

Planning Committee Meeting

**Moot Hall, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 29 July 2021 at 18:00**

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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Access

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Covid 19

Please could attendees note the following:-

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

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 29 July 2021 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

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

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

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

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

Live Broadcast

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

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

1 Welcome and Announcements

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

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

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

6 Minutes of Previous Meeting

No minutes of previous meetings are submitted to the Committee for approval at this meeting.

7 Planning Applications

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

7.1	190665 Between Via Urbis Romanae and Mill Road, Land South of Axial Way, Colchester	9 - 116
	Hybrid planning application - Outline application for healthcare campus (5ha) of up to 300 older people's homes (C3), 4,300sqm private acute surgical hospital (C2), 1,200sqm.) medical centre (D1), 3,600sqm, 75-bed care home (C2), up to 55742sqm offices (B1a); up to 350 homes (C3), with ancillary retail & food & drink of up to 1000m2 of retail (A1), up to 500m2 of food and drink (A3), digital network of ultra fast broadband; 2 points of vehicular access from public highway, pedestrian boulevard & community green (4.5ha). All matters apart from access to be reserved in relation to outline elements of proposals. Detailed consent for a 1st phase of infrastructure to include the creation of a pedestrian boulevard and associated landscaping, and a renewable energy centre and heat distribution network	
7.2	210088 Former Museum Resource Centre, 14 Ryegate Road, Colchester	117 - 142
	Application for the conversion of the building from Class D1 (Museum) to Residential Use (Class C3): 29 units comprising 23 HMO rooms and 6 s/c flats; with cycling provision and bin storage.	
7.3	210983 172 Mill Road, Colchester	143 - 164
	Erection of 2 No. detached single storey dwellings with attached garages, existing dwelling and garage to be demolished and alterations to existing vehicular access.	
7.4	211654 Riverside Office Centre, North Station Road, Colchester	165 - 180
	Application to determine if prior approval is required for a proposed change of use from offices (B1) to dwelling houses (C3).	
7.5	211079 73 All Saints Avenue, Colchester	181 - 188
	Application for variation of a condition 2 following grant of planning permission of application 182603 (Resubmission of 202718).	
7.6	210121 Outside 32 & 33-34 High Street, Colchester	189 - 198
	Erection of a statue of the Taylor sisters - Dedicated to the children of the world.	
7.7	211411 Newpots, Newpots Lane, Peldon	199 - 208
	Change of use of Agricultural Storage Building to General Storage and distribution (B8) and Modular Office Block Ancillary to Store.	
7.8	211519 Hythe House, 142 Hythe Hill,	209 - 216
	Replace existing timber and render cladding with cedar panels; replace windows with identical UPVC units in black; replace existing	

aluminium front doors with similar doors
finished in black

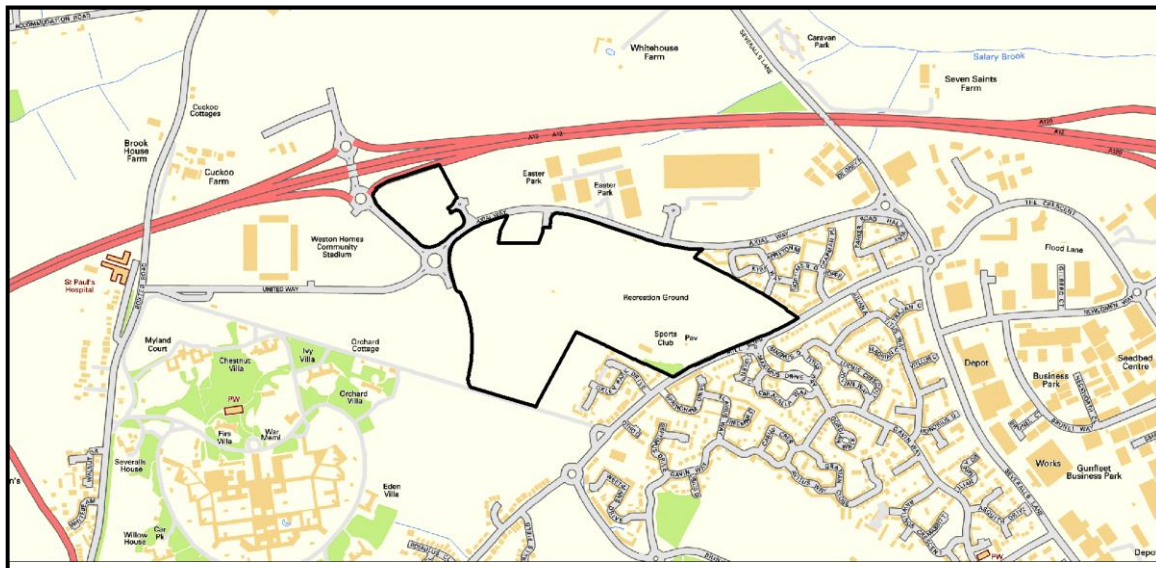
Planning Committee Information Pages v2

217 -
228

8 Exclusion of the Public (not Scrutiny or Executive)

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

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



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Item No: 7.1

Application: 190665

Applicant: Colchester Borough Council

Agent: Mr Jack Conington, Colchester Amphora Trading Limited

Proposal: Hybrid planning appln - Outline appln for healthcare campus (5ha) of up to 300 older people's homes (C3), 4,300sqm private acute surgical hospital (C2), (1,200sqm.) medical centre (D1), 3,600sqm, 75-bed care home (C2), up to 55742sqm offices (B1a); up to 350 homes (C3), with ancillary retail & food & drink of up to 1000m2 of retail (A1), up to 500m2 of food and drink (A3), digital network of ultra fast broadband; 2 points of vehicular access from public highway, pedestrian boulevard & community green (4.5ha). All matters apart from access to be reserved in relation to outline elements of proposals. Detailed consent for a 1st phase of infrastructure to include the creation of a pedestrian boulevard and associated landscaping, and a renewable energy centre & heat distribution network

Location: Between Via Urbis Romanae & Mill Road, Land South of, Axial Way, Colchester

Ward: Highwoods

Officer: Chris Harden

Recommendation: Approve subject to completion of a Section 106 Legal Agreement and authority for minor alterations to conditions as required.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major full planning application, elements of which are a Departure from the current adopted Local Plan owing to the introduction of an element of housing onto a site that has been allocated for employment purposes. The site is an area of land that is currently owned by Colchester Borough Council. Objections have also been received and the application is conditionally recommended for approval. Furthermore, in the event that the Officer recommendation is agreed by Members it would also be necessary to secure a s.106 Agreement to secure contributions to mitigate impacts of the development and committee approval is required for such an agreement.

2.0 Synopsis

- 2.1 The key issues for consideration are: the principle of development and compliance with policy, landscape impact, design and layout, impact upon highway safety, neighbouring residential amenity, trees and vegetation, ecology and archaeology. Impact upon the existing Health Service service provision and the overall level of contributions required for all services also needs to be assessed having regard to the viability of the scheme.
- 2.2 The application is subsequently recommended for Approval subject to completion of a Section 106 Legal Agreement following conclusion of the viability assessment and agreement over the level of contributions required and viable. To summarise the principle of development and conformity policy, the proposal represents a departure from the adopted Local Plan as the site is allocated as open space and employment land in that plan. However, the Rugby Club is relocating to the Sports Hub to the North, and the loss of designated open space is to be compensated for by provision of new and improved sports facilities in this new sports hub facility. The development works at the new Sports Hub are now largely completed and the formal opening has taken place. The proposed redevelopment of the Rugby Club has been included in the Emerging Local Plan and the proposal provides enabling development to help deliver the new sports hub. This is affirmed by emerging local plan policy NC1.
- 2.3 The proposal as submitted differs somewhat from the Emerging Local Plan allocation as it introduces health care facilities, reconfigures employment floorspace provision, and provides an increase in provision of older person's accommodation of 90 units. However, it is considered that, subject to an appropriate layout and design, the health campus would not prejudice the delivery of B1 office space in the Northern Gateway. The Growth Scenario allows for a greater amount of B1 floorspace *and* the health campus. The uplift in older people's accommodation is not considered significant and would assist in meeting the growing demand for this type of specialist housing in the Borough. The overall impact of these variations is therefore not considered to affect the delivery of the key Emerging Plan policy NC1.

- 2.4 It is considered that relevant policies associated with the proposal are largely compliant with the revised NPPF. Accordingly, overall, it is considered that the current Local Plan and Emerging Local Plan supports the principle of a mixed use and residential development on this site which will contribute to the Borough's housing need. The current position is that the Council has in excess of a 5 year Housing Land Supply, supported by recent appeal decisions and as such paragraph 11(d) of the NPPF is not engaged. The other uses in terms of principle are deemed to be compliant with the Adopted and Emerging Local Plan and NPPF.
- 2.5 With regard to more detailed planning considerations, it is considered that the landscape can satisfactorily accommodate this scale of development subject to appropriately designed buildings, the details of which would be subject to thorough assessment at the Reserved Matters stage. It should be noted that detailed consent for the 1st phase of infrastructure, including the creation of a pedestrian boulevard (The Walk) and associated landscaping, and a renewable energy centre and heat distribution network has already been approved in order that this element be commenced to access Government Housing Infrastructure Fund (HIF) grant aid (Application Ref:200079). This element will still be retained in this application and the same conditions would be reissued, where appropriate.
- 2.6 The proposal is considered acceptable in terms of its impact upon highway safety, including the impact on the A12 junction and local road network following the submission of proposed mitigation works informed by extensive detailed modelling and a sustainable transport strategy. The proposal is also acceptable in terms of its impact upon neighbouring residential amenity, trees and vegetation, existing Health service provision, ecology, archaeology and provision and enhancement of Public Rights of Way. The overall level of contributions required for all services have been concluded following the assessment by two independent consultants of the submitted viability assessment. This has confirmed that orthodox viability testing demonstrates that the scheme is not able to support the full range of developer contributions and consequently a viability review mechanism is proposed to ensure that any funds that may become available due to changes in the economics of the scheme are secured and directed to projects in mitigation.
- 2.7 If Members agree with the Officer recommendation, it will also be necessary for the proposal to be referred to the Secretary of State under the current call-in procedure as a technical departure (as was the case in the determination of the Turnstone leisure scheme to the west on United Way).

3.0 Site Description and Context

- 3.1 The application site relates to land north and south of Axial Way, Colchester, and is colloquially known as Colchester Northern Gateway (South) (CNG). The site extends to approximately 25 hectares and consists of existing sports facilities and former agricultural land, some of which is now overgrown. The site comprises two distinct parcels bisected by Axial Way. It is bounded to the north by existing commercial and light industrial development, beyond which

lies the A12. The site is bounded to the west by the Via Urbis Romanae link road, and to the east by Mill Road, beyond which is residential development. To the south of the site lies further residential development.

- 3.2 There are a number of hedgerows within and on the boundary of the site, some of which include significant trees. Protected hedgerows lie on part of the Northern and Southern boundaries. A footpath runs through the site in a generally North/South Direction.
- 3.3 The locality, which includes the site in its entirety and areas in the immediate vicinity which have been developed, is allocated as part of the Colchester North Regeneration/ Strategic Growth Area. These areas have been noted in Core Strategy Policy CE1 and Policy SA NGA3 in the Development locations Document of the LDF.
- 3.4 Policy NC1 of the Emerging Local Plan (2017-2033) is also relevant. It states that all land and premises within the North Colchester and Severalls Strategic Economic Area including the areas known as the Northern Gateway and Severalls and Colchester Business Parks will be safeguarded for the identified uses based on a zoned approach. Part 2 of the ELP has now completed examination and the Inspector's report is now awaited. The ELP is thus at an advanced stage and weight may be afforded to relevant policies.

4.0 Description of the Proposal

- 4.1 The full planning application is a hybrid one, being part Outline and Part Full.
- 4.2 The application is part submitted in outline with all matters reserved (apart from access and the first phase of infrastructure to include the boulevard energy centre) relates to the following:
- healthcare campus (5ha) of up to 300 older people's homes (C3);
 - 4,300sqm private acute surgical hospital (C2),(1,200sqm.);
 - medical centre (D1),3,600sqm;
 - 75-bed care home (C2);
 - up to 55742sqm offices (B1a);
 - up to 350 homes (C3);
 - with ancillary retail & food & drink of up to 1000m2 of retail (A1);
 - up to 500m2 of food and drink (A3);
 - digital network of ultra fast broadband;
 - 2 points of vehicular access from public highway, pedestrian boulevard & community green(4.5ha);
 - All matters apart from access to be reserved in relation to outline elements of proposals.
- 4.3 The detailed element of the application concerns the access and first phase of infrastructure to include the creation of a pedestrian boulevard and associated landscaping, and a renewable energy centre and heat distribution network. (approved previously under application ref: 200079)

4.4 The submitted application includes the following supporting documents:

- Economic impact and Planning Policy Report
- Environmental Impact Assessment incorporating assessments relating to air quality, flood risk, landscape impact, traffic, waste, design, cultural heritage, socio-economics, noise, human health. Ecology and Biodiversity, cumulative effects, Geology
- Health Impact Assessment
- Design and Access Statement
- Sustainable Transport Strategy
- Viability Appraisal

4.5 The site will form plots 9, 10 and 11 of the Colchester Northern Gateway (CNG) development. Various plots within the CNG area are at differing stages in the planning process with all plots being composed of a mixture of leisure, employment and residential land uses.

4.6 Access to the development is proposed from Axial Way. The employment land on Plot 9 will be accessed via the existing arm of the roundabout which serves the Volkswagen car dealership. The remaining employment land and the health care campus on Plots 10 and 11 will be accessed via the existing ghost-island junction to the east of the Toyota Car Dealership. A new ghost-island junction for the residential development, including some sheltered housing, is proposed along Axial Way, approximately 70 m east of the junction serving the Easter Park industrial estate. The access into the site currently known as One Health Care was via the Eastern access road. However, further studies showed this would result in an overloading of this junction so an access from the West is to be used.

5.0 Land Use Allocation

5.1 Adopted Local Plan Proposals Map: primarily designated as open space, with a smaller portion of land to the west designated for employment use as part of the North Colchester Strategic Employment Zone.

Site Allocation Policy SA NGA3 Employment Uses in the North Growth Area

Emerging Local Plan Policy NC1: North Colchester and Severalls Strategic Economic Area

6.0 Relevant Planning History

6.1 200079 Detailed consent for a first phase of infrastructure to include the creation of a pedestrian 'Walk'(previously known as the Boulevard) and associated landscaping and a renewable energy centre and heat distribution network. Approved 20.4.20

Sports Hub applications to North:

200216 CNG Sports Cuckoo Farm Way COL vary conds 2 37 38 40 of 183101 Approved

183101 Application for removal or variation of a condition following grant of planning permission. (Condition 2 of 180438). Approved.

180438 Full planning application for the CNG Sports Hub (Use Class D2) comprising a 2,425sqm sports centre, a 1,641sqm club house, 12 no. sports pitches (comprising two 3G pitches, seven turf pitches and three mini pitches), a 1.6km cycle track, archery range; recreational areas; 10 no. ancillary storage buildings (totalling 298sqm), and associated earthworks, landscaping, utilities, pumping stations, car parking, access and junction alterations. Approved.

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP15 Retention of Open Space and Indoor Sports Facilities
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP25 Renewable Energy

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

SA CE1 Mixed Use Sites
SA H1 Housing Allocations
SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area
SA NGA1 Appropriate Uses within the North Growth Area
SA NGA2 Greenfield Sites in the North Growth Area
SA NGA3 Employment Uses in the North Growth Area
SA NGA4 Transport measures in North Growth Area
SA NGA5 Transport Infrastructure related to the NGAUE

- 7.5 The Neighbourhood Plan for Boxted / Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

7.6 Adopted Local Plan and Emerging Local Plan Status – March 2021

Submission Colchester Borough Local Plan 2017-2033:

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan was examined with hearing sessions in April 2021. Section 2 policies must be assessed on a case by

case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

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

The Council can demonstrate in excess of 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 completed hearing sessions in April. The Inspector's report is awaited on Part 2 of the ELP. Section 1 of the plan is therefore considered to carry full statutory weight.

- 7.7 Policy NC1 of the Emerging Local Plan (2017-2033) is particularly relevant and can be given significant weight. This states:

"Policy NC1: North Colchester and Severalls Strategic Economic Area

All land and premises within the North Colchester and Severalls Strategic Economic Area including the areas known as the Northern Gateway and Severalls and Colchester Business Parks will be safeguarded for the identified uses based on a zoned approach as indicated below.

A master plan will be prepared to provide a detailed guidance covering parts of the economic area. Proposals which are in accordance with the agreed masterplan will be supported.

All proposals within the North Colchester and Severalls Strategic Economic Area will be required to provide good public transport, pedestrian and cycle links ensuring good connectivity within the area, with neighbouring communities, to the Colchester Orbital Route, and to and from the town centre and Colchester Station.

Development will be expected to contribute to the cost of infrastructure improvements where necessary and identified in the Infrastructure Delivery Plan (IDP) or subsequent evidence.

Zone 1: as defined on the Policies Map (existing and proposed employment land) will be the primary focus for B class employment uses and as such, alternative non- B Class uses will only be supported where they;

- (i) Are ancillary to the existing employment uses on the site intended to serve the primary function of the site as an employment area and;*
- (ii) Provide the opportunity to maximise the sites potential for economic growth and support the continued operation of existing employment uses within the economic area and;*
- (iii) Do not generate potential conflict with the existing proposed B class uses / activities on the site; and*
- (iv) There is no reasonable prospect of the site being used for B class employment.*

Proposals for main town centre uses will not be permitted within zone 1 of North Colchester and Severalls Economic Area.

Zone 2: The area defined on the policies map as zone 2 (adjacent to the Stadium) is being developed by the Council as a leisure / community hub and will be safeguarded for a mix of uses including sport, leisure and recreation. Uses will be permitted where they clearly demonstrate the potential for job creation and provided that they do not undermine or constrain the main

purpose of the economic function of the wider area. Uses may include an appropriate scale of leisure and commercial space, open space and green infrastructure to enhance connectivity. No retail use will be permitted unless it is ancillary to another use and meets the requirements of the sequential test and impact test if required.

Zone 3 as defined on the Policies Map (including areas known as the Northern Gateway area north of the A12) land will be safeguarded primarily for a range of sport and recreation uses within Use classes D, subject to up to date evidence supporting a need for such use. Proposals will need to be in accordance with an agreed master plan.

Allocation for Residential and Open Space Uses

The area shown on the policies map which comprises the existing Rugby Club will be safeguarded for employment use (as set out above) as well as residential use to provide enabling development to deliver the sport and leisure / community uses in Zone 3. Development of the site will provide for approximately 300 new dwellings, 260 units of Extra Care accommodation and community space which may include a church. Access will be taken from Axial Way unless other considerations prevent this.

Proposals will be permitted in accordance with a masterplan to be approved by the Local Planning Authority which will incorporate an appropriate design approach and enhanced public realm to ensure the different uses can be accommodated in a compatible way.”

7.8 Other Emerging Local Plan Policies that are relevant include the following:

- SP1 Presumption in Favour of sustainable development
- SP3 Meeting Housing Needs
- SP4 Providing for Employment and Retail
- SP5 Infrastructure and Connectivity
- SP6 Place Shaping Principles
- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG3 Economic Growth Provision

7.9 **Appendix 1** contains additional information regarding the Emerging Local Plan, including 5 year housing supply and policies superseded by the Emerging Local Plan.

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

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Backland and Infill
- Affordable Housing
- Community Facilities

Open Space, Sport and Recreation
 Sustainable Construction
 Cycling Delivery Strategy
 Urban Place Supplement
 Sustainable Drainage Systems Design Guide
 Street Services Delivery Strategy
 Planning for Broadband 2016
 Managing Archaeology in Development.
 Developing a Landscape for the Future
 ECC's Development & Public Rights of Way
 Planning Out Crime
 Town Centre Public Realm Strategy
 North Colchester Growth Area
 Air Quality Management Guidance Note, Areas & Order
 Myland & Braiswick Neighbourhood Plan (part of Development Plan),
 Myland Parish Plan AND Myland Design Statement

8.0 Consultations

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

8.2 Place Strategy Team: (brief summary-full comments within Policy Principle section of Planning Considerations section of report below):

(1) Departure to adopted Local Plan as site is allocated as open space and employment land in that plan. However, Rugby Club has approval to be relocated to the Sports Hub to the North, and loss of designated open space to be compensated for by provision of improved sports facilities at Sports Hub. Redevelopment of Rugby Club has been included in the Emerging Local Plan (ELP).

(2) Proposal differs somewhat from the ELP allocation as introduces health care facilities, reconfigures employment floorspace provision, and provides an increase in provision of older person's accommodation of 90 units. However, subject to appropriate layout and design, the health campus would not prejudice the delivery of B1 office space in the Northern Gateway. Growth Scenario allows for a greater amount of B1 floorspace *and* the health campus. Uplift in older people's accommodation not significant and would assist in meeting the Council's demand for this type of housing. Overall impact of the variations would therefore not affect the delivery of the key Emerging Plan NC1 policy.

(3) Relevant policies associated with the proposal are largely compliant with the revised NPPF. Thus current Local Plan and ELP supports principle of residential development on this site which will contribute to the Borough's housing need. It also provides the enabling development specifically mentioned in the policy to facilitate delivery of the sports and leisure complex to the north of the A12. The Council has a 5 year Housing Land Supply, supported by recent appeal decisions and thus paragraph 11(d) of the NPPF

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is not engaged. The other uses, in terms of principle, are deemed to be compliant with the Adopted and ELP and NPPF.

8.3 Highways England initially had serious concerns about the impact upon the strategic road network and “requested extra information and believe highway improvement works are required to enable the strategic road network to continue its performance in accordance with the requirements of the Highways Act 1980. Namely the widening of Via Urbis Romanae between A12, J28 and Axial Way. The assessment and design work is ongoing.”

8.4 In March 2021 Highways England withdrew their objections and concluded:

“Highway improvement works are required to enable the strategic road network to continue its performance in accordance with the requirements of the Highways Act 1980. Namely the improvement and the conversion of A12 J28 to partial traffic signal control. Highways England are concerned that the Junction of Via Urbis Romanae and Axial Way should also be demonstrated to function properly, this however is primarily an issue for Essex County Council as local highway authority.

The following points should be covered by conditions (full condition in conditions section indicated by HE abbreviation):

1. Junction 28 Improvements, including construction management plan.
2. Implementation of improvements before occupation.
3. Floor areas restricted to not exceed that applied for.
4. Enhance access by public transport to the site.
5. Parking provision.
6. Travel Plan.“

8.5 Highway Authority had initial concerns in respect of the impact upon the Local Road network and requested the submission of more detailed impact modelling. Impact upon local junctions and others further south along the A134 NAR route was raised and the fact that the Rapid Transport System needs to be taken into account.

More detailed impact modelling and a Sustainable Transport Strategy has been submitted and the Highways Authority now have **no objections** to the proposal and have made the following comments and recommend the following **conditions** (precised- full condition in conditions section abbreviated HA):

7.5.21:

1. Traffic Management Plan.

2. Improvements to the Via Urbis Romanae/Axial Way/United Way junction and along Via Urbis Romanae between this junction and A12 J28.
3. Priority junction and right turn lane provision prior to occupation of former Rugby Club.
4. No occupation on land east of Via Urbis Romanae and south of Axial Way until a traffic signal-controlled junction provided.
5. No occupation land east of Via Urbis Romanae and north of Axial Way shall take place until a traffic signal-controlled junction provided.
6. Minimum 3.5 metre wide footway/cycleway retained along all sides of Via Urbis Romanae, Axial Way and United Way over those parts affected by the works.
7. No occupation of the development shall take place until the following have been provided or completed:
 - a) A £1,752,000 index-linked contribution (includes Essex County Council's S106 agreement monitoring fee) towards an improved bus service or services at and/or in the vicinity of the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - b) A £752,000 index-linked contribution (includes Essex County Council's S106 agreement monitoring fee) towards improved cycling and walking routes at and/or in the vicinity of the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - c) A travel plan and residential travel information packs both in accordance with Essex County Council guidance

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....

Notes: (see informatives section)

- Above requirements should be imposed by way of negative planning conditions or planning obligation agreements.
- Treated all planning application drawings relating to internal layout for outline element as illustrative only.

11/5/21 (precised) Section 106 public transport contribution of £1.75m designed to pay for following;

- a) 2 buses collectively providing a 30 minute frequency on a new service between University / Greenstead / St Johns Estate/ Highwoods / Severalls Business Park / CNG throughout the day Monday to Saturday.
- b) 1/3 of the cost of the 3 buses required to provide an evening service along the above route but extended via North Station to the Town Centre – the remainder being paid by Turnstone.

- c) ½ the cost of the 3 buses required to run the service as described in b) above to operate all day on Sunday – again the remainder would be paid by Turnstone.

Intended that combined funding from CNG and Turnstone would provide 5 year pump priming of passenger transport services. If there is a shortfall, anticipate that revenue income would help rebalance the finances, although less likely to be in the earlier years. If get to a surplus position, would expect to use to extend the service support beyond the initial 5 year period. Likely that evening and Sunday services may take longer to achieve commercial viability.

Reserve right to reconsider the service/routing, if reality does not match expectation.

Intended that the service serves a number of needs, including:

- a) Providing quicker link from East Colchester to the employment, sporting and leisure attractors in the CNG area. (Less than half the time it would have taken to travel via the town centre).
- b) Linking University students and areas of deprivation/ high unemployment e.g. Greenstead/St Johns with employment opportunities throughout the North Colchester employment areas.
- c) Provide link from P&R site to employment throughout CNG / Severalls Business Pk – which should help reduce congestion in the area.
- d) Provide link between CNG housing and neighbourhood facilities at Highwoods.
- e) Provision of Evening and Sunday extension to P&R provision.
- f) Intended inter-availability of tickets on P&R and this service to facilitate sustainable movement throughout Colchester to CNG/Sports Village area throughout the week.
- g) Further benefits brought to the CNG and sporting village as a consequence of wider package – but not chargeable to CNG development.

Re: cycling and walking, asked to secure a £750k contribution towards Local Cycling & Walking Infrastructure Plan (LCWIP) Route 1b (please see attached for details).

LCWIPs have helped Essex develop network plans for both walking and cycling across the county.

The LCWIP plans for Colchester have been developed following DfT's strategic planning process and have provided us with a proposed network of primary corridors for walking and cycling.

Colchester LCWIP Routes 1a and 1b both identify Mill Road as a strategically important route for both walking and cycling.

Officer comment: The issue of viability and contributions is considered at Developer Contributions section below.

- 8.6 North East Essex Clinical Commissioning Group (NEECCG) state 29.1.21, (précised & conclusion): (More detailed comments rec'd 29.1.21 are contained in **Appendix 2** for ease of reference if required).

Comments relate to potential impact on healthcare provision:

(1) The CCG is supportive in principle of outline planning application, however, an Alliance approach to how local services will support the incoming population and a greater understanding of the concept of the care village is required in order for full Health and Social Care support to the full scheme.

(2) More apparent due to lack of section 106 secured for health services including the Acute Trust in the area following the developments on and surrounding the old Severalls Hospital site. Can be done in conjunction with the proposed Memorandum of Understanding (MOU), however mitigation is required in order to ensure adequate services can be provided to this community.

(3) Our Commissioning Strategy is intended to fully support retention of staff in our existing provider organisations as reduced access to affordable housing for all on our already depleted workforce would be a risk.....

5.4 A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £333,200.00 (amendable subject to BCIS Pubsec latest cost indices). Payment should be made before development commences.

5.5 NEECCG requests sum be secured through Section 106 obligation linked to any grant of planning permission.

6.0 Conclusions

6.1 NEECCG has identified proposal will give rise to a need for additional primary healthcare provision and acute hospital provision to mitigate impacts arising from the development.

6.2 Design of new communities is very important to Health as the wider determinants of health would be directly impacted on by design of that community, reduction of isolation and creating of a well-mixed type of housing and cohorts of people is a critical factor for successful communities. Green space and enabling factors that support health would need to be embedded in this community to minimise poor health and mental health - our expectation of all developments.

6.3 The capital required through developer contribution would form a proportion of the required funding for the provision of capacity to absorb the patient growth generated by this development. Otherwise the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.

6.4 The terms set out above are those that North East Essex CCG deem appropriate having regard to the formulated needs arising from the development.

6.5 NEE CCG is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.

6.6 North East Essex CCG look forward to working with applicant and Council to satisfactorily address the issues raised.

8.7 Cadent Gas state: have recommended informatives, which are applied in Informative 4 at the end of this report

8.8 Contaminated Land Officer recommends standard conditions relating to contamination remediation (full conditions in conditions section of report).

8.9 Natural England: makes the following points (summary)

(i) Site falls within 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

(ii) Therefore advise that you consider whether this proposal falls within scope of the Essex Coast RAMS. Where it does, you must undertake a Habitats Regulations Assessment (HRA) RAMS.

(iii) Therefore advise that you should not grant permission until such time as the HRA has been carried out and the conclusions confirmed in line with our guidance.

8.10 Essex CC SUDS state: having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, **do not object** subject to the following conditions (shown in full in recommendation section):

(1) a detailed surface water drainage scheme for the site to be submitted,

(2) a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works.

(3) a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies,

(4) applicant or any successor in title must maintain yearly logs of maintenance.

Suggested informatives are included at the end of this report.

8.11 Anglian Water states: states:

"The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows."

“The drainage strategy is broadly acceptable, however critical details have yet to be confirmed. Condition is requested to ensure the detailed design conforms to adoptable standards.”

A condition is suggested related to foul water discharge (see recommendations section).

Informatives are suggested and these are added at the end of the report.

8.12 Archaeologist states: (precised)

“An adequate pre-determination archaeological evaluation has been undertaken... However, the report (Durham University Report 4977) on the recent pre-determination trial-trenched evaluation needs to be revised and submitted to the LPA in due course.....

“...there are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets.

However, in accordance with the *NPPF* (Para 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

The following archaeological condition recommended:

No works shall take place until the implementation of a programme of archaeological work has been secured.... (full details conditioned).

8.13 Sport England states: 10/4/19 (precised)

- Site is considered to constitute playing field, or land last used as playing field, as defined in The Town and Country Planning (DM Procedure) (England) Order 2015 (Stat Instrument 2015 No. 595). As such Sport England (SE) is a statutory consultee.
- Considered application in light of the *NPPF* (particularly Para. 97) and against its own playing fields policy.

Further comments received:14/11/19 (precised)

- Received amended plans which includes the ‘SE Exception E4 Policy Statement Rev 1 document. Information provided substantially addresses the information requested.
- 23/6/20: Holding objection received regarding lack of water supply to replacement cricket pavilion- comments received superseded by the following:

- 2/6/21 Final comments (precised):

Summary: Sport England raises **no objection** to this application as a statutory consultee which is considered to meet exception 4 of our adopted Playing Fields Policy and paragraph 97 of the NPPF subject to the following matters being addressed through a section 106 agreement or planning conditions as set out in this response:

- Rugby Club and Archery Club Tenure Arrangements;
- Mile End Sports Ground Replacement Cricket Pavilion Delivery;
- Development Phasing.

Financial contributions are requested to be secured towards outdoor and indoor community sports facilities to meet the additional needs generated by the development in accordance with local plan policy.

Replacement Pavilion:

While additional feasibility in the alternative location preferred by the cricket club is still being explored by the applicant, there is no certainty at this stage that this will result in a feasible solution being identified. The proposal will therefore be have to assessed on the presumption that a feasible water supply and foul drainage solution will not be identified and that the replacement pavilion will not be supported by these services.

The potential lack of water/foul drainage to support the pavilion is disappointing because this was offered to the cricket club at an early stage of the project and this was one of the main benefits to the club of relocating to Mile End Sports Ground because their existing pavilion at Mill Road did not have a water supply. However, as set out in the E4 Statement and the Mile End Recreation Ground report (submitted on 25th May 2021), the new pavilion would be larger and as it would be new, it would be higher quality, than the pavilion it would replace. It would also have an electricity supply like the existing facility. In all respects it would therefore still be equivalent or better in quality than the existing pavilion it would replace despite the potential lack of water supply/foul drainage. Furthermore, there has been significant investment in refurbishing the existing pavilion at Mile End Sports Ground for the benefit of all cricket clubs that use the site which represents a net benefit of the cricket related mitigation. **I would therefore conclude that despite the potential lack of water/foul drainage to support the replacement pavilion, the proposals for replacing the pavilion would provide an equivalent or better quality facility.**

The proposal would therefore accord with the policy in terms of being at least equivalent in terms of quality.

Conclusion

In view of the above assessment, I am satisfied in principle that the proposed development on the Mill Road Playing Field site would accord with exception

4 of Sport England's playing fields policy. I can therefore confirm that Sport England therefore makes **no objection** to the planning application as a statutory consultee. However, this position is **strictly subject** to the following matters being addressed through a section 106 agreement and/or planning conditions if planning permission is forthcoming as set out below:

Rugby Club and Archery Club Tenure Arrangements

A Section 106 agreement should specifically make provision for the following:

- Rugby Club Lease and Archery Club Licence Preparation and Completion: The landowner (Colchester Borough Council) will need to offer to grant a lease to Colchester Rugby Club and a licence to Colchester & District Archery Club for the relocated facilities at Colchester Northern Gateway Sports Park based on the draft heads of terms documents (this should be added as a schedule to the section 106 agreement) in Appendices 7 and 8 of the E4 Statement or any updated/finalised version.

