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**Item No:** 7.1

**Application:** 212810

**Applicant:** Louise Durose

**Agent:** Miss Alice Routledge

**Proposal:** Outline planning application with all matters reserved save for access for the demolition of all existing buildings and structures and the creation of a residential development with associated open space and infrastructure.

**Location:** Man Energy Solutions UK Limited, St. Leonards Works, Port Lane, Colchester, CO1 2NX

**Ward:** Old Heath & The Hythe

**Officer:** Nadine Calder

**Recommendation:** Approval subject to s.106 legal agreement and conditions

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

- 1.1 This application is referred to the Planning Committee because it is an application for major development, and the recommendation is for approval subject to a legal agreement. The application has also attracted objections.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of the proposed development in terms of land use allocation; noise mitigation measures; highway safety; wildlife impact; flood risk and contamination.
- 2.2 The site has most recently been used for commercial purposes but is now vacant. It is the subject of an emerging allocation for residential development. Based on the information submitted, it is considered that the site is able to accommodate up to 130 dwellings without appearing cramped or overdeveloped. The scheme is also acceptable from a highway safety point of view. Subject to appropriate conditions, there is unlikely to be any detriment to the amenity of the surrounding area or significant impact upon existing important vegetation, wildlife, flood risk or contamination. A 30% provision of affordable housing would be required.
- 2.3 The application is subsequently recommended for approval subject to a legal agreement.

## **3.0 Site Description and Context**

- 3.1 The site is irregular in shape and occupies approximately 3 hectares on land to the east of Port Lane, Colchester. MAN Energy Solutions occupied the premises from mid-19<sup>th</sup> century until recently, operating as a new engine build and overhaul facility. The site is now vacant. It comprises three distinct areas:
- The offices are formed from a previous northlight area of factory complex, comprising single storey sheds of primarily brick construction under a flat decked roof;
  - The main factory comprises a steel framed building in two main bays under a steel framed roof. The factory was built in two phases, 1970 and 1974 and has a useful working height of 12 metres. To the rear of the main factory is the engine test area which has a maximum eaves height of approximately 15 metres; and
  - Numerous outbuildings, including warehousing, boiler houses, training schools and stores, surround the main factory and offices.

- 3.2 The southern part of the site is regular in shape. However the north western area is disrupted by an existing warehouse building which falls outside of the applicant's ownership. The position of this building creates a narrow pinch point in the north west corner.
- 3.3 The site is concreted together with car parking and vehicle loading, plus an area which is bunded for fuel tanks associated with the engine testing and heating.
- 3.4 The site is adjoins residential development to the north and east. To the south of the site is the Port Lane Industrial Estate, accessed from Chandlers Row. Further south is housing fronting Port Lane and Old Heath Recreation Road. Port Lane runs along the western boundary of the site. To the south-west is Old Heath Recreation Ground, which provides local children's playground facilities and a café. To the north-west of the site is an industrial unit and associated hardstanding.
- 3.5 Vehicular access to the site is currently gained off Port Lane, approximately 10m to the south of the Port Lane/Harsnett Road junction. This access also serves the adjacent Regulateurs Europa site.

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

- 4.1 This application is an outline planning application with all matters reserved save for access for the demolition of the existing buildings and structures and erection of residential development up to 130 dwellings including 30% affordable housing. The application is supported by a Land Use and Building Heights Parameter Plan which seeks approval for the scale parameters. All future reserved matters would be required to comply with the approved Parameter Plan.
- 4.2 The proposed residential development is envisaged to accommodate buildings up to four-storeys in height. The Parameter Plan shows up to 2.5 storey development concentrated to the south and east of the site, up to three-storey development to the north and west, and an area of four-storey development towards the centre of the site.
- 4.3 A singular vehicular access to the site is proposed from Port Lane, utilising a former existing access to the site. The adjacent industrial site occupied by Regulateurs Europa would continue to be able to use the vehicular access off Port Lane.
- 4.4 Pedestrian and cycle access would be taken from Port Lane. The internal site layout would be designed such that the site can be suitably accessed by refuse vehicles via Port Lane.

## **5.0 Land Use Allocation**

- 5.1 The site lies within the East Colchester Regeneration Area and is allocated as an Employment Zone in the Adopted Local Plan (Site Allocations DPD (2010) – Core Strategy Policy CE3). Within the emerging Colchester Borough Local Plan 2017-2033 in Section 2, the site forms part of a housing allocation (Policy EC3, 'Land at Port Lane'), which is identified to accommodate up to 130 new dwellings. The weight of emerging Policy EC3 is considered below.

## **6.0 Relevant Planning History**

- 6.1 There is some planning history relating to the commercial use of the site, however, none of this is particularly relevant to the current proposal.

## **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  
CE1 - Centres and Employment Classification and Hierarchy  
CE3 - Employment Zones  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR1 - Regeneration Areas  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment

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

DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy

DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses  
DP14 Historic Environment Assets  
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 EC1 Residential development in East Colchester  
SA EC2 Development in East Colchester  
SA EC8 Transportation in East Colchester

- 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.

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

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

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

## **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 has yet to complete examination, with hearing sessions undertaken in April 2021. Consultation on major modifications was recently completed and representations reported to the examiner. The examiner’s final report on Section 2 is imminently expected with adoption in February or March. 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. However, given the advanced stage of the plan weight may be afforded to Section 2 policies depending on the substance of any outstanding representations.

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 undergoing examination with hearing sessions completed in April. The examiners proposed modifications have undergone a further round of public consultation and the Inspector's final report is expected imminently with adoption likely to follow shortly afterwards. Section 1 of the plan is therefore considered to carry full weight as an up to date part of the Development Plan.

Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete 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 ( $5 \times 920 + 5\%$ ).

The Council's latest published Annual Housing Position Statement (May 2021) demonstrates a housing supply of 5,597 dwellings which equates to 5.79 years based on an annual target of 920 dwellings which was calculated using the Objectively Assessed Housing Need (OAHN). This relates to the monitoring period covering 1.4.21 to 31.3.26 and will be updated in April 2022.

