in use as a leisure facility. Conditions relating to a demolition management plan and construction management plan can also be applied to minimise disruption including control over hours of working. Environmental Protection have made no objections.
- 16.12 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking. Policy DM15 of the Emerging Local Plan has similar provisions.

Highway Matters:

- 16.13 The Highway Authority has raised no objection to the scheme subject to a condition about a traffic management plan regarding wheel washing. This will be incorporated into the demolition and construction management plan conditions. The existing access is considered to allow for adequate visibility splays and there would be adequate parking and manoeuvring provision on site. The proposal complies with Policy DP19, in terms of parking space provision. The proposal would also not cause a severe impact upon the Highway network, as referred to in the NPPF (para.111).

Impact Upon Vegetation:

- 16.14 It is considered that the proposed building would be positioned far enough away from the existing vegetation, which includes mature trees, to avoid significant impacts. Conditions can be applied to ensure appropriate tree protection measures are in place. The plan has been slightly revised in terms of the positioning of some hard surfaces and the tree officer's comments are awaited in this respect and will be reported to the Committee. If any further minor revisions are required then these can be undertaken. The submitted Arboricultural Impact Assessment can be an approved document.

Wildlife issues:

- 16.15 It is not considered that there would be any significant impact upon wildlife from the proposal. The site is not particularly overgrown, trees and vegetation are to be retained and the building to be demolished is relatively modern. Accordingly it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity or to Emerging Local Plan Policy ENV1.

Environmental and Carbon Implications

- 16.16 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that, on balance, the application can contribute to achieving sustainable development. The site is considered to be in a sustainable location and would minimise carbon emissions from trips generated to access services.

Neighbourhood Plan

- 16.17 The adopted Myland and Braiswick Neighbourhood Plan (NP) is relevant when considering this application as it forms part of the Development Plan. The proposal is considered to accord with the provisions of the NP, namely:

- Developers achieving the highest quality of design.
- DPR1 - attain the highest quality of design standards, sustainability and sustainability.
- SAM1 (Social Amenity) and SPL 1 & 3 (Sport and Leisure).

Other

- 16.18 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. There are no archaeological implications (Policy DP14) and the site is not within a flood zone so there is no flood risk issue (DP20).
- 16.19 Relevant contaminated land conditions can be applied as per the recommendation from Environmental Protection.
- 16.20 With regard to the comments received from Myland Community Council about disabled access, the lift included in the scheme has a platform of approx. 1.4m x 1.1m, which is big enough for small or medium sized mobility scooters.

17.0 Conclusion

17.1 In conclusion the proposal is considered acceptable for the following reasons:

- The proposed redevelopment of the Rugby Clubhouse has been included in the Emerging Local Plan and the proposal provides enabling development to help deliver the new sports hub. This is affirmed by emerging local plan policy NC1.
- The proposal provides a community facility, and the design, scale and form of the development would be visually acceptable.
- The proposal is acceptable in terms of its impact upon neighbouring residential amenity, highway safety and wildlife. If any further minor revisions are required in respect of the relationship of hard surfaces to trees, then these can be undertaken.
- The proposal complies with the Neighbourhood Plan.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development In accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 2170 DE 10-001A Arboricultural Impact Assessment Rec'd 12.10.21, 2170DE 30-001B, 002B, 003B, 004B Rec'd 3.11.21.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

3. ZBC - Materials To Be Agreed

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning

Authority. Such materials as may be approved shall be those used in the development.

4. Non Standard Condition - Parking/Turning Area

The development shall not be occupied until such time as the turning area and off street parking has been provided in accord with the details shown in Drawing Numbered 349- 01-03B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

5. Non Standard condition - Cycle storage.

The approved cycle storage facility shall be provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

6. ZPA Construction Method Statement

No construction works shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted as a scaled drawing to and approved in writing by, the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities
- v. hours of deliveries and hours of work;
- vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- vii. measures to control noise and vibration;
- viii. measures to control the emission of dust and dirt during construction; and
- ix. a scheme for recycling/disposing of waste resulting from demolition and construction works. No waste materials should be burnt on the site, instead being removed by licensed waste contractors.

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

7. Non Standard Condition - Demolition Method Statement

All demolition works shall be undertaken in accordance with the demolition method statement received 17.11.21 and the approved details shall be adhered to throughout the construction period.