As it is understood that both the lease and licence are at an advanced stage of preparation, the need for this requirement would be negated if the completed lease and licence were provided to Sport England in advance of a section 106 agreement being completed.

Mile End Sports Ground: Replacement Cricket Pavilion

A Section 106 agreement should specifically make provision for the following:

- The replacement pavilion to be provided in the location shown in the plan provided by the applicant dated 25th May 2021 unless otherwise agreed in writing with the local planning authority and to be supported by electrical services;
- The replacement pavilion to be completed and operational within 3 months of the date of the planning permission unless otherwise agreed in writing with the local planning authority.

The need for this requirement would be negated if it was confirmed to Sport England that the pavilion was completed and operational in advance of a section 106 being completed.

Phasing

A section 106 agreement (or Grampian type planning condition) should require no development to commence on any of the playing fields on the application site until the replacement sports facilities at Colchester Northern Gateway Sports Park are fully completed and operational in accordance with planning permission 183101.

8.14 Essex Bridleways Association (EBA)

Initially raised following concerns:

- application appears not to take the opportunity to connect two existing bridleways - 314_232 at Flakt Woods with 314_233 Tower Lane.
- Link will effectively connect two bridleways.
- Have suggested footway/cycleway running north/south through the site should be multi-user, but if not possible, then a perimeter route around the community green or other off-road route should be considered. Vital that equestrians, as well as walkers and cyclists, are able to use safe off-road routes.

Further information was provided and the EBA now state:

- the routes shown in red would be fine in that they would link the two bridleways;
- would be good to put the 'marker in the sand' to ensure that any further iteration of the masterplan does include true non-motorised user routes which include pedestrians, cyclists and equestrians.
- It is within the gift of Essex Highways to either establish a definitive bridleway link or designate the three users as part of the highway.

8.15 Health and Safety Executive States: “Your application does not intersect a pipeline or hazard zone, HSE Planning Advice does not have an interest in the development.”

8.16 Environmental Protection recommends the following conditions (full conditions in condition section of report):

- Construction Method Statement
- Site Boundary Noise Levels
- Restriction of Hours of Operation & Deliveries,
- Outline applications (where design and layout are reserved) -acoustic assessment
- Full applications -acoustic assessment
- Car Parking and Service Areas (Outline Planning Permission only)
- Industrial Processes (Control of Fumes, Odours, Dust etc)
- Storage of Oils etc. & Groundwater Protection
- Food Premises (Control of Fumes and Odours)
- Grease Traps
- Air Quality on Outline Permissions
- Light Pollution for Major Development
- Details of Floodlighting & Communal Storage Areas

8.17 Essex County Council (Growth and Dev Team) initially made comments and raised concerns relating to the following issues- (precised -full text on Council's website- letter 23/5/19).

- (1) ECC seeks to ensure that the proposals are realistic and do not place an unnecessary (or unacceptable) cost burden on ECC's Capital Programme.
- (2) Scheme is considered to have an impact particularly with reference to adult social care, health, and housing.
- (3) HIA and EIA human health section provide insufficient detail on impact upon healthcare services including NHS partners and ECC social care commissioned services. All healthcare provision on site appears to be non-NHS with no information given around the impact on local services including GP practices, community care, acute services and social care. No detail provided around opportunities to optimise digital health, the potential impact on health and care work force nor mitigation proposals as part of this.
- (4) Need additional info including that related to healthcare access and social care impact.
- (5) 300 elderly persons homes = 90 affordable elderly dwellings?
- (6) ECC are committed to the development of high-quality Extra Care schemes that comply with the Essex Design Guide.
- (7) Anticipated that in addition to the current two extra care schemes in Colchester, there is a need for 60 units with ECC nomination rights.
- (8) Our modelling has identified strongest location for an Extra Care scheme to meet ASC demand is around the Colchester town centre. However, could consider the possibility of a mixed tenure scheme with reduced number of nomination rights split between two schemes. Thus, would need to see more details on the specific nature of the elderly person's accommodation that this application refers relating to type, and proposed tenure split.
- (9) Site is some distance from town centre with no provision for retail or community uses in the immediate area within walking distance. Whilst large area of open green space is proposed, not considered a preferable destination for elderly people making this development not sustainable for active older persons. Questioned whether site is appropriate for the level of elderly care as proposed, located on the edge of Colchester away from any appropriate amenities.
- (10) Policies: cannot see anything which relates to the provision of older persons housing specifically, but there are policies which seek to create a diverse range and mix of housing types to provide balanced communities. However, with the mix here being 50/50 in terms of elderly and open market non age restricted dwellings, question if this achieves a desired mix.
- (11) Is retail deliverable?
- (12) High number of elderly residents would place increased reliance on adult social care in community. Care staff can be difficult to recruit and retain, particularly in areas which are not readily served by bus routes or other methods of public transport. Submission seeks to improve the frequency of bus routes along the main road to the west but the reliance on private transport for carers and for the residents themselves would be significant.
- (13) ECC published adopted developer's guide to contributions in 2016- the preferred location/setting is "close to town centre" with "good access to

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transport” and “good access to amenities”. Questioned whether the development as proposed meets this criteria as it is neither.

- (14) Summer review of the Guide is to also include contributions to libraries: statutory duty under the 1964 Public Libraries and Museums Act.
- (15) Level of development triggers the need for contributions which would be used to enhance existing facilities, to establish joint community facilities, create new mobile library stops or for the largest of development (over 7K houses) create new library buildings.
- (16) Site is relevant to both Grinsted and Colchester libraries which need urgent works of repair: in Colchester a new children’s space and reorganisation of space is needed.
- (17) Requested contribution is based on:

- A service requirement of 30 sqm net of public library space per 1000 populations.
- Building costs based on the RICS/BCIS Tender Price Index and new build prices
- Fitting out costs including furniture and technology based on current fitting out costs
- Provision of stock based on the Public Library Standard “Stock level per 1000 population” and average price of new books.

Contribution of £177 per unit is requested.

(18) Education: Infrastructure Planning Team calculate that development will generate 54.59 Early Years and Childcare, 181.95 primary school pupils and 121.30 secondary school pupils. At April 2018 expansion costs the following sums would be required subject to indexation:

- £950,980 – Early Years and Childcare
- £2,780,378 – Primary
- £2,815,858 – Secondary

Essex County Council additional (Growth and Development) follow up comments (30/1/20).

- ECC to Livewell Development Accreditation, which seeks to ensure that developments demonstrate they have been able to incorporate health and wellbeing benefits in development proposals.
- Two stage process- asked that developers go through using the new Health Impact Assessment and a review by the Essex Quality Review Panel.
 - CBC have produced a first draft of a memorandum of understanding to work collaboratively with partners including NE Essex CCG and this Council, on potential projects and tasks to support the new development which is welcomed.
- Independent Living Programme Manager makes the following points:
 - A. Would appreciate additional clarification of type of ‘elderly persons dwellings’ – i.e. is this sheltered, extra care, residential care or nursing care?

- B. In terms of the demand for extra care this was as set out in our letter of last year is for extra care. This drills down to older people over 75 with a care need
- C. ECC is considering other pipeline sites for extra care, so a timescale on this proposed development would be helpful. Our extra care programme is for 5 years (until 2025)
- D. Our concerns are the lack of amenities that older people are able to access (shops, healthcare, leisure etc) within walking distance and bus route, together with lack of transport access for care staff.

8.18 Essex County Council makes standard comments relating to: Building Regulations, Water Supplies and Sprinkler Systems.

8.19 Essex Police Designing Out Crime Officer states: "...This is an outline application however there has been no pre-application meeting request to Essex Police in relation to this development with a view to designing out crime. Essex Police have no comment to make on the road infrastructure however we would welcome the opportunity to view the details of the pedestrian & cycle pathways as both have the potential to act as crime generators.

8.20 ECC Head of Older People's Commissioning, makes the following points (précised):

- Demand for Extra Care/Independent Living schemes in Colchester: ECC are committed to the development of high-quality Extra Care schemes that comply with the Essex Design Guide. Schemes are part of wider accommodation pathway to enable older people to remain as independent as possible. This approach to specialist accommodation is expected to reduce the demand for residential/nursing home care across the County.
- Have significantly updated our demand forecasting to focus on a more specific and detailed local level.
- Demand in Colchester: total of 7,320 households with at least one person over the age of 75 and 12,842 people over the age of 75, of which 219 have a care package funded by ECC - 6-15 hours of care a week.
- Currently two Extra Care schemes in Colchester, The Cannons, 38 units and Wren House, 18 units. Forecasted that there is currently a need for an additional 265 units of ExtraCare in Colchester to meet demand.
- Our demand forecasting for Adult Social Care (ASC) perspective to identify numbers and location of people who would most likely benefit from Extra Care to inform the required number of nomination rights and locations of schemes across the County. Based on over 75's with a care package of between 6-15 hours a week and who meet the 'high suitability criteria' of living alone, with a long term health condition and in areas with levels of deprivation.

- Anticipated that in addition to the current two schemes, there is a need for a further two Extra Care schemes with ECC nomination rights for an agreed number of units. Modelling has identified the strongest location for an Extra ASC scheme/demand is around the Colchester town centre.
- In process of updating our Extra Care Market Position Statement: would like to work CNC and other housing colleagues across the County to produce/agree this.

8.21 CBC Housing Strategy Manager states 10/6/19: (precised);

- Strategic Housing CBC agree more detail needed about the 300 “elderly” persons homes. Not clear whether these are simply age-restricted dwellings, sheltered/retirement housing, extra-care housing or something else.
- Letter from ECC states (page 4 para 4) there is need for 60 units of extra-care in Colchester with ECC nomination rights. Letter sent to CBC in February 2019 by ECC appears to present a different view – that there is currently a need for an additional 265 units of Extra Care in Colchester to meet demand. In addition, letter states that, “Based on this analysis to meet ASC demand, it is anticipated that in addition to the current two schemes, there is a need for a further two Extra Care schemes with ECC nomination rights for an agreed number of units”.
- Minimum scheme size ECC have supported is 60 units. Clarification is needed as to whether ECC see the units to which they have nomination rights being located in one or two schemes (as they have stated they see need for two extra-care schemes which at their minimum required size would produce 120 units). If a need has been identified for 265 units (Feb 2019) and they require nomination rights to 60, we need to understand why they would object to the provision of additional units to meet the need they identified?
- Location of site is also questioned. However, some retail planned for this site and it is well served by bus routes. This information was shared with ECC when we visited the site with them earlier this year, along with a potential provider of extra-care housing. There is also a significant Retail and Community hub at Highwoods. A map showing the location of various community and health facilities was also shared as part of the site visit (copy attached, shows also bus routes and frequency).
- Given above comments about the location of the site, assume to “Grinstead” library means Greenstead and the planning application in question being relevant to the application site. Greenstead is some 2.9 to 3.7 miles (depending on route taken) from the application site, has no direct bus route to Greenstead and no community connections. This is much further from the site than the retail and community hub at Highwoods.

8.22 CBC Transport and Sustainability team state 25/6/19 (precised):

- Production of a work place Travel Plan for the Healthcare centre and commercial area using ECC Travel Plan template to be submitted prior to occupation. 5-year commitment for membership of the Colchester Travel Plan Club. Cost will be based on the number of employees for the various businesses (schedule of charges attached). Payable as a one-off fee or per annum by the occupants.
- The Colchester Travel Plan Club (TPC) can work with the applicant to implement and monitor the Travel Plan and the applicant can benefit from TPC initiatives and being part of a wider network of businesses with Travel Plans working together to promote sustainable transport.
- Additional request for contribution towards bus services may be required following completion of Sustainable Transport Strategy, which is currently being scoped. Already pressure on surrounding road network before the development commences. Important that alternatives to driving are promoted from the onset to reduce traffic congestion in the area.
- Travel Plan will monitor and promote alternative methods of travel and manage the demand for car parking. Membership of the TPC will ensure consistency of approach across Travel Plans and maximise networking opportunities with the neighbouring stadium, businesses on Axial Way who are already CTPC members and the North Colchester Business Parks who CTPC are working with, all of which impact on the local road network.
- Update 6.21 Sustainable transport contributions would best be spent integrating the development with the surrounding walking and cycling routes as a priority. The team confirms that the site is currently already served by a number of regular bus services stopping in Mill Road, and the new rapid transit service that is planned could have stops on the site's western boundary. Suggested projects are listed in Para 16.61 of this report.

8.23 The Borough Council's Urban Design Officer states:

- (1) Proposals moving in right direction and have some exciting aspects, most notably the Green, The Walk and Architectural coding.
- (2) However, concerned that the site's wider urban design proposals, which will be key to true place-making are still stubbornly weak in places in conflict with specifically related policies, pre-application advice and CABE's Design Review report.
- (3) Improvements are still needed before I could support the scheme, notably to ensure consistency across parameter plans and coding, front and back issues are resolved, sufficient parking is provided for commercial uses, there is a credible route map for proposed densities and the north-south strategic foot and cycle link is more suitably provided."

8.24 The Borough Council's Landscape Officer makes a number of comments including relating to orientation of buildings to landscape features, retention of historic hedgerows, retention of footpaths and adequate soft landscaping separation and screening of the energy centre. The landscape issues raised are covered within the Planning considerations section of the report.

8.25 Colchester Cycling Campaign (CCC) makes a number of comments (precised):

- (1) CCC is disappointed with standard of cycling provision. Acknowledge that Systra has tried to improve matters for cyclists and pedestrians but scheme is lacking and should not go ahead in its current form.
- (2) No account taken of Government's Gear Change or Local Transport Note 1/20 strategy documents. Latter offers extensive standards for high-quality cycle infrastructure based on safety, directness, coherence, comfort and attractiveness – all necessary to boost cycling levels.
- (3) Also issues of climate change and air quality. By not adopting LTN 1/20, Northern Gateway scheme reinforces priority given to motor transport and so fails to fully enable utility cycling.
- (4) Lack of LTN 1/20 crossings.
- (5) Conclusion: CCC cannot endorse plans as currently stand and would appreciate it if scheme reconsidered so that it meets LTN 1/20 standards.

9.0 Parish Council Response

9.1 Myland Community Council (MCC) state:

(27/2/20): "In view of recent discussions between ourselves and CBC Planning Officers the issues of concern to us have been addressed. In view of this our Council are **now in a position to support this application.**"

Previously, the initial comments (8/5/19) made the following points (precised):

- (1) Broadly welcome application. Many project aspirations in line with Myland and Braiswick Neighbourhood Plan (NP). NP not referenced. Has been wide public consultation on this current application both by MCC and Amphora.
- (2) Provision of health service and care facilities most welcome in North Colchester. Agreed 4.5 hectares of land for creation of the new Myland Village Green especially welcomed. Preservation of substantial part of current Mill Road Sports Field (Rugby Club) as Village Green has been agreed by CBC and enshrined in the Myland & Braiswick NP. Reassured all vehicular traffic will only enter exit by Axial Way.
- (3) Concerns/Observations-
 - Plans showed only 4.48 hectares of village green space.
 - Dismayed that DAS illustrates bowl/amphitheatre' design of the village green is to act as a floodplain.

- Landscaping: dislike amphitheatre/bowl effect. Reserve right to formulate own design. Current overspill car park will become part of the Green and should not be considered as overspill car parking. Current hedgerows and mature trees must be retained where possible.
- The Broadwalk- welcomed. Would not support any extension of its width from what is currently in place outside Rugby club building. Would object to any proposal to allow car parking on this walk or to this walk or any footpath bisecting the Village Green area.
- Footpath/(PRoW). – Welcome link up with footpath 'Myland 232' which will run through estate to the VUR. However, ProW Footpath 69 which runs alongside of the Toyota garage must be preserved and safeguarded. Any requests to deviate must be submitted to MCC.
- Access- must be no access to Village Green from Redrow Estate -always opposed by MCC and local Ward Councillors. Ancient drainage ditch and well-established tree line must be preserved. Only vehicle access from Mill Road will be to the current Rugby Club building for parking/delivery purposes only. The 'farmers gate' on the SE side of the green will be retained as access for emergency services and maintenance contractors only.
- Infrastructure – aware of local concerns with regard to availability of infrastructure prior to developments being approved. In particular, local school access has been highlighted as is access to medical facilities. Such deficiencies must be addressed.
- Energy Centre- The design appears dark, bland and aesthetically poor.
- Roads and Transport- concerns on future sustainability of North Colchester traffic infrastructure. If major developments such as the Northern Gateway phases, Chesterwell and Kingswood Heath (Severalls) are considered in isolation there may not be an effective 'holistic view' of the cumulative effect of these developments.

MCC Supplementary Comment 15/11/19 (precised) :

CBC provided details of the key revisions.

- Revised Masterplan to show crossover on the eastern access road and the Healthcare housing detailed an Essex Highways request to reposition the crossover point. This will necessitate the loss of a portion of hedgerow and at least one tree. Hedgerow loss is disappointing. Any tree loss is guaranteed to be compensated for in the normal way, i.e. 2 for 1 replacement.
- Revisions to the DAS were necessary to formally record the revisions made such as 1 above.
- Revised detailed Boulevard drawings showed where revisions impacted. Noted plans to link a bridleway from Severalls Lane to Tower Lane would cross the Boulevard. Agreed this was impractical on safety grounds and to prevent damage to the surface of the Boulevard itself and to ensure clean and safe use.
- The revised AIA revealed that 17 trees from a site total of 67 would be removed. Vast majority of trees on site are oaks (37, of which 9 would be removed). See 1 above, any tree loss will be compensated for.
- Revised Systra Traffic Assessment data shows that matters raised have been satisfactorily closed or recommendations made to increase targets

for car journey reductions and enhance public transport provision. This aligns well with MCC's own ambitions to reduce reliance on car journeys across and out with north Colchester.

- The District Heating System borehole locations are as previously understood in relation to Village Green area.
- Essex Highway have requested that a straight section of road should have a 'kink' inserted to reduce speed levels. This releases a small area of land that will become a feature e.g. a small convenience store or cafe.
- Footpath 69: intended be re-aligned in parallel with its current line and this will necessitate a closure and diversion period while the associated highway is constructed.

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 Cllr King states:

- Development in this area being near inevitable, on balance I welcome the mix of health care, elderly care, housing and supportive local facilities proposed, to include access to what will become the Village Green. Being more than just housing is important for the choices offered to local residents and visitors. But as a local resident I know that many will be concerned at the further pressure on infrastructure, given the significant peak time congestion towards North Station and off Axial Way up to the A12.
- The additional impact deserves modelling and contextual or not the need for bus services to be reviewed, but the application in principle has my support. I particularly welcome the innovative heat network and what appears to be extensive pedestrianisation, on the assumption that this includes access to the Village Green for campus visitors and new residents and that this is richly landscaped as suggested.

10.3 Cllr Goss states:

- I am exceedingly concerned the impact this will have on school places in the area, especially Secondary School places. We already have issues in Mile End where children are being offered Colchester Academy 4.2 miles away and two bus trips. The Gilberd is no longer the official catchment school as they have changed their admissions criteria. This is a serious issue facing Colchester and this house building will further exacerbate the issue. Essex County Council need to spell out how they will be providing adequate Primary and Secondary school places for this application. If not it should be suspended until such time the school places can be proven to meet local needs where children can walk to school.

10.4 8 Letters of objection have been received which make the following points:

- residential element of design so close to existing houses at Cater Walk. Natural daylight for the front of the properties already limited due to existing historical hedgerow. Further development so close will have further dramatic impact on natural daylight.
- building on rugby club grounds (one of few remaining green spaces in area) would be detrimental to locality.
- Infrastructure in Colchester already struggling to cope due to increased housing. Our hospital cannot cope and roads are already far too busy.
- Rugby club is used by many local people as a way to walk their pets and many children also use the grounds for recreational purposes. Shame for this to be compromised.
- will lead to even higher levels of traffic, resulting in increased congestion. Added to the traffic from the football stadium, industrial estates and existing dwellings. Will be as bad as Stanway or even worse.
- Too much development in the Urbis Romane area, Highwoods in general.
- Overdevelopment
- Traffic levels already unacceptable in the Turner Road/Mill Road / NAR / VUR causing congestion and poor air quality.
- The plan shows new path/cycle route running North/South parallel to the current Public Footpath running from Tower Lane Footpath/Venture Chase to Toyota Showroom - Why create a new route when one already exists 'and' links to a cycle path that leads to Mill road (opposite Bedford Road Junction. New proposed cycle path just ends at a T-junction with Tower Lane footpath which will encourage illegal access into the Rosewood Estate via Courage Drive damaging fencing and hedging.
- Current North/South Public footpath has been planted with trees and bushes at public expense (Western perimeter of Rugby Pitches). Plan shows only the listed historical oak trees surviving - is an invaluable green corridor for wildlife to navigate/migrate between countryside areas around North Colchester plus wastes public money that has been spent to encourage wildlife and green footpaths.
- Concerned that building has already started behind Toyota showroom for the 'Power Station' and this application hasn't been properly discussed and not passed/authorized - this is not site leavening but pile driving/footings/ground water drainage.
- Regarding pedestrian access to North side of the A12 for McDonald's/park and ride and proposed relocated rugby/archery club: there are no 'safe' crossing points over the A12 slip roads. It needs separate pedestrian access via a bridge/tunnel to keep pedestrians away from traffic. Stadium hosts football and other large regular events and does not cater for large amount of footfall of people. Lip service is being paid to health and safety.

10.5 Four letters state:

- Access to development must only be from Axial Way not Mill Rd. Current trees and hedges must be retained.

- With the potential increase of traffic along Axial way to and from the Severalls lane, would want to have a traffic light-controlled crossing between existing new development (Inspiration) and the Severalls lane roundabout.
- On the General Arrangement Plan 3 there is a pedestrian and cycle path that joins the public tower lane footpath. Currently there is access gate from Rugby pitches to Tower Lane that has remained locked. However, a number of the public jump this gate and then make their way directly into the rosewood estate via Courage Drive. This is not public access and an amount of private hedging and fencing has been damaged due the public taking the short cut straight over the ditch, fence and hedge. How can this be stopped prior it becoming a problem?
- Support the proposal, so long as there is not much impact on traffic along Mill road.
- Support with some reservations to preserve the light, open space and low-rise levels of current development. Cannot see any of the following facilities on the plan which are essential for increased housing: GP surgery, primary school, secondary school - all of which are already much needed before new homes are built. Need pedestrian access linking this site to the proposed sports complex across the A12. Children are already walking across the A12 slip roads to MacDonalds - a footbridge is needed before any more development takes place.
- Please consider the local seagull issue on the Severalls business park and ensure flat roofing is bird proofed.
- Cannot see any of the proposed leisure facilities discussed previously and would appreciate clarity on which areas are set aside for leisure, retail (non car dealerships) and family entertainment/leisure. Plan is highly detailed and difficult to read through dozens of PDFs one at a time.
- Proposal needs supporting infrastructure and that must include the new primary and secondary schools built FIRST on Chesterwell site. 350 homes will seriously increase the numbers requiring a school place.
- New entrance needed off Axial Way. Re-development of road network on and around VUR and roundabouts needs to be done prior to house development to alleviate congestion in that area at junction of Axial Way and VUR.

11.0 Parking Provision

11.1 Illustrative as outline-see highways section of report.

12.0 Accessibility

12.1 In accordance with Policy DP17 it is considered that the development has the potential to provide the required accessibility under the Equalities Act.

13.0 Open Space Provisions

13.1 Approximately 20% of gross site area (in excess of policy requirement).

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 via Section 106 (s.106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission are outlined below. The application has been referred back to the Development Team in the light of the conclusions reached in both viability assessments and any further responses from the Development Team will be reported to the Planning Committee. The scheme would provide 30% affordable homes in conformity with the ELP policy requirement.

Financial Contributions requested are as follows:

Summary of requests for contributions

Affordable Housing: 30% of units

Education: £3,778,278.00

Library: £115,050.00

Highways: £2,504,000

NHS: £333,200.00

Community: £200,000* (if refurbished rugby club)

Parks & Rec: £555,915.00

RAMS: £82,751.50

Archaeo: £19,953.00

Transport and Sustainability Team CBC suggested further contribution sought for improvements to promote cycling and walking :£1,054.5 million

Total Requested: £9,134,147.50*

For Expanded detail from service providers relating to above requests please see Appendix 5:

- 15.2 With regard to the make up the Section 106 the following was recommended before the viability position was established through two external reviews by independent consultants:

- In the case of the Market Housing:-
 1. Affordable Housing 30%;
 2. provision of Education contribution
 3. management of archaeological finds
 4. provision of community facilities
 5. provision of sport and recreation facilities
 6. provision of and future management of on-site open space; amenity areas and play areas
 7. provision of library facilities and/or materials
 8. provision of increased healthcare capacity
 9. provision of measures to mitigate the effect of the development on sensitive ecological sites

- In the case of the Over 55 housing:-
 1. Restricting occupation to persons over the age of 55 and their dependants
 2. Affordable Housing;
 3. management of archaeological finds
 4. provision of community facilities (to be confirmed)
 5. provision of sport and recreation facilities (to be confirmed)
 6. provision of and future management of amenity areas
 7. provision of library facilities and/or materials
 8. provision of increased healthcare capacity
 9. provision of measures to mitigate the effect of the development on sensitive ecological sites

Recommendation

The independent viability review undertaken by two consultancies on behalf of CBC (as the local planning authority) has demonstrated that there is no capacity to support the burden of financial contributions set out above based on an orthodox viability appraisal, beyond 30% of the new homes being secured as affordable as per our ELP policy and adopted SPD. Amphora, on behalf of the landowner, has offered to make available an ex-gratia payment of £2.3 m towards a reduced package of financial contributions under s.106. It is suggested that this is best apportioned as follows:

- NECCG |(NHS) £333,200.00 as per request;
- Community Facilities CBC £200,000.00 towards new community facility on site;
- RAMS £82,751.50
- Education £1,684,048.50 pro rata for year years, primary and secondary education ECC

Total financial contribution: £2,300,000.00

In the event that further funds become available as part of future viability reviews, it is suggested that this is assigned to further contributions towards education places and thereafter transport infrastructure improvements to promote sustainable transport.

16.0 Report

Principle of the Development and Policy Context

Policy Summary

- 16.1 To summarise the policy principles, the proposal is a Departure to the adopted Local Plan as the site is allocated as open space and employment land in that plan. However, the Rugby Club has approval to be relocated to the Sports Hub to the North, and the loss of designated open space is to be compensated for by provision of improved sports facilities in this sports hub. The proposed redevelopment of the Rugby Club has been included in the Emerging Local Plan and provides enabling development to help deliver the sports hub.
- 16.2 The proposal as submitted differs somewhat from the Emerging Local Plan allocation as it introduces health care facilities, reconfigures employment floorspace provision, and provides an increase in provision of older person's accommodation of 90 units. However, it is considered that, subject to an appropriate layout and design, the health campus would not prejudice the delivery of B1 office space in the Northern Gateway. The Growth Scenario allows for a greater amount of B1 floorspace *and* the health campus. The uplift in older people's accommodation is not considered significant and would assist in meeting the Council's demand for this type of housing. The overall impact of the variations is therefore not considered to affect the delivery of the key Emerging Plan NC1 policy.
- 16.3 It is considered that relevant policies associated with the proposal are largely compliant with the revised NPPF. Accordingly, overall, it is considered that the current Local Plan and Emerging Local Plan supports the principle of residential development on this site which will contribute to the Borough's housing need. The current position is that the Council has a 5-year Housing Land Supply, supported by recent appeal decisions and as such paragraph 11(d) of the NPPF is not engaged. The other uses in terms of principle are deemed to be compliant with the Adopted and Emerging Local Plan and NPPF.

Detailed Policy Explanation

- 16.4 In terms of the detail of the principle of the development, the proposal is shown on the Adopted Local Plan Proposals Map as primarily designated as open space, with a smaller portion of land to the west designated for employment use as part of the North Colchester Strategic Employment Zone. The North Colchester area lies within the urban area of Colchester, which puts it in the top layer of the spatial hierarchy described in Policy SD1 – Sustainable Development Locations. The North Colchester Strategic Employment Zone is one of three main employment areas designated to accommodate employment growth, as set out in the Centres and Employment policies CE1-CE3.
- 16.5 Site Allocation Policy SA NGA3 Employment Uses in the North Growth Area provides for a range of B uses, excluding B1a offices, with limited ancillary retailing and services to meet the needs of employees in the SEZ. As the

DC0901MWeV9.3

current proposal was not allocated in the adopted Local Plan it is being considered as a Departure to the Development Plan.

- 16.6 Subsequent to the approval of the Adopted Local Plan, however, the Council as landowner developed a proposal in conjunction with the Colchester Rugby Club to relocate the Rugby Club, which lies within the application site, to a nearby site forming part of the Sports Hub to the North of the A12 (Approved under application 183101). The loss of designated open space is to be compensated for by provision of nearby improved sports facilities in this sports hub, and the land made available for development could then contribute to meeting the Borough's housing need and contributing to the funding of the new sports development. Development of the sports facilities was programmed to take place prior to development of the existing Rugby Club to ensure the continuous availability of facilities for the Rugby Club. The proposal thus provides enabling development to facilitate delivery of the sports hub in conformity with policy.
- 16.7 A Masterplan for the Northern Gateway was first prepared seven years ago and was endorsed by the Local Plan Committee for the purposes of public consultation in June 2014. It provides a strategy linking the sport, parkland and informal recreational area in the north and the southern commercial leisure, employment and mixed-use residential areas. Subsequently, there were significant changes arising from the development of the Emerging Local Plan, proposed road and facility development taking place, and the submission of further proposals as planning applications. As a consequence, the Masterplan was reviewed in August 2016 and again in December 2017 to reflect the Local Plan.
- 16.8 Evidence base work undertaken for the Emerging Local Plan included an Employment Land Needs Assessment. It assessed a number of sites in Colchester for their potential in meeting the demand for B uses. Whilst it found that the delivery of industrial floorspace in Colchester was limited by low rental values, it also found that office locations around the north of Colchester were performing strongly, reflecting good links to the A12. The Northern Gateway was given the highest rating of all Colchester sites in the assessment and this was subsequently reflected in the inclusion of office space in the masterplan for the Northern Gateway.
- 16.9 Paragraph 4.30 of the Emerging Local Plan states that: "The Rugby Club site is allocated for residential development and open space to provide enabling development to help deliver the sport facilities detailed above, which will benefit the whole borough. Provision of significant open space will be required within the site to ensure that some of the existing benefits are retained for local residents. There will also be a requirement to provide a community space which may include provision for a church. As with the proposals in zones 2 and 3, there will be a masterplan agreed which will provide a more detailed framework for the area as a whole. Proposals will be expected to comply with this. It is anticipated that development of this site will deliver approximately 300 dwellings. Land within this allocation will also provide 260 units of Extra Care accommodation."

- 16.10 Policy NC1 of the Emerging Local Plan (listed in full in the Policy Section above) provides that the North Colchester and Severalls area should be master planned and developed for a range of uses as follows:

Zone 1 (western portion of the proposal site): as defined on the Policies Map (existing and proposed employment land) will be the primary focus for B class employment uses and as such, alternative non-B Class uses will only be supported where they:

- i. Are ancillary to the existing employment uses on the site intended to serve the primary function of the site as an employment area and.*
- ii. Provide the opportunity to maximise the sites potential for economic uses within the economic area and.*
- iii. Do not generate potential conflict with the exiting proposed B class uses/activities on the site; and*
- iv. There is no reasonable prospect of the site being used for B class employment.*

Zone 2: sport, leisure and recreation uses adjoining the Stadium

Zone 3: Sport and recreation uses north of the A12 – now being developed for such uses following approval in July 2018 of application 180438 (as amended by 183101).

N.B. the references to B use classes in the policies will be modified as required to address recent changes in Use Classes Order.

- 16.11 An additional area within the Strategic Economic Area, corresponding to the eastern portion of the proposal site, is programmed for residential and open space uses as follows:

The area shown on the policies map which comprises the existing Rugby Club will be safeguarded for employment use (as set out above) as well as residential use to provide enabling development to deliver the sport and leisure/community uses in Zone 3. Development of the site will provide for approximately 300 new dwellings, 260 units of Extra Care accommodation and community space which may include a church. Access will be taken from Axial Way unless other considerations prevent this.

- 16.12 The proposal as submitted differs somewhat from the emerging Local Plan allocation as it introduces health care facilities, reconfigures employment floorspace provision, and provides an increase in provision of older person's accommodation of 90 units.

- 16.13 The applicant's Economic Impact and Planning Policy Report addresses the first points. It is considered that, subject to an appropriate layout and design, the health campus element of the scheme would not be prejudicial to the delivery of B1 office space in the Northern Gateway. The Growth Scenario allows for a greater amount of B1 floorspace *and* the health campus. The jobs and economic uplift generated by the health campus would be in addition to – rather than in place of – that delivered through the B1 development. This would satisfy the second criterion of policy NC1. The uplift in older people's

accommodation is not considered significant and would assist in meeting the Council's demand for this type of housing.

- 16.14 The submitted Economic Impact report outlines that there would be economic benefits at the construction phase along with additional permanent employment and economic output. It also concludes that there would be a beneficial potential creation of a healthcare cluster along with benefits associated with new housing including increased annual household expenditure and Council Tax receipts. The overall impact of the variations is therefore not considered to affect the delivery of the NC1 policy.