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.

## **Appendix 1 – Policies Superseded from the Core Strategy Focused Review 2014 by the Shared Strategic Section 1 Local Plan**

### **General Local Plan Status**

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 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.

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

A few policies in the Core Strategy are superseded in part by the adopted Section 1 Local Plan, and SD2 in full only. This is outlined below in detail and a summary table for all Section1 Policies.

### **Policy SD2 – Full**

The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.

New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.

The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106



agreement) and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.

A CIL charging schedule would set a specified charge for each square metre of gross internal floorspace, related to the use class of the development. CIL payments will contribute to the provision of infrastructure to support development. Planning obligations and s278 agreements will continue to be used to make individual applications acceptable. The Council will publish a list of infrastructure to be funded through CIL to ensure developers do not pay twice for the same item of infrastructure. The viability of developments will be considered when determining the extent and priority of development contributions.

Is replaced by SP6.

Policy SD2 is no longer relevant.

### **Policy SD1 – In Part**

Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.

Is replaced by SP1.

All other parts of SD1 remain relevant.

### **Policy H1 – In Part**

The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

### **Policy CE1- In part**

The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021

Is replaced by SP5.

All over parts of CE1 remain relevant.

Section 1 Adopted Policy	Context of Section 1 Policy	Relevant Core Strategy Policy status
<p><b>Policy SP 1</b> Presumption in Favour of Sustainable Development</p>	<p>Restates national Policy</p>	<p>Replaces SD1 - in part.</p> <p>Following text of SD1 is replaced by SP1.</p> <p><i>Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.</i></p> <p><i>When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.</i></p> <p><i>Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.</i></p>

<b>Policy SP 2</b> Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	Statutory requirement under the Habitats Regs- Policy provides a new authorisation for contributions	New policy relevant to confirm approach implementing the Habitats Regulations. Full status for decisions post 1.02.2021
<b>Policy SP 3</b> Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	High level N/A
<b>Policy SP 4</b> Meeting Housing Needs	Sets the housing supply figure for the Plan period at 920 per year. Section to allocate sites and determine the spatial distribution	Replaces H1 - in part. Following text of H1 replaced by SP4.  <i>The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.</i>  All other parts of H1 remain relevant
<b>Policy SP 5</b> Employment	Strategic target – relies on Section 2 eLP to allocated sites	Replaces CE1 – in part. Following text from CE1 replaced by SP5.  <i>The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.</i>  All other parts of CE1 remain relevant.
<b>Policy SP 6</b> Infrastructure & Connectivity	Strategic and restates national policy  Section 2 covers matters specifically	High level/Garden Community – Section A  Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area. These sections replace SD2.
<b>Policy SP 7</b> Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A

<b>Policy SP</b> <b>8</b> Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
<b>Policy SP</b> <b>9</b> Tendring/Colchester Borders Garden Community	New- specific to the Garden Community	Garden Community N/A

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

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

Affordable Housing  
Community Facilities  
Open Space, Sport and Recreation  
Cycling Delivery Strategy  
Sustainable Drainage Systems Design Guide  
Managing Archaeology in Development.

## 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 Archaeological Officer raised no objection to the proposal subject to a condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 8.3 The Contaminated Land Officer raised no objection to the proposed development in principle, with an additional risk assessment and, where found necessary, remediation, dealt with by way of conditions.
- 8.4 Environmental Protection raise no objection to the proposed development subject to a conditions which requires additional information to be provided to ensure that all residential units are designed so as not to exceed the noise criteria based on figures by the World Health Authority Community Noise Guideline Values. They also recommend that a 2.1 metre close boarded fence is provided around the boundary of the properties closest to the remaining factory to prevent noise nuisance to residents.
- 8.5 The Historic Buildings and Areas Officer raises no objection to the proposal in principle, but strongly encourages the detailed design to reflect the heritage of the existing site.

- 8.6 The Landscape Officer, following additional viewpoints being considered within the Townscape & Visual Assessment, does not raise an objection to this outline application.
- 8.7 The Tree Officer raises no objection to the proposal.
- 8.8 The Urban Design Officer raises no objection to the proposal in principle, subject to the open space being removed from the illustrative Masterplan and this not forming part of an approval.
- 8.9 Anglian Water raise no objection to the proposed development subject to the submitted Flood Risk Assessment and Drainage Strategy Report being made an approved document.
- 8.10 The Environment Agency has not provided any comments at the time of writing this report.
- 8.11 Essex County Fire & Rescue Service raise no objection to the proposal.
- 8.12 Essex Police strongly recommends that the developer seeks to achieve Secured by Design-Homes 2019 accreditation for this development.
- 8.13 Health and Safety Executive does not advise, on safety grounds, against the granting of planning permission in this case.
- 8.14 The Highway Authority raised no objection to the proposal subject to conditions, including the priority junction to be completed with the required visibility splays prior to the first occupation of the proposed development and the submission of a construction traffic management plan, Travel Plan and Residential Travel Packs. Additional requests, to be provided through a S106 Agreement include the provision of a minimum 3.5-metre-wide footway/cycleway along the two sections of the proposal site's Port Lane frontage and the widening of PROW 143 to a consistent minimum width of 3.5m.
- 8.15 The Lead Local Flood Authority raise no objection to the proposal.
- 8.16 Natural England raise no objection to the development subject to appropriate mitigation, as set out in the Council's Appropriate Assessment, being secured.

## **9.0 Parish Council Response**

- 9.1 This area is non-parished.