Reason: In the interests of residential amenity and to ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

8. Non Standard Condition - Cafe

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

Weekdays: 08.00 – 20.00

Saturdays: 08.00 – 20.00

Sundays and Public Holidays: 09.00 - 18.00

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

9.ZGA - *Restriction of Hours of Operation*

The use hereby permitted shall not be open outside of the following times:

Mon to Thursday: 08.00 – 23.00

Friday & Saturdays: 08.00 – 00.00

Sundays and Public Holidays: 08.00 – 23.00

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

10.ZGB - *Restricted Hours of Delivery*

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

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 18.00

Sundays and Public Holidays: 10.00 – 16.00

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

11. ZGE - Restriction of Amplified Music

Prior to the first use or occupation of the development hereby permitted, the level of internal amplified sound shall be restricted by the installation and use of a noise-limiting device that complies with details that shall have been submitted to and agreed, in writing, by the Local Planning Authority. Thereafter, such devices shall be retained and operated in accordance with the approved specification and working order at all times. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise and disturbance from amplified noise, as there is insufficient information within the submitted application.

12. Non Standard Condition - External doors and windows closed.

All external doors and windows must be kept closed, other than for access and egress, in all rooms when events involving amplified sound are taking place. No access is permitted to the balcony or outdoor seating area when amplified sound is taking place in the adjacent room. Use of the outdoor seating area and balcony during private functions shall cease at 22.00.

Reason: In the interests of neighbouring residential amenity.

13. ZGG - Site Boundary Noise Levels

The rating level of noise emitted from the site's plant and equipment shall not exceed 0dB(A) above the background levels determined at boundaries near to noise-sensitive premises in accordance with the current version of British Standard 4142.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

14. Non Standard Condition - Refuse Timing

No refuse, bottles or cans to be put outside after 22.00. No refuse or recycling collection before 08.00.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

15. Non Standard Condition- Outdoor Stores

No access to the outdoor stores is permitted between 22.00 and 08.00.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

16. ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for E22 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

17. Non Standard Condition - Boundaries

The Northwest boundary adjacent to the proposed new residential development and the southwest boundary adjacent to existing residential properties shall be 1.8m high and constructed of brick or close board fully sealed to the ground with no gaps or penetrations prior to first occupation of the development hereby permitted.

Reason: In the interests of neighbouring residential amenity.

18. ZFE- Landscape Management Plan

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

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

19. Z00- Hard and soft Landscaping

No construction works shall take place above ground floor slab level until a scheme of hard and soft landscape works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site; proposed planting; details of any hard surface finishes and external works. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

20. ZFS- Tree Protection

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access,

works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

21. Z00 – Electric Charging Points

Prior to first occupation of the building, precise details of electric vehicle charging points shall be submitted to and agreed in writing by the Local Planning Authority. The approved charging points shall be provided prior to first occupation of the building and thereafter retained as such.

Reason: To encourage the use of sustainable transport.

22. ZDF- Removal of PD- Obscure Glazing.

Notwithstanding the provisions of Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1st floor rear gable glazing shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity both to a level a minimum of 1.7 m above floor level before the development hereby permitted and all shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

23.ZCL- Surface Water Drainage

No works shall take place until details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: To minimise the risk of flooding.

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

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:

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

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

This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's

'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 14, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 15, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 16.

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

28. ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer

shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 15.

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

29. Non-Standard- Enclosures

Prior to their installation precise details of the, siting, design and materials of any screen walls, gates and fences shall be submitted to and agreed, in writing, by the Local Planning Authority. Only the approved details shall be implemented.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to amenities and the surrounding context.

30. ZCE Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with the approved details. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

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

19.1 Informatives

19.1 The following informatives are also recommended:

Informative1: 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 email at development.management@essexhighways.org or by post to:

SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT

Informative 2

Multiple Asbestos Containing Materials have been identified in the existing building. In accordance with the applicant's obligations under The Control of Asbestos Regulations 2012, prior to undertaking the permitted development works, all relevant identified material must be managed, removed safely, and appropriately disposed of at a suitable waste acceptance facility. The enforcing authority for this type of work is the Health and Safety Executive and it is recommended that you contact them directly to discuss their requirements.

Reason –the presence of asbestos-containing materials (ACM's) in the existing building has been highlighted and Environmental Protection wish to ensure that no new contamination pathways are created by the proposed development.

Informative 3. Landscaping

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape webpage: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the 'read our guidance' link)'.

4.ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.