NPPF Compliance

- 16.15 The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging Local Plan are relevant. The relationship of the proposal to each of those plans and the compliance of relevant adopted and emerging policies with the 2019 NPPF are accordingly key variables in assessing the planning balance.
- 16.16 It is considered that the fundamental principles of both the Adopted and Emerging Local Plans are compliant with the new NPPF. For the Emerging Local Plan, the following analysis reflects the NPPF criteria on the weight to be given to policies, which depends on the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies to the Framework (see paragraph 48).

Adopted Local Plan

- 16.17 The NPPF continues to support the Policy approach in the Adopted Local Plan in principle, in respect of the key policies on settlement hierarchy relevant to this proposal, SD1. As the Council is able to demonstrate a 5-year housing land supply these policies are relevant to the decision making on this proposal.
- 16.18 With regard to the 5-year housing supply issue, the Council's latest published Annual Housing Position Statement (April 2019) demonstrates a housing supply of 6.3 years based on the target in the emerging Local Plan. This is the starting point and the evidence which underpins the Council's position. This has been, (and will continue to be), tested at a number of Planning Appeals. For decision making until such time as the emerging Local Plan is adopted the Council will use the Standard Methodology to calculate its 5-year supply requirement. This requires a higher number of new homes to be delivered but despite this the Council can still demonstrate a Housing Land Supply in excess of 5 years as demonstrated by the most recent appeal decisions.
- 16.19 In conclusion the current position is that the Council has a 5 year Housing Land Supply, supported by these most recent appeal of decisions and as such paragraph 11(d) of the NPPF is not engaged.
- 16.20 Policy SD1 accords with Paragraphs 10-12 of the 2019 NPPF which provide for a presumption in favour of sustainable development. Policy SD1 is consistent

with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the LPA working proactively with applicants. It is noted, however, that the housing and jobs target provided in the policy no longer remain current. Whilst the supply figure itself may be out of date, the principle of the overarching spatial strategy and the settlement hierarchy are not and as such should still be afforded significant weight.

- 16.21 Part of the site is included within the North Colchester Strategic Employment Area, covered by the Centres and Employment policies within the Core Strategy as well as Policy NGA3 – Employment Uses in the North Growth Area. Following appeal decisions affecting the Stanway Strategic Employment Zone, it is accepted that these policies cannot be given full weight and that the limited demand for employment land in the Borough constrains the Council's ability to refuse proposals entailing loss of safeguarded employment land. As noted above, however, the important role of North Colchester as a focus for the delivery of employment opportunities is highlighted by the NPPF-compliant policy SD1.

Emerging Local Plan (ELP)

- 16.22 The NPPF advocates consideration of other factors including emerging local plans which can be afforded weight 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 NPPF (the closer the policies are to policies in the NPPF, the greater the weight that may be given). Testing these criteria will inform the judgement about the weight which should be afforded to the emerging Local Plan in this case.
- 16.23 The Emerging Local Plan is at an advanced stage, with Section 1 now adopted and Section 2 has progressed to examination hearing sessions. Section 1 of the plan is therefore considered to carry 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.
- 16.24 Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete examination (*Note: hearing sessions now completed*), 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. The proposal lies within the urban area of Colchester which is in the top tier of the spatial hierarchy contained in Section 2 Policy SG1 Spatial Strategy.
16. 25 The Spatial Strategy (Policy SG1) and Housing Policy SG2 are aligned with the NPPF which reinforces the plan led system (para. 15) and sets out at para. 16 how plans should be prepared. The policies will contribute to the delivery of

sustainable development. Paragraphs 18 and 28 of the NPPF outline that Local Plans should include non-strategic policies which provide more detail for specific areas and types of development. Paragraph 59 reiterates the Government objective of increasing the supply of homes.

- 16.26 Policy SG3 (Economic Growth Provision) is in conformity with NPPF Paragraph 80 and outlines that planning policies should help create conditions where businesses can invest, expand and adapt. Paragraph 81(b) states that planning policies should identify strategic sites for local and inward investments. The detailed criteria included in Policy NC1 for the North Colchester and Severalls area accords with Paragraph 28 of the NPPF which outlines that Local Plans should include non-strategic policies which provide more detail for specific areas and types of development. Accordingly, the key policies in the emerging Local Plan relevant to this scheme are considered to be highly consistent with the NPPF and should therefore be afforded considerable weight.
- 16.27 The final issue to be taken into account when considering the weight to be afforded to the ELP is the level of unresolved objection to the relevant policies. Accordingly, further consideration of the issues raised in representations to Policy NC1 is necessary to guide the judgement of the weight which should be given to the emerging policy in this case. A total of 22 representations were made in respect of Policy NC1. Eight of these were objections from local residents objecting to more houses in the area, with resulting impacts on infrastructure and traffic, as well as loss of the Rugby Club open space. Highways England considered that the total extent of development in NC1 could have a severe impact on the A12 and A120, although it did not elaborate on what form the impact might take.
- 16.28 The above objections are considered resolvable through condition or appropriate mitigation as well the fact that works at the Sports Hub are well underway to replace the Rugby facility. In particular, the matters raised by Highways England can be fully addressed through a Transport Assessment and mitigation works as part of the planning application process, as will be outlined in the Highways issues section of this report. Accordingly, it is considered that the weight to be given to the Emerging Local Plan does not need to be reduced due to unresolved objections.

Policy Principle Conclusion

- 16.29 In conclusion, having regard to the background policy principles of the case, the proposed redevelopment of the Rugby Club has been included in the Emerging Local Plan on the basis of masterplanning and evidence base work and is accordingly a clear Council priority for development. It is considered that relevant policies associated with the proposal are largely compliant with the NPPF. Accordingly, it is considered that the current Local Plan and Emerging Local Plan supports the principle of residential development on this site, as confirmed by the Borough Council's Planning Policy Section.

Landscape Impact and Design, Layout and Scale

- 16.30 This is a Hybrid application (detailed and outline elements) and the only elements submitted in full detail relate to the first phase of infrastructure including the creation of a pedestrian boulevard and associated landscaping and the renewable energy centre and heat distribution network. These detailed elements have already previously been approved under application 200079 and remain acceptable as will be restated below. The layouts submitted for the other elements are for illustrative purposes only.
- 16.31 In terms of relevant detailed Policy background, Policy DP1 of the Local Plan provides that all development must be designed to a high standard, including respecting and enhancing the character of the site, its context and surroundings in terms of architectural approach height, scale, massing and must respect landscape setting.
- 16.32 Policy UR2 provides that the Borough Council will promote and secure high quality and inclusive design in all developments and that the design of development should be informed by context appraisals and should create places that are locally distinctive enhance the built character and public realm of the area. The policy also provides that creative design will be encouraged.
- 16.33 The NPPF has similar provisions and Para 124 emphasises that the creation of high-quality buildings and places is fundamental to what the development process should achieve. It also provides that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
- 16.34 Section 15 of the NPPF covers the protection of the wider landscape stating that the planning system should contribute to and enhance the natural and local environment by:
- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 16.35 This area including the site has been designated as LCA B6 Great Horkesley Farmland Plateau, the key characteristics of which are:
- (1) small to medium scale arable fields with concentrations of mature trees at field boundaries;
 - (2) interesting field pattern consisting of small, regular fields to the south of Boxted and also to the east of Great Horkesley;
 - (3) orchards in close proximity to Great Horkesley;
 - (4) farmland plateau crossed in a north-south direction by two straight roads, which connect with Colchester's northern settlement fringe. A linear settlement pattern extends from the layout of these roads;

- (5) a network of narrow lanes (sometimes sunken) lined by trees and hedges that connect the remainder of the character area with the two main north south roads; and
- (6) hedgerows that are diverse and well managed in most places.

16.36 A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the Environmental Impact Assessment (EIA). The summary in the LVIA concludes the following:

(a) Once constructed and in operation, the new townscape would realise permeant changes to the landscape and to people's views of it. These changes would include noticeable adverse effects resulting from the planned loss of the open green landscape character, but these would be in combination with the beneficial effects resulting from creation of a new townscape that would integrate well with the adjacent baseline uses and landscape character. Resulting impacts on landscape character would realise Neutral effects on balance.

(b) Visually there would be some loss of open green views of the site, but these are Ordinary in quality and already contain elements of the North Quarter masterplan. The replacement views would be of a planned development to current design standards and accord with the NPPF and local planning policies. The effects from these visual changes would start to balance, particularly as the scheme matured, to ensure no significant adverse residual effects.

16.37 The above conclusions of the Landscape Visual Impact Assessment (LVIA) are agreed. The application is part Outline and part Full although illustrative plans showing height parameters and illustrative layouts have been submitted. It is considered that this demonstrates that the site could accommodate the level of development proposed without there being an unacceptable impact upon the landscape and character of the countryside. The height parameters plan shows building heights varying from 6 storeys to 3 storeys. The commercial element adjacent to Junction 28 (A12) is shown as 6 storeys, other commercial elements and the hospital would be 5 storeys along with some of the residential close to the Boulevard. The majority of the housing is shown as three or four storeys.

16.38 The site is essentially flat and is bounded by a combination of residential and industrial development of building scales similar to that proposed. There is also a large stadium building and leisure building within close proximity and the proposal, subject to appropriate design and forms would integrate well with the adjacent baseline uses as concluded in the LVIA. The building height parameter plan (Appendix 1) shows the commercial element adjacent to the A12 at 6 storeys can be designed so that is an important landmark building that announces the entrance to the Northern Gateway Area. Land levels are not particularly high at this point and would allow this area to accommodate 6 storeys without dominating the landscape.

16.39 The building height parameter plan also shows a further 6 storey element opposite this commercial area consisting of the hospital with 5 storey elements

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of commercial and housing adjacent to the Boulevard (i.e The Walk), reducing down to 4 and 3 storeys South and Eastwards further away from the central area. The residential element facing the village green is shown to be 3 storeys. This is considered to be an appropriate scale of development opposite the village green and closer to existing housing, relating well to the scale of the existing residential development and not having an overbearing impact upon the village green.

- 16.40 In terms of the overall density of development on the site, it is considered there is potential to accommodate the overall development and uses on the site without there being an overdevelopment or cramped appearance to the scheme. Nevertheless, a substantial element of the scheme is shown for illustrative purposes only so layout and building detail will be provided at the Reserved Matters Stage regarding the outline elements of the proposal.
- 16.41 With regard to the detailed aspects of the proposal, namely the infrastructure including the Boulevard (now The Walk) and Energy Centre, these elements have already previously been approved under application 200079. However, as they were originally submitted within the current application any permission will also include these elements so conditions will be restated. As before, The Walk is considered to be visually acceptable and would not undermine the character of the surrounding area. It would be clearly low lying and thus not particularly prominent from a distance. In addition, the submitted design code details show options for a variety of different materials on The Walk including clay paviours, granite sets and resin bonded gravel combined with landscaping and soft surfaced play areas. Conditions can be applied to ensure the submission of precise details of the materials to be used for 'The Walk' and the above options indicate potentially acceptable materials that would result in an attractive and interesting appearance to The Walk and that would be user friendly.
- 16.42 The Energy Centre (previously approved) would have a sharp contemporary and functional appearance with black wooden boarding and black steel cladding and a flue. It is relatively modest in size, being single storey and measuring 24.6 metres in length, 16.4 metres in width and 6.1 metres in height. The Flue chimney would be a maximum height of 15.0 metres and the water tank would be 10.0 metres in height. It would be within the site behind the existing Toyota garage and accessed off a new road into the site. There is scope for some low landscaping within the enclosure and also some larger planting outside the energy centre enclosure.
- 16.43 It is considered that the single storey building combined with these appropriate materials and finishes would relate satisfactorily to the character of the area. It would not be particularly prominent and would be lower than the other buildings proposed for the development. Additional landscaping will help break down its form and the flue, whilst being 15 metres in height, would be relatively narrow and would not be particularly intrusive in this environment. Overall, it is considered the Energy Centre would comply with Policy DP1 as it would respect the character of the site and surroundings, including the landscape.

Highway Safety and Parking Provisions (including Cycling)

- 16.44 With regard to the highway safety aspects of the proposal, Highways England and the Highways Authority initially raised significant concerns, in particular about the impact upon traffic flows on not only the Trunk Road but also upon the local road network and also on the grounds of pedestrian safety. These concerns have, however, now been overcome following extensive modelling and proposed mitigation works, as will be outlined below.
- 16.45 Firstly, in terms of Policy background relating to Highways issues, Section 9 of the NPPF promotes sustainable transport:
- (1) Para 108 aims to ensure that there is safe and suitable access to all users and that any significant impacts on the transport network are considered.
 - (2) Para 109 states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
 - (3) Para 110 emphasises the importance of pedestrian and cycle movements, addressing the needs of the disabled and creating places that are safe, secure and attractive.
 - (4) Paragraph 111 states that developments that generate significant amounts of movement should be required to submit a travel plan and transport statement so that the likely impacts of the proposal can be assessed.
- 16.46 Policy DP1 of the Local Plan states that development proposals must demonstrate that they create a safe environment.
- 16.47 A Traffic Assessment (TA) has been submitted with the application in order to determine the impact of the proposal, including upon the Strategic Road Network. Highways England initially raised concerns that the Traffic Assessment did not clearly show that a ‘severe impact’ impact upon the Strategic Road Network would be avoided including the queue from the Via Urbis Romanae/Axial Way roundabout in the peak morning time and also a tail back onto the A12. There was also concern that the ‘north’ arm of this junction would exceed capacity meaning that vehicles returning to the A12 from the Park & Ride site and the service area would encounter congestion. Further drawings showing a mitigation scheme and modelling to show its effectiveness were therefore required and these details have now been submitted.
- 16.48 Having regard to these concerns, the agent has therefore submitted additional information including drawings and modelling and a mitigation scheme. Highways England has now withdrawn its objection and considers that the proposal can be accommodated satisfactorily in respect of its impact upon the strategic road network, in particular the A12 trunk road and associated junction 28 and slip road. This however is subject to the application of conditions relating to:
- E. Widening of slip roads (already implemented)
 - F. Junction improvements
 - G. Road alignment and marking
 - H. Signing and lighting
 - I. Car parking provision

J. Travel plan

- 16.49 With regard to the impact of the proposal upon the local road network, the Highways Authority also had concerns regarding the impact upon local junctions and others further south along the A134 NAR route and raised the fact that the Rapid Transport System needs to be taken into account. The more detailed modelling required has been submitted, along with a Sustainable Transport Strategy. The Highways Authority now consider the scheme to be acceptable subject to the application of appropriate highway works conditions as outlined in their revised response and included in the conditions section of this report.
- 16.50 Vehicular access into the site is proposed via two access roads from Axial Way in accordance with the County Highways Authority requirements. No vehicular access is to be from Via Urbis Romanae as the Highway Authority would object to this on the grounds of impact upon the flow of traffic into Colchester on a main arterial road. The two points of access are part of the detailed consent of the application and will need to comply with Highway Authority standards in terms of width and provision of pavements. Appropriate visibility spays can be achieved at these access points. The distance of junctions within the site from Axial Way are as per Highway Authority requirements.
- 16.51 The Boulevard (now known as The Walk) is also part of the detailed application but this is not to be used by vehicles. It is for pedestrians and cyclists. Vehicular access crosses this Boulevard/Walk at one point and the arrangement needs to accord with Highway Authority standards in terms of the tightness of approach, width of carriageway, visibility and surfacing materials.
- 16.52 Various other access roads are shown within the site serving the proposed uses of residential, commercial, hospital and health care. However, these are shown for illustrative purposes only and demonstrate that there is potential to achieve appropriate vehicular access to the proposed uses. However, the positioning of these roads is subject to change and would be definitively shown at the Reserved Matters application stage.
- 16.53 Similarly, parking provision is shown to demonstrate what could be achievable on site although the precise layout would again be definitively shown in a Reserved Matters application. The submitted illustrative details show that there is potential to provide two parking spaces per dwelling within the residential areas of the site in the form of a potential combination of parking adjacent to dwellings plus parking courts, including the provision of some visitor spaces. Care would need to be taken at the Reserved Matters stage to ensure that parking areas do not visually dominate street scenes.
- 16.54 The Essex County Council parking standards 2009 would need to be complied with, as referenced in Policy DP19 of the Local Plan. This outlines the various parking requirements for differing uses on the site. In terms of parking standards for residential, 1 space per one bedroomed dwelling and two spaces for 2 bedroomed dwellings and above should be provided. Retirement developments (e.g. warden assisted independent living accommodation) would require one space per dwelling.

- 16.55 In terms of parking bay sizes, the following is applicable:
Preferred bay size for cars 5.5m x 2.9m
(Parallel parking bay length) 6.0m
Minimum bay size (only used in exceptional circumstances) 5.0m x 2.5m
- 16.56 The parking standards document states that “Principally the preferred bay size should be used. The minimum bay size may only be used in exceptional circumstances as determined by the LPA.” The minimum garage size for cars is 7.0m x 3.0m (internal dimension). The illustrative plans show there is potential to meet the parking provision standards relating to the residential elements of the scheme plus provision of some visitor parking.
- 16.57 With regard to parking provision for the other uses on the site the adopted County Council car parking standards have maximum vehicle parking provisions, calculated on floorspace are as follows:
- B1 Offices: 55742 sqm of offices = max 1858 spaces.
- A1 Retail: 1000 sqm = max 50 space
- A3 Food and Drink 500sqm = max 20 spaces
- The C2 Hospital and Care Home and D1 Medical Centre standards are not based on floorspace so are not quantifiable at this stage.
- 16.58 With regard to the B1 offices use, whilst the illustrative layout does not show the maximum 1858 spaces level of provision on site, this element of the proposal is submitted in Outline and the layout for this and the other uses is purely for illustrative purposes. It also needs to be noted that this is a maximum not minimum standard. In addition, the parking standards caveat that a lower provision of vehicle parking may be appropriate in urban areas (including town centre locations) where there is good access to alternative forms of transport and existing car parking facilities needs to be considered. Nevertheless, at this Outline stage it still needs to be assessed whether an appropriate level of parking provision could potentially be achieved on the site.
- 16.59 Parking provision for the B1 offices site is shown illustratively at approximately 419 which is a clearly well below the maximum standard of 1858. However, as this element of the proposal is Outline only it is not considered the proposal should be recommended unfavourably at this stage on the grounds of insufficient parking for the offices. Parking provision does not necessarily need to reach this maximum to be acceptable and the standards recognise that in urban areas where there is good access to alternative forms of transport and existing car parking facilities ‘a lower provision of vehicle parking may be appropriate’. The same applies to the other uses proposed. Lower parking provision may encourage use of alternative more sustainable modes of transport forming part of the Sustainable Transport Strategy which forms part of the suggested s.106 agreement (*see later in report*).

- 16.60 In this case the site is deemed to be in a relatively urban location and has good links to alternative forms of transport. It is very close to the park and ride facility, the route of the planned and funded Rapid Transit System (RTS) and on bus routes. Pedestrian links from the Park and Ride site to the site have recently been improved with, controlled crossings over the slip roads at junction 28. A Draft Sustainable Transport Strategy has also been submitted and this can be used to help inform a level of parking provision that would be deemed acceptable for this site. A condition will be applied to ensure the submission of a final strategy prior to submission of the first Reserved Matters application. This Sustainable Transport Strategy for the area has been devised which can help to collectively pool developer contributions to improve the infrastructure needed to encourage people to use more sustainable modes of transport to travel in Colchester. The Draft Sustainable Transport Strategy has confirmed that as a result of all this development there is an opportunity to develop an overarching strategy, and schemes for encouraging sustainable travel have been identified, the delivery of which will be included within the S106 agreements associated with both the Turnstone development and CNG South.
- 16.61 The Council's Sustainability, Transport and Climate Change Team consider that sustainable transport contributions would best be spent integrating the development with the surrounding walking and cycling routes as a priority. The team confirms that the site is currently already served by a number of regular bus services stopping in Mill Road, and the new rapid transit service that is planned could have stops on the site's western boundary. The Sustainable Transport Strategy can include the potential for the following projects:
1. Create a link between CNG South and neighbouring Olympic Boulevard estate across Tower Lane so residents have a quick and convenient route to access the wider cycle network on Mill Road/Brinkley Grove and LCWIP 1b route below. Design into CNG South development layout to LTN/1/20 standards so minimal cost.
£30,000 to create link, make good Tower Lane section between two links and to LTN 1/20 standard.
 2. LCWIP 1B – create section from Turner Road to Mill Road, including safe navigation for cyclists across the roundabout and necessary road crossings to connect up with CNG South development through Tower Lane link and other entrances off Mill Road and wider cycling network. This would also support connection of the site to the Colchester Orbital.
£800,000
 3. New footway/ cycleway on the northside of Mill Road in accordance with LTN1/20 within the site boundary
£77,500
 4. Development of an innovative way finding scheme to go through site and link it with key destinations including the Turnstone development and Sports Hub, hospital and Colchester Train Station to encourage walking for local journeys.

£80,000

5. Provision of shared pay as you go eCarclub/eCargo bike mobility hub inc parking spaces/storage and EV charging to provide travel choice and support a sustainable travel lifestyle

£50,000

6. Re-site bus stops nearer boulevard or Tower Lane bridleway entrances to Mill Road to better serve CNG South development.

£17,000

7. In addition workplace travel plans for business premises and bespoke residential travel packs for housing should be produced that will be used as part of initial marketing of houses, so that purchasers buy into sustainable travel lifestyle from the start. Cycle parking to LTN 1/20 standards should be provided for both residential and healthcare and a suitable number of EV charge points.

- 16.62 Having regard to the adopted car parking standards, the fact that the Highways Authority has not objected on parking provision grounds, the details within the Draft Sustainable Transport Strategy and the accessible urban location of the site, which is in close proximity to the RTS Route, the existing Park and Ride site, the potential level of parking provision shown for this Outline application is considered appropriate and a potential tool to nudge behaviour change. In this respect the proposal is considered to accord with Local Plan policy and the provisions of the NPPF outlined above.

Impact upon Neighbouring Residential Amenity

- 16.63 The impact of the proposal upon neighbouring residential amenity, including existing and proposed residences needs to be assessed. considered. Policy DP1 (iii) is of relevance and provides that development proposals must protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution) daylight and sunlight. Overall, subject to the application of conditions outlined in the response from Environmental Protection, the impact of the proposal on neighbouring residential amenity, including existing and proposed dwellings is considered acceptable.
- 16.64 With regard to the construction phases of the proposal, a condition ensuring the submission of a Construction Method Statement will be applied. This will cover issues such as parking of vehicles, hours of work and deliveries and emission of dust and dirt in order to ensure that the amenity of existing residents is protected during the construction phase.
- 16.65 The commercial units proposed use would be for the former B1 Light Industrial Uses. The B1 use class is classified as a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Accordingly, subject to a condition restricting the commercial units to a B1 use (controlling the use so that the use could not change under the new Use Classes Order

Class E) it is not considered there would be a detriment to neighbouring residential amenity from the B1 commercial units. In any case, they lie a significant distance from existing dwellings. They would be closer to proposed dwellings and accordingly a number of conditions will be applied, as requested by Environmental Protection to control hours of use and delivery times. This will ensure there will be no significant impact upon neighbouring residential amenity from noise and disturbance from vehicles associated with the commercial use. The provision of fencing will be necessary between the commercial units and the nearest proposed dwellings in order to minimise any noise, dust and light impact from B1 associated vehicular movements.

- 16.66 With regard to noise issues, a number of conditions will be applied to ensure that the level of noise emitted from various elements of the proposal does not exceed 0dB(a) above the background levels determined at the facades or boundaries of noise sensitive premises. Conditions requiring the submission of detailed acoustic and mitigation reports for the Outline and Reserved Matters elements of the scheme will also be required to ensure that the amenity of existing and proposed residents is not detrimentally affected by noise disturbance.
- 16.67 There will also be conditions to control fumes and odours from any industrial processes, along with an air quality condition. In terms of impact of any external lighting, conditions can be applied to ensure lighting complies with the relevant standards in terms of light pollution and that any floodlighting lighting required has to be agreed in writing.
- 16.68 In terms of the privacy of existing residents, there is scope to ensure that any new residential units do not overlook rear private amenity space and rear windows as part of any reserved matters application. New dwellings can be kept at a sufficient distance from existing dwellings and appropriately orientated when details are submitted at the reserved matters stage to ensure there is no significant overlooking. Existing boundary hedging, which can be retained, will also be beneficial in this respect. New dwellings and other buildings can also be positioned at the Reserved Matters stage to ensure there is no overbearing impact or loss of light to existing dwellings on the site adjacent or those.
- 16.69 Therefore, overall, subject to the application of conditions suggested by Environmental Protection and the appropriate laying out of development at the Reserved matters stage (which is achievable) it is considered the proposal is acceptable in terms of impact upon residential amenity and complies with the relevant Local Plan policies.

Trees and Vegetation issues

- 16.70 Policy DP1 provides that development should respect or enhance its landscape setting and respect other features that contribute positively to the site and surrounding area.
- 16.71 There are historic hedgerows within the site and also trees and vegetation on some of the boundaries of the site. Accordingly a Tree Survey & Arboricultural

Impact Assessment (AIA) has been submitted in order that the impact of the proposal on the existing landscape features could be fully assessed, particularly in relation to impact on ancient hedgerow trees, many of which are characteristic grown-out low pollards, within the historic hedge lines. The assessment is required in order to ensure these valuable landscape features are retained wherever possible and given room to thrive as part of any proposal, thereby helping protect public amenity.

- 16.72 The revised access arrangement submitted to serve One Health would entail the loss of a Category B Oak tree and some vegetation within one of the hedgerows. However, the remainder of the hedgerow would be retained. The One Health Care access was originally via the Eastern access road. However, further studies showed that this overloaded this junction, consequently access was taken from the West. Owing to potential traffic flow in and out of the site it is not possible to move the bell mouth into the land locked site either North or South largely as other interconnecting routes would conflict. Accordingly, there is not another available access option but to take this access at this point (that would result in the loss of one Category B tree). However, there are a number other category B trees and hedgerows in the near vicinity that would be retained. On balance, the loss of this tree and vegetation is considered acceptable given that the majority of this hedgerow would be retained and there does not appear to be another to access to this part of the site by vehicles, given the highway access constraints. In addition, this loss would be mitigated by the extensive new planting which forms part of the landscape proposals across the site that will form part of future reserved matters submissions.
- 16.73 With regard to other aspects, the vast majority of existing boundary vegetation can be retained including adjacent to Axial Way and alongside Via Urbis Romanae, all along the Northern boundary and trees and vegetation in the vicinity of the existing Rugby Club building and new Green.
- 16.74 With regard to comments made by the Council's Landscape Officer, there will need to be adequate landscaping (tree and shrub belt) to filter views of the energy centre. The aim is also to ensure that appropriate landscaping establishes a green setting for the hospital.
- 16.75 The agent has confirmed that the hedging to the northernmost (east-west) line of historic hedgerow within the NW commercial zone can be retained and incorporated into any Reserved Matters layout submitted at a later date. This hedge is deemed as a valuable landscape feature that will help screen the development from the A12 slip road and open countryside beyond.
- 16.76 The line of Public RoW 314_69 can be retained as a footpath within the design and its historic relationship with the ancient hedge line predominantly retained. Any Reserved Matters application will need to ensure there is adequate space between buildings, including dwellings, to avoid pressure to cut back or remove vegetation in future. There should also be a clear depth of soft landscape separation between the PRow and any units or the highway/footway.

Ecological Issues

- 16.77 With regard to Ecological issues, it has been identified that the development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). As outlined by Natural England, under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' to a European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects (Test1).
- 16.78 Accordingly, a Habitats Regulations Assessment (HRA) has been undertaken to assess whether the development constitutes a 'likely significant effect' to a European Protected Site from increased recreational disturbance impacts. Under the provisions of Test 2, the applicant has provided evidence relating to avoidance of impact and mitigation. The applicant has submitted a shadow Habitats Regulations Assessment (HRA) and the Local Authority has also assessed both off-site and on-site mitigation measures. This includes approximately 20% of formal and informal public open space, on-site wildlife enhancement and habitat provision and a monetary contribution which can be secured in accordance with Essex Coast RAMS. The RAMS payment required can be secured within the Section 106 Agreement.
- 16.79 In conclusion, having considered the proposed avoidance and mitigation measures, it is considered that with mitigation, the proposal will not have an Adverse Effect on the Integrity of European Sites included within the Essex Coast Rams. Having made this appropriate assessment of the implications of the plan and having consulted Natural England and fully considered any representation received, the Local Authority may now agree to the proposal under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. The provisions of the Habitat Regulations have therefore been satisfactorily addressed.
- 16.80 With regard to on-site ecological issues, Policy DP21 (Nature Conservation) aims to conserve or enhance biodiversity and provides that appropriate ecological surveys should be submitted, and that development should incorporate beneficial biodiversity conservation features and habitat creation where appropriate. Section 15 of the NPPF provides that policies and decisions should protect sites of biodiversity, pursue opportunities for securing measurable net gains for biodiversity and where harm cannot be avoided adequately mitigate and compensate.
- 16.81 In this case, details of Ecological surveys on the site have been submitted and a number of mitigation measures and recommendations have been put forward. Subject to compliance with the mitigation and enhancement recommendations put forward in the ecological surveys and reports, which can be controlled by condition, it is considered that biodiversity will be conserved, and appropriate enhancements can be provided. The scheme incorporates beneficial biodiversity conservation features including habitat and detailed features. Accordingly, it is considered that the proposal complies with the

abovementioned provisions of Policy DP21 and the aims of Section 15 of the NPPF.

Flood Risk and Surface Water Drainage

- 16.82 With regard to Flood Risk and Surface Water Drainage, Policy DP20 provides development proposals need to demonstrate satisfactory flood mitigation measures such as Sustainable Drainage Systems (SuDS) to minimise the risk of increased flooding both within the development boundary and offsite in Flood Zones 2 and 3. The Policy continues: “All development proposals shall incorporate measures for the conservation and sustainable use of water. These measures shall include appropriate SuDS managing surface water runoff within the overall design and layout of the site and measures to conserve water with individual building designs.”
- 16.83 Accordingly, a Flood Risk Assessment and the associated documents has been submitted for the scheme. The site does not lie in a Flood Zone 2 or 3. The Essex county Council SuDS team has confirmed that it does not object to the granting of planning permission subject to the application of conditions relating to the following:
- (1) a detailed surface water drainage scheme to be submitted,
 - (2) a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works.
 - (3) a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies,
 - (4) applicant or any successor in title must maintain yearly logs of maintenance.
- 16.84 These conditions will be applied to any consent issued and, subject to the satisfactory implementation of these conditions, an appropriate Sustainable Drainage System will have been provided, there will not be a flood risk and the provisions of Policy DP20 will have been complied with. The proposal would also comply with the provisions of Paragraph 165 of the NPPF which provides that Major Developments should incorporate sustainable drainage systems.

Public Open Space Provision and retention of Open Space

- 16.85 With regard to Public Open Space, Policy DP16 provides that “all new residential development will be expected to provide new public areas of accessible strategic or local open space. Precise levels of provision will depend on the location of the proposal and the nature of open space needs in the area but as a guideline, at least 10% of the gross site area should be provided as useable open space.” In this case it is considered that the proposal complies with this Policy as approximately 20% of the gross site area in respect of the residential development (including the homes for older people) consists of public open space. This provision includes the green at the

Western end of the site plus various elements of provision on the Boulevard (The Walk).

- 16.86 It is also considered that Policy DP15 (Retention of Open Space) is complied with as there will be alternative provision of pitches at the Sports Hub to the North to compensate for the loss of the Rugby Club.
- 16.87 The Village Green/Community Area will be 4.5ha and will be available for use by the Local Community. Myland Community Council have confirmed support for the proposal overall and that the Village Green is of an acceptable size and location. It's precise layout and form will be agreed at a later date and the MCC reserves the right to formulate its own design.
- 16.88 The overall aims of Policy PR1 are also met as this Policy promotes the provision of open spaces, sports facilities and recreational opportunities "that meet local community needs and facilitate active lifestyles.." The Policy also expects all new homes to provide easy access to private/communal open space and the schemes achieves this aim.

Contributions and Viability

- 16.89 As outlined in the Planning Obligations section of this report and in accordance with Local Plan policy, financial contributions are required, to be secured by obligations in a Legal Agreement under s.106 of the Act. The applicant has expressed concern that the extent contributions required would render the scheme unviable. Accordingly, a viability assessment has been submitted and reviewed by two independent consultancies. For some or all of the contributions to be waived, it will have to be demonstrated that the scheme would be rendered unviable.
- 16.90 Given the nature of the Applicant, the landowner's consultant, Pathfinder (in the applicant's viability submission) have tested the viability using a reduced finance rate and reduced profit targets. In this case, they conclude that the scheme is still not viable. They have tested the scheme again, with a reduced S106 contribution and conclude that this scheme is viable and therefore a viable scheme is one which contains a reduced S106 contribution of £2.8m (£8,000 per home).
- 16.91 The Borough Council has accordingly commissioned an Independent Viability Assessment (BPS) and this has concluded the following:
- Para 2.26 "We note that Pathfinder conclude that they have reduced the S106 charge to £2.8 million (£8,000 per home) which, based on their assessment, would make the proposal viable without reducing the proportion of affordable housing. We currently conclude that the scheme can provided the full S106 contribution of **£6.8m** whilst remaining viable."
- 16.92 Given the difference between the two viability assessments, a further independent viability assessment was commissioned (District Valuation Services - DVS) and discussions with the two independent viability assessors and applicant have concluded, using orthodox review methods, that there is no

viability beyond the 30% affordable housing provision. It needs to be remembered that the proposal provides enabling development to facilitate delivery of the CNG North sports hub. However, notwithstanding the lack of viability, an Ex-Gratia payment of £2.3 million has been offered towards contributions. The initial view is that the funds could be assigned and in this order prioritised to the NHS, Community, Education and Transport improvements with a cascade mechanism for anything that might arise following viability review. In addition the Council's Sustainability, Transport and Climate change team consider that with regarding to sustainable transport contributions, funds would best be spent integrating the development with the surrounding walking and cycling routes as a priority and the new rapid transit service (RTS) that is planned could have stops on the site's western boundary. Any further conclusions that have been reached relating to contributions allocation prior to the Committee meeting these will be reported verbally or via the Amendments Sheet to members.