## **10.0 Representations from Notified Parties**

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

10.2 Four letters of objection (including ones from Colchester Civic Society and Colchester Cycling Campaign) and two general comments were received. The reasons for commenting/objecting can be summarised as follows:

- Proposed density is too low, resulting in urban sprawl and car dependence;
- Scheme appears to be an acceptable balance of density and open space;
- Insufficient parking provision within the site;
- What will stop cars parking on the grass verge along Port Lane?;
- Height of some of the buildings will likely be very intrusive to existing residents;
- Why are the taller houses proposed at the front of the estate?;
- Potential overlooking;
- The frontage along Port Lane would benefit from some shrubs/foliage;
- Hope that the ultimate development is of housing with a level of quality design that reflects the strong characterization of the neighbouring 19<sup>th</sup> century developments and brings an enhancement to the area;
- Port Lane is already a busy road;
- Additional traffic and only one entrance could cause problems;
- The proposed access is in the worst place it could be;
- Will construction access be in the same location?;
- Where will the site cabins be?;
- Shame that no building on this site was deemed worthy of a level of protection to retain a piece of our industrial heritage;
- Proposed Smart Energy Amenity Area is the most unfortunate kind to create a link to the proud legacy of the Paxman past;
- The last remaining building on the site (known as “The House on the Hill”) is the last opportunity – the building should be retained and made suitable as a home for the Paxman collection of the Colchester Engineering Society that is currently seeking a suitable venue; and
- Where will children go to school?.

## **11.0 Parking Provision**

11.1 This is an outline application; however, the application confirms that parking is proposed to be policy compliant and electric charging points would be provided. Cycle parking for each dwelling would also be provided within the curtilage of each dwelling.

11.2 This matter would be addressed via reserved matters and a condition is proposed to ensure the reserved matters submission will satisfy the Council’s adopted parking standards for cars and cycles.

## **12.0 Accessibility**

12.1 This application is in outline form only with the design, layout and appearance of the proposed dwellings being a reserved matter. Notwithstanding this, for current allocations the accessibility standard would be expected to meet Building Regulations 2015 Part M4 Cat 2 for all affordable housing with the exception of upper floor dwellings. This is in lieu of Lifetime Homes as set out in Policy DP12. This could be secured via the S106 Agreement.

## 13.0 Open Space Provisions

- 13.1 This is an outline application with all matters except access reserved. Details of the layout and landscaping of the scheme would therefore be provided as part of a reserved matters application rather than at this stage. It would be necessary, however, to secure that at least 10% public open space is provided on site in accordance with adopted Policy DP16 and emerging Policy DM18. This can be secured via a condition.

## 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:

### **Community – £373,467.90**

#### Ward Projects 65% - £242,754.13

- Wimpole Road Methodist Church  
Is within walking distance of the development site and have a full list of projects to upgrade and improve their offering and accessibility to the community.

#### Borough 35% - £130,713.76

To support strategic Community Facilities

This calculation is based on 130 x 3 bed units. The calculation would be updated once the actual mix of unit sizes are known (for the purposes of the S106 Agreement, the request could be tariff based). This figure may increase and decrease accordingly.

### **Housing – 39 Affordable Housing Units**

The below criteria must be used when detailing the tenure mix.

The tenure mix should be no less than 80% affordable rent and no more than 20% shared ownership.

Request would be evenly apportion the affordable units per unit type.

We would request that the affordable housing should meet the enhanced accessibility standard of Part M4 cat 2 (Building Regulations 2015) in lieu of lifetime homes, in accordance with the requirements in DP12 (Development Policies 2014).

Council would request 5% (2 dwellings) for both options is designed to meet Part M4 Cat (3) (2) (a) or Part M4 Cat 3 (2) (b).

### **Museums - £5,000**

Design, manufacture and installation of a memorial plaque in stone or bronze to commemorate the history of Paxman Engineering on the site. This is to be displayed in a suitably prominent position accessible to the public, either as a freestanding item or incorporated into a new structure such as a building or boundary wall.

### **Sustainable Transport - £180,000.00**

#### Projects

- £150,000 Contribution towards improved walking and cycling in the local area. This will give better access from the site to Hythe, Tesco superstore and University.
- £20,000 Contribution towards a car club, which will provide an electric car club cars and management costs. This will support the emerging Colchester Car club network which is also being funded by secured S106 contributions and Defra funding and support a lower-car development providing an alternative to first or second car ownership. Electric charger point and designated onsite car parking space to be provided.
- £10,000 towards supporting/expanding an Old Heath/New Town bike hub offering shared ebikes/ecargo bikes for residents to use. This will complement the car club and offer a complete range of shared transport choices residents have access to as an alternative to first or second car ownership. This will support the growth of localised Bike Hubs that will develop in line with the car club.

We would also require land be made available to widen the PROW along the southern boundary of the site to enable the PROW to be widened in accordance with LTN 1/20.

A shared footway/cycleway would require a total of 3 metres [Officer Note: The Highway Authority requested a minimum of 3.5 metres width, see next page]. Should the applicant agree to this widening, the contribution request towards improved walking and cycling in the local area could be reduced from £150,000 to £75,000.

### **Parks & Recreation - £515,479.40**

#### Ward 65% - £335,061.61

- Café Improvements Old Heath Rec - £80,000
- Footpath/Landscape Improvements at Old Heath Rec - £160,061.61
- Old Heath Rec Playground/Gym Equipment Improvement - £30,000
- Hatcher Crescent Playground Improvement - £65,000

#### Borough 35% - £180,417.79

- Duncan's Gate Improvements – £80,417.79
- Leisure World Improvements (Commercially Sensitive) - £100,000



- If onsite gym facilities provided contribution figure would be amended by approx. £30,000
- Maintenance required if adopted by CBC - £18,598.80, figure will need to be re-calculated if additional gym facilities provided onsite.

The calculation would be updated once the actual mix of unit sizes are known (for the purposes of the S106 Agreement, the request could be tariff based). This figure may increase and decrease accordingly.