- 16.93 In any event, it should be noted that the first Independent Viability Assessment (IVA) recommends the Council consider following trigger points in order to ensure the scheme remains deliverable but also that affordable housing and other Section 106 contributions are fairly reassessed as further detail comes forwards. Further background detail in this respect taken from the IVA is outlined in Appendix 4. In addition to financial contributions, Sport England and Affordable Housing have requested clauses are incorporated into any s.106 agreement to ensure the development is policy compliant and should members resolve to approve the scheme it is recommended that these are delivered as requested through the s.106 agreement.

Affordable Housing

- 16.94 Given the policy position in relation to the site, as outlined above, it is considered that Policy DM8 of the Emerging Local Plan is most applicable in relation to affordable housing. The Council is committed to improving housing affordability in Colchester and accordingly Policy DM8 provides that 30% of new dwellings on housing developments of more than 10 dwellings in urban areas should be provided as affordable housing (normally on site).
- 16.95 The affordable housing will be applicable to all 650 dwellings proposed, including the 300 older persons homes and this equates to 195 units. It will be secured by a Section 106 agreement. The affordable housing officer has confirmed that it would be expected that the affordable housing would be pepper potted throughout the scheme and reflect the wider mix. Subject to this provision, the scheme would comply with Emerging Local Plan policy DM8. These affordable homes are a significant public benefit delivered by the scheme in advance of adoption of Part 2 of the ELP.
- 16.96 In terms of detailed provision, 5% of the affordable homes should be built to meet Building regulations Part M4 Cat 3, wheelchair adapted. This would equate to 9.75 homes. Five of these homes should be partially adapted to include a wet room, to meet Part M4 Cat 3 (2) (a). 4 of these homes should be fully adapted to meet Part M4 Cat 3 (2) (b). This is to ensure that the specification of the wheelchair homes can meet the needs of a variety of

applicants on the register. One, two and three bed homes. The detail can be agreed at detailed application stage. 95% of the affordable homes should meet Building Regulations Part M Cat 2 where possible. The exception to this requirement would be upper floor apartments (though the upper floor older persons homes would be expected to meet Part M4 Cat 2)

- 16.97 The tenure mix would be expected at no less than 80% for affordable rent, and no more than 20% intermediate, which should be delivered as shared ownership. Accessibility requirements would be achieved through a planning condition. These details would form part of the s.106 agreement.

Archaeology

- 16.98 In respect of archaeology on site, Policy DP14 states that development will not be permitted that will adversely affect important archaeological remains. It also provides that development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific archaeological interest.
- 16.99 The proposed development site is located in an area of archaeological interest, recorded in the Colchester Historic Environment Record (HER). A trial-trenched evaluation (86 trenches) was carried out across part of the proposed development site in 2018/19. This followed a geophysical survey in 2015. Groundworks relating to the proposed development will cause significant ground disturbance that has potential to damage any archaeological deposits that exist. The Council's archaeologist has provided a brief for trial-trenched evaluation of the residential area and a separate brief for excavation along the line of the Boulevard and access roads (and any associated works). A condition will be applied to ensure that works are carried out in accordance with the briefs at the relevant phases. Subject to compliance with these briefs, it is considered that Policy DP14 and the provisions of the NPPF will be complied with. As outlined in the Planning Obligations section of this report, any finds can be displayed appropriately and there can be on site interpretation panels. The contribution for a display case will be only required if archaeological remains are defined on the site warranting display and promotion. It is not anticipated that the scheme could support this contribution request currently (see Contributions and Viability above).

Health Aspects

- 16.100 With regard to the health issues and impacts relating to the scheme, the North East Essex Clinical Commissioning Group (NEECCG) has been consulted and the comments received are outlined in detail earlier in this report. Essentially the NEECCG are “supportive in principle of the outline planning application, however, an Alliance approach to how local services will support the incoming population and a greater understanding of the concept of the care village is required in order for full Health and Social Care support to the full scheme.”
- 16.101 Policy DP2 (Health Assessments) of the adopted Core Strategy is applicable in this respect and states:
- All development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. Health Impact Assessments (HIA) will be required for all residential development in excess of 50 units and non-residential development in excess of 1,000 square metres. The purpose of the HIA will be to identify the potential health consequences of a proposal on a given population, maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal’s environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities. Where significant impacts are identified, planning obligations will be required to meet the health service impacts of the development.....*
- 16.102 Section 8 of the NPPF aims to promote healthy and safe communities, with decisions aiming to achieve healthy, inclusive and safe places.

16.103 Accordingly a Health Impact Assessment has been submitted. This concludes the following:

- Colchester has an ageing population. The need will increase for dwellings that meet the needs of older people. Planning Practice Guidance states that providing housing for older people is critical.
- One of key concerns raised by NEECCG is increasing pressure on acute, mental health and social care services. However, as shown, older persons accommodation can actually reduce demand on health and social services. The provision of a 300-unit extra care scheme can deliver long-term economic benefits to the health service in terms of cost savings, and can help to deliver a number of social benefits including:
 - (i) Giving older people a great sense of security and well-being.
 - (ii) Reducing social isolation amongst elderly people by increasing social contact and companionship.
 - (iii) Providing many of the core principles of social care policy: prevention, personalisation, partnership, plurality and protection.
- Regarding demand for extra care accommodation in Colchester and the wider catchment area, analysis indicates that there is already a shortage of such provision in the area which is expected to become more acute over the next decade. There are 10 extra care/close care/retirement village schemes within 10-miles of the Northern Gateway site, providing 298 units of accommodation. Current demand (as of 2018) for extra care units is estimated at 1,055, meaning there is a shortfall of 757 extra care units. By 2025 this shortfall is expected to have increase to 1,045 and by 2030 it will have increased to 1,195.
- If the lack of older persons' accommodation in Colchester and the wider catchment area is not addressed, pressures on the health and social care system are likely to become more severe in the future. The proposed scheme can help mitigate against this risk.

16.104 The NEECCG have noted the contents and would ideally like more detail, including impact upon the Acute hospital. However, at this stage there is no more detail to provide as part of the application is in Outline. Nevertheless, a Memorandum of Understanding (MOU) has been provided and this acknowledges the following health benefits from the proposal, including its link to the Sports Hub:

- Completed Sports Park part funded by this development includes provision for people of all ages, and of all physical and sporting abilities.
- Routes to Sports Hub and wider Northern Gateway (including 'South site') area all cater for sustainable and active travel.
- build a site that minimises travel by car, both through its mix of uses, layout and the provisions it makes for sustainability.
- provide a leisure-led and healthy activities destination,

- centre on places for recreation and enjoyment (the scheme includes a village green and car-free boulevard (The Walk) across the site) in addition to the accessible 76-hectares of open space (and indoor sports) at the Sports Park
- Supporting people to live safely and independently as they grow older.

16.105 The MOU also acknowledges that whilst growth inevitably increases specific demands on health service, it is also accepted that the wider development and initiatives can also help to reduce demand on health services more generally. Accordingly the NEECCG are concerned that impacts identified are properly addressed, through cooperation and monitoring, and through the mechanism of this MOU. Initiatives relating to the following issues are therefore contained within the MOU:

- i Attend forums
- ii Create a working group to approach different topics, including physical NHS service provision
- iii Continue joint working
- iv work together on staff skills, recruitment and a retention package sector
- v Explore innovative ways of integrating health service developments, voluntary and council-run activity programmes at sports, leisure, open space and community centre settings etc
- vi Continue delivery of ultrafast broadband-self care.
- vii Continue operating a “Helpline” service
- viii holistic development planning between partners
- ix Review basis for s.106 or other contributions arising from development
- x Collaborate on active travel
- xi A resource to facilitate the working group, research, advice etc

16.106 The NEECCG have requested a developer contribution to mitigate the impacts of the proposal. A fair equity mechanism needs to be agreed between CBC (as planning authority) and the NHS health and wellbeing services for the purposes of mitigating impact of the development on Health services, to be covered in any Sections.106 contribution. Financial contributions would also be considered against the relevant legal tests. The CNG South planning application scheme (as a whole, but the housing element in particular) must also be capable of implementation in the given timescale, as well as demonstrate viability; ‘Section 106’ contributions should consider reasonable mitigation but in this wider context.

16.107 The conclusions reached with regard to the overall viability of the scheme are therefore crucial in informing the level of contribution that can be provided.

In conclusion, subject to the initiatives in the Memorandum of Understanding being addressed and implemented and an appropriate contribution towards health impacts (subject to the viability assessment) it is considered that the impact of the scheme in respect of health issues, including on the NHS is acceptable and accords with Local Plan and National Policy. The benefits of

providing elderly people's accommodation is outlined above. This is considered an appropriately sustainable and accessible location for such provision with good transport links to the town centre and access to nearby facilities including the Sports Hub and the various uses at the recently approved Turnstone site opposite which include restaurants, cinema and leisure facilities. It is not considered that the provision of elderly person's accommodation needs to be confined to very close proximity to the town centre. Elderly people from this site can just as easily catch a bus to the town centre from nearby bus stops as they could walk into town from a town centre location.

- 16.108 As elements of the scheme are submitted in outline, the Borough Council will have to work with the NEECCG to address the issues raised when more detail becomes available in the submission of any submitted Reserved Matters application.

Education

- 16.109 The County Council have indicated that this development is expected to fully address the entire amount of pupils it generates in terms of contributions required. The County Council conclude this development is calculated to generate 54.59 Early Years and Childcare pupils, 181.95 primary school pupils, and 121.30 secondary school pupils. Contributions would be for 300 age unrestricted units only but not for over 55's units.
- 16.110 The sum requested is calculated in accordance with a formula developed by Essex County Council as stated in The Essex County Council Developers' Guide to Infrastructure Contributions (Revised Edition 2016). The standard formula Section 106 agreement clauses "ensure the contribution would be fairly and reasonably related in scale and kind to the development are available from Essex Legal Services." The viability review undertaken confirms that the scheme cannot currently support in full the contribution requested and a reduced contribution is recommended comprising £1,684,048.50 in comparison the request of £3,778,278.00)

Sport Issues

- 16.111 As part of the site consists of the Rugby Club, the site is considered to constitute playing field, or land last used as playing field, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). Sport England is therefore a statutory consultee and initially raised a holding objection as more information was awaited in respect of assessing the impact on the playing fields. Further information has now been submitted to show the planned re-provision of Colchester Rugby Club and associated sports facilities, including the provision of sports facilities at the nearby Sports Hub to the North, phasing and maintenance arrangements and the cricket club relocation at the Mile End recreation ground. At the time of writing this report, the work at the Sports Hub has almost been completed and its opening is planned shortly.

- 16.112 Sport England initially withdrew their holding objection given the further information submitted “subject to a few matters relating to club tenure arrangements and phasing being addressed through a s.106 agreement/conditions”. The holding objection was then restated as it was not clear whether a water supply could feasibly and viably be provided to the Cavalier’s replacement cricket pavilion. Sport England have now withdrawn their holding objection (as outlined in their latest consultation comments above) concluding that “despite the potential lack of water/foul drainage to support the replacement pavilion, the proposals for replacing the pavilion would provide an equivalent or better quality facility.”
- 16.113 It is not considered that the application could be refused on the grounds that the replacement pavilion for the Cavaliers would not have running water as their original pavilion did not have this facility and the existing pavilion at Mile End Road has been fully refurbished and equipped with fresh running water, rest rooms, kitchen/meeting area and changing rooms. Accordingly the provision of this replacement pavilion without a water supply would comply with Policy as it represents the provision of an equivalent facility. Nevertheless, as it had been previously indicated that there could be water supply provision, all options will be explored to see if it feasible and viable to make this provision. The Committee will be updated on any conclusions reached in this respect. Additional background information on this issue is contained in Appendix 3.
- 16.114 In conclusion it is considered that it has now been demonstrated that, under the provisions of Policy DP15, an alternative and potentially improved sports provision overall will be created that relates to the functional requirements of the relocated use. Thus Policy DP15 is considered to be complied with. In this respect the proposal would also comply with Section 8 of the NPPF which aims to ensure there are opportunities for sport and physical activity (Para 96) and that the loss of existing facilities are replaced by equivalent or better provision (Para 97).

Contaminated Land

- 16.115 The contaminated land officer has assessed the Geoenvironmental Ground Investigation Report and has concluded that with regard to the Boulevard and accessways, a standard condition relating to the finding of any unexpected contamination can be applied. For the other areas comprising the Outline element of the application, wider ranging conditions can be applied relating to site characterisation (investigation and risk assessment in addition to any assessment provided within the planning application), submission of a remediation scheme and the implementation of an approved remediation scheme.
- 16.116 Subject to compliance with these recommended conditions, the scheme and detail put forward is considered acceptable in respect of contaminated land issues. This would comply with Policy DP1 which provides that development proposals must demonstrate that they create a safe environment.

Footpaths, Bridleways & Cycleways

- 16.117 With regard to Footpaths and Bridleways issues, paragraph 98 of the NPPF states: 'Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails'.
- 16.118 Local Plan Policy DP17 provides that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrian cycling and public transport access and that proposals should incorporate appropriate linkages.
- 16.119 There is an existing Public Right of Way (PROW) that runs through the site North to South which will be retained. There also exist bridleways to the North and South of the site. The Essex Bridleways Association initially expressed concern that the application did not incorporate the linking of these bridleways and this concern has been taken on board and appropriate links shown on the Masterplan. This link can then be incorporated at the Reserved Matters stage. The plan below shows PROW routes within and around the site and the Bridleways Association has now confirmed that the routes shown to link the bridleways are acceptable.
- 16.120 With regard to cycling provision the scheme has been designed to incorporate the needs of cyclist. 'The Walk' through the centre of the site providing exclusive access for cyclists and pedestrians. In addition all the designs of the external highway and junctions significantly improve the current situation and accommodate the guidelines as laid out in LTN 1/20 as far as possible, whilst at the same time complementing those proposed within the Sustainable Transport Strategy for the area. As the detailed design process is reviewed there will be opportunities to review the design for both cycles and pedestrians to further enhance the ability to and attractiveness of travel through the area by non-motorised modes.
- 16.121 In conclusion, the Public Right of Way routes shown on and around the site and the linking of the two Bridleways shown to be incorporated are considered to represent the protection and enhancement of public access and accordingly comply with the abovementioned provisions of the NPPF and Local Plan policy.



Figure 1: PROW on and around the sites.

Neighbourhood Plan

16.122 The adopted Myland and Braiswick Neighbourhood Plan (NP) is relevant when considering this application as it forms part of the Development Plan. The proposal is considered to accord with the provisions of the NP, namely:

- Developers achieving the highest quality of design.
- not less than 4.5 hectares of the current sports fields retained as local green space.
- RAT1 – provide an effective and integrated transport solution by maximising opportunities to walk and cycle; ...Ensuring multi-use routes are provided.
- DPR1 - attain the highest quality of design standards, sustainability and sustainability.

Environmental and Carbon Implications

16.123 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered

that on balance the application can contribute to achieving sustainable development. The site is considered to be in a sustainable location, being within the Northern Gateway growth area and adjacent to a main trunk road and planned/funded RTS and the Sustainable Transport Strategy demonstrates there will be good and improved links to Colchester Town Centre. The incorporation of a district heating network using sustainable energy extracted from the ground water is innovative and closely aligned with minimising the carbon footprint of the development.

Other

- 16.124 With regard to the comments received by the Police about accessways, there will be an opportunity for them to consider the detail further at the Reserved Matters stage. The Police have not made specific suggestions at this stage and will have had access to all submitted plans and documents.

17.0 Conclusion

- 17.1 In conclusion, having regard to the above, the application is recommended for Approval subject to the prior completion of a Section 106 Legal Agreement following conclusion of the viability assessment and level of contributions required. To summarise:

- The proposal is a Departure to the adopted Local Plan as the site is allocated as open space and employment land in that plan. However, the Rugby Club has approval to be relocated to the Sports Hub to the North, and the loss of designated open space is to be compensated for by provision of improved sports facilities in this sports hub. The redevelopment of the Rugby Club has been included in the Emerging Local Plan and provides enabling development to help deliver the sports hub.
- The proposal differs somewhat from the Emerging Local Plan allocation as it introduces health care facilities, reconfigures employment floorspace provision and provides an increase in provision of older person's accommodation of 90 units. However, subject to an appropriate layout and design, the health campus would not prejudice the delivery of B1 office space in the Northern Gateway. The Growth Scenario allows for a greater amount of B1 floorspace *and* the health campus.
- The uplift in older people's accommodation is not considered significant and would assist in meeting the Council's demand for this type of housing. The overall impact of the variations would therefore not affect the delivery of the key Emerging Plan NC1 policy.
- Relevant policies associated with the proposal are largely compliant with the revised NPPF. The current Local Plan and Emerging Local Plan supports the principle of residential development on this site which will contribute to the Borough's housing need.

- The Council has a 5 year Housing Land Supply, and thus paragraph 11(d) of the NPPF is not engaged. The other uses in terms of principle are deemed to be compliant with the Adopted and Emerging Local Plan and NPPF.
- The landscape can satisfactorily accommodate this scale of development subject to appropriately designed buildings, the details of which would be subject to thorough assessment at the Reserved Matters stage.
- Detailed consent for the 1st phase of infrastructure (i.e pedestrian boulevard (The Walk) associated landscaping, renewable energy centre and heat distribution network) has already been approved under application 200079. This element will still be retained in this application and the same conditions reissued.
- The proposal is acceptable in terms of its impact upon highway safety, including the impact on the A12 and local road network following the submission of proposed mitigation works informed by extensive detailed modelling and a sustainable transport strategy.
- The proposal is acceptable in terms of its impact upon neighbouring residential amenity, trees and vegetation, existing Health service, ecology archaeology and provision and enhancement of Public Rights of Way.
- The overall level of contributions required for all services will need to be agreed following the assessment by two independent consultancies of the submitted viability appraisal and subsequent evidence provided by the applicant. On the basis that there is no viability for contributions beyond the 30% affordable housing, it is considered acceptable to accede to the applicants 'ex-gratia' offer of £2.3M towards contributions with viability reviews built into the a.106 agreement to facilitate future claw back with a spend cascade mechanism should the position change in the future regarding viability.

17.2 If Members agree with the Officer recommendation, it will also be necessary for the proposal to be referred to the Secretary of State under the current call-in procedure as a technical departure.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for: conditional Approval subject to:

- (i) Referral to SoS as a departure and should Sport England maintain an objection;
- (ii) Prior completion of a s.106 agreement to include contributions to mitigate impacts upon infrastructure, in accordance with final conclusions on viability by consultants BPS/DVS on behalf of lpa and the applicant's ex-gratia offer of £2.3m as per the suggested spend break-down set out above at 15.0

Developer Contributions. In addition, the agreement to include appropriate viability reviews with suggested cascade spend mechanism;

(iii) Conditions as set out below for full and outline elements of this hybrid application with delegation on detailed wording of conditions should revision be required.

FULL APPLICATION

(i.e. as per **previously approved** under application 200079.

Delegated authority to the Housing and Planning Manager to APPROVE with APPROVAL of planning permission being granted subject to the following conditions: (Conditions adapted to reflect details already submitted/cleared under 200079.) with delegated authority to modify detailed wording of conditions as appropriate.

1. 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: [site location plan \(indexed 16th Jan 2020\)](#) EC-NOR-01- 00-DR-A-00-0001 REV 2, EC-NOR-01-00-DR-A-00-0002 REV 2, EC-NOR-01-00-DR-A-00- 0003 REV 2, EC-NOR-01-00-DR-A-00-0010 REV 2, EC-NOR-01-ZZ-DR-A-00-1001 REV 2, EC-NOR-01-ZZ-DR-A-00-2001 REV 2, EC-NOR-01-ZZ-DR-A-00-3001, Energy Centre – Borehole locations,

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

2. Z00 - Construction Management Plan

The Construction Method Statement and Traffic Management Plan approved under clearance of condition application 201127 for 200079 shall be adhered to throughout the construction period.

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

3. Z00 – Road layout and footpaths/Cycleway

The road layout and footpaths/cycleway in respect of the following shall be carried out in accordance with the drawings approved under clearance of condition application 201248 for 200079

- West Road – footway and cycleway arrangements

- West Road – the carriageway alignment amended to allow its use by articulated heavy good vehicles
- East Road – the same layout as Inspiration Avenue as it meets Axial Way

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.

4. ZNL – Full Archaeological Condition

No additional works shall take place beyond that agreed under the archaeological condition approved under clearance of condition application 201248 for 200079 until the implementation of a programme of archaeological work has been secured for the additional areas referred to in the condition clearance letter 4.8.20, 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).

5. 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, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, which is subject to the approval in writing of the Local Planning

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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 8.

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.

6. ZGQ - *Light Pollution for Major Development*

Prior to the first OCCUPATION/USE all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall full comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS as approved under clearance of condition application 201497 for 200079. Any installation shall thereafter be retained and maintained as agreed therein.

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

7. ZGU - Details of Floodlighting/light bollards

All floodlighting/light bollards shall accord with the details approved under clearance of condition application 201497 for 200079. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

8. ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the renewable energy centre and heat distribution network plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of or boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

9. ZG7 - Storage of Oils etc.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls where the volume of the bund compound shall be at least equivalent to 110% of the capacity of the tank. If there is a multiple tankage, the compound volume shall be at least

equivalent to 110% of the capacity of the largest tank or 110% of the combined capacity of any interconnected tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses shall be located within the bund and the drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.
Reason: To prevent unnecessary pollution of the groundwater or nearby water courses.

10. ZG8 - Groundwater Protection

There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways.
Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage in order to prevent pollution of the water environment and to protect the groundwater quality in the area in the interests of Health and Safety.

11. ZUM- Surface Water Drainage

The surface water drainage scheme approved under clearance of condition application 201497 for 200079 shall be implemented prior to occupation and should include but not be limited to:

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

Reason: To prevent surface water flooding and to mitigate any environmental harm that may be caused to the local water environment.

12. Z00- Surface Water

No hard-standing areas shall be constructed until the works have been carried out in accordance with the submitted surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

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

13 Z00- Surface Water Maintenance

Prior to first use of the development a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

14.Z00- Surface Water Maintenance Logs

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

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

15. Z00- Landscaping

Prior to first occupation of the development, full details of all landscape works 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:

shall be submitted to and agreed, in writing, by the Local Planning Authority and

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

16. Z00 – Arboricultural Method Statement

The Arboricultural Method Statement approved under clearance of condition application 201497 for 200079 shall be complied with throughout the lifetime of the development works.

Reason: In order to preserve the amenity provided by the trees and hedgerows on the site.

17. ZFQ -Tree and Natural Feature Protection

All agreed protective fencing approved under clearance of condition application 201497 for 200079 shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place

within the protected area(s) without prior written consent from the Local Planning Authority.

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

18. Z00- Wildlife Mitigation Strategy

Within two months of the date of this permission, precise details of a wildlife mitigation strategy to include recommendations set out at Section 7 of the ES titled Biodiversity (submitted under application 200079) shall be submitted to and agreed in writing by the Local Planning Authority. The approved strategy shall be complied with throughout the lifetime of the development works.

Reason: In order to safeguard protected wildlife species and their habitats where it is possible that they could be present.

Informatives

The following informatives are also recommended:

1. SUDS Drainage informatives:

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

2. Anglian Water Informative

The foul drainage strategy is to discharge to an existing private pumping station. As this is a private asset, the developer will need to seek the permission of the asset owner. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then them of the most suitable point of connection.

(1) - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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

(4) - Building near to a public sewer – No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

3.Highway Informatives:

- 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
- All or some of the above highway requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- 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 or SMO1 – Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

4.ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

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 with delegated authority to alter detailed wording of conditions as appropriate:

OUTLINE

1. ZAC- Time Limit for Outline Permissions Pt1

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the 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 Pt2

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 Pt3

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. Z00- Reserved Matters Masterplan

The first Reserved Matters application/s shall be accompanied by a Masterplan setting out design principles including the following:

- Built form (including block structure, building forms, building lines and set backs).
- Public realm (including landscape design principles, protection of views and street types).
- Private spaces
- Character areas
- Landscape strategy and allied Structural landscape planting. Other land highway works, no development shall commence until the Masterplan has been approved in writing by the Local Planning Authority. Each subsequent Reserved Matters application shall be accompanied by a drawing showing how it fits in with the approved Master plan (or shall otherwise include an updated Masterplan for written approval pursuant to this condition)having

regard to the provisions of the Section 106 agreement and other agreed commitments.

Reason: To ensure that high standards of urban design are delivered and that the development is comprehensively planned with appropriate integration between both the different parts of the development and the land surrounding the site.

5. 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:

To be confirmed.

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

6. Z00 - Construction Management Plan

No works shall take place, including any demolition, until a site-specific Construction Method Statement and Traffic Management Plan 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;

vehicle/wheel washing facilities within the site and adjacent to the egress onto the highway,

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, to ensure that amenities of existing residents are protected as far as reasonable and to protect highway efficiency of movement and safety.

7. Z00 – Highway Junction Improvements (HE).

Before any highway works related to planning application 190655 commence the developer shall have submitted to and approved in writing by the local planning authority in consultation with Highways England a scheme of junction improvements to the A12 Junction 28 similar to those shown in outline on Systra Consultants drawing 107949-003F date 20-02-2021. Design details to be provided showing :

- How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations
- Full construction details relating to the highway improvement. This should include any modifications to existing structures or proposed structures with supporting analysis.

- Full Signing and Lighting details.
- A detailed specification for the proposed traffic signal installation, including details as to which highway authority the traffic signals will be operated by, how they will be co-ordinated with other traffic signal installations nearby and what measures are to be implemented to avoid excessive queues developing on the A12 slip roads;
- Confirmation of compliance with Departmental standards (DMRB) and policies (or approved relaxations/departures from standards)
- Evidence that the scheme is fully deliverable within land in the control of either the applicant or the Highway Authority.

vii. An independent Stage 2 Road Safety Audit (taking account of any Stage 1 Road Safety Audit recommendations) and taking account of any recommendations arising from the Walking Cycling and Horse Riding Assessment and Review (WCHAR) carried out in accordance with Departmental Standards (DMRB) and Advice Notes.

viii. A construction management plan detailing how construction traffic will be managed.

Reason: To ensure that the A12 continues to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

8. Z00- Highway Junction Improvements (HE)

The scheme outlined in condition 5 approved by the Local Planning Authority shall be implemented and completed to the satisfaction of the Local Planning Authority in consultation with the Highways Authorities and NO beneficial occupation shall take place unless and until a scheme of junction improvements similar to those shown in outline on Systra Consultants drawing number 107949-003F dated 20 February 2021 have been delivered and are fully operational.

Reason: To ensure that the A12 continues to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

9. Z00- Floor Areas (HE)

The total floor areas of the development will not exceed

- 300 older people's homes
- a 4,300 sqm private acute surgical hospital,
- a medical centre (floor space not specified);
- a 3, 600 sqm, 75-bed care home,
- up to 55,742 sqm B1a offices;
- up to 350 residential dwellings;
- up to 1,000 sq m of retail floorspace;
- up to 500 sq m of food & drink floorspace.
-

Reason: To ensure that the A12 continues to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety.

10. Z00 – Enhanced Public Transport (HE)

No part of the development hereby approved shall be brought into beneficial use unless and until a scheme to enhance access by public transport to the site has been approved in writing by the Local Planning Authority who shall consult with Essex County Council and Highways England as Highways Authorities.

Reason: To ensure that the A12 continues to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety and in the interests of sustainability.

11. Z00 – Parking Provision (HE- adapted by CBC)

No part of the development hereby approved shall be brought into beneficial use unless until further details are submitted to the Local Planning Authority as to the balance between the demand for and the provision of car parking on the site. Should the need for additional car parking be identified, further sensitivity testing shall be provided to assess the traffic impact of the revised parking arrangements shall be undertaken. Only a level of parking provision agreed in writing by the Local Planning Authority shall be implemented and this shall be provided prior to first occupation of the development which it is to serve.

Reason: To ensure that the A12 continues to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety and to ensure adequate parking provision.

12. Z00 – Travel Plan (HE - adapted)

No part of the development hereby approved shall be brought into beneficial use unless and until a Travel Plan has been submitted to approved in writing by the Local Planning Authority in consultation with Essex County Council and Highways England as Highways Authorities.

The Travel Plan shall be in line with prevailing policy and best practice and shall as a minimum include:-

- The identification of targets for trip reduction and modal Shift
- The methods employed to meet these targets
- The mechanisms for monitoring and review
- The penalties to be applied in the event that targets are not met
- The mechanisms for mitigation
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variations to the Travel plan following monitoring and reviews
- The travel plan should not just cover the proposed development but also existing business premises fronting Axial Way and the Colchester Sports facilities north of A12 J28.

The implementation and timescale/timetable and operation shall thereafter be complied with.

Reason: To ensure that the A12 continues to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety and in the interests of sustainability.

13. Z00 – Highway Improvements Travel Plan (HA)

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

a) An improvement at the Via Urbis Romanae/Axial Way/United Way junction and along Via Urbis Romanae between this junction and A12 J28, as shown in principle on planning application drawing 107949-003 Rev. F and 107949-011 Rev. E or similar (details shall be agreed in writing by the Local Planning Authority prior to commencement of the development).

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

14. Z00 – Highway Priority Junction (HA)

No occupation of the development on the former Rugby Club site shall take place until a priority junction and right turn lane as shown in principle on planning application drawing 107949-011 Rev. E or similar have been provided or completed (details shall be agreed in writing by the Local Planning Authority prior to commencement of the development).

Reason: To protect highway efficiency of movement and safety.

15. Z00 – Highway Traffic Signals (HA)

No occupation of the development on land east of Via Urbis Romanae and south of Axial Way shall take place until a traffic signal-controlled junction as shown in principle on planning application drawing 107949-003 Rev. F and 107949-011 Rev. E or similar has been provided or completed (details shall be agreed in writing by the Local Planning Authority prior to commencement of the development)

Reason: To protect highway efficiency of movement and safety.

16. Z00 – Highway Traffic Signals (HA)

No occupation of the development on land east of Via Urbis Romanae and north of Axial Way shall take place until a traffic signal-controlled junction as shown in principle on planning application drawing 107949-003 Rev. F and 107949-011 Rev. E or similar has been provided or completed (details shall be agreed with the Local Planning Authority prior to commencement of the development).

Reason: To protect highway efficiency of movement and safety.

17. Z00 – Highway Footway/Cycleway (HA)

A minimum 3.5 metre wide footway/cycleway shall be retained along all sides of Via Urbis Romanae, Axial Way and United Way over those parts affected by the works shown in principle on planning application drawing 107949-003 Rev. F and 107949- 011 Rev. E or similar (details shall be agreed in writing by the Local Planning Authority prior to commencement of the development)

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

18. Z00- Sustainable Transport Strategy

Prior to submission of the first Reserved Matters application a strategy (hereafter referred to as the Sustainable Transport Strategy) to promote the use of sustainable modes of transport including walking, cycling and public transport for the various uses proposed, in order to minimise trip generation by the private car, shall be submitted and agreed in writing by the Local Planning Authority. The strategy shall include details of the initiatives proposed and a programme for delivery and review of outcomes and deliverables with a mechanism to review and revise the strategy to ensure that it remains effective and responsive to the needs of the development. The approved strategy shall thereafter be implemented in accordance with the agreed details or any subsequent approved revised iteration of the strategy.

Reason: In the interests of sustainability and to minimise the transport carbon footprint of the development to mitigate climate change and address air quality issues in the urban area of Colchester in accordance with Development Plan policies DP1, DP2 & DP17 and Sections 8 & 9 of the NPPF.

19. ZNL – Full Archaeological Condition

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).

20. 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, 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.

21. 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.

22. 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

23. 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 20, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 21, 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 22.

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.

24. ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 21.

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

25. ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the 300 older people's homes (C3), 4,300sqm private acute surgical hospital (C2), (1,200sqm.) medical centre (D1), 3,600sqm, 75-bed care home (C2), up to 55742sqm offices (B1a); up to 350 homes (C3), with ancillary retail & food & drink of up to 1000m2 of retail (A1), up to 500m2 of food and drink (A3), digital network of ultra fast broadband plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of [or boundaries near to] noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

26. ZGA - Restriction of Hours of Operation

The offices (B1a) use adjacent to residential properties hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 08.00 to 20.00

Saturdays: 08.00 to 18.00

Sundays and Public Holidays: Not at all

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

27. ZGB - Restricted Hours of Delivery

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08.00 to 20.00

Saturdays: 08.00 to 18.00

Sundays and Public Holidays: Not at all

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

including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

28. Z00- Outline applications (where design and layout are reserved)

The reserved matters application(s) relating to design and layout of residential dwellings shall include a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces. The design and layout should avoid exposure of habitable rooms to noise levels that exceed the following criteria:

- 60dBLAeq 16 hours (daytime, 07:00-23:00, outside)
- 55dBLAeq 8 hours (night, 23:00-07:00, outside)

As required to meet the above, acoustic barriers and site design, including building orientation and internal layout of dwellings, shall be used to minimise noise exposure to habitable rooms and reduce the need to rely on closed windows. Where the facade noise levels outside of habitable rooms do not exceed those stated above, but the internal noise levels stated in the current version of BS8233 are exceeded with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night.

If exposure exceeds the noise levels stated above, significantly enhanced ventilation will be required, and will need to be proposed, with any reliance upon building envelope insulation with closed windows to be justified in supporting documents that cross reference the mitigation measures used and the evaluation of different designs, layouts and sound reduction methods (including barriers) considered during the design process.

In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime. The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

29. ZGM - Car Parking and Service Areas (Outline Planning Permission only)

Prior to their first use, any car parking and service areas shall be screened to minimise any noise impact on nearby residential premises and in such a manner so as to prevent nearby residential premises being affected by vehicle exhaust

fumes in accordance with a scheme that shall previously have been submitted to, and agreed in writing by, the Local Planning Authority.

Reason: To ensure that there is adequate screening in place to limit any unnecessary fumes, noise and disturbance to the surrounding areas and/or residents from vehicles using these areas.

30 ZGN - Industrial Processes (Control of Fumes, Odours, Dust etc)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme devised by a competent person for the control of fumes, smells and odours, and dust that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. The control measures shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes, odours, dust, and smell in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

31. ZG7 - Storage of Oils etc.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls where the volume of the bund compound shall be at least equivalent to 110% of the capacity of the tank. If there is a multiple tankage, the compound volume shall be at least equivalent to 110% of the capacity of the largest tank or 110% of the combined capacity of any interconnected tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses shall be located within the bund and the drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent unnecessary pollution of the groundwater or nearby water courses.

32. ZG8 - Groundwater Protection

There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage in order to prevent pollution of the water environment and to protect the groundwater quality in the area in the interests of Health and Safety.

33. ZGO - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

34. ZHA - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

35. ZGQ - *Light Pollution for Major Development*

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

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

36. ZGU - Details of Floodlighting

Prior to the commencement of development, details of any floodlighting/light bollards shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

37. ZCG - Communal Storage Areas

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

38. Z00- Surface Water Drainage

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

- Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event with a 10% allowance for urban creep.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

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

39. Z00- Surface Water

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

Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

40. Z00- Surface Water Maintenance

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

41. Z00- Surface Water Maintenance Logs

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

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

42. Z00- Foul Water Drainage

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

43. Z00- Landscaping

Prior to first occupation of the development, full details of all landscape works shall be submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape

details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

44. Non-Residential BREEAM (Part 1 of 2) *

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

45. Non-Residential BREEAM (Part 2 of 2) *

Within 6 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

46. Z00 – Arboricultural Method Statement

Prior to commencement of development, an Arboricultural Method Statement shall be submitted to and agreed in writing by the Local Planning Authority. The approved statement shall be complied with throughout the lifetime of the development works.

Reason: In order to preserve the amenity provided by the trees and hedgerows on the site.

47. ZFQ -Tree and Natural Feature Protection

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

48. Z00- Wildlife Mitigation Strategy

Prior to commencement of Development, precise details of a wildlife mitigation strategy shall be submitted to and agreed in writing by the Local Planning Authority. The approved strategy shall be complied with throughout the lifetime of the development works.

Reason: In order to safeguard protected wildlife species and their habitats where it is possible that they could be present.

49. Public Art *

No works shall take place until a scheme indicating the provision of public art and including a timetable for implementation has been submitted to and approved, in writing, by the Local Planning Authority. This scheme shall thereafter be carried in accordance with the detail approved and retained as such thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that this development scheme makes a contribution to the Borough in the field of arts and culture and to enhance the appearance of the development and visual amenity.

50. Z1A – Street Name Signs

Prior to the first occupation of any of the dwellings hereby approved street name signs shall have been installed at the junction of the new highway with the existing road network.

Reason: To ensure that visitors to the development can orientate themselves in the interests of highway safety.

Informatives

The following informatives are also recommended:

1. SUDS Drainage informatives:
 - Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture

proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

2 Anglian Water Informatives:

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2)
INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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

(4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity.

Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

(6) **INFORMATIVE** The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. Next steps: Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. It is therefore highly recommended that the developer engage with Anglian Water at their earliest convenience to develop in consultation with Anglian Water a feasible drainage strategy.

3.Highway Informatives:

- (1)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
- (2)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.
- (3)All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).
- (4)The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.
- (5) 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
- (6) The Highways Agency 'Informative' re S278 agreements dated April 2019 in respect of planning application 190665 relating to the development known as Colchester Northern Approaches, is **attached**.

4. Cadent Gas Informative:

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land.

The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

5. Archaeological Informative:

The council's Archaeologist "strongly recommends that the further archaeological investigation is undertaken at the earliest opportunity to ensure there are no complications to the proposed layout of the scheme caused by below-ground archaeological remains and also no delays (caused by the archaeological excavation) to the construction programme."

6. Trees, Vegetation and Wildlife informative.

A full, updated Arboricultural Impact Assessment is expected to be provided at the Reserved Matters Stage addressing precise location of any development in respect of impact upon trees and vegetation. An updated Ecological report is likely to be required upon submission of the Reserved Matters application.

7. Electric Charging Points informative.

Vehicle Electric charging points will need to be included within parking provision at the Reserved Matters stage.

8. Informative on Section 106 agreements *

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

9.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.

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may

invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

11.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.

APPENDIX 1 EMERGING LOCAL PLAN- Additional information.

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 2020) demonstrates a housing supply of 6,108 dwellings which equates to 5.4 years based on an annual target of 1,078 dwellings which was calculated using the Standard Methodology. This relates to the monitoring period covering 1.4.20 to 31.3.25 and will be updated in April 2021.

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).

This position is further improved now the Council has an adopted housing requirement of 920. When the 5% buffer is added the annual target is 966 and the supply of 6,108 provides 6.3 years of supply.

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 (contd) 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.

Appendix 1 (contd)

Section 1 Adopted Policy	Context of Section 1 Policy	Relevant Core Strategy Policy status
Policy SP 1 Presumption	Restates national Policy	Replaces SD1 - in part.

in Favour of Sustainable Development		<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. 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>
Policy SP 2 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
Policy SP 3 Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester	High level N/A

	strategy	
Policy SP 4 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
Policy SP 5 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.
Policy SP 6 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.
Policy SP 7 Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A
Policy SP 8 Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
Policy SP 9 Tending/Colchester	New- specific to the	Garden Community

Borders Garden Community	Garden Community	N/A
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Note- 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.

APPENDIX 2 Additional detailed comments received from **North East Essex Clinical Commissioning Group** rec'd 29/1/21 (part préciséd, to supplement abovementioned comments)

(3) System partners welcome further discussions with applicant once detail is known to ensure very best outcomes for both the new community benefiting from the development and Health and Social Care partners that will serve the new community.

(4) Our Commissioning Strategy is intended to fully support retention of staff in our existing provider organisations as reduced access to affordable housing for all on our already depleted workforce would be a risk. Our views on workforce retention and concerns on potential impact of the proposed surgical hospital and healthcare centre remain high. Therefore imperative that consideration is made to provision of affordable housing within proposal specifically aimed at keyworkers.

(7) An Integrated Care system (ICS) Developers contribution task and finish group are specifically looking at Key worker housing as well as evidence-based calculations for Acute, Mental Health and Ambulance services. This current calculation remains as primary care mitigation only but system partners reserve the right to request mitigation separately as further information is drawn out from future planning applications in relation to the care village, care home and surgical hospital. Due to the COVID-19 pandemic, the health partners, specifically, East of England Ambulance Trust, East Suffolk and North East Essex Foundation Trust and Essex Partnership University Trust are unable to make a direct representation at this time, however, it is crucial that moving forward trusts have the ability to request S106 contributions in their own right through the system approach agreed at an Integrated Care System level using approved evidence based calculations.

(6) A task and finish group has been established of which local authority as well as Trust colleagues are part of. It will be essential as this scheme progresses to enable the trusts to reserve the right to comment at a later date.

(7) Suffolk and North East Essex Integrated Care System, recognises and supports the role of planning to create healthy, inclusive communities and reduce health inequalities whilst supporting local strategies to improve health, social and cultural wellbeing for all aligned to the guidance in the NPPF section 91. We have also developed with our system partners a clinical estates strategy to meet the needs of the growing population.

(8) Way health and care is being delivered is evolving. Infrastructure changes and funds received as a result of this development may incorporate not only extensions, refurbishments, reconfigurations or new buildings but will also look to address

workforce issues, allow for future digital innovations and support initiatives that prevent poor health or improve health and wellbeing.

(9) NHS Long term plan requires a move to increase investment in the wider health and care system and support reducing health inequalities in the population. Includes investment in primary medical, community health services, the voluntary and community sector and services provided by local authorities so to boost out of hospital care and dissolve the historic divide between primary and community health services. Move to health hubs incorporating health and wellbeing teams delivering a number of primary and secondary care services including mental health professionals, are being developed.

(10) Acute hospitals will be focussing on providing specialist treatments and will need to expand these services to cope with additional growth in the additional referral patterns that often follow development of greater Primary care functions. Any services which do not need to be delivered in an acute setting will look to be delivered in the community.

2.0 Existing Healthcare Position Proximate to the Planning Application

Site

2.1 Contrary to economic assessment provided by the applicant, proposal is likely to have an impact on the capacity of local GP practices, Secondary Care and Social Care.

2.2 proposal will be likely to have an impact on NHS funding programme for delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NEECCG therefore expect these impacts to be fully assessed and mitigated, likewise for the full impact upon the Acute hospital and an increase in referral patterns as seen since the expansion of the northern areas of Colchester

2.3 Proposal does not include sufficient detail in respect of the acute private hospital and medical centre to determine the likely impact on the wider local health system. With the existence of a Private Hospital in Colchester of which has an integrated approach to the provision of services with the Acute hospital, working closely with ourselves, a plan for an additional acute hospital continues to greatly concern us. In particular the requirement for Critical Care provision which would need detailed discussions with the Acute hospital as to provision and impact upon employment within the NHS of these specialist clinicians.

Review of Planning Application

3.1 NEECCG acknowledges planning application does include a basic Health Impact Assessment (HIA); however, it would be beneficial to expand the detail of this assessment to make it more comprehensive and to ensure the recognition that a capital contribution will be required to mitigate the health and social care impacts arising from the proposed development. The scale of contribution in relation to primary care services is referenced in section 4.0 - may require review when further detail of proposal available.

3.2 Noted that an economic assessment on the impact proposal would have on the local health economy is included with application. However, the CCG requires further information in respect of the development specifics below in order to evaluate the full impact on health service capacity.

Specifically:-

- The provision of 300 older people's homes and a 75 bed care home will place extra pressure onto the health and social care system and on acute hospital through emergency service provision and outpatient referrals.
- Insufficient detail included within the application to determine the impact of the proposed medical centre and private acute hospital.

No detail included within application as to whether a proportion of the 350 homes would be dedicated to key worker housing. Consideration should be given to provide such housing as this is beneficial to encourage workforce to settle in the area to support the local health economy.

4.0 Assessment of Development Impact on Existing Healthcare Provision

4.1 The Primary Care estates planning processes have identified primary care estate resources for the population in the northern gateway region that would be able to be expanded on the current asset which meets the retention and support of our current workforce, training and development needs.

4.2 A new facility could distort the workforce planning and resilience and the estate plan already established.

4.3 A Healthcare Impact Assessment (HIA) has been prepared by NEECCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area. Capacity of existing GP Practices will be impacted by the additional growth resulting from proposal which could generate approximately 1,255 residents and subsequently increase demand upon existing constrained services especially the acute hospital which has seen significant growth in demand through its Urgent treatment centre and Emergency Department. Important to note there is no forthcoming capital investment opportunities post March 2021 due to the COVID19 pandemic, all budgets have now been suspended. Therefore, mitigation via Section 106 contributions will be only way to enable estate development to take place in support of new communities. This includes an immediate need for funding to support a new entrance into the acute hospital.

4.4 Whilst provision of Primary Care Estate is not adversely affected by the optimum additional population numbers, healthcare needs of those in the proposed residential care facilities (Care Village and Care Home) will require additional workforce to support the needs of the new population. The specific impact concerns are around the ability for home visits and additional social care support requirements. This is an area which system partners would like further discussion to take place within any proposed Memorandum of Understanding.

4.5 The primary healthcare services likely to be directly impacted by the proposed development and the current capacity position are shown in Table 1.

Table 1: Summary position for primary healthcare services within 2km catchment (or closest to) the proposed development

Premises	Weighted List Size ¹	NIA (m ²) ²	Capacity ³	Spare Capacity (NIA m ²) ⁴
Bluebell Surgery	3,164	311.1	4537	94.10
Mill Road Surgery	12,397	785.67	11,457	-64.41
Highwoods Surgery	6,860	371.8	5422	-98.6
Turner Road Surgery	7,698	706.04	10,296	178.77
Total	30,039	2174.61	31,712	109.86

Notes:

1. The weighted list size of the GP Practice based on the Carr-Hill formula, this figure more accurately reflects the

4.6 Proposal would have an impact on primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. Proposal must therefore, in order to be considered under the 'presumption in favour of sustainable development' advocated in NPPF, provide appropriate levels of mitigation.

5.0 Healthcare Needs Arising From Proposed Development

5.1 The intention of NHS NEE CCG is to promote Primary Healthcare Hubs with co-ordinated mixed professionals encapsulated in strategy document: The NHS Five Year Forward View.

5.2 Proposal would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation of primary care premises or through other solutions that address capacity and increased demand via digital solutions or health and wellbeing initiatives. For this a proportion of the cost would need to be met by the developer.

5.3 Table 2 provides Capital Cost Calculation of potential additional primary healthcare services arising from the development proposal. Calculation has increased since original response in May and is in line with BCIS Public Sector Q1 2020 price & cost Index. Calculation has been produced following an independent Chartered Surveyor on behalf of the ICS. The calculation is based on increasing floor areas for primary care services however funding may be used for other purposes (e.g. IT infrastructure) to address future capacity issues at the listed practices. Will be determined at a later stage as the details of the development's reserved matters are disclosed.

Table 2: Capital Cost calculation of additional primary healthcare services arising from the development proposal

Premises	Additional Population Growth (650 dwellings) ⁵	Additional floorspace required to meet growth (m ²) ⁶	Spare Capacity (NIA) ⁷	Capital required to create additional floor space (£) ⁸
Highwoods Surgery	314	21.52	94.10	83,300.00
Mill Road Surgery	314	21.52	-64.41	83,300.00
Bluebell Surgery	314	21.51	-98.6	83,300.00
Turner Road Surgery	313	21.51	178.77	83,300.00
Total	1,255	86.06	109.86	£333,200.00

Notes:

5. Calculated for 350 homes using the Colchester Borough average household size of 2.3 taken from the 2011 Census: Rooms, bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number). Calculated for 300 older people's homes using the guidance provided within the Environmental Statement (within this planning application) of an average household size of 1.5.
6. Based on 120m² per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"
7. Existing capacity within premises as shown in Table 1.
8. Based on standard m² cost multiplier for primary healthcare in the East Anglia Region from the BCIS Public Sector Q1 2020 price & cost Index, adjusted for professional fees, fit out and contingencies budget 3871.76 (£/m²), rounded to nearest £100.

APPENDIX 3

Provision of cricket pavilions at Mile End Recreation Ground and logistical issues relating to water provision for the replacement Cavalier's pavilion.

Applicants supporting information for Sport England Objection (precised).

As part of the wider Northern Gateway Sports Project, the facilities for playing cricket at Mill Road Recreation Ground (1 square being utilised by the Cavaliers team) are to be relocated to Mile End Recreation Ground. The relocation would include the replacement of the Cavaliers existing timber pavilion and construction of a new cricket square.

Existing Brick Pavilion Refurbishment

As part of the relocation of the cricket from Mill Road the existing brick pavilion at Mile End was refurbished back in 2018.

All the Cricket Teams who play at Mile End (now including Cavaliers) have full access to the refurbished pavilion, which is fully equipped with fresh running water, rest rooms, Kitchen/meeting area and changing rooms.

New Hortons Timber Pavilion

The Cavaliers did have an existing timber pavilion on Mill Road which only had electricity supplied to it. It was agreed that CBC would provide a replacement timber pavilion at Mile End..

It was envisaged that the replacement would be like for like and that a feasibility study would be carried out to see if a fresh water supply could be installed as requested by Essex Cricket. This feasibility study was carried out by CB Homes based on connecting to the main bricked pavilion. The study identified “high level” costs which were subject to a contractor confirming that the works were achievable.

The Sport England Paper dated October 2019 (E4 Statement) drafted by Colchester Amphora Trading suggested that the new pavilion would benefit from a fresh water supply (if fresh water were to be provided then there would obviously be a need to provide some sort of foul drainage); this is now not achievable following further feasibility work being carried out which is explained below:

- Following an on-site meeting (8th July 2020) with contractors it was confirmed that a freshwater connection and foul drainage pipe from the new timber pavilion would not be viable.*
- Studds Lane is a privately owned road therefore negotiations with the landowner would have to be carried out. It is envisaged that the landowners of this road would not agree to these works due to heavy disturbance caused by construction.*
- The closest connection to the foul manhole on Studds Lane is located on a private residential driveway.*
- In order to achieve a foul-water run a large easement would be required (usually about 5-6m to allow for trenching and a safe working area). This easement would affect privately owned land (Residential gardens and driveways).*

Further feasibility has been carried out with contractors to identify the potential for a water and drainage connection, the following conclusions have been made:

A connection to the existing water service may be possible – however the following consideration would need to be made in order for the works to go ahead:

- Maintaining access to the residents on Sudds lane during the works.*
- Reinstatement of the private road (service trench)*
- Temporary closure of pedestrian access to recreation ground*
- Football pitches would be affected by the work*
- Substantial increase in costs due to additional civils works*

The main consideration being the disposal of wastewater from the pavilion.

The falls needed for this remove the option to connect to existing septic tank at the new brick built pavilion.

The connection into the existing MH on either the private driveway or the MH on Nayland road would be a costly exercise, excavating through the middle of Studds lane, which with further investigation on other existing services, would provide more issues.

The option for the installation of a septic tank would realistically be the most feasible albeit very expensive. As part of these works, large excavations would need to be carried

out to install the tank. The construction of a new access to maintain/empty the tank would be needed, this would cross the current pitches.

Conclusion

Currently we have agreed the positioning of the new timber pavilion with the Cavaliers in consultation with the Parks and Recreation Team.

Further works are on-going to see if clean and foul water are achievable for the new proposed pavilion.

APPENDIX 4 Extract from Independent Viability Assessment (including trigger points):

2.7 We have also tested the viability in line with Pathfinder's assessment, i.e., reducing the profit, finance and S106 contribution. This serves to improve viability and therefore increases the level of surplus outturn generated from the scheme.

2.8 Given the scale of the scheme and the reduced detail associated with the outline elements of this application (which make up all of the valuable elements of the appraisal), it is important in our view that a requirement for staged viability reassessments are included within any Section 106 agreement, to capture changes in viability over time to the possible benefit of additional affordable housing contributions.

We recommend the Council consider the following trigger points in order to ensure the scheme remains deliverable but also that affordable housing and other Section 106 contributions are fairly reassessed as further detail comes forwards: either;

- a) An early-stage review triggered by the submission of Reserved Matters Applications for the outline elements of the scheme. The aspiration will be to deliver on-site affordable housing as part of the detailed consent.
- b) A review on substantial implementation of different areas within the scheme. The aspiration will be to review affordable housing once construction contracts are awarded and areas of cost engineering are more apparent, with the aim of providing said housing on-site.

Then

- c) A review triggered by the selling of 75% of residential units or letting of 75% of commercial floorspace (or another appropriate percentage depending on the phase's GDV), and subsequent restriction on occupation of the remaining units or floorspace pending the results of the review. This outturn review will aspire to 'convert' vacant units to on-site affordable housing.
- d) There could also be scope to review the value achieved in respect of the land sale of the HealthCare Campus once this is known.

2.9 The conclusions of this report are subject to amendment on receipt of any additional clarifications such as are laid out in this report. Specifically, a detailed breakdown of what is included in the £12m value estimate applied to the Healthcare Campus. This is said to be based on an "in-principle" offer. Further

clarity concerning the overall development programme would help improve our understanding of the project.

APPENDIX 5:

Detailed breakdown of contributions requests by service area as summarised in report:

Education 31.5 Early Year places cost per space £17,422

105 Primary School Spaces £15,281

70 Secondary cost per space £23,214- See Previous DT Request

Contributions justified for 300 age unrestricted units only but not for over 55's units.

Library – £115,050.00

Highways- Delivery through conditions/Section 278 Agreement. Transport Assessment received and being reviewed

Public Transport Contribution of £1.752m

£752k contribution towards Local Cycling & Walking Infrastructure Plan (LCWIP) Route 1b (please see attached for details).

Affordable Housing - 30% including over 55's affordable housing and would be proportionate to the market housing. Equates to 90 dwellings out of the 300 proposed. Expect affordable housing to be proportionate to the overall scheme in terms of dwelling types and size.

Tenure mix expected at no less than 80% for affordable rent and no more than 20% intermediate, which should be delivered as shared ownership.

The affordable housing proposed is slightly disproportionate to the market dwellings. This would still be acceptable on the basis there is a range of house types and sizes being proposed that will meet a range household sizes on the register.

The accessibility requirements for the affordable homes would be required to meet the accessibility standards as set out in the emerging local plan.

NHS - £333,200.00 Memorandum of understanding (MOU) sought between One health and NHS to secure mutual cooperation.

Community - £1,099,472.00

The contingency request of £1,099,472.00 is prepared in the event that the renovation project is determined as unfeasible. Should the building be

demolished, this request would be submitted to cover costs of rebuilding a multi-use community facility on site.

This request is estimated pending the official valuation of the land only of the clubhouse site. For the purposes of this document, an estimate is presented that the £175000.00 is broken down with 100k land value and 75k building value. Discussions to take place with Community to clarify/confirm:

- i) If building retained and refurbished the financial contribution to be sought to deliver the facility (£200K)
- ii) a mechanism to discount the contribution required in lieu of the over 55's units and any on-site provision
- iii) a financial contribution for offsite provision e.g. at Severalls

DT Chair concluded: As per request for £200k to equip and convert clubhouse figures to be updated to include over 55's units and provide a figure for a new build solution or financial off-site contribution as an alternative approach with mechanism to discount any on-site provision for over 55's units;

Public Open Space -Commuted sum calculation required if area of POS adopted by council remainder of spaces including play space at The Walks to be maintained by management company.

Parks & Recreation - £555,915.00 contribution for off-site provision. Projects identified for spend:

Projects: Mile End Sports ground grass roots/infrastructure improvements £70,000 Highwoods Country Park £330,00. Construct a new 1 km shared cycle/pedestrian path in Highwoods Country Park to support health active life styles and meet the expectation and needs of additional residents

Sustainable Transport -ECC highways to agree scheme, delivery of provision via a scheme.

Rams As per number of units plus over 55`s units (i.e. 650 units)

Archaeology- £19,953.00

Display, promotion and management of archaeological discoveries on the site:

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

£4,800 for two on-site interpretation panels

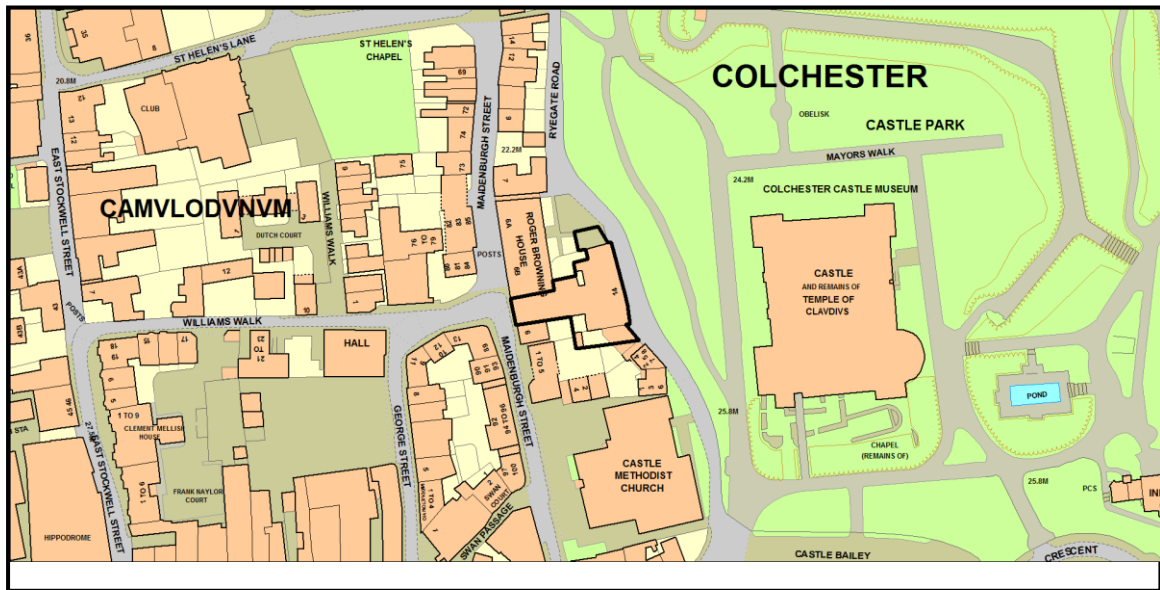
£753 for enhancement of the Colchester HER

Sports – No request

15.2 With regard to the make up the Section 106 the following is recommended:

- In the case of the Market Housing:-
 - 10. Affordable Housing 30%, mix, tenure and accessibility to reflect SPD;
 - 11. Provision of Education contribution
 - 12. Provision of community facilities
 - 13. Provision of sport and recreation facilities for cricket

14. Provision of and future management of on-site open space; amenity areas and play areas
 15. Provision of increased healthcare capacity (NECCG)
 16. Provision of measures to mitigate the effect of the development on sensitive ecological sites (RAMS)
- In the case of the Over 55 housing:-
 10. Restricting occupation to persons over the age of 55 and their dependants
 11. Affordable Housing;
 12. Provision of community facilities
 13. provision of and future management of amenity areas
 14. provision of increased healthcare capacity (NECCG)
 15. provision of measures to mitigate the effect of the development on sensitive ecological sites (RAMS)



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Item No: 7.2

Application: 210088

Applicant: Lpb Homes

Agent: Miss Carolyn Mace, ADG Architects

Proposal: Application for the conversion of the building from Class D1 (Museum) to Residential Use (Class C3): Totalling 25 Student Flats, 6 Student Studios and 6 Apartments with cycling provision & bin storage. (Class C3): 29 units comprising 23 HMO rooms & 6 s/c flats; with cycling provision and bin storage.

Location: Former Museum Resource Centre, 14 Ryegate Road, Colchester, CO1 1YG

Ward: Castle

Officer: Chris Harden

Recommendation: Authority to Approve subject to Completion of a Legal Agreement and i) confirmation of compliance of all units with nationally prescribed space standards ii) agreement on revised developer contributions in light of increased unit numbers. .

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is deemed as a Major item and there have been objections to the scheme.

2.0 Synopsis

- 2.1 The key issues for consideration are the policy principle, impact on Heritage assets, residential amenity, highway safety, wildlife, contamination, archaeology, drainage and flooding. These matters are explored in the report.
- 2.2 The application is subsequently recommended for approval. The application site is located in a predominantly residential area that is well linked to existing services and facilities and is thus in a highly accessible and sustainable location. The change of use would assist towards meeting the Council's housing needs requirement, whilst being consistent with the Local Plan policy approach of focusing new dwellings within the existing urban area on previously developed land. There has already been an approval for residential use (182869 - nine apartments) and the current proposal is an alternative to that scheme. The scheme would represent the sustainable re-use of a redundant historic building and would also help support the existing town centre uses. It would not represent an overdevelopment of the site. The proposal is therefore considered to comply with the abovementioned settlement policies of the Local Plan and NPPF.
- 2.3 It is considered the proposal would preserve the character and appearance of the Conservation Area and re-use a Locally Listed Building and would not have any significant impact upon the setting of the grade I listed and scheduled Castle opposite. The scheme is generally considered acceptable in terms of the residential amenity of the future occupiers and neighbouring residents. However the points raised by Private Sector Housing in respect of substandard room sizes on 6 studios will need to be resolved and conclusions reached will be reported to the Committee. It is not considered parking provision is required owing to the highly sustainable Town Centre location and the provision of cycle parking. There are also no concerns in terms of wildlife impact, contamination, archaeology, drainage or flooding.

3.0 Site Description and Context

- 3.1 The site lies within the Colchester Conservation Area No.1 (Town Centre) and defined settlement limits boundary. It is located between Ryegate Road and Maidenburgh Street, within Colchester's historic town centre and Dutch Quarter. It is surrounded by predominantly residential properties along Maidenburgh Street and Ryegate Road. Colchester's High Street is located approximately 100m away to the south of the site. To the east of the site is Colchester Castle, a Grade I listed building and Castle Park, a Grade II registered park and garden.

- 3.2 The existing building to be converted dates from the later nineteenth century and is included in the Local List of buildings of architectural and historic interest and is an undesignated heritage asset. It is a part five storey, former factory building constructed mainly in facing red brick with large 'Crittall' steel and some cast iron C19 windows, under a pitch tiled roof with a later added concrete extension. The building is 'T' shaped in plan form and has had several structural additions since it was originally built in the 19th century.

4.0 Description of the Proposal

- 4.1 The application is for the Application for the conversion of the building from Class D1 (Museum) to Residential Use (Class C3). This conversion would provide for 25 Student Flats, 6 Student Studios and 6 Apartments with cycling provision & bin storage. A reconsultation has been undertaken as the original description stated an incorrect number of units (29) and a key on two of the plans was also found to be incorrect.
- 4.2 The development includes secure storage for 40 No. bicycles for use by apartment occupants and a bin stores both accessed from Ryegate Road. Access for the emergency services will also be from both Ryegate Road and the lift is located at this entrance. The agent has confirmed that there would be no external changes beyond those previously approved on application 182869 which was also for conversion and that existing windows would be retained with the exception of replacement windows on the North elevation, as previously agreed.
- 4.3 The works involved include the following (as per previous approval):
- Some replacement windows on the northern elevation (as before).
 - Removal and replacement of roof lantern;
 - Minor chimney works and
 - Internal works to accommodate the new units.
- 4.4 In the interests of clarity, the **works no longer required** compared to the previous approval owing to no parking provision are:
- Demolition of single storey extension on the southern elevation
 - Removal and infill of existing doors on eastern elevation;
 - Insertion of new painted timber sliding doors at ground floor level on northern elevation;
 - Replacement of masonry wall structure along the eastern boundary; creation of new access on southern elevation.

5.0 Land Use Allocation

- 5.1 Settlement Limits
Conservation Area
UAD Monument

6.0 Relevant Planning History

78/1552 Change of use from
 w3arehouse to
 museum purposes.
 Approved (01/02/79)

F/COL/04/1423 Disabled access via a
 new opening and lift
 at street level and
 disabled WC.
 Approved (20/08/2004)

182869 Full planning application for the conversion of the building
 from Class D1 (museum) to residential use (Class C3)
 (nine apartments) with associated demolition works;
 internal and external alternations; car/cycle parking and
 bin storage areas and infrastructure works. Approved
 26/7/19

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
CE2 - Mixed Use Centres
CE2a - Town Centre
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR2 - People-friendly Streets
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
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP6 Colchester Town Centre Uses
DP10 Tourism, Leisure and Culture
DP11 Flat Conversions
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Community Facilities
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
Planning Out Crime
Town Centre Public Realm Strategy
Air Quality Management Guidance Note, Areas & Order

- 7.5 Neighbourhood Plan: Not applicable.

- 7.6 Submission Colchester Borough Local Plan 2017-2033:

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 been examined during April 2021. The Inspector's report is awaited.

Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

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

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

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

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

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

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

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

Emerging Section 2 Local Plan

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

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

3. The degree of consistency of relevant policies to the policies in the Framework.

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

Section 2 will be afforded some weight due to its advanced stage. However, as the Inspector's report is awaited, the exact level of weight to be afforded will be considered on a policy by policy and 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.

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 ($5 \times 920 + 5\%$).

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

8.0 Consultations

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

- 8.2 Highways Authority states:

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

- Residential Travel Information Packs

- Displaying Public Transport Info for HMOs
- Provision of bicycle parking facilities
- Construction Management Plan
- Standard informatives.

8.3 Anglian Water states that it has waste water and sewerage capacity and suggests a surface water drainage condition.

8.4 Essex County Fire and Rescue Service have raised no objections and state that more detailed comments will be made at the Building Regulations stage.