#### **Archaeology - £15,153.00**

£14,400 for museum quality display case, design and display material

£753 for enhancement of the Colchester HER

£348 will be required if no archaeological remains are affected by the development, to integrate the information from the archaeological

#### **NHS - £34,800.00**

£17,400 Castle Gardens Medical Centre and branches

£17,400 East Hill Surgery

#### **Highway Authority**

A minimum 3.5-metre-wide footway/cycleway along the two sections of the proposal site's Port Lane frontage

Widen Footpath 143 Colchester to a consistent minimum width of 3.5 metres along the proposal site's frontage

**Education** - A contribution would be required in accordance with standard formula as follows:

Early Years & Childcare - approx. £202,000

Primary - approx. £673,000

Secondary - no contribution being sought

## **16.0 Report**

### **Environmental Impact Assessment ("EIA") Screening**

- 16.1 A screening exercise has been undertaken as part of this application. The proposed development falls within the description at Section 10(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), namely urban development projects. The total development will not exceed the threshold in Column 2 of the table in that Schedule as the development would not (i) include more than 1 hectare of urban development which is not dwellinghouse development; or (ii) include more than 150 dwellings; and (iii) the overall area of the development would not exceed 5 hectares. Furthermore, the site is not "sensitive" as defined by the Regulations.
- 16.2 Consequently, while there may be some impact as a result of this development, it is not considered that a proposal of this type, size and scale at this location would result in a significant environmental impact. An EIA is therefore not required. In reaching this conclusion, the selection criteria for screening in the EIA Regulations and the guidance in the Planning Practice Guidance have been

taken into account and consideration has been given to the potential impacts of the proposed development as submitted in support of this application. Any identified potential impacts will need to be subject of specialist assessments and to appropriate mitigation measures, and these will be assessed in the paragraphs below.

### **Principle of Development / Local Plan Overview**

- 16.3 In the context of the Adopted Local Plan (Core Strategy / Site Allocations), the site is brownfield land and is allocated as a designated employment zone. The buildings on the site were formerly in employment use prior to the operation ceasing. Therefore, the proposal for residential development on this site would be contrary to Core Strategy Policy CE3, without demonstrating there is no longer a need for any employment use of the site and meeting other tests. However, as the site is allocated for housing development in the emerging Local Plan within Policy EC3, which is very advanced in its preparation, a pragmatic approach is suggested with very significant weight to be given to the emerging Policy context rather than that of the current Adopted Plan.
- 16.4 The relevant elements of the Adopted Local Plan comprise the Section 1 Shared Strategic Local Plan (adopted February 2021), the Core Strategy (Focused Review 2014) and the Site Allocations DPD (2010). It must be acknowledged that as the site is allocated as an Employment Zone in the current adopted Local Plan, the proposed development would be contrary to key policies, including CE3 and the distribution elements of policies SD1 and H1 of the Core Strategy. All other elements of Policies SD1 and H1 are superseded by Policies in the Section 1 Strategic Plan including SP1, SP3, SP4 and SP5. Policies SP3, SP4 and SP5 provide the strategic overview for housing and employment growth and delivery directing towards the emerging Section 2 Local Plan to provide more details in respect of the spatial strategy and housing distribution. It is therefore reasonable and justified for the primary policy context for determining this application to be the emerging Local Plan, provided that the relevant policies can be afforded sufficient weight.
- 16.5 The emerging Local Plan includes a Shared Strategic Section 1 (with Braintree and Tendring District Councils) and a Section 2 which includes Colchester specific policies and allocations. The Local Plan has been subject to two separate examinations, with Section 1 being adopted in February 2021.
- 16.6 The emerging Section 2 Local Plan is currently subject to examination with hearing sessions held for a two-week period in April 2021. The Council are currently awaiting the Final Report from the Inspector following a six-week public consultation on the Main Modifications considered necessary to make the Plan sound. This ended on 18<sup>th</sup> November 2021 and it is anticipated the adoption of Section 2 will be February / March 2022.
- 16.7 Policy EC3 in emerging Section 2 of the Local Plan is subject to a Main Modification but this is unrelated to this site, as it is to add the policy requirements for another site which had previously been omitted from this part of the Plan in error. This is not relevant to the proposed site allocation

within the Policy and no representations were received to the consultation on the Modifications in respect of this Policy which accordingly attracts very significant weight.

- 16.8 The Framework also advocates consideration of other factors, including the weight which can be afforded to emerging local plans when they reach an advanced stage of preparation. In this respect Paragraph 48 states that authorities may give weight to emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies (and the significance of these objections - the less significant the greater the weight that can be given) and the degree of consistency of the relevant policies to the Framework (the closer the policies are to policies in the Framework, the greater the weight that may be given). For the purposes of this application, it is considered that the emerging Section 2 Local Plan as a whole is afforded significant weight. The policy comments which follow therefore primarily relate to the emerging Section 2 Local Plan and any other matters, as relevant.
- 16.9 Shared Strategic Section 1 Local Plan (Adopted February 2021)  
The key Policies relevant to the principle of this proposal include:
- 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
- 16.10 As adopted policies, these are all afforded full weight. As the site is allocated for housing development in the emerging Section 2 Local Plan, it is considered that the proposal complies with Policies SP1, SP3 and SP4. In respect of SP2, it will be necessary for this to be complied with and the Local Planning Authority ("LPA") being satisfied that the Habitats Regulations are complied with.
- 16.11 Emerging Section 2 Local Plan  
The key Policies relevant to the principle of this proposal include:
- SG1 Colchester's Spatial Strategy
  - SG2 Housing Delivery
  - EC3 East Colchester
- Other Policies including ENV5, DM21, DM23 and DM24 relate to specific issues including contamination, flood risk and access and will be addressed by other Officers / consultees.