8.5 Contaminated Land Officer states:

That an updated the Conceptual Site Model (CSM) for the proposed use has been provided and “has confirmed that there have been no additional potentially contaminative uses of the site since the previous assessment. The revised risk assessment concludes that the CSM remains as previously assessed for Planning Reference 182869 by MLM in their ‘*Phase 1 Contamination Assessment*’, *Museum Resource Centre, Colchester, Rev C01, Status S2, Ref. 775712-MLM-ZZ-XX-RP-J-0001, dated 4/12/17*, when it was concluded that, due to the nature of the redevelopment, the lack of significant pollutant linkages and the restricted access for intrusive investigation due to the building constraints, no further assessment was proposed in relation to contaminated land.

Consequently, should this application be approved, Environmental Protection would recommend inclusion of the same precautionary condition as for 182869:

Reporting of Unexpected Contamination

Given the assumed age of the existing building, the applicant should also be advised that an appropriate asbestos survey (in accordance with all of the applicant’s duties under The Control of Asbestos Regulations 2012) must be undertaken for any buildings/part buildings that are to be refurbished or demolished, to prevent creation of any new contamination pathways.

8.6 Historic England “...does not wish to offer any comments.”

8.7 Essex SUDS states

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

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council’s (ECC’s) adopted Sustainable Drainage Systems Design Guide

- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the documents which accompanied the planning application, we would recommend the issuing of a holding objection on the basis of the following:

The information provided does not allow us to assess the development. Please provide information as required within the new ECC SUDS design guide:

<https://www.essexdesignguide.co.uk/suds/what-we-expect/>

8.8 Environmental Protection recommend the following conditions:

ZPD - Limits to Hours of Work

ZCG - Communal Storage Areas

8.9 Colchester Civic Society state: (precised)

- Make a general observation: relieved to see a new application and proposed use for this important site in the Dutch Quarter conservation area.
- No objection to students living in the town centre in modest numbers in such a building. Mixing students with private apartments does not seem so bizarre when the separate entrances to both areas are appreciated.
- Aware that permission already exists for a plan to convert the building to apartments with the necessary provisions for disabled access.
- Primary concern is with the understated plans for alterations to the windows to all elevations of the buildings. Unfortunate that the significant elevation to Maidenburgh Street has been omitted as this is the most iconic and familiar to those who visit the Dutch Quarter.
- Window design and materials define the visual impact of the building in the historic street scape of both Ryegate Road and Maidenburgh Street and a contemporary solution of replacement would be both injurious and historically inappropriate to this Locally Listed site.
- Steel strapwork design is very much a reflection of the building's history and usage and defines the visual as much as a timber sash to a Victorian terrace.
- Replacement aluminium powder coated windows to a modern Methodist Church or to Council housing are hardly comparable and are hardly justification for potential loss and damage.
- Aware that suitable window manufacturing solutions exist to resolve the needs of comfortable living and the strong local desire for historic retention.
- Re-emphasize concerns with any proposals to replace the " crittal " type steel band widows that are the particularly important feature of this building on the west elevation .These reflect the " Arclight Works heritage. Of equal importance are the original windows of the other sides that date from the original Daniels brewery .

- This building and its original detail form an important position in the Dutch Quarter Conservation Area and justify its significance as a Locally Listed Building.
- 8.10 Archaeologist states: “I note that previous permission 182869 attracted a condition requiring a programme of historic building recording and analysis prior to any conversion (Condition 12, but Condition 13 also seems to say much the same). Such a survey has not been undertaken or submitted in support of the current application, and it would be appropriate to carry this condition over to any new consent.”
- 8.11 Transport and Sustainability Officer: Confirms that “there is level access to the cycle parking from Maidenburgh Street and two-step access from Ryegate Road. The level access has been provided from Maidenburgh Street as this is the primary entrance for the Student Accommodation which are the majority occupiers of the building. The visitor cycle parking has been included in this area.”
- 8.12 Natural England comment that the site is in a Zone of Influence and that RAMs mitigation needs to be considered and a Habitat Regulations Assessment undertaken.
- 8.13 Dutch Quarter Association makes the following points:
- Important to retain as many architectural features as possible.
 - Previous application had provision for parking. Currently there are 3 spaces and these should be retained for service provision.
 - Surrounding area is a Controlled Zone with no on street parking. The adjacent Dutch Quarter Residents Parking Scheme has provision for only **111** cars and is vastly over subscribed with **172** permits currently issued which causes many problems. Expect condition that excludes participation in the Scheme.
 - Should avoid noise and disturbance during construction works in this quiet residential area.
- 8.14 Urban Design Officer has made comments about accuracy of plan, light levels for ground floor accommodation, elevation missing, replacement glazing to match, details of window materials required.
- 8.15 Conservation Officer has raised no objections (external alterations as per previously agreed by Conservation Officer).
- 8.16 Private Sector Housing initially did not raise objections and referred to appropriate standards, having discussed them with the agent. However, following further consideration of the plans it is stated “In relation to the amended plans;

Based on the developers comment of; *‘Those labelled Studio within the HMO are self-contained flats with kitchen/cooking facilities and will not share the shared spaces on each level’* - all those labelled ‘Studio Rooms’ (1201, 12061, 2401, 2407, 3508 and 4509) do not meet the required space

standards as set out in the DCLG space standards for new dwellings. I believe this is also adopted into Planning Policy. This is creating undersized self-contained 'micro' flats, and strangely within units of shared HMO accommodation.

Should this view be changed and that the occupants within those labelled 'studios' do have access to the communal kitchen/living rooms, the cooking facilities/kitchenettes should be removed from those labelled 'studios' so that they are not self-contained flats.

In this scenario, the only issue with room sizes is the communal kitchen/living room on the first floor, as it is slightly undersized based on 7 occupants sharing (it's currently 20.4m² and needs to be a minimum of 23m²) as some of the bedrooms are under the required 8.5m² and therefore require a living room."

Other original comments made are as follows:

"These comments are passed direct to the developer because they may fall out of the scope of Planning considerations. However, the comments are made based on possible increased hazards under the Housing Health and Safety Rating System (HHSRS) and action that the Private Sector Housing team could enforce against under Part 1 of the Housing Act 2004.

Alongside meeting all requirements of current Building Regulations in terms of ventilation, energy efficiency, heating, sound insulation, fire detection & protection, Private Sector Housing have the following specific comments;

Flat / Room Sizes

- Each 'whole' flat/dwelling must meet the attached DCLG National Space Standards.

- The proposed student flats/dwellings will be used as Houses in Multiple Occupation (HMOs) and therefore all bedrooms and shared living rooms/kitchens must meet the attached Essex HMO space and amenity standards.

Fire Safety Standards

- As well as meeting the requirements of building control for fire protection / detection between flats and the common escape route. (i.e 60 minutes fire resistance between each dwelling, suitable fire doors and compartmentation) the attached LACORS Fire Safety Guidance alongside the Essex HMO standards documents must be met for each individual HMO unit.

HMO Licensing

Any flat/dwelling used by 5 or more persons, with shared WC/personal washing or shared cooking facilities, requires a Mandatory HMO licence.

Excess Cold, Ventilation and Natural Light

The property has solid, non-cavity walls with very large single glazed windows to the front and side facades. The property will therefore need to be

upgraded efficiently in order to provide suitable residential accommodation.... In line with building regulations, appropriate internal wall insulation, minimum double glazing, and an efficient, cost effective heating system will be required to each flat/dwelling. As part of upgrading the windows, you must ensure that each habitable room is provided with adequate natural light and an openable window for natural ventilation. “

- 8.17 Tree Officer states he is in agreement with the proposed development and the tree report provided: “I am satisfied with the arboricultural content of the proposal...agreement to the landscape aspect of the application subject to condition.”

9.0 Parish Council Response

- 9.1 Non-Parished.

10.0 Representations from Notified Parties

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

- 10.2 10 letters of objection have been received, raising concerns about the following issues:

- Plans indicate a substantial alteration to the historic facade of the building. In Conservation Area and Dutch Quarter and should be refused unless façade is retained.
- Colchester does not have need for student accommodation. Should show statistical analysis for need.
- Should have plan of West façade to see how window impacted.
- Opportunity for non- transient accommodation.
- No evidence of wonderful windows and heritage being kept.
- Entirely altering the important, characterful and historical front facade with its huge Victorian arched topped windows.
- Please specify that the external appearance of this locally-listed building, with its distinctive glass windows, must be retained.
- Such flats meet lower standards than would be tolerated for permanent residents. Demand for new student accommodation is already met by existing schemes, including that at Magdalen Street and (if it goes ahead) the Alumno development.
- Please therefore ask the applicants to redesign their scheme so that all flats meet the minimum standards for space, etc, required for long-term tenants.
- Room sizes.
- If approved, should condition student accommodation retained for that use.
- Partitions about windows.

10.3 Two letters state:

- Hope at least the facade with its impressive large windows will be kept to preserve part of Colchester's architectural heritage/interest.
- Design & Access statement ambiguous.
- Should supply full details of the design and materials of the proposed Maidenburgh Street frontage for assessment, or it should be a condition of planning approval that this elevation is not altered in any way.

11.0 Parking Provision

11.1 40 cycle spaces

12.0 Accessibility

12.1 The proposal has the ability to comply with the provisions of the Equalities Act in respect of access for the new dwelling.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

15.1 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 via Section 106 (s.106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission are outlined below. Given the increase in unit numbers a proportionate adjustment in the contributions sought is required.

The updated contribution figures will be reported to the Committee following consideration at the Development Team meeting of 22/7/21.

16.0 Report

The Principle of Development and sustainability

16.1 The site lies within the Central Area of the town limits and is in an area defined as Primarily Residential in the Local Plan (Dutch Quarter). The site is within a highly accessible and sustainable location. Accordingly, the proposal is considered acceptable in principle in terms of compliance with adopted local and national planning policy. Policy SD1 aims to support sustainable development, as does emerging Local Plan policy SP1. The proposal also complies with Policy DP6 which aims to maintain a balance between retail and non-retail uses in the Town Centre, including Outer Core. Policy DP6 also

states that within the Town Centre, support will be given to bringing upper floors back into use, particularly for C3 residential purposes and B1 business use. The principle of the conversion of the building has also previously been agreed under application 182869. The latest scheme is somewhat different by introducing HMO units but nevertheless this is again a residential use.

16.2 In terms of National Policies, at the heart of the NPPF is a presumption in favour of sustainable development as outlined in NPPF Para 11.

16.3 A change of use to residential use has previously been agreed. As indicated before, in terms of the loss of the existing use, the planning history indicates that the lawful use of the building is as a museum (Class D1). Whilst it is acknowledged that Local Plan Core Strategy Policy SD3 supports the delivery, retention and enhancement of key community facilities in the Borough in accessible locations, the change of use is considered justified on the basis that the conversion to residential use would bring a redundant building back into a viable use in a sustainable location and would also help to preserve this non-designated asset. In addition, the building has not historically been used as a public museum but was instead to store and conserve items owned by the Colchester and Ipswich Museum Service and as such, it was not open for community use. The previous occupier, the Colchester Museum Resource Centre has relocated to alternative premises within the Borough (in Severalls Business Park), so the use has not been lost, but rather relocated within the Borough. Accordingly, it is not considered the proposal would result in the loss of employment opportunities in the Borough, as concluded on the previous application.

16.4 In conclusion, the proposed 37 units overall lie in a predominantly residential area that is well linked to existing services and facilities. The change of use would assist towards meeting the Council's housing requirement, whilst being consistent with the Local Plan policy approach of focussing new dwellings within the existing urban area. The scheme would also help support the existing town centre uses. The proposal is therefore considered to comply with the abovementioned settlement Policies of the Local Plan and NPPF.

Number of Units and Residential Amenity

16.5 It is not considered that the proposed number of units represents the overdevelopment of the site. Policy DP11 refers to various issues that need to be considered and Paragraph 5.3 lends further support to the principle:

Policy DP11 states that 'Proposals for the conversion and sub-division of existing premises into flats and other self-contained residential units will be considered having regard to the intensity of the use proposed and the accessibility of the location to shops and other services.' The current proposal is considered to be of an appropriate intensity in this central location in very close proximity to a wide range of services. Whilst there are a greater number of units compared to the previous approval, overall floor areas are similar and the building is not proposed to be extended.

- 16.6 Paragraph 5.3 adds to this statement and is of some background relevance by stating that ‘The residential conversion of upper floors over shops and offices within the town centre can increase the stock of small dwellings within a highly sustainable location and may be supported even where the Council’s standard parking and amenity space requirements are not met.’ The proposal does indeed add to the stock of small dwellings. Parking matters are considered below at 16.14.
- 16.7 Whilst there would not be external private amenity space (Policy DP16) this is not unusual for a town centre location. There is public space very nearby in Castle Park. An appropriate living environment will need to be provided for the occupants of the units and Environmental Protection have raised no objections to the scheme. Private Sector Housing however have raised a query relating to room sizes on 6 of the studio units not meeting the required DCLG standards and this has been taken up with the applicant. Any revised details and conclusions reached in this respect will be reported to the Committee. The proposal will of course have to comply with the relevant Building Regulations including room sizes, insulation levels, light levels and fire escape. An informative will be applied to confirm all relevant legislation will need to be complied with. Overall, it will need to be ensured that the proposal would not be contrary to the provisions of Policy DP11 (Flat conversions).
- 16.8 It is not considered there would be any significant detriment to neighbouring residential amenity from the use, including from noise and disturbance or overlooking. Environmental Protection have raised no objections in this respect. This is a Town centre location with a mixture of uses and HMO accommodation, including potential student use is appropriate for such an area. Conditions can be applied to protect the amenity of occupiers of the new apartments.

Impact upon Conservation Area, Locally Listed Building and Nearby Listed Buildings

- 16.9 The building to be converted is a Locally Listed Building that lies within the Conservation Area and is close to the Grade 1 listed Castle (although there is significant intervening vegetation). Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires *special regard* to be paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires *special attention* to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant adopted Local Plan policies are Local Plan policies ENV1 and DP 14.

- 16.10 Paragraph 194 of the NPPF (2018) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 195 and 196 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. It is considered that the works proposed within this application constitute less than substantial harm, including in terms of impact upon the Character of the Conservation Area and the setting of Listed Building for the reasons as outlined below.
- 16.11 The proposed alterations are proposed to accord with the previously agreed plans on 182869 that had been amended to omit the originally proposed openings on the main North gable of the building and to retain the majority of the chimney and the existing Crittall and other historic cast iron windows will be retained. As before, the proposed internal alterations are acceptable. Accordingly, the proposal would now preserve the character and appearance of the Conservation Area and the intrinsic significance of the Locally Listed Building itself. As before, external alterations are relatively minimal and, given the distance from the Castle opposite and intervening features including vegetation, there would be no adverse impact of any significance upon the setting of the Castle opposite.
- 16.12 As before, there will need to be a condition applied to ensure that the replacement four windows on the North elevation and the one new window proposed have additional glazing bars in order to ensure they relate satisfactorily to the character of this elevation.
- 16.13 Overall, subject to appropriate conditions, it is considered the proposal complies with Policy DP1 as it respects the character of the surroundings and with Policy DP14 as the character of the Locally Listed Building and Conservation Area will be preserved (and potentially improved) and the setting of the Listed Castle opposite will be unaffected. The proposal will therefore accord with the abovementioned aims and provisions of the NPPF.

Highway Issues

- 16.14 Whilst there is no car parking proposed on the site, a significant level of cycle storage provision is shown and the Highways Authority have raised no objections. This is a highly sustainable town centre location and it is not considered parking provision can be insisted upon, particularly given the nature of the accommodation proposed which includes smaller units than previously approved. The conditions suggested by the Highways Authority can be included, namely the submission of residential travel Information packs, public transport details, bicycle storage provision and a construction management plan. As outline above and of some background relevance, Paragraph 5.3 of the Local Plan states that 'The residential conversion of

upper floors over shops and offices within the town centre can increase the stock of small dwellings within a highly sustainable location and may be supported even where the Council's standard parking {DP19} and amenity space requirements are not met.'

Wildlife Impact

- 16.15 With regard to the wildlife impact of the scheme, bat surveys were submitted on the original scheme dating from June 2019 and these are considered to be adequately up to date, being only 18 months old when this latest application was submitted. The survey confirmed the 'likely absence of a bat roost'. Accordingly, no significant impact upon bat roosts is anticipated. Due to the urban location of the site, the lack of any field signs and the general lack of access to suitable nesting areas, it is considered unlikely that barn owls make any use of the building. It is not considered that other protected species will be affected in any significant way. Wildlife enhancement in terms of provision of bat boxes can be conditioned as before. Accordingly, the scheme complies with Policy DP21 which provides that development proposals should conserve or enhance biodiversity. An appropriate Habitat Regulations assessment has been undertaken.
- 16.16 The site is within a zone of influence of a European designated site and in order to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of recreational impact will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This equates to a financial payment which will need to be made before granting of permission.

Trees and Vegetation

- 16.17 As before, an Arboricultural Impact Assessment has been submitted. This indicates that a total of five trees were surveyed. No surveyed trees were considered to be high quality (Category A) with an anticipated useful life expectancy of in the region of 40+ years. Three surveyed trees were considered to be moderate quality (Category B) with an anticipated useful life expectancy of in the region of 20+ years. Two surveyed trees were considered to be low quality (Category C) with an anticipated useful life expectancy of in the region of 10-20+ years. No surveyed trees were considered unsuitable for retention (Category U).
- 16.18 The AIA concludes that of the five trees surveyed, all will be retained and will be protected during the proposed demolition and construction works. Temporary protection measures and briefing for site operatives can be put in place prior to construction on site and the tree officer has raised no objections. Accordingly, it is considered that, subject to appropriate conditions, impact upon vegetation is unlikely to be significant. However, it is considered a condition is required to ensure details of the provision of services is submitted to ensure any impact upon Root Protection Areas is minimised.

Flood Risk and Drainage

- 16.19 The site lies within a Flood Zone 1 area and this is the lowest flood risk area. Accordingly, it is not considered there is an objection on flood risk grounds. Conditions can be applied to secure an appropriate surface water drainage scheme. Subject to compliance with this condition, the proposal would not contravene the provisions of Policy DP20 which covers flood risk and sustainable drainage issues. Whilst the Essex County Council SUDs team have put in a holding objection on the basis that more information is considered to be required to allow assessment, it is considered that a surface water drainage condition is adequate to cover this issue given that this is an existing building within a constrained site and no extension works are proposed. A surface water drainage condition was applied when the previous proposal was approved and that too was for a scheme for residential purposes.

Other matters

- 16.20 The scheme is considered acceptable from an archaeological point of view subject to conditions relating to historic building recording. The proposal would therefore comply with Policy DP14 in this respect which aims to protect the Historic Environment.
- 16.21 The contaminated land officer has raised no objections to the scheme subject to the application of an unexpected contaminated land condition.

17.0 Conclusion

- 17.1 To summarise, the proposed residential accommodation lies in a predominantly residential area that is well related to existing services and facilities and is thus in a sustainable location. The change of use would assist towards meeting the Council's housing delivery requirement, whilst being consistent with the Local Plan policy approach of focusing new dwellings within the existing urban area. This is considered to be an appropriate location for the introduction of Student accommodation and is not considered to represent an overdevelopment of the site. The scheme would represent an appropriate re-use of a redundant building and would also help support the existing town centre uses. The proposal is therefore considered to comply with the abovementioned settlement Policies of the Local Plan and NPPF.
- 17.2 It is considered the proposal would preserve the character of the Conservation Area and Locally Listed Building and would not have any significant impact upon the setting of the Listed Castle opposite. The alterations proposed will essentially be the same as previously approved (albeit fewer in extent), including the retention of the existing important windows. The scheme is **generally** acceptable in terms of the residential amenity of the future occupiers and neighbouring occupiers. **However the points raised by Private Sector Housing in respect of room** sizes on 6 studios will need to be addressed and conclusions reached will be reported to the Committee. It is not considered

that parking provision is required in this highly sustainable Town Centre location and a significant level of cycle provision is proposed. There are also no concerns in terms of wildlife impact, contamination, archaeology, drainage or flooding subject to appropriate conditions.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

Authority to APROVE subject to Completion of a Legal Agreement relating to contributions and receipt of RAMs payment and consideration of any additional comments received as a result of the reconsulation, including from Private Sector Housing and subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development To Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: to be confirmed plus Arboricultural Impact Assessment.

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

3. Non Standard condition - 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.

4. Non Standard Condition- Bicycle Parking

The bicycle parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

5. Non Standard Condition- Construction Method Statement

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement

shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

6. Non Standard Condition- Travel Information Packs

Prior to first occupation of the proposed private development, the Developer shall be responsible for the provision 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.

7. Non Standard Condition- Public transport Information

The HMO development shall not be occupied until such time as details of public transport facilities (timetables and locations of bus stops etc), walking and cycling being prominently displayed and regularly updated and maintained in perpetuity in public areas within the site including precise detailed programme for such, have been submitted to and agreed in writing by the Local Planning Authority.

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

8. Non Standard Condition - Window retention

The existing windows on the building shall be retained unless otherwise shown (annotated) to be replaced/removed on the approved drawings. Details of any alterations or upgrading shall be submitted to and agreed in writing by the local planning authority prior to any works being undertaken and the works as executed shall be strictly in accordance with the agreed details.

Reason: For the avoidance of doubt as to what has been considered and approved and in order to preserve the character of the Conservation Area and Locally Listed Building.

9. Non Standard Condition - External Joinery Details

Notwithstanding the submitted details, precise details (scale 1:20) of all new and replacement windows, doors and other joinery (including materials and finishes) shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to preserve the character of the Conservation Area and Locally Listed Building and as the glazing detail on a number of replacement windows shown on the North elevation will need improvement.

10. ZLR – Works of Making Good

Within 2 MONTH(S) of the works being carried out, all adjoining surfaces which have been disturbed by the works (including brickwork, plaster and floor tiles) shall

be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the character of the Conservation Area and Locally Listed Building.

11. Non Standard Condition - Historic Building Recording

No works shall take place until the implementation of a programme of historic building recording 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 reporting 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).

12. Non Standard Condition - Building Recording

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

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works. In this case, a historic building survey should be carried out, by an historic buildings specialist.

13. Non Standard Condition - Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately.

Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of a former brewery and engine house, warehouse, museum storage and preservation, printing works, where there is the possibility of contamination.

14. Non Standard Condition – Asbestos Survey

Prior to commencement of development, a survey for the presence of asbestos shall be undertaken and the findings and potential mitigation works shall be submitted to and agreed in writing by the Local Planning Authority. The mitigation works shall be undertaken in accordance with the submitted details throughout the lifetime of the development works

Reason: There is the possibility of asbestos being present on site.

15. Z00 – Surface Water Drainage

Prior to the commencement of the development details, of the surface water drainage scheme including surface water management strategy to serve the development based on sustainable drainage principles, shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. No hard-standing areas shall be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision of an appropriate surface water drainage scheme.

16. Non Standard Condition – Drainage Maintenance

Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the local planning authority. The maintenance plan shall thereafter be complied with.

Reason: To ensure the satisfactory maintenance of the surface water drainage system.

17. Non Standard Condition – Refuse and Recycling Storage

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with the submitted details. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

18. Non Standard Condition – Service Details

Prior to their implementation, precise details of the provision of ground or below ground level services, including locations, shall be submitted to and agreed in writing by the Local Planning Authority. Only the approved details shall be implemented.

Reason: To ensure trees and vegetation is adequately protected.

19. Non Standard Condition – Tree Protection

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

20. Non Standard Condition - Wildlife Mitigation and Enhancements

Prior to commencement of development, precise details of Wildlife Mitigation and Enhancement shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be complied with during the lifetime of the development works, and the Wildlife Enhancements shall be implemented within two months of completion of the development works and thereafter retained as such.

Reason: In the interests of the protection of protected species and to ensure adequate wildlife enhancement.

21. Non Standard Condition- Communal Storage

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

19.0 Informatives

19.1 The following informatives are also recommended:

1. Highway Informative

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

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

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

2. Building regulations/Fire Safety Access informative

The applicant should note that the proposal will need to comply with the relevant Building Regulations, including Fire safety access.

Flat / Room Sizes

-Each 'whole' flat/dwelling must meet the attached DCLG National Space Standards.

-The proposed student flats/dwellings will be used as Houses in Multiple Occupation (HMOs) and therefore all bedrooms and shared living rooms/kitchens must meet the attached Essex HMO space and amenity standards.

Fire Safety Standards

-As well as meeting the requirements of building control for fire protection / detection between flats and the common escape route. (i.e 60 minutes fire resistance between each dwelling, suitable fire doors and compartmentation) the attached LACORS Fire Safety Guidance alongside the Essex HMO standards documents must be met for each individual HMO unit.

HMO Licensing

Any flat/dwelling used by 5 or more persons, with shared WC/personal washing or shared cooking facilities, requires a Mandatory HMO licence.

Excess Cold, Ventilation and Natural Light

The property will need to be upgraded efficiently in order to provide suitable residential accommodation. In line with building regulations, appropriate internal wall insulation, minimum double glazing, and an efficient, cost effective heating system will be required to each flat/dwelling. As part of upgrading the windows, you must ensure that each habitable room is provided with adequate natural light and an openable window for natural ventilation.

*****It should be noted that the above requirements will need to be met whilst retaining the existing windows in the property.*****

3. Anglian Water Informative

The applicant's attention is drawn to the contents of the Anglian Water letter dated 27.1.21.

4. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require

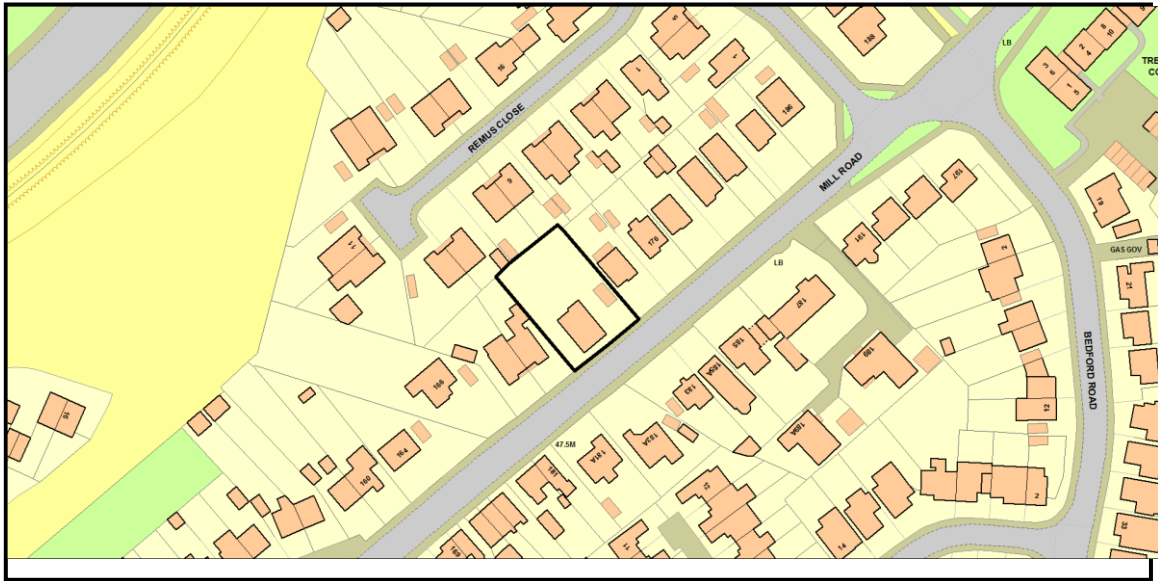
any further guidance they should contact Environmental Control prior to the commencement of the works.

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

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

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

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



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Item No: 7.3

Application: 210983

Applicant: Oliva Homes Ltd

Agent: Barry Whymark

Proposal: Erection of 2 No detached single storey dwellings with attached garages, existing dwelling and garage to be demolished and alterations to existing vehicular access

Location: 172 Mill Road, Colchester, CO4 5LP

Ward: Mile End

Officer: Chris Harden

Recommendation: Approval subject to the receipt of a RAMs payment..

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Goss who states “Reason for Call In: Overdevelopment of the existing site. Not in keeping with the surrounding area. Concern over changes to access to the site.”

2.0 Synopsis

- 2.1 The key issues for consideration are the layout and design, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The application is subsequently recommended for approval. To summarise, it is considered the site can adequately accommodate the proposed dwellings without appearing cramped or being out of keeping with the character of the street scene. It is not considered the proposal represents overdevelopment as this is a substantially sized site. The design, scale and form of the single storey dwellings is acceptable and relates satisfactorily to the character of other dwellings in the vicinity, with modest gable widths and appropriate fenestration. There is also space for frontage landscaping on the frontage of both plots. There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site. There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed bungalows, in terms of overbearing or loss of light or in respect of noise and disturbance. No vegetation of significance would be affected.

3.0 Site Description and Context

- 3.1 The site lies in the settlement limits and currently consists of a detached bungalow. The surroundings consist of a mixture of property styles. The bungalows to the North are quite uniformly arranged. There are also two storey dwellings in the vicinity, including those on the opposite side of the road.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of 2 No. 3 bedroom detached single storey dwellings with attached garages with existing dwelling and garage to be demolished and alterations to existing vehicular access. The access would be provided centrally within the site frontage.

5.0 Land Use Allocation

- 5.1 Within Settlement Boundary.

6.0 Relevant Planning History

- 6.1 200950 Erection of 3no. detached single storey dwellings, existing dwelling and garage to be demolished and alterations to existing vehicular access. Refused. Dismissed on appeal.

Refusal (main elements): *“The proposed three uniform, elongated dwellings positioned tightly together would result in a cramped appearance compared to the prevailing character of the area and represents an overdevelopment of the site to the detriment of the character of the street scene and visual amenity of the area. The proposal would also result in a hard surface dominated frontage area with limited potential for any landscaping to the further detriment of the character of an area.”*

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

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP14 Historic Environment Assets

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

DP21 Nature Conservation and Protected Lanes

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

N/A

- 7.5 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.
- 7.6 Submission Colchester Borough Local Plan 2017-2033:

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 remains to complete examination, with Section 2 Hearings concluding in April with the Inspector’s report awaited. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

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

The Council can demonstrate a five year housing land supply.

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

Emerging Section 2 Local Plan

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

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

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

Section 2 will be afforded weight due to its advanced stage. However, as it is yet to complete the examination process, 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.

Appendix 1 contains additional Local Plan background information.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Affordable Housing
Sustainable Construction
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.

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 Environmental Protection recommend the following condition:

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

8.3 Highways Authority states:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions: (full conditions in conditions section).

- (i) Vehicular access.
- (ii) Close existing access
- (iii) No unbound materials
- (iv) Parking area retained
- (v) Bicycle storage
- (vi) Construction Management Plan
- (vii) Informative 1.

8.4 Colchester Cycling Campaign state:

Reason for comment: Object to the proposal

Comment: Cycle parking in the rear garden of the properties is not convenient, especially when compared with the garage that has direct access to the street. Spaces should be secure and provided at one space per bedroom (Table 11-1 LTN 1/20).

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

9.0 Parish Council Response

9.1 Myland Community Council state: Reason for comment: Object to the proposal. Comment: MCC note the reduction from 3 to 2 dwellings for this site but feel this is still over-development.

The objections we raised to the previous application are still valid:

- 1) Concern regarding parking for construction vehicles due to markings for the nearby zebra crossing and
- 2) Addition to the traffic already using Mill Road.

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 1 letter of objection has been received which makes the following points:

- This should be rejected for the same reasons as the previous application.
- Still over development of a small site where surrounding properties are bungalows.
- Site on a main road next to a pelican crossing.
- Construction vehicles needed to demolish the property will cause major disruption to busy road and raise safety concerns from the pelican crossing and bus stop

Officer comment: The proposed plots are very similar in size to those adjacent and amenity/parking space is provided in accordance with adopted standards.

10.3 Cllr Goss in addition to the above Call-In states "Reason for comment: Object to the proposal Comment: Having spoken to neighbouring properties I am very concerned this is over development of the site, which will impact properties 170 and 174 Mill Road as well as the properties that back onto the site in Remus Close.

There are also concerns about change to the existing access for the property which again cause concern to the neighbouring properties.

This site is over developed as well as consideration given this is an attempt at "backland" development. Overall the scheme should be refused."

11.0 Parking Provision

11.1 2 spaces per dwelling plus turning area.

12.0 Accessibility

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DP17 (Accessibility and Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages. The proposed bungalows are highly accessible by their nature.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

15.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990. However a unilateral undertaking has been submitted to provide contributions for community facilities/sport & recreation as per our adopted SPD.