- 16.12 Policies SG1 and SG2 were subject to Main Modifications with proposed changes which are not substantial to the intention of the policies and primarily reflect consequential changes as a result of the final content of Section 1 and other matters referred to elsewhere in the plan (such as with reference to policies related to Other Villages and the Countryside to ensure consistency through the Plan). These are not therefore relevant to this application. Representations were very limited with a small number objecting specifically to the proposed changes and matters of principle within the Policies or reference to other locations within the Spatial Strategy. Again none of these points having any bearing of the intention of the policy or implications of it in respect of this proposal.
- 16.13 Policy EC3 was subject to a Main Modification but this was to add the policy requirements for another site which, as set out above, had previously been omitted from this part of the Plan in error. This has no bearing on the part of the policy which relates to this site allocation. Furthermore, no representations have been received in response to the consultation on the Modifications to this Policy.
- 16.14 Therefore, these key policies (as amended in the Main Modifications schedule) relevant to the principle of the proposal can be afforded very significant weight. The other relevant emerging Policies referred to (ENV5, DM21, DM23 and DM24) were not subject to any modification or where a modification was proposed this was inconsequential to the intention of the Policy. Very significant weight can therefore also be afforded to these emerging Policies.
- 16.15 The proposal is for outline permission for up to 130 dwellings with all matters save for access reserved. The planning submission clearly indicates that the proposal the subject of this application is for 130 dwellings which complies with the emerging Policy EC3. The policy also requires specific provisions in relation to contamination, access and flood risk. These matters will be addressed below. Provided they are complied with to the satisfaction of the LPA, it is confirmed that a proposal which is fully compliant with the relevant policy requirements set out in the relevant emerging Policies should be afforded very significant weight.
- 16.16 In summary, although the proposal is contrary to the key policies in the Adopted Local Plan, it is fully supported by recently Adopted Section 1 Strategic Policies and the well-advanced emerging Section 2 Local Plan. Having considered the relevant policies against Paragraph 48 of the Framework, it is appropriate to afford very significant weight to the emerging Local Plan Policies in the determination of this application. In this context, it is concluded that Policy support can be given to the proposal the subject of the application in principle.

## **Loss of Employment Land**

- 16.17 The proposed development would result in the loss of allocated employment land, which would be contrary to adopted Policy DP5.
- 16.18 The application submission explains in detail that the premises are no longer suitable or viable for the applicant owing to the bespoke nature of the accommodation, the site currently being bounded by housing to the north, east and west and the impact of losing one of their main clients, which was compounded by the subsequent effect of the COVID-19 pandemic. The applicant has since vacated the site.
- 16.19 In addition to the above, with the site being the subject of an emerging allocation for housing development, which, as established in the above paragraphs, can be attributed significant weight, it must be concluded that the LPA has accepted the loss of employment land on this site. As a result, the conflict with adopted Policy DP5 is considered to be outweighed by the proposal's compliance with other relevant policies, as set out above.

## **Design, Layout and Scale**

- 16.20 The application is submitted in outline form with scale, layout, appearance and landscaping forming the reserved matters. The final design and layout of the proposed development would therefore be the subject of a submission of detail with the appropriate reserved matters and this would have to demonstrate that all relevant adopted space, amenity and parking standards are satisfactorily met.
- 16.21 Notwithstanding the above, the proposed development was reviewed by the Council's Urban Design Officer who noted that design considerations are limited to whether the quantum of development proposed is appropriate in the context of the site and whether the application demonstrates that the site is capable of accommodating the quantum of development proposed in an appropriate manner.
- 16.22 The wider allocation for this site is proposed to accommodate up to 130 dwellings. The application site comprises of the majority of this wider allocation, minus a parcel of land in the north western corner which remains in commercial use. The fact that the entire allocation is not being brought forward in a comprehensive manner is less than desirable in design terms. That said, the application site measures 3ha in size and as such the application seeks to achieve a density of approximately 40dph. This is consistent with the site's urban context and as such is considered appropriate in design terms. On this basis, it is considered that the site is likely capable of accommodating the proposed quantum of development without contradicting the site's context and existing character.
- 16.23 However, as a result of the retained commercial use within the wider allocation, the application site is of an awkward shape, with sensitive edges both internally and externally. This may impact the application site's ability

to accommodate the proposed quantum in an appropriate manner in design terms. On this basis, it should be ensured that any approval allows for a reduction in proposed quantum if required, in order to achieve an appropriate standard of design.

- 16.24 Given the existing site constraints and density proposed, it is less than desirable in design terms to fix the point of access to the site without having an understanding of the future internal layout of the proposal. However, it is considered that the proposed point of access is unlikely to completely prejudice the achievement of an acceptable standard of design at a reserved matters stage.
- 16.25 The application seeks permission to remove all existing structures on the site, including a potential non-designated heritage asset. Said structure is of modest architectural interest and makes an insignificant contribution to the townscape. As such, its retention should be considered primarily on heritage grounds and this will be addressed in the paragraphs below.
- 16.26 In terms of building heights, there is little evidence of four storey structures in the vicinity of the site and as such this increased height for built form would need to be justified in design terms. However, the Parameter Plan sets out maximum heights and as such does not prejudice anything lower that may prove more acceptable in design terms.
- 16.27 The Parameter Plan, together with the indicative Masterplan, originally sought to prescribe the location of the proposed Public Open Space ("POS"), however, similar to the access, it is less than desirable in design terms to fix the location of the POS without having an understanding of the future internal layout of the site. Unlike the access, it is considered that this may prejudice achieving an acceptable standard of design at a reserved matter stage. The location of the POS has therefore been removed from the Parameter Plan, which now simply identifies the land as "residential accommodation including open space, landscaping, access and other associated infrastructure" rather than separating built development from open space provision.
- 16.28 Overall, the outline proposals appear broadly acceptable in design terms.

### **Residential Amenity**

- 16.29 The impact of the proposed development on the residential amenities of existing neighbours as well as future occupiers of the site will be assessed as part of the reserved matters application.

## **Impact on the Surrounding Area**

- 16.30 The application site is allocated for residential purposes in the emerging local plan and is located amongst residential development. As such, it is held that the proposed residential development of the site would not have an adverse impact on the surrounding area. Indeed given the established industrial use, the residential use of the site is likely to improve residential amenity for surrounding homes.

## **Landscape and Trees**

- 16.31 Landscape is another matter that is reserved for consideration at reserved matters stage. The application however is supported by a Townscape and Visual Appraisal which considers the townscape character and key views that may influence the potential for development on this site. The originally submitted document was updated following a request to include a viewpoint analysis from the western end of the Grade II listed Wivenhoe Park to the east of the site to analyse how the setting to the Park might be impacted by the proposed development. The updated document was reviewed by the Council's Landscape Officer who was confirmed that, based on the information submitted, there are no landscape conflicts resulting from the proposed development.
- 16.32 For the sake of continuity and to help soften the street scene, it is recommended that a reserved matters application includes a landscape layout with linear feature of trees to the Port Lane frontage that complements and is similar to the existing relatively new unit frontage treatment to Port Lane just to the north of the site and that groups and linear features of large trees are proposed in the areas of POS and any smaller pockets of open space (i.e. the north eastern and north western corner), to soften and act, at maturity, as focal points within the development but also acting to help to soften and re-tree the skyline when viewed across the Colne Valley to the east.
- 16.33 The site contains a number of existing trees, as a result of which an Arboricultural Impact Assessment was submitted. This was considered by the Council's Arboriculture Officer and agreed in principle.
- 16.34 It is concluded that the development, subject to conditions, can be carried out without causing material harm to existing trees and soft landscaping features, with the details of the landscape aspect relating to the proposed development being determined by way of a reserved matters application.

## **Highway Matters**

- 16.35 Access is the only matter to be considered as part of this outline application. Vehicular access to the site is proposed to be taken directly from Port Lane utilising a former existing access to the site. A detailed access drawing is submitted in support of the application and this shows that visibility splays of 2.4m x 43m, which are commensurate with Manual for the Streets

guidance for 30mph roads, can be achieved from this access. The road is also proposed to have appropriate street lighting designed to adoptable standards.

- 16.36 Pedestrian and cycle access would be provided in a similar manner to the vehicular access. The Highway Authority has raised no objection to the proposed development subject to conditions relating to the provision of 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, the development not being occupied prior to the priority junction off Port Lane providing vehicular and pedestrian access to the site with the above mentioned visibility splays being completed and the provision of a Travel Plan and Residential Travel Packs. These conditions are considered to be reasonable and necessary to make the proposed development acceptable and would therefore need to be imposed on any planning permission that may be granted.
- 16.37 As parking and cycling provision are not matters for consideration at this outline stage, conditions are proposed requiring the reserved matters to comply with the Council's adopted parking and cycle standards.

#### **Drainage and Flood Risk**

- 16.38 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water. A Flood Risk Assessment and Drainage Strategy Report has been submitted. The site is within Environment Agency Flood Zone 1 and a Flood Risk Assessment is required as the site exceeds 1 hectare. The documents have been reviewed by Essex County Council as the Lead Local Flood Authority and Anglian Water who requested that the report is made an approved document should planning permission be granted. Subject to this, it is considered that the proposed development would comply with the aims of the above-mentioned policies.

#### **Noise**

- 16.39 A Noise Impact Assessment has been submitted in support of this application to identify, measure and assess the potential impact of any existing noise sources in the immediate vicinity of the site upon proposed residential receptors. The report concludes that with mitigation measures being implemented, no adverse impact is predicted day or night at the receptors due to road traffic and/or commercial/industrial sound. Proposed mitigation measures include (amongst others) barriers in order to control commercial sound, insulation of facades for certain dwellings due to the impact of sound internally associated with road traffic and commercial sound.



- 16.40 Environmental Protection has raised no objection subject to conditions relating to additional information being provided to ensure that all residential units are designed so as not to exceed the noise criteria based on figures by the World Health Authority Community Noise Guideline Values and the provision of a 2.1 metre high close boarded fence around the boundary of the properties closest to the remaining factory to prevent noise nuisance to residents. Details for this fence would have to be confirmed via condition.
- 16.41 Subject to conditions, it is therefore considered that the proposed development would not result in an adverse impact on residential amenity, in accordance with adopted Policies DP1 and SP7.

### **Ecology**

- 16.42 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the Framework is that planning should contribute to conserving and enhancing the natural environment. Development Plan Policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough.
- 16.43 The application includes an Ecological Assessment, which sets out the findings of an 'extended' Phase I Habitat Survey and desk study, Preliminary Bat Roost Assessment (PBRA), bat emergence/re-entry surveys and Biodiversity Net Gain (BNG) at the site. This report finds that the site contains habitats which could support roosting bats and nesting birds as a consequence of which a licence from Natural England that sets out appropriate mitigation measures would be required to carry out any works that have the potential to disturb roosting bats within the buildings.
- 16.44 The report also considers that the majority of habitats that are being lost to the development are of negligible ecological importance and require no specific mitigation. Those habitats of local ecological importance (dense scrub, broadleaved scattered trees) that would be lost to the development would be more than mitigated through the proposed habitat creation, which would achieve a net gain of some +440% habitat units (based on the submitted information).
- 16.45 The report at Section 3 provides mitigation and enhancement recommendations which should be actioned through the production of a Construction Environmental Management Plan, Landscape and Ecological Management Plan and a sensitive bat lighting strategy. This could be secured via condition. Accordingly, subject to appropriate wildlife enhancement and mitigation conditions it is considered that there would not be an unacceptable impact upon wildlife on the site.
- 16.46 In addition to the above, a RAMS wildlife mitigation payment would be required for £127.30 per dwelling. This payment could be secured via the

S106 agreement that would be required to secure the necessary financial contributions to mitigate the proposed development. The proposal would thus accord with Policy DP21 which provides that development should conserve or enhance biodiversity.

### **Historic Environment**

16.47 This application affects a site associated with Paxmans, which was one of the major employers within Colchester for many years. There are no listed buildings on the site and the Hythe Conservation Area is situated to the north of the site, some distance away. The 'House on the Hill' is the only building on site which has been identified as having some historic interest, as it is evidence of some of the older factory buildings that were on the site.