16.0 Report

Principle

- 16.1 As the site lies within the settlement limits the proposal should be judged on its planning merits in accordance with the hierarchical settlement elements of policies SD1 and H1 of the adopted Local Plan and Policy SP1 of the Emerging Local Plan which aim to direct such development to the most sustainable locations.
- 16.2 Settlement policies and the NPPF indicate a presumption in favour of sustainable development (which includes this site) and accordingly the proposal should be judged on its planning merits.
- 16.3 The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

Layout, Design and Impact on the Surrounding Area

- 16.4 It is considered that the proposal represents an acceptable layout that is in keeping with the character of the area and does not represent an overdevelopment of the site. The positioning of the two dwellings is similar to other bungalows along this side of the road, many of which are positioned in closely related pairs. The previous refusal and associated appeal sought 3 dwellings with their gable ends facing the road which looked too cramped and contrived. This latest application shows two modestly sized, single storey dwellings that relate far more satisfactorily to the character of the street scene. There is a visual break between them and also on either side of the boundary and whilst these visual breaks are quite small they are adequate to ensure there would be a satisfactory resultant street scene. The plot is an infill of a built frontage rather than a backland development.
- 16.5 The reduced number of dwellings also allows for more space for landscaping at the front of the property. Given that the current frontage is dominated by a boarded fence and parking space, the scheme would actually represent an enhancement to its surroundings.
- 16.6 The design, form and scale of the dwellings is also considered acceptable. The dwellings are relatively modest in scale, being single storey and have narrow gables and appropriate fenestration. They would therefore relate satisfactorily to the character of their surroundings. The proposal is therefore considered to have addressed the concerns raised at the time of the previous refusal.
- 16.7 Overall, in terms of layout, design and impact on surroundings the proposal would therefore comply with Policy UR2 of the Local Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.
- 16.8 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout.
- 16.9 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide.

Impact on Neighbour Amenities:

- 16.10 It is not considered there would be any particular impact upon neighbouring residential amenity from the proposal. The proposed dwellings are single storey. Accordingly the proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.

- 16.11 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide. The dwellings do not project beyond the rear elevations of the neighbouring dwellings to any significant degree.
- 16.12 Additionally, as the dwellings are single storey, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The proposed dwellings are also far enough from the rear boundary to avoiding cause any issues when looking rearwards.
- 16.13 It is not considered that a refusal can be justified on noise and disturbance grounds from vehicle movements with this intensity of use plus the fact that the access and parking area is at the front of the site and does not impact upon the rear gardens of neighbouring properties.
- 16.14 The objections received regarding construction works are noted and appropriate conditions can be applied to minimise disruption including a construction management plan and hours of working. Environmental Protection have made no objections.
- 16.15 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking.

Highway Matters:

- 16.16 The Highway Authority have raised no objection to the scheme subject to conditions which can be applied. Revised plans have been submitted showing the garages increased from 6m in length to 7m internally. The proposal now complies with Policy DP19, with space for at least 2 car parking spaces for each dwelling plus a turning area which can also be utilised as a visitor space if required.
- 16.17 The width of the access serving the plot is wide enough for one extra domestic dwelling and offers appropriate visibility splays in either direction. The neighbour's concerns have been noted. However, given the lack of objection by the Highway Authority and that this is only an increase of one dwelling it is not considered the proposal could be refused on the grounds of this minor intensification in this location.
- 16.18 The Essex Design Guide provides that "The overarching aim is to ensure that in new residential and mixed-use environments, the circulation and movement of people is pleasant, convenient, safe, responds to local context and combines with good place-making. Motorised vehicle movement must efficiently service development without predominating..." It is not considered the proposal

contravenes these aims of the Essex Design Guide. It would also not cause a severe impact upon the Highway network, as referred to in the NPPF.

16.19 A Construction Management Plan condition can be applied.

Wildlife issues:

16.20 As the site is not overgrown and no older or timber framed buildings would be demolished it is not considered that a phase 1 Ecological survey is required as the site is already garden land. Accordingly it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity.

16.21 A RAMs wildlife payment will need to be made as a new dwelling would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts. An appropriate Habitat Regulation assessment has been made.

Unilateral Undertaking:

16.22 A Unilateral Undertaking will be required to be completed in order to secure the required SPD contributions for community facilities and sport & recreation facilities and this has been completed.

Garden space:

16.23 Adequate amenity space for the new dwellings has been shown to be provided in accordance with Policy DP16. Indeed, garden space compares favourably with neighbouring properties. Policy DP16 provides that for 3 bedroom dwellings a minimum of 60m² should be provided and in this case the dwellings are provided with over 100m² each which further emphasises that this is not an overdevelopment of the site.

Environmental and Carbon Implications

16.24 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that, on balance, the application can contribute to achieving sustainable development. The site is considered to be in a sustainable location and would minimise carbon emissions from trips generated to access services.

Other

- 16.25 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. There are no archaeological issues (Policy DP14). No vegetation of significance would be affected.
- 16.26 It is not considered the proposal is contrary to the Myland and Braiswick Neighbourhood plan as the proposal is considered to represent a high quality design in accordance with Policies HOU1 and DPR1.

17.0 Conclusion

- 17.1 In conclusion, it is considered the site can adequately accommodate the proposed dwellings without appearing cramped or being out of keeping with the character of the street scene. It is therefore not considered the proposal represents an overdevelopment. The design, scale and form of the single storey dwellings is acceptable and relates satisfactorily to the character of other dwellings in the vicinity, with modest gable widths and appropriate fenestration. There is also space for frontage landscaping in front of both plots. There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and room for adequate parking on the site. There is adequate amenity space for each new dwelling which exceeds Local Plan requirements. It is not considered there would be a significant impact on neighbouring residential amenity from the dwellings in terms of overbearing or loss of light or in respect of noise and disturbance. No vegetation of significance would be affected.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the receipt of a RAMs wildlife mitigation payment and subject to the following conditions

1. ZAA - Time Limit for Full Permissions

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

2. ZAM – Development In accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 19/190-01 Rec'd 20.4.21, 05A & 06a Rec'd 15.7.21.

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

3. ZBB- Materials As Stated in the Application

The external facing and roofing materials to be used shall be those specified on the submitted application form, schedule and drawings.

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

4. Z00- Vehicular Access

Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be constructed where shown on the submitted plans to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

5. Z00 – Close Access

The existing access shown on the submitted plan shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new access is brought into use.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

6.Z00- No Unbound Materials

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

7. Z00- Parking/Turning Area

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 19/190 – 05A. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

8. Z00- Cycle storage.

Notwithstanding the submitted details, prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with LTN 120.

9. 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 and in the interest of highway safety. (see informatives).

10. Non Standard Condition - Construction and Demolition

No demolition 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 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.

11. Non Standard Condition - Refuse and Recycling

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

12. ZFI- Tree or shrub planting

The development hereby permitted shall not be occupied until details of tree and/or shrub planting and an implementation timetable have been submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

19.0 Informatives

19.1 The following informatives are also recommended:

1. 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. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:
SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT

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

653 The Crescent,
Colchester
CO4 9YQ

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

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

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

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.

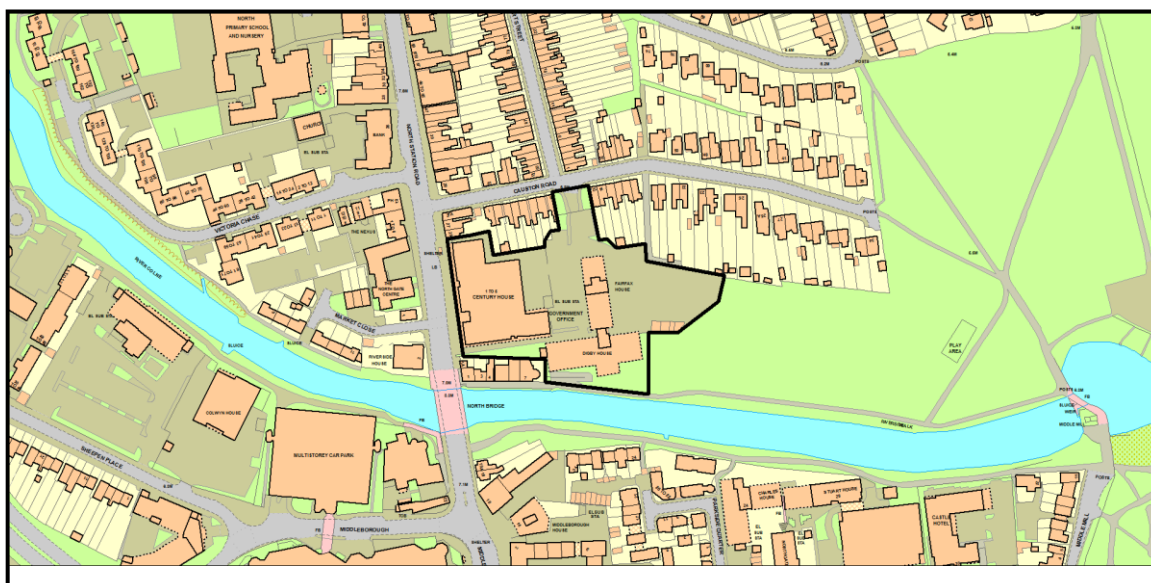
Section 1 Adopted Policy	Context of Section 1 Policy	Relevant Core Strategy Policy status
Policy SP 1 Presumption in Favour of Sustainable Development	Restates national Policy	Replaces SD1 - in part. Following text of SD1 is

		<p>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>
Policy SP 2 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
Policy SP 3 Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	High level N/A
Policy SP 4 Meeting	Sets the housing supply	Replaces H1 - in part.

Housing Needs	figure for the Plan period at 920 per year. Section to allocate sites and determine the spatial distribution	<p>Following text of H1 replaced by SP4.</p> <p><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></p> <p>All other parts of H1 remain relevant</p>
Policy SP 5 Employment	Strategic target – relies on Section 2 eLP to allocated sites	<p>Replaces CE1 – in part.</p> <p>Following text from CE1 replaced by SP5.</p> <p><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></p> <p>All other parts of CE1 remain relevant.</p>
Policy SP 6 Infrastructure & Connectivity	<p>Strategic and restates national policy</p> <p>Section 2 covers matters specifically</p>	<p>High level/Garden Community – Section A</p> <p>Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area.</p> <p>These sections replace SD2.</p>
Policy SP 7 Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A
Policy SP 8 Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
Policy SP 9 Tendring/Colchester Borders Garden Community	New- specific to the Garden Community	Garden Community N/A

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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



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Item No: 7.4

Application: 211654

Applicant: Convivia Construction Ltd

Agent: M Matharu. MD Development

Proposal: Application to determine if prior approval is required for a proposed change of use from offices (B1) to dwellinghouses (C3)

Location: Riverside Office Centre, North Station Road, Colchester, CO1 1RE

Ward: Castle

Officer: Nadine Calder

Recommendation: Grant Prior Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillors Scordis, Goacher and Crow at the request of local residents who are concerned about the impact on parking and congestion.
- 1.2 It is to be noted that this type of planning application must be determined within 56 days. The application expires on the date of the Committee, but the applicant's agent granted an extension of time until 30th July 2021 (the day after the Committee). If no decision is made by 30th July 2021 and the applicant does not agree a further extension of time, the application will be determined by default and prior approval will have been granted.

2.0 Synopsis

- 2.1 The key issue for consideration is whether the proposed development is permitted development when assessed against Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO).
- 2.2 The application is considered to meet the criteria of the GPDO and is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The site lies on the eastern side of North Station Road, the main pedestrian route connecting the town centre to the main line railway station serving Colchester. It is immediately to the north of a small row of picturesque listed cottages directly facing onto the River Colne and is adjacent to the North Bridge. The area is largely commercial in character with smaller retail and food units dominating the streetscene closest to the town centre which gives way to larger restaurants and light industrial uses as one moves north towards North Station. The area is identified within the current Local Plan for mixed use development. There is some residential use on the upper floors of buildings fronting onto this street, while the surrounding areas are allocated for predominantly residential uses. North Station Road was designated as an extension to the Town Centre Conservation Area recently as a tool to promote the regeneration of the area.
- 3.2 Riverside Office Centre itself is a large, three storey office block constructed in the 1960's and consists of three buildings known as Digby House, Century House and Fairfax House. The building is constructed of brown brick with sections of cream render. The roof is particularly distinctive as it exhibits a series of regularly undulating sections of render. Externally the building is undistinguished architecturally, reflecting a greater emphasis on its function rather than its form. However, this is fairly typical of buildings from the period, and it must be stated that the building is not unappealing.

4.0 Description of the Proposal

- 4.1 This application is a notification as to whether the local planning authority require prior approval to the change of use from office B1(a) to 93 units comprising of six studios, 42no. 1-bed, 26no. 2-bed and 19no. 3-bed units.
- 4.2 The ground floor level of Century House would remain in commercial use. Changes at ground floor would be associated with a new vehicle parking layout and the provision of cycle parking, refuse storage and communal amenity space. No external alterations to the building are proposed.

5.0 Land Use Allocation

- 5.1 The current Local Plan identifies the site as an Employment Zone and Environment Agency National Flood Zone. The emerging Local Plan allocates the site as a New Residential-led Mixed Use Allocation.

6.0 Relevant Planning History

- 6.1 Application reference 163227 is relevant in that it granted prior approval in February 2017 for the conversion of the building, under Class O permitted development rights to 89 residential units. This permission has not been implemented and has since expired.
- 6.2 More recently, a full planning application for alterations to the façade (comprising the enlargement of existing high level windows) was granted permission (reference 211007, approved June 2021) while two prior notification applications for the conversion of the office buildings into 101 residential units (reference 211157) and 99 residential units (211236) were withdrawn. Application 211157 included the recently improved alterations to the façade of the building within the existing and proposed plans, despite this work not yet having been carried out, while application 211236 was considered to create residential units with inadequate access to natural light. Both applications were withdrawn on the advice of the case officer as they would otherwise have been refused.

7.0 Principal Policies

- 7.1 The prior approval application is not an application for planning permission but is a notification assessed against criteria set out in the Town and Country Planning (General Permitted Development Order) (England) 2015 (as amended) (GPDO) Schedule 2, Part 3, Class O.

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 Contaminated Land Officer raises no objection to the proposal.

- 8.3 Environmental Protection do not object to the proposal subject to conditions requiring details of a noise mitigation design, including attenuation design and mechanical ventilation.
- 8.4 Private Sector Housing acknowledge that the units meet the minimum space standards but have made general comments about how the living environment could be improved and what other criteria will need to be met.
- 8.5 The Highway Authority raise no objection subject to conditions, including the car park being laid out prior to occupation of the development, the provision of details relating to cycle storage and the provision of Residential Travel Packs.
- 8.6 No response was received from the Environment Agency at the time of writing this report.
- 8.7 Natural England recommend that a Habitats Regulations Assessment is undertaken to secure any necessary mitigation.

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 22 local residents and the Colchester Civic Society have submitted letters of objection. An additional general comment was received. The main reasons for objecting are summarised as follows:
- Area leading to entrance of the site suffers from congestion, illegal parking and dangerous driving due to lack of space for vehicles.
 - Oversized service vehicles using Causton Road would still have access to the site.
 - More residents mean more vehicles and that will increase risks of accidents.
 - No detail on how the parking will be managed on the site; will there be a barrier system?
 - Application form states site is not within the curtilage of a listed building. The first two buildings on the corner of North Station Road/Causton Road are listed buildings.
 - Vacant buildings should be demolished and replaced with a newly designed and appropriate housing provision.
 - Unattractive buildings are in the North Station Road Conservation Area.
 - Large increase in unwelcome traffic.
 - What consideration is there for more noise?

- Dangerous to provide 100% social housing. This will lead to antisocial behaviours on an increased scale.
- A split (part private/part social) would be better.
- The schools, doctors and parking in the area are oversubscribed.
- Proposed parking is below the adopted standards.
- Inclusion of electrical charge points takes up valuable parking spaces. The average social housing tenant is not going to be able to afford an electric car.
- Landscaping is a welcome addition to the plans but doesn't go far enough to cover the whole site.
- An Article 4 Direction should be put on the buildings to remove permitted change of use from office to residential.
- When offices were in use, the roads of North Station Road, Albert Street and all the surrounding rat runs were grid locked every morning and night; luckily only on weekdays with weekends being quiet.
- Traffic flow will be back; this time all day and every day.
- Noise to any new residents will be significant with delivery lorries arriving to the shops from 6 am and pizza delivery until 2 am the following morning.
- North Station Road has one of the worst air quality readings in Colchester.
- Growing congestion problems.
- Parking will become a greater problem in Causton Road and Albert Street as the residents of the new flats will be entitled to resident parking permits.
- Extra vehicles in the area would lead to more frequent illegal parking which is both a danger and an inconvenience.
- Local pollution will worsen with increased traffic and intensified congestion.
- Garages for residents of Riverside Walk are located within the car park; how does access to these work?

11.0 Parking Provision

11.1 Discussed in the main report below.

12.0 Accessibility

12.1 Not applicable under Class O, Part 3, Schedule 2 GPDO.

13.0 Open Space Provisions

13.1 Discussed in the main report below.

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 Not applicable

16.0 Report

16.1 At the outset it should be noted that by reason of the national permitted development right the principle of the development is not open to consideration; the principle of the proposed use should be treated as being acceptable having regard to that right with only matters of detail being relevant to this assessment. The Secretary of State has granted planning permission under the GPDO subject to criteria. The principle is therefore established.

16.2 These matters are set out by Class O and paragraph W of Part 3 of Schedule 2 to the General Permitted Development (England) Order 2015 (as amended).

16.3 To enable the office to residential conversion to take place, Class O states that the change of use is not permitted if:

- (a) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—
 - (i) on 29th May 2013, or
 - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
- (b) the site is, or forms part of, a safety hazard area;
- (c) the site is, or forms part of, a military explosives storage area;
- (d) the building is a listed building or is within the curtilage of a listed building;
or
- (e) the site is, or contains, a scheduled monument.

16.4 If the above criteria are met, Class O requires the developer to notify the Council to establish whether the prior approval of the authority will be required. The scope of matters that can be considered is very limited and only includes the following criteria:

- (a) transport and highways impact of the development,
- (b) contamination risks on the site,
- (c) flooding risks on the site,
- (d) impacts of noise from commercial premises on the intended occupiers of the development, and
- (e) the provision of adequate natural light in all habitable rooms of the dwellinghouses.

16.5 Matters such as the provision of amenity space or the internal layout of the proposed units can therefore not be taken into consideration.

- 16.6 Paragraph 9A of the GPDO also states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse
- (a) where the gross internal floor area is less than 37 square metres in size; or
 - (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

Compliance with Permitted Development

- 16.7 The building was last operated and used for B1(a) office use. The lawful use of the site is not disputed. This was also accepted as part of the previous prior notification application which granted prior approval for the conversion of the buildings the subject of this application from office to residential use (reference 163227).
- 16.8 The site is not, and does not form part of, a safety hazard area or military explosives storage area; it is not listed or located within the curtilage of a listed building nor is it, or contains, a scheduled monument. Whilst there are cottages in the vicinity that are listed, this site does not form part of their curtilage.
- 16.9 It is noted that objections were received, which claim that the site is located within the curtilage of a listed building (namely 25 and 27 North Station Road and Nos 1, 3 & 4 (Riverside Cottages), North Station Road, Colchester), however, this is not the case. The criteria for permitted development are therefore met.

Transport and Highways Impacts

- 16.10 The Highway Authority understands the concerns from local residents about transport impact, however, based on the information available to them, and considering the lawful use of the site, they raise no objection to the proposed change of use subject to conditions (including the car parking facilities to be laid out as indicated on the approved plans; the provision of details with regards to the storage of bicycles and the provision of Residential Travel Packs). Your Officer has discussed the proposed development at length with the Highway Authority prior to writing this report in order to fully understand the highway impact of the proposed development having regard to the concerns that were raised by local residents.
- 16.11 One of the main concerns that was raised relates to the proposed change of use of the buildings resulting in increased vehicle movements to and from the site which residents fear would cause local congestion. The lawful use of the buildings for office purposes however needs to be acknowledged. Despite the building currently being vacant, it could be brought back into office use in the future and without the need for any adaptation. In highway terms, the proposed change of use therefore has to

be assessed against its lawful fallback for an office use in terms of trip generation. As an office use, it is likely that vehicular movements are concentrated to peak flows in the morning and evening, i.e. between 07:30 and 09:00 and 15:30 and 18:00 respectively. These movements are not too dissimilar to those of residents leaving to and coming home from work and going about their daily business. In any event, it is considered that a residential use would result in less peak flows than the office use as residents are more likely to leave and return to the site at different times throughout the day, thus causing a more natural flow of traffic rather than creating peak flows, which would help avoid congestion.

- 16.12 Another matter for consideration is parking. The development would provide 120 car parking spaces for the proposed 93 units. This includes nine electric vehicle charging spaces and two car club spaces. 19 parking spaces would be retained for the existing retail premises.
- 16.13 As per current parking standards, the proposed residential use would require the provision of 138 car parking spaces. The application therefore falls short of this requirement by 18 spaces. The site is however located in a highly accessible and very sustainable location, within walking distance of the town centre and the main railway station serving Colchester. The adopted Parking Standards SPD accepts that reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport. This is clearly the case in this instance and as such, reduced parking provision can be considered acceptable for this site. Future occupiers of the proposed units will know that there are limited parking facilities on the site and that they may not be guaranteed a second space. They would not be able to lawfully park their vehicle in the adjoining roads as these are single or double yellow lined and permit parking zones only.
- 16.14 This matter was discussed with the North Essex Parking Partnership (NEPP) who are the responsible authority for issuing parking permits. They confirmed that when a building is converted into residential properties, the new addresses are not automatically entered into the permit scheme, especially if they have access to off-street parking on the site. The Traffic Regulation Order for the permit zone will state which properties are eligible for a permit, this would need to be amended to allow the new properties to be eligible for permits. However, the NEPP confirmed that conversions within (or in this instance adjacent to) a permit scheme are not normally included into the permit scheme, even if a formal application is made. This is because new properties and the possibility of them having up to two permits per property would upset the balance of the parking scheme and it would be oversubscribed. The proposed development is therefore unlikely to have an impact on parking in the surrounding roads. Should illegal parking occur in these areas, then this can be enforced (also by the NEPP).
- 16.15 The applicant's agent explained that the existing barrier at the entrance to the site will be retained and the building's management company will be responsible for managing the car park. They also confirmed that with

regard to delivery vehicle parking, the car park layout has been designed so that the commercial units retain a small area of car parking at the rear of Century House (there is no net loss of parking for these units). Delivery vehicles will have key fob access to this area via the shared entrance. Delivery vehicles will be restricted to the commercial parking area only. They will not be permitted to park in any other part of the car park. The management team will be responsible for the day to day operation of the car park and will therefore ensure that the delivery vehicles park in their designated areas only.

- 16.16 In summary, it is understood that the proposed change of use may be perceived to increase vehicle movements in the area, however, the lawful use of the site as an office, and its associated vehicle movements, are a matter that needs to be taken into consideration in the assessment of this proposal. With the proposed car park being managed by a management company and the proposed use having the potential to result in a more spread out flow of traffic, thus causing less peak traffic movements, it is held that the proposed development could represent an improvement upon the existing lawful office use. The proposed parking arrangement is acceptable given the site-specific circumstances and the vehicle movements associated with the proposed use are not considered to cause such a severe impact on the highway network that would render the proposal unacceptable. Consequently, it is considered that, subject to conditions, the proposed transport and highway impacts of the development would be acceptable.

Contamination risks on the site

- 16.17 The Council's Contaminated Land Officer states that, based on the information provided, they consider that the conclusion that the principle of a conversion to residential use at the site is acceptable is reasonable. Consequently, no further information will be required by Environmental Protection with respect to land contamination matters.
- 16.18 The applicant's attention should be drawn to the recommendations that with respect to asbestos containing building materials, a full programme of surveys, removal and clearance verification will need to be carried out prior to the change of use.

Flooding risks on the site

- 16.19 The building lies within Flood Zone 3, however, no vulnerable uses are proposed at ground floor, which would remain as commercial units and conversion of the building has previously been accepted by the Environment Agency (as part of prior notification application 163227). No response was received as part of this application, despite repeated requests. The site also appears to benefit from flood defenses. It is therefore considered that the conversion of the upper floors of the application buildings do not increase the risk of flooding on the site. Should a response from the Environment Agency be received prior to the

Committee, then this will be reported to Members on the Amendment Sheet.

Impacts of noise from commercial premises on the intended occupiers of the development

- 16.20 There are commercial premises at ground floor of Century House and along North Station Road. The car park would also be used by delivery vehicles. The applicant has agreed to the principle of providing mechanical ventilation, as it was suggested by the Council's Environmental Protection Officer. Such details could be secured via condition which would enable the Council to ensure that future occupiers of the proposed development would benefit from acceptable living standards considering the internal and external generated noise from commercial premises and the car park. Subject to this, the proposed impact on future occupiers is considered acceptable.

The provision of adequate natural light in all habitable rooms of the dwellinghouses

- 16.21 Each habitable room within each of the proposed residential units would benefit from at least one generous sized window, thus providing adequate natural light for future occupiers of the proposed units. The proposal does therefore not cause any concerns with regard to this matter.

Other Matters

- 16.22 The submitted floor plans indicate that the proposed residential units comply with the Department of Communities and Local Government (DCLG) National minimum prescribed space standards. This was acknowledged in principle by the Council's Private Sector Housing team.
- 16.23 The matters assessed above are the only matters that can be taken into consideration as part of this prior notification application. All other matters that were raised by local residents (where they have not been discussed above) are therefore not capable of being addressed as part of this application. This includes the future occupiers of the site, which the application proposes to be for 100% social housing. It may however be worth noting that the applicant confirmed that they are working in partnership with a Housing Association who will be responsible for the management of the property. They also state that they have been in discussions with the Council's housing team to ensure that the mix of units meets identified local affordable housing need.
- 16.24 Private amenity space is another matter that cannot be given any consideration as part of this assessment, however, following concerns raised as part of the recently withdrawn prior notification applications, the current application is supported by an indicative site plan which shows the provision of a small area of outdoor space, including a children's play area, which is considered to represent a benefit.

- 16.25 Comments with regards to residents of Riverside Walk benefitting from garages within the car park of the site are noted. The garages are not included within the red line area, and it is understood that residents currently have a right of way, via a type of drive, to the north of the site which is also outside the site's boundary. The right of way then continues across the car park to the garages.
- 16.26 The applicant confirmed that the scheme has been designed to retain a similar parking layout to existing. The parking spaces are positioned either side of the right of way. The applicant's intention is to resurface the right of way with anti-slip surfacing in order to create a safer and better-defined route to the garages.
- 16.27 As mentioned above, the applicant has offered to prepare a car park management plan which will ensure the safe operation of the car park and can be secured via condition. Such a plan will ensure that the right of way is preserved and that it remains unobstructed.
- 16.28 Private Sector Housing explain that it is unclear whether the proposed units meet other space standards set out by the DCLG, including minimum bedroom widths and storage areas as there are no dimensions, minimum widths shown for rooms, etc. The developer must ensure the dwellings meet all DCLG space standards.
- 16.29 It is noted that many of the one bedroom dwellings are only suitable for one person under the DCLG space standards. They are not suitable for two people. If any of the dwellings are to be potentially rented, the Private Sector Housing team will take action to prohibit the number of people occupying the dwellings to the appropriate number depending on the DCLG space standards.
- 16.30 Other comments from the Private Sector Housing team, including (amongst others) kitchens to meet or exceed the minimum requirements for kitchen facilities for self-contained units; windows being required to meet current building regulations; the roofs being surveyed for their current life expectancy and condition; walls to meet current building regulations insulating values for domestic dwellings; there not being any elevator access to some dwellings or amenity space allocated for secure drying of clothing are noted but are not matters that can influence a decision for this application. The comments have been forwarded to the applicant so that they can ensure the development meets the requirement of the relevant legislation (including building regulations which will have to be applied for separately).
- 16.31 The site's location in a conservation area is noted, however, the limited scope of this prior notification application does not allow for such matters to be assessed. The GPDO does not exclude conversions of buildings situated within a conservation area and this should therefore not be a reason to oppose the proposal. It is also important to note that no external alterations are proposed to the building and as such, the appearance of

the conservation area would not be impacted by the proposed change of use.

- 16.32 Residents have asked that an Article 4 Direction should be imposed on this site to remove permitted development rights that would otherwise apply by virtue of the GPDO. First and foremost, it is important to note that an Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission be first obtained from the local planning authority for that development. It gives a local planning authority the opportunity to consider a proposal in more detail, i.e. assessing it against policies in the Development Plan.
- 16.33 Provided that the local authority considers it expedient, an Article 4 Direction can cover an area of any geographic size, from a specific site to a local authority-wide area. The designation of an article 4 is a time consuming process and outside the scope of the current 56 days allowed for determination of the current application.
- 16.34 The reasons for asking the Council to impose an Article 4 Direction on this site are not strong enough. This application has been referred to the Planning Committee in order for the concerns that have been raised by local residents to be heard and discussed by Members of the Planning Committee. The matters raised will therefore be given due consideration before a decision on the application is made. Furthermore, with most of the objections relating to transport and highway impacts, this matter was discussed with the Highway Authority who confirmed that, if an application for full planning permission were to be made, they would be unlikely to provide a different response given that they are able to consider all transport and highway related matters with regards to this application and whether the proposal is the subject of a prior notification or a full planning application does not impact on how they assess the potential impacts of the proposed scheme.
- 16.35 Your Officers do therefore not consider it expedient or achievable in the timescale to impose an Article 4 Direction on this site, given that the main concerns of local residents are capable of being fully assessed as part of this prior notification application. It is also considered that with the above assessment not identifying any significant or material harm to the amenity of the site and its immediate surroundings, the removal of permitted development rights could not be appropriately justified. Furthermore financial compensation may be due in such circumstances.
- 16.36 A Wildlife Mitigation payment is now required for all new dwellings following the latest guidance received from Natural England. In accordance with emerging Essex Coast RAMS requirements, a proportionate financial contribution will be required to mitigate wildlife impact from recreational disturbance (i.e. potentially caused by people occupying new residential units). This equates to £127.30 (a total of £11,838.90). The payment will need to be made prior to the determination of the application and would be returned if the development is not commenced within the 3 year commencement date period. The agent confirmed that they will make the

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payment on the date a decision is due should prior approval be granted by this Committee.

17.0 Conclusion

- 17.1 To summarise, the proposed development complies with the criteria set out in Schedule 2, Part 3, Class O of the GPDO and therefore represents development that is permitted under this class of the GPDO.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

Prior notification is required and hereby granted, subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers
010621/P/08 Ground Floor Plan
010621/P/09 First Floor Plan as Proposed
010621/P/10 Second Floor Plan as Proposed
010621/P/11 First Floor Plan as Proposed
010621/P/12 Second Floor Plan as Proposed
010621/P/13 Third and Fourth Floor Plan as Proposed
010621/P/14 Fifth Floor Plan as Proposed
010621/P/15 Elevations 1
010621/P/16 Elevations 2
010621/P/17 Elevations
010621/P/18 Elevations
010621/P/19 General Arrangement Amenities and Landscape Details
010621/P/20 Site Map
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.
2. Prior to first occupation of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice and Approved Document E: resistance to the passage of sound, shall be submitted to and approved in writing by the Local Planning Authority. The scheme will include details of mitigation measures, including, but not limited to, noise attenuation measures and mechanical ventilation (as required). Any work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.
Reason: To ensure that the amenity of future residents is protected from excessive noise and the development provides satisfactory living conditions in accordance with BS4142:1997.

3. The landscaping details as shown on the approved drawings shall be carried out in full prior to the end of the first planting season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.
Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.
4. Prior to the first occupation of the development hereby approved, a car park management plan which will ensure the safe operation of the car park and the right of way to neighbouring garages is preserved and remains unobstructed at all times, shall be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety and to ensure the continued safe passage and accessibility of garages belonging to neighbouring occupiers.
5. The development shall not be occupied until such time as the car parking facilities, indicated on the approved plans, including any spaces for the mobility impaired has been signed, allocated, hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.
Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.
6. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.
Reason: To promote the use of sustainable means of transport.
7. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.
Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

19.0 Informatives

19.1 The following informatives are also recommended:

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

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

SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT



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Item No: 7.5

Application: 211079

Applicant: Mr D Nezhad

Agent: Mr John Pearce, Brooks Leney

Proposal: Application for variation of a condition 2 following grant of planning permission of application 182603 (Resubmission of 202718)

Location: 73 All Saints Avenue, Colchester, CO3 4PA

Ward: Prettygate

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the application has been called-in by Cllr Buston.

Reasons for Call-In:

The application furthers unacceptable and out of place side and rear aspect development to 73 All Saints Avenue detracting from the structure form and presence of the original property - a former Council House, on an estate where all were built to a common and accepted traditional pattern that was and remains generally pleasing to the eye (which included a conformity of peg tiles, hipped roofs and no Dormers).

The Application fails the tests of adopted CBC policies:

(i) UR2: high quality and inclusive design in all developments to make better places for both residents and visitors.

(ii) DP1: development must be designed to a high standard, including layout, avoid unacceptable impacts on amenity and respect and enhance the character of the site, its context and surroundings: existing residential amenity should be protected, particularly with regard to noise, disturbance, overlooking and light pollution. The size and design of the development is both out of keeping with and is detrimental to the character of the immediate area, which neither does it conform to, nor does it respect.

By overlooking it does not respect any amenity or privacy as residents of existing neighbouring properties should be entitled to enjoy in their rear gardens and in the rear rooms of their properties.

(iii) DP12: high standards for design and layout. The size and design of the development already improperly dominates the surrounding gardens from where it appears as a three-storey block, not a two-storey house with a dormer, and which forms a distinct and unwarranted ugly obstruction to the outlook and rear aspect of several adjoining residents' properties from several angles

(iv) (SPD) Backland and Infill: This backland development neither respects nor reflects the character of the area and will have an adverse impact on local character.

This development will occasion both loss of amenity as well as severely compromise the privacy and security of adjoining residents.

Planning Officer comments: The SPD is not relevant in this instance as this is to guide development of new dwellings on backland and infill plots.