16.48 It is not usually appropriate to attempt to make design or heritage comments on Outline applications, as there is insufficient detail to assess whether the proposed development might have a positive or negative impact on the area.

16.49 However it is possible to make general comments. The Framework states in paragraph 197 that "in determining applications, local planning authorities should take account of (...) c) the desirability of new development making a positive contribution to local character and distinctiveness. In terms of non-designated heritage assets it states:

"203. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that 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."

In this case, the demolition of the 'house on the hill' results in the complete loss of the significance of the non-designated asset with mitigation being provided through recording and interpretation. The Civic Society has highlighted the significance they attribute to this mid C20 building as the sole survivor from the industrial complex. This matter has been carefully considered and given the limited intrinsic interest, otherwise than as a reminder of the former use, it is concluded that the loss of the building is outweighed in the planning balance by the provision of new homes and could not justify refusal. Furthermore, it is considered that the recording the building (preservation by record) and the provision of on-site interpretation setting out the history of the illustrious industrial past use will further mitigate this loss.

16.50 As the site is part of the evidence remaining in the town of its industrial past, the site itself could be considered a non-designated heritage asset. This is not to suggest that the site should be preserved as it is nor that housing should not be constructed on the site, but instead that the architecture of the new buildings should take its cue from industrial buildings of the period the area was developed, rather than the more domestic character of the

surrounding area. This would be a means of enabling the site to reflect its industrial past, thereby making a positive contribution to local character and distinctiveness by respecting what is unusual and significant about this particular site.

- 16.51 Without details of what exact form the new development would take, it is impractical to attempt to make more detailed comments on the proposal, but should be above be taken into account by the developer and by the council in determining future detailed applications, it is considered unlikely that the re-development of the site for residential purposes would cause harm to the local area in heritage terms.
- 16.52 The Archaeological Advisor notes that the proposed development site is large in area, and has not been subject to archaeological investigation before. It has archaeological potential, given its location in the wider archaeological landscape, being roughly between historic Colchester and its port at The Hythe. Significant prehistoric, Roman and medieval remains were revealed during investigations to the east at the University of Essex in the last circa 20 years (e.g. Colchester HER nos. 5389, 8972, 3102 & 3103). To the west, the Colchester Garrison project also unearthed remains spanning the prehistoric and Roman periods (CHER nos. 5466, 10083 & 10084). Berechurch Dyke (CHER no. 2116), part of the Late Iron Age defensive system of Colchester, is roughly 500m to the west, and may continue towards the proposed development site, given its orientation at its easternmost known extent. Bourne Mill (CHER no. 6925), to the south west, is a surviving Elizabethan building, most likely a fishing lodge, and a Scheduled Monument.
- 16.53 Therefore, groundworks at the proposed development site have potential to impact on archaeological remains. The construction of the existing industrial structures may have had a detrimental impact on survival, but this is unclear without intrusive evaluation.
- 16.54 Any permission granted should consequently 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.
- 16.55 Subject to the above, the development would be in compliance with Policy DP14 which seeks to protect Colchester's historic environment.

### **Contaminated Land**

- 16.56 Development Plan Policy DP1 requires new development to undertake appropriate remediation of contaminated land. The Contaminated Land Officer confirms that the submitted Phase 1 Geoenvironmental Site Assessment is acceptable for Environmental Protection's purposes. It is noted that the investigations are to include the ground gas monitoring, however appropriate asbestos surveys are also required before any demolition works are carried out to prevent creation of any new contamination linkages. The photos on plate 6 appear to show a basement,

therefore additional risk assessment should be provided to cover their intended use and Environmental Protection will require information as to the suitability of backfill to be used where relevant.

- 16.57 However, based on the information provided, it would appear that unacceptable contamination would not preclude development, with the additional risk assessment and, where found necessary, remediation, dealt with by way of conditions.

### **Other Matters**

- 16.58 The Recommended Decision (as set out below) has been shared with the Agent and (pre-commencement) conditions have been agreed under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

### **17.0 Conclusion**

- 17.1 To summarise, taking into account all of the above, the proposal to provide up to 130 residential dwellings on this site is acceptable in principle. The final details of the scheme will have to be the subject of a submission of detail within the appropriate reserved matters and these will have to demonstrate that the design, layout, appearance and landscaping element of the proposed development are 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. ZAC - \*Time Limit for Outline Permissions Part 1 of 3\***

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

## **2. ZAD - Time Limit for Outline Permissions Part 2 of 3**

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

## **3. ZAE - Time Limit for Outline Permissions Part 2 of 3**

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

## **4. ZAM - \*Development to Accord With Approved Plans\***

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

MP\_00\_0000 Rev 05 Location Plan Site Boundary

MP\_00\_1001 Rev 05 Parameter Plan Land use & Building Heights

78313-CUR-00-XX-DR-TP-75001-P05 Proposed Access Arrangement

Phase 1 Geoenvironmental Site Assessment (Reference:14-756-R1-4, dated 30<sup>th</sup> September 2021)

Preliminary Arboricultural Impact Assessment (TG Report No. 13829\_R02d\_RA\_CW Rev D, dated 9<sup>th</sup> December 2021)

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

## **5. 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).

#### **6. ZLN – Building Recording of ‘House on the Hill’**

Prior to the commencement of any works, an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the ‘House on the Hill’. This record shall be carried out by an archaeologist or building recorder, or an organisation with acknowledged experience in the recording of standing buildings who shall have previously been agreed, in writing, by the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has previously been agreed, in writing, with the Local Planning Authority.

Reason: To secure the proper recording of the non-designated Heritage Asset to facilitate preservation by record.

#### **7. 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:

- Updated Townscape and Visual Appraisal.
- 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.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans (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.

## **8. 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.

## **9. 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

#### **10.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

#### **11.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

#### **12.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 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, 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 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

**13.ZG3 - \*Validation Certificate\***

Prior to the first OCCUPATION 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 11.

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

**14.ZAN - Site Levels Plan**

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

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

**15.ZPA – Construction Method Statement**

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

**16.Non Standard Condition - Priority Junction**

Prior to the proposed access being brought into use, a priority junction off Port Lane to provide vehicular and pedestrian access to the proposal site shall be provided or completed. The priority junction shall have but not

limited to a minimum 2.4 x 43 metre visibility splay in both directions as measured along the nearside edge of the Port Lane carriageway. The visibility splays shall then be retained and maintained free from obstruction clear to ground thereafter.

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

#### **17.ZJX - \*Internal Estate Road Junction\***

Prior to each internal estate road junction being first used by vehicular traffic, that junction shall be provided with a clear to ground level visibility splay with dimensions of 25 metres by 2.4 metres by 25 metres on both sides. Such visibility splays shall be retained and maintained free of any obstruction clear to ground in perpetuity.

Reason: To ensure intervisibility between users of the highway at or approaching the road junction in the interests of highway safety.

#### **18.ZJF - \*Cycle Parking TBA\***

Prior to the first occupation of the development hereby permitted, details of the provision for the storage of bicycles sufficient for all occupants of the development shall be submitted to and agreed, in writing, by the Local Planning Authority. The agreed cycle parking provisions shall thereafter be maintained and made available for this use at all times.

Reason: To promote the use of sustainable means of transport.

#### **19.Non Standard Condition - Individual vehicular accesses**

Prior to the first occupation of each dwelling on the development hereby permitted, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the adjacent carriageway or highway boundary and to a width of 3.7 metres and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5 metres 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 vehicles using the site access do so in a controlled manner, in the interests of highway safety.

#### **20.Non Standard Condition - Residential Travel Packs**

Prior to first occupation of the development hereby permitted, 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.

#### **21.Non Standard Condition - Travel Plan**

No part of the development shall be occupied before a Travel Plan has been prepared in accordance with Essex County Council guidance and submitted to, and approved in writing by the Local Planning Authority.

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

#### **22. Non Standard Condition - Carriageways**

All carriageways should be provided at 5.5 metres between kerbed footways or 6 metres where vehicular access is taken but without kerbing.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

#### **23. Non Standard Condition - Footways**

All footways should be provided at no less than 2 metres in width.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

#### **24. Non Standard Condition - Off street car parking**

All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards which shall be maintained free from obstruction and retained thereafter.

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

#### **25. ZIV - \*Garages 6m Back\***

Any garage provided with its vehicular door facing the highway or proposed highway shall be sited a minimum of 6 metres from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety.

#### **26. Non Standard condition - Internal carriageway layout**

The proposed internal carriageway layout shall provide vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

**27. Non Standard Condition - Foul water drainage scheme**

Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

**28. Non Standard Condition - Noise mitigation**

The development hereby permitted shall be carried out in accordance with Section 5 (Mitigation) of the e3P Noise Impact Assessment (Reference: 50-284-R1-3, dated 30<sup>th</sup> September 2021).

Reason: The site is adjacent to a busy road and commercial premises and the dwellings need to be adequately insulated to protect the future residents from undue noise.

**29. Non Standard Condition - Noise Mitigation**

All residential units shall be designed so as not to exceed the noise criteria based on figures by the World Health Authority Community Noise Guideline Values given below:

\*Dwellings indoors in daytime: 35dB LAeq 16 hours

\*Outdoor living area in day time: 55dB LAeq 16 hours

\*Inside bedrooms at night time 30dB LAeq 8 hours (45 dB LA max)

\*Outside bedrooms at night 45dB LAeq 8 hours (60 dB LAmx)

Such detail as shall have been agreed in writing by the local planning authority based on the submitted and approved survey and appropriate consequential noise mitigation measures shall be implemented prior to occupation of the development of the site and thereafter maintained.

Reason: To ensure that there are acceptable levels of noise to residents

**30. Z00 - Ecology**

The development hereby permitted shall be carried out in accordance the recommendations set out within the Tyler Grange Ecological Assessment (TG Report No. 13829\_R03b\_ZD\_CW Rev B, dated 30<sup>th</sup> September 2021).

Reason: To ensure that adequate measures are taken to protect wildlife species.

**31. 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.

### **32.ZPE - Limits to Hours of Construction Deliveries/Worker Traffic**

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: **08:00-18:00**

Saturdays: **08:00-13:00**

Sundays and Bank Holidays: **no deliveries**

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.

### **33.Non Standard Condition - Provision of Open Space**

The reserved matters application shall include at least 10% of the site area to be laid out for use as amenity open space, and shall include a landscape scheme, implementation timetables, monitoring programme and management plan to be submitted and approved by the Local Planning Authority. The open space shall be provided in accordance with the approved details.

Reason: In order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment after the development is completed.

### **34.Z00 - Fibre Broadband**

The construction of the dwellings shall include the installation of empty ducting to allow the provision of fibre broadband.

Reason: In the interests of delivering sustainable economic growth.

## **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.ZT1 – Informative on Street Naming & Numbering**

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

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

### **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](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

#### **4.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. 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.

#### **6.ZUJ - Informative on Archaeology:**

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

#### **7.ZTV - Informative on New Roads Serving Over 5 Dwellings**

PLEASE NOTE that the applicant is advised by Essex County Council Highway Authority that all housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice by Essex County Council within 6 weeks of building regulations approval being granted and prior to the commencement of any development must usually provide them with guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specifications sufficient to ensure future maintenance as a public highway.

#### **8.ZTM - Informative on Works affecting Highway Land**

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](mailto:development.management@essexhighways.org)

#### **9. Highway works**

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works

#### **10. Creation of new street**

All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose

access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority

#### **11. 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)

#### **12. Acoustic fencing**

A 2.1 metre close boarded fence would be required around the boundary of the properties closest to the remaining factory to prevent noise nuisance to residents.

#### **20.0 Positivity Statement**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.