2.0 Synopsis

- 2.1 The application relates to a rear dormer roof addition and seeks to vary the 'as built' dormer. The proposed dormer falls within permitted development and is considered to be acceptable in terms of design, scale, form as well as with regards to impact on neighbouring amenity.
- 2.2 The planning merits of the case have been assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The site contains a semi-detached residential property which is within the Colchester settlement boundary, located in a predominantly residential area where development such as that now proposed is considered to be acceptable in principle.
- 3.2 Planning permission was granted for a 'hip to gable' roof conversion, a rear dormer and a ground floor extension, under planning reference 182603.
- 3.3 The dormer was not built as per the planning permission 182603. The dormer is taller (closer to the roof ridge line) and the windows on the dormer are not as per the approved scheme.
- 3.4 An enforcement case was opened and investigated. The applicant submitted a planning application to regularise the outstanding matters. Planning application 202718 was refused.
- 3.5 The applicants are now seeking to vary permission 182603, which would result in changes to the 'as built' structure.

4.0 Description of the Proposal

- 4.1 The proposal is to vary condition 2 of planning permission 182603 which would permit the dormer design to be varied and the dormer not built-in accordance with the previously approved scheme.

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Principal Policies

- 6.1 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.

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Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

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

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

- 6.3 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

DP12 Dwelling Standards

- 6.4 There are no relevant policies within the adopted Borough Site Allocations Policies (adopted 2010, amended 2014).

- 6.5 There are no relevant Neighbourhood Plans.

- 6.6 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 of the Emerging Local Plan has yet to complete the examination process, with hearing sessions concluded in April 2021. The Inspector's report is now awaited. 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.

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 progressed to examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as comments from Planning Inspector has yet to be issued, 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.

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

The Essex Design Guide
External Materials in New Developments
Sustainable Construction

7.0 Consultations

- 7.1 There have been no consultation responses.

8.0 Parish Council Response

- 8.1 Non-parish

9.0 Representations from Notified Parties

- 9.1 The application resulted in a number of notifications to interested third parties including neighbouring properties.

- 9.2 12 objections have been received. Summary of objections:

- Adverse impact to character of the dwelling
- Poor design
- Overlooking /loss of privacy
- Outlook/overbearing
- Site is in a prominent location
- Juliet balcony is harmful to privacy
- Loss of light
- Increase in dormer height is not minimal
- Light pollution from additional windows
- Overdevelopment
- Visualisations are incorrect
(Planning Officer comments: the scheme has been negotiated since the visualisations were initially submitted, they are no longer relevant).
- Intentional breach of planning permission.
- The ground floor extension is higher than approved *(Planning Officer comments: The applicants have confirmed that the rear extension has been built as per the approved scheme)*

Planning Officer comments: Several objections refer to harm as a result of the as-built dormer which is not being assessed as part of this application.

9.3 1 comment in support has been received. Summary of support:

- No concerns about the size of the extension as currently built
- The dormer height is not overbearing or overshadowing

10.0 Planning Obligations

10.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

11.0 Report

11.1 The main issues in this case are:

- Principle – Permitted Development
- Design, Scale and Form
- Impacts on Neighbouring Properties

Principle

11.2 The dormer is 0.41m taller than was approved under planning permission 182603. The current proposal is to reduce the width of the as-built dormer by 1.5m. This brings the dormer within the parameters of permitted development in accordance with the General Permitted Development Order, Schedule 2, Part 1, Class B. The Juliet Balcony is also permitted development.

Design Scale and Form

11.3 Dormer's are accepted features in the urban environment, and as they can be 'permitted development' they are widely used. The principle of a dormer at this location has been established.

11.4 The dwelling is in a prominent location and the dormer can be seen from a number of vantage points. The impact of the increase in height of the dormer is offset by the proposed reduction in width. The overall volume of the dormer would be reduced from what was previously approved. The width of the dormer has been reduced on the elevation that is most prominent from the public realm as such there would less impact on the character of the area when compared to the previously approved scheme. As such the dormer as proposed is acceptable in terms of design, scale and form. Consequently, the proposed is considered to comply with Development Policy DP1 and Core Strategy Policy UR2 of the adopted Local Development Framework.

Impact on Neighbouring Properties

- 11.5 Development Plan Policy DP1 requires all development to be designed to protect existing public and residential amenity, particularly with regard to privacy, overlooking, daylight and sunlight.
- 11.6 The proposed development would not appear overbearing on the outlook of neighbours. The Council's policy sets out that a 45-degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 11.7 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached, and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 11.8 There are no side windows proposed that would offer an unsatisfactory angle of overlooking. It is acknowledged that neighbours are concerned with the proposed fenestration including the Juliet balcony. Windows on the front and rear elevations of dwellings facilitate loft conversions are acceptable in principle. The proposed windows will not result in any additional harm when compared to the previously approved scheme. Therefore, in terms of impact on neighbour's privacy the proposed is considered to be acceptable.

Other

- 11.9 As previously concluded (ref 202718) the as-built dormer is not acceptable therefore a condition will be imposed to ensure that the proposed changes to the dormer are undertaken in a timely fashion.

10.0 Conclusion

- 10.1 To summarise, the proposal accords with the Council's policy requirements concerning design and amenity and consequently the scheme is considered to be acceptable.

11.0 Recommendation to the Committee

- 11.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1) ZAATime Limit

The amendments to the dormer hereby approved shall be begun before the expiration of three months from the date of this permission.

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

2) ZAM - Approved Plans

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

Proposed elevations rev A indexed 8 July 2021;

Location Plan 106 Rev A dated August 2018;

Block Plan 107 Rev A dated August 2018 &

Flood Plans 103 rev D August 2018.

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

3) ZBB - Materials

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

4) Non Standard Condition - Roof Lights

Only conservation roof lights to be installed.

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

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee for reasons of transparency as the applicant is an Alderman and High Steward of the Borough.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the proposal on the character and setting of the Conservation Area and the nearby Listed Buildings as well as any potential impact on the foot path, pedestrian foot traffic and any other wider highway impacts.
- 2.2 The application is subsequently recommended for Approval.

3.0 Site Description and Context

- 3.1 The site is located within Colchester High Street close to the footpath junction of Pelhams Lane (to the south) and with West Stockwell Street the other side of the road (to the north). The site is located within Colchester Conservation Area 1 and there are several listed buildings nearby. The Town Hall lies to the North and further listed buildings lie to the west and north east.
- 3.2 The proposed location of the statue is at a point where the footpath is at its widest point and due to this and the adjacently located planter, there will be minimal foot traffic with the flow more directed towards the shop frontages.

4.0 Description of the Proposal

- 4.1 The proposal is for a 1.8m high statue of the Taylor Sisters. The submitted planning statement states that they lived in West Stockwell Street between 1796 and 1810 and were the authors of a number of works including Twinkle Twinkle Little Star.
- 4.2 The statue is intended to commemorate this with the two sisters shown to be pointing up to the sky. The location of the proposal on the high street is due to West Stockwell Street's pavements being too narrow.
- 4.3 The base or foundation of the statue is intended on being flat and set into the ground to avoid trip hazards similar to the Red Lion way-finder.
- 4.4 The base will show a five pointed star within a circle with the Western point aligning with the street and facing towards Jumbo. The figurines will also be facing this way.
- 4.5 The submitted information also states that it is hoped the background of the star will contain children's handprints and goes on to state that this is in recognition that the statue is dedicated to the children of the world.

5.0 Land Use Allocation

- 5.1 The current land use is classed as Town Centre Outer Core and includes retail, offices, leisure and cultural facilities.

6.0 Relevant Planning History

- 6.1 There is no planning history directly related to this proposal and location however, members may be aware that several larger statues have been erected close by within the high street, most notably just outside Fenwicks.

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
CE2a - Town Centre
UR2 - Built Design and Character
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
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets

- 7.4 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 submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 underwent examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

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

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

The Essex Design Guide
External Materials in New Developments
Town Centre Public Realm Strategy

8.0 Consultations

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

8.2 Highways

SUPPLEMENTARY INFORMATION DATED 07 May 2021

The Highway Authority does not object to the proposals as submitted, however, the precise location of the proposed development should be determined by Essex County Councils Streetworks Team together with the appropriate construction materials and details.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

8.3 Archaeological Officer

A depth of 500mm should not approach the levels of archaeological concern in this area. Records of nearby pieces of archaeological work suggest the depth of significant archaeology is about 900mm.

8.4 Environmental Protection – No comments

8.5 Historic Buildings and Areas officer

The main heritage consideration is the impact of the proposal on the character and appearance of the Conservation Area and the setting of the nearby heritage assets , in accordance with Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act (1990) which set out that planning decisions shall have special regard to the desirability of preserving listed buildings and their setting and the desirability of preserving or enhancing the character or appearance of Conservation Areas.

With the above requirements in mind , there are no objections to the erection of the statue in principle. However, the proposed location is situated right on the end of Pelham Lane , one of the three narrow passageways (together with Bank Passage and St Nicholas Passage) that interrupt High street's south frontage. These passageways play a significant role in providing a pedestrian link between High Street and Trinity and St Nicholas Square, Culver Street and the shopping precincts at Culver Square and Lion Walk. Keeping the ends of these passageways free of any features that would obstruct the circulation or the views of their ends encourages and facilitates their use. Pelham's Lane in particular affords pleasant views of High Street's junction with West Stockwell Street, which include part of the Town Hall , from its south end , as well as glimpses of Trinity Square from its north end, inviting thus the visitor to walk towards each side and explore further.

For that reason, it is recommended that the statue is erected to the east of the proposed position (location marked in the site plan below by X); this minor amendment would ensure that the views to and from Pelham's Lane would remain uninterrupted and the circulation at the end of the passageway would not be obstructed.



Officer Note – Given the above recommendation, the applicant has agreed to move the proposed location of the statue as that set out above and can also be seen in the proposed location plan.

9.0 Parish Council Response

9.1 The site is not located within a Parish.

10.0 Representations from Notified Parties

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

10.2 No objections have been received however, one supporting comment was received from a Ward Councillor and referring to the enhancement of the Town heritage and history of the Dutch Quarter and stating that the proposed location being a good wide point of the footpath and high visibility and footfall connecting Town users with Colchester's cultural heritage.

11.0 Parking Provision

11.1 The proposal will require no parking provision and will not impact any existing parking provision nearby.

12.0 Accessibility

12.1 Given the nature of the proposal, there are no accessibility considerations.

13.0 Report

13.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Detailed Design
- Impact on the Surrounding Area
- Highway Safety

13.2 The proposal will be located within a highly sensitive location within the Conservation Area and close to several listed buildings. Also, by its very nature it will be highly visible. That being said, the proposal represents a historic reference to two local figures who while they may not be widely known in themselves, their published work is familiar worldwide.

13.3 The proposal is therefore considered to be a benefit to the Town Centre and Colchester heritage as celebrating significant historic local figures.

13.4 As stated above, several statues have in recent years been erected along the High Street. The proposed location of this statue will be located at the widest point of the footpath and not within the main flow of foot traffic. This is further assisted by the location of the planter which has been/will be removed. This statue will be sited adjacent to the site of the planter as shown in the above location plan and the photos within the file giving street and site context. The statue will therefore result in no increase of street clutter beyond the existing.

13.5 It is considered that the proposed statue will result in minimal impact to the flow of foot traffic given the width of the foot path at this location and being close to a site of the previous street planter.

13.6 It is noted that the Council's Historic Buildings and Areas Officer has no objections. It is considered that the statue will result in minimal impacts to the character and appearance of the Conservation Area and the setting of the nearby heritage assets. The suggested relocation of the statue to the east of the initially proposed site has been agreed by the applicant and a new location plan submitted accordingly.

13.7 The minor amendment of location ensures views from Pelhams Lane would remain uninterrupted and the foot traffic circulation at the end of the passageway would not be obstructed.

17.0 Conclusion

17.1 To summarise, the impacts on the Conservation Area and the setting of heritage assets is considered minimal and therefore acceptable. Impacts to the highway regarding flow of foot traffic will be minimal and the enhancement of the local area by way of local context historical residents is considered a benefit to the town centre area and Borough in general. There are no archaeological concerns.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings labelled Proposed Statue received 21st January 2021, the details submitted under document labelled Supplementary Information received 7th May 2021 and drawing labelled New Locaiton received 13th July 2021.

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

3. ZBB - Materials As Stated in Application

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

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

19.1 Informatives

19.1 The following informatives are also recommended:

(1) ZT0 – Advisory Note on Construction & Demolition

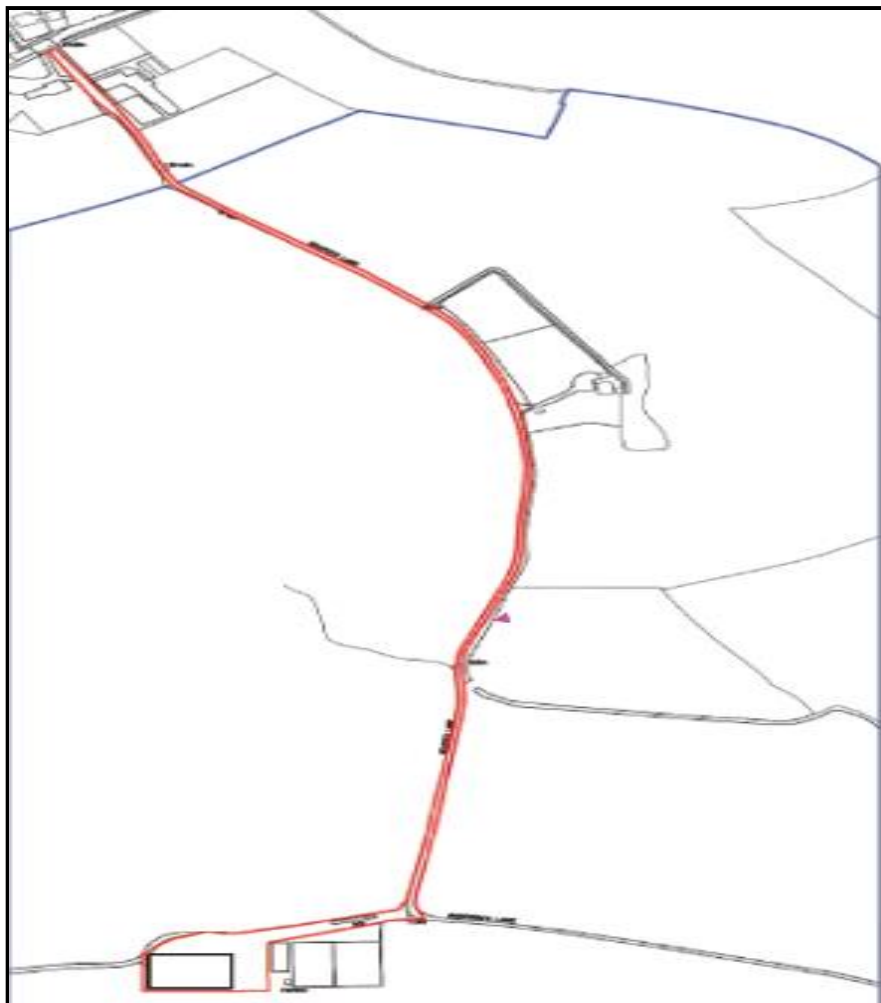
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

(2) 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
your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

(3) Non-Standard Informative

The applicants are reminded of the need to obtain a license from ECC Highways before installation of the artwork in the adopted highway.



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Item No: 7.7

Application: 211411

Applicant: Mr Will Reber

Agent: Mr Robert Pomery

Proposal: Change of use of Agricultural Storage Building to General Storage and distribution (B8) and Modular Office Block Ancillary to Store. (Revised Site Plan) (Revised Description).

Location: Newpots, Newpots Lane, Peldon, Colchester

Ward: Mersea & Pyefleet

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the owner of the site is Councillor Davidson.

2.0 Synopsis

- 2.1 The key issues for consideration are The impact on the surrounding area through the change of use and regarding vehicle movements and frequency and also any potential impacts on the landscape character of the area.
- 2.2 The application is subsequently recommended for Approval.

3.0 Site Description and Context

- 3.1 The site some distance south of the Peldon settlement boundary due to the significant length of the access driveway as seen in the above plan.
- 3.2 Given the distance from the main Peldon village and residential area, the site is located within an essentially rural context and contains agricultural buildings associated with machinery and crop storage and hard standing.
- 3.3 The site is accessed from Lower Road via Newpotts Lane and the nearest dwelling is “Englesbatch” some 600 metres to the north.

4.0 Description of the Proposal

- 4.1 This application seeks consent for the change of use of an existing Agricultural Storage Building to General Storage and Distribution Use (B8) as well as a new modular office block ancillary to the operation.
- 4.2 The agricultural building is existing and currently used for the storage and distribution of grain whereas the proposed change of use seeks general storage & distribution use.

5.0 Land Use Allocation

- 5.1 Unallocated

6.0 Relevant Planning History

- 6.1 160605 granted consent for a new grain store. This building is the subject of this 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
UR2 - Built Design and Character
ENV1 - Environment
ENV2 - Rural Communities

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
DP8 Agricultural Development and Diversification
DP9 Employment Uses in the Countryside
DP19 Parking Standards

7.4 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 process is ongoing for Part 2 of the plan.

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 was examined in April with the Inspector's report awaited. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as the Inspector's report is awaited, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in

paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Winstree Hundred Community Plan

8.0 Consultations

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

8.2 Landscape Officer

The landscape content/aspect of the strategic proposals lodged on 26/05/2021 would appear satisfactory for the most part, this provided the proposed modular office is proposed as to be finished in a colour to match the existing farm buildings. This in order to avoid harm to the farms wider landscape setting by ensuring the proposed unit blends in with and forms an indistinct part of the existing farmstead, this is particularly important with reference to safeguarding long-views into the site from the south.

Conclusion:

In conclusion; there are no objections to this application on landscape grounds, subject to the above being confirmed (no necessity to reconsult).

8.3 Environmental Protection

Should planning permission be granted Environmental Protection wish to make the following comments:-

General

The developer is referred to the 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.

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.

ZGA - *Restriction of Hours of Operation*

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

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

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

Sundays and Public Holidays: **No working**

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

ZGB - *Restricted Hours of Delivery*

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: **08:00-17:00**

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

Sundays and Public Holidays: **No deliveries**

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

8.4 Highways – after revised site plan

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

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

9.0 Parish Council Response

9.1 The Parish Council have not objected to the proposal.

10.0 Representations from Notified Parties

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

10.2 Several objections have been received in response to this proposal. Concerns raised include:

- Hours of use should be considerate to neighbours.
- Potential increase in smaller vehicle movements despite reduction in HGV movements.
- Potential increase of the use of the lane which is not suitable for such traffic.
- Too many vehicle movements.

11.0 Parking Provision

11.1 The application site is of generous size and set back a significant distance from the public highway. Parking provision has been provided on site with set out spaces as illustrated in the submitted site plan.

12.0 Accessibility

12.1 N/A

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Highway Safety and Parking Provisions (including Cycling)
- Parking Provision

16.2 Development Policy DP9 Employment Uses in the Countryside states that such development should be of small scale that does not harm the rural character of the area either by the nature and level of activity (including the amount of

additional traffic generation on rural roads) or, any other detrimental effects such as noise and pollution.

- 16.3 Taking the above into consideration, it should be noted that the current use of the building as storage and distribution of agricultural materials (grain) is not constrained by conditions that regulate vehicle movements and/or times of operation.
- 16.4 While this proposal will remove the agricultural storage usage to general storage, the proposed vehicle movements will be reduced from the existing and can also be controlled via conditions. This is considered a benefit to the amenity of the local area as fewer vehicle movements, in particular large bulk HGV's will reduce the current impact on the area.
- 16.5 The other large agricultural building on site will remain as machinery and crop storage. Development Policy DP8 Agricultural Development and Diversification states that appropriate farm diversification proposals will be encouraged where they are compatible with the rural environment and to help sustain the existing agricultural enterprise. Given that the existing grain storage and distribution contract will shortly expire as stated in the planning statement), and also that the proposed use will reduce heavy vehicle movement within the site and surrounding hinterland areas in connection to this site, the proposal is considered acceptable in principle on these terms.
- 16.6 There will be no visual change to the agricultural building, merely the change of use. The new proposed office module will be low key and given the distance from the highway will result in very limited views or visual impact to wider countryside or from the public highway. That being said, in the interests of retaining the landscape character of the area and reducing impact through the addition of any incongruous building, a condition shall be included to ensure the office module will be of similar colour to the existing agricultural buildings on site.
- 16.7 As stated above, the current use is unrestricted in terms of vehicle movements or hours of operation and representations suggest that these are currently significant. The proposed change of use here will result in fewer HGV movements which are considered to cause the majority of the impact to the immediate area and neighbouring properties through noise, vibration and general use of the road and approach lane.
- 16.8 With the hours of delivery and dispatch to and from the site now being proposed as conditions of any approval, it is considered that the impact on the surrounding area will be reduced. With regards to the office use, the site is set at such a distance from the nearest residential dwelling as to result in minimal or negligible harm. The vehicle movements of employees, while not currently a consideration under the existing use, will result in minimal harm to the surrounding area as the vehicles will likely be private cars only.
- 16.9 Further to the above, it is noted that Environmental protection have also suggested a restrictive condition controlling hours of operation for the site which will mainly cover the office use times. With the site being located at such

a significant distance from the nearest dwelling, the use of the office for administrative functions will result in little to no harm to the surrounding area and as stated above, the office staff's vehicles will result in minimal harm through movements, it is considered that this condition is not required.

- 16.10 Adequate parking provision and lorry turning area has been provided on site and the Highway authority has not objected following the revisions. The site is well contained and a significant distance from the highway. In light of these points, there will be no pressure for on street parking resulting from this change of use.

17.0 Conclusion

- 17.1 To summarise, the proposal will result in a potential reduction of HGV movement to and from the site and will be controlled by conditions. The impact on the surrounding area is therefore considered to be reduced. The change of use of the site is not considered to harm the surrounding area or the landscape setting of the site.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing labelled Proposed Modular Office received 26th May 2021 and drawing number 001 dated 6th May 2021.

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

3. ZBB - Materials As Stated in Application

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

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

4. 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.

5. ZGB - *Restricted Hours of Delivery*

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries

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

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

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the *development hereby approved shall be used for the purposes stated in the application within use class B8 General Storage and Distribution and for no other purpose including any other purpose in Class B or E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification).

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

7. Non Standard Condition - Materials

The modular office block hereby approved shall be finished in a colour to match the existing farm buildings prior to its first use.

Reason: To avoid harm to the farms wider landscape setting by ensuring the proposed unit blends in with and forms an indistinct part of the existing farmstead, this is particularly important with reference to safeguarding long-views into the site from the south.

8. Non Standard Condition – Ancillary office space

The modular office block hereby approved shall remain as ancillary office space to the B8 General Storage and Distribution use of the adjacent building unless otherwise agreed in writing by the Local Planning Authority.

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further

consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

19.1 Informatives

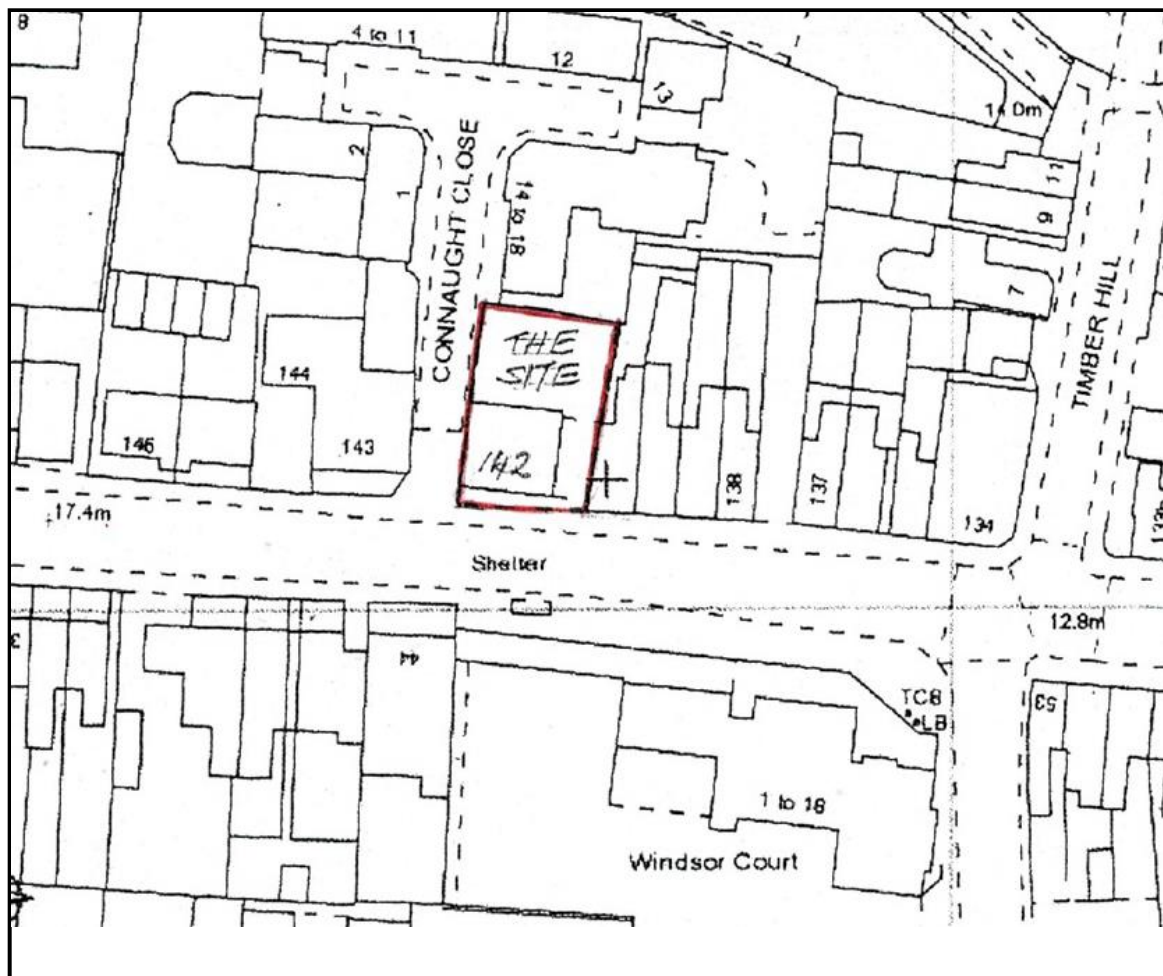
19.1 The following informatives are also recommended:

(1) Non Standard Informative

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

(2) ZT0 – Advisory Note on Construction & Demolition

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



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Item No: 7.8

Application: 211519

Applicant: Balcerne Gate Developments Ltd

Agent: Mr Steve Norman

Proposal: Replace existing timber and render cladding with cedar panels; replace windows with identical UPVC units in black; replace existing aluminium front doors with similar doors finished in black

Location: Hythe House, 142 Hythe Hill, Colchester, CO1 2NF

Ward: New Town & Christ Church

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is the spouse of a senior manager within the Planning Department. The application has not been formally called in and no objections have been received. The application is referred back to the committee following consideration at the meeting of the 8 July 2021.

2.0 Synopsis

- 2.1 The key issues for consideration are the suitability of the proposed new external materials, windows and door and their impact on the character and appearance of the Conservation Area and the setting of the adjacent listed building.
- 2.2 The application is subsequently recommended for Approval.

3.0 Site Description and Context

- 3.1 The site contains a detached office block built in the early 1970's. The block is located on the junction of Hythe Hill and Connaught Close, Colchester. The site is located within a Conservation Area and there is a Listed Building immediately to the west of the site.
- 3.2 It is noted that there was initial uncertainty regarding the listed nature of this office block subject of this application however, Historic England have confirmed that the listing was for a former Georgian building on the site that has been demolished prior to the erection of this office block. This was established during consideration of the previous application for the conversion of this office block into dwellings under a permitted change of use. The listing is therefore not extant nor relevant to this proposal.

4.0 Description of the Proposal

- 4.1 After obtaining consent for the conversion of this building into dwellings under Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Class O, this application seeks consent for some external alterations by way of new Cedar panels to replace the existing timber and render, replace existing windows with identical units in black and to replace existing aluminium front doors with similar doors finished in black.

5.0 Land Use Allocation

- 5.1 The current land use is classed a predominantly residential.

6.0 Relevant Planning History

- 6.1 As stated above, planning reference 210635 granted consent under Schedule 2, Part 3 of the Town and Country Planning (General Permitted

Development) Order 2015 (as amended) Class O for the conversion of the office block into dwellings. There is no other relevant planning history relevant to this current application.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
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
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets

7.4 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 now concluded hearing sessions and reported on Part 1 of the plan (formally adopted In February 2021) The examination is ongoing for Part 2 of the Plan with the Inspector's report expected imminently.

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 (ELP) submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 concluded examination hearing sessions in April. Section 1 of the plan now carries full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as the Inspector's report is awaited following the completion of the examination,

the exact level of weight to be afforded will be considered on a policy by policy and site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will be considered in relation to the adopted Local Plan and the NPPF as a whole pending adoption of Part 2 of the ELP.

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

The Essex Design Guide
External Materials in New Developments

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 **Development Manager:** The existing office building is of its time, and albeit unadulterated, serves as a neutral contributor to the character and appearance of the conservation area designation. The building also adjoins grade II listed buildings and forms part of their immediate setting. The building does not contribute positively to their significance. The upgrading of windows and cladding would change the character to reflect a contemporary aesthetic. In my opinion this would have a neutral impact on the character and appearance of the area. The works satisfy the statutory and local plan tests for works in a conservation area subject to detailed approval of replacement window details.

Suggested Condition to be Included:

Non Standard Condition Prior to their implementation/installation, additional drawings that show details of the proposed new windows and doors to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to the window and door detailing to protect the character and appearance of the conservation area in accordance with the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

9.0 Parish Council Response

- 9.1 The site is not within a parished area.

10.0 Representations from Notified Parties

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

11.0 Parking Provision

11.1 The proposal would not affect the current parking provision.

12.0 Accessibility

12.1 This application is for changes to external materials and would have no impact on the current access arrangements. It is not considered that the proposal would be contrary to the Equalities act.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

16.1 The main issues in this case are:

- Design and appearance;
- Impact on the Surrounding Conservation Area and setting of adjacent listed building.

16.2 Below is an assessment of the proposal against any potential impact on the character and setting of the host building, the Conservation Area and the adjacent Listed Building.

16.3 The proposed change of external materials is intended to enhance the appearance and character of the host building within the Conservation Area. As noted by the Development Manager above, the proposed changes will have a neutral impact on the Conservation Area and the Listed Building adjacent therefore the harm is considered limited and acceptable.

16.4 The proposed change of materials are to replace existing painted timber cladding and white render with cedar panels, replace current white steel windows with identical high performance windows but in a black finish and to replace existing aluminium front doors with similar design door but finished in black.

16.5 Members will recall their recent consideration of the proposals at the previous meeting on the 7 July 2021 when it was resolved to defer consideration to seek revisions from the applicants to enhance the contextual sympathy of the scheme through the use of finishes similar to those found in the immediate area. Officers have discussed this with the applicants who have responded positively with an offer to paint the Cedar boarding white (as opposed to naked timber left to silver as previously). The upgrading of the existing steel single glazed windows with similar frames in a black finish remains part of the proposals. Whilst it is noted that this was an issue for some members at the previous committee officers wish to highlight that the applicant could paint the existing windows black without planning permission (painting a building is not development). This element of the proposal is therefore considered acceptable given the fallback position and the potential for enhanced living conditions (energy and sound attenuation) for occupiers on this busy street frontage. The enhanced high-performance windows will promote the objectives of the Council's strategy to mitigate climate change through reduced carbon emissions.

16.6 It should be noted that the applicant's agreement to white washing the proposed cedar cladding will deliver greater contextual sympathy with the white render already present on the building and the character of the surrounding area with regards to the prevailing colour palette. This amendment significantly addresses the concerns raised by members in their previous deliberations.

16.7 As stated above and supported by the Development Manager, officers consider that the proposal will result in no material harm to the character and appearance of the wider Conservation Area and the setting of the adjacent listed buildings.

17.0 Conclusion

17.1 In summary, the revised proposal will result in a neutral impact upon the Conservation Area and the setting of the adjacent listed building and is therefore considered acceptable. Amendments have been secured since the last Planning Committee that are considered acceptable and address the majority of members concerns.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings labelled Location Plan and Proposed Front Elevation received 27th May 2021.

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

3. ZBB - Materials As Stated in Application

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

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

4. Non Standard Condition – Large scale details of windows & doors

Prior to their implementation/installation, additional drawings that show details of all proposed new windows and doors to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and appearance of the conservation area and the setting of the listed building in accordance with the requirements of Section 72(1) and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

5. Non Standard Condition – Timber Cladding

Prior to installation of the approved timber cladding a sample of the proposed material incorporating the proposed finish shall be submitted to and approved in writing by the Local Planning Authority. The timber cladding shall thereafter be installed strictly in conformity with the approved sample.

Reason: The application site is prominently located in the Hythe Conservation Area and the detail of the boarding needs to be agreed to ensure that the works serve to preserve or enhance the character or appearance of the area in accordance with Core Strategy policies ENV1 and UR2 and Development Policy DP14.

19.0 Informatives

19.1 The following informatives are also recommended:

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.

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.

