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## Item No: 7.2

**Application:** 192136  
**Applicant:** City and Country  
**Agent:** Mr Richard Clews, Strutt and Parker  
**Proposal:** Demolition of 1 dwelling (No. 43 Seaview Avenue) and erection of up to 101 dwellings and up to 0.5ha of D1/B1 commercial use with associated parking, public open space, landscaping, sustainable urban drainage system (SUDs), vehicular access from East Road and pedestrian/cycle access from Seaview Avenue.  
**Location:** Land at, Brierley Paddocks, West Mersea  
**Ward:** Mersea & Pyefleet  
**Officer:** James Ryan  
**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because the scheme is a departure from the Adopted Development Plan and approval is recommended.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of development and the impact of the proposed access. Whilst this site is not allocated in the Adopted Development Plan, it is allocated for 100 dwellings in the Emerging Local Plan. As is discussed in detail in the report below, following careful consideration it is considered that it is appropriate to bring this site forward ahead of the Examination in Public (EiP).
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site is located at Brierley Paddocks, West Mersea. The site sits outside of, but adjacent to the defined settlement boundary of West Mersea in the adopted Colchester Local Plan Proposals Map. However, it is within the settlement boundary in the emerging Colchester Local Plan (elp) and is allocated for a residential-led mixed use development.
- 3.2 The site measures 9.2 hectares and is currently in agricultural use. The site also incorporates 43 Seaview Avenue which is located to the east of the site set within a residential avenue. There is some planting in the form of established hedgerows and trees at the boundaries of the site.
- 3.3 The site is bounded on three sides by residential dwellings with Seaview Holiday Park to the south, which comprises approximately 90 static holiday caravans. The surrounding area is predominately residential. The surrounding dwellings comprise a mixture of semi-detached and detached, one storey, two storey and two and a half storey dwellings. The majority of dwellings are of 20th Century construction.
- 3.4 The site can currently be accessed from Brierley Paddocks leading from East Road. The scheme also proposed an additional access from Seaview Avenue to serve the site from the west. Both accesses are explored in the report below but the East Road access is existing and the Seaview Avenue pedestrian/cycle access requires the removal of an existing dwelling on Seaview Ave (number 43).
- 3.5 The site is within Flood Zone 1. The site is at a low risk of fluvial or tidal flooding and in accordance with the Technical Guidance that accompanies the NPPF, it is consequently suitable for all types of development from a flood risk perspective.

- 3.6 The site is not within any areas designated for their ecological importance but is close to areas that are designated. The site is located some 400m north of The Essex Estuaries Special Area of Conservation (SAC), which surrounds the island of Mersea. The site is also located approximately 1.9km south of the Colne Estuary Special Protection Area (SPA), National Nature Reserve (NNR) and Site of Special Scientific Interest (SSSI).
- 3.7 The site is not within or adjacent to a Conservation Area. To the north of the site is Brierley Hall, a Grade II Listed House built around 1800. An early C19 red brick garden wall to the northeast of Brierley Hall is listed (Grade II). Two C17 timber framed barns to the south of Brierley Hall are also Listed (Grade II). These buildings are within the urban environment of Mersea and are viewed as part of the settlement.
- 3.8 The site is located within 1 mile of the settlement centre of West Mersea, which provides a number of local services and facilities, such as local shops, restaurants, a church and a community and sports centre.

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

- 4.1 The scheme is an outline application with access included for consideration. It involves the demolition of a single dwelling (No. 43 Seaview Avenue) and erection of up to 101 dwellings and up to 0.5ha of D1/B1 commercial use with associated parking, public open space, landscaping, sustainable urban drainage system (SUDs), vehicular access from East Road and pedestrian/cycle access from Seaview Avenue.

#### **5.0 Land Use Allocation**

- 5.1 The site is not currently allocated in adopted Local Plan. It is allocated for development under policy SS12a of the emerging Local Plan (2017-2033).

#### **6.0 Relevant Planning History**

- 6.1 A similar Application for 201 dwellings (or ref: 190200) was refused earlier in the year on the basis of prematurity, scale, the impact of the Seaview Road access on neighboring amenity and the lack of legal agreement to secure the planning obligations required to mitigate the impact of the development.

#### **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
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 – Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- 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
- DP23 Coastal Areas

- 7.4 The West Mersea Neighborhood Plan is in the process of being drafted but is not at a point where a draft has been made public nor can be afforded weight.

- 7.5 Submission Colchester Borough Local Plan 2017-2033:  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017) for examination. An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

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

7.6 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  
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

## **8.0 Consultations**

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

8.2 Anglian Water

The local system has capacity to meet the needs of this development. No objections are raised.

8.3 Arboricultural Officer:

No objection to the scheme.

#### 8.4 Archaeological Adviser

An adequate archaeological evaluation has been undertaken for this proposed development site. This investigation has defined extensive archaeological remains across the development site, and in particular concentrated in the southern half of the site (Archaeological Solutions Report 5858, revised 1 August 2019). Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. An archaeological condition therefore is recommended.

#### 8.5 Cadent Gas

Pipelines in vicinity - Informative requested.

#### 8.6 Contaminated Land Officer:

Re: Delta Simons, 'Preliminary Geo-Environmental Risk Assessment, Brierley Paddock, West Mersea, Issue 2, Final, Ref. 17-0806.01, dated 070519

The above report has been submitted in support of this application. This is a satisfactory report for Environmental Protection's purposes. I note that it has been concluded that there is a low risk that widespread contamination remediation will be required to protect proposed end users. Some recommendations have been made, including undertaking a limited environmental investigation to confirm the assumptions made.

However, based on the information provided, it would appear that the site could be made suitable for the proposed use, with potential contamination matters dealt with by way of condition.

Consequently, should this application be approved, we would recommend inclusion of the planning conditions.

#### 8.7 Emergency Planner

CBC Emergency Planning have a plan which covers major emergencies for Colchester which would obviously cover West Mersea but nothing specifically in the eventuality of an unplanned occurrence at Bradwell.

8.8 Environment Agency

No objection on the basis that the applicant will be connecting to the main sewer system. (The applicant has confirmed this to be the case).

8.9 Environmental Protection:

No objections, conditions requested.

8.10 Essex County Fire and Rescue

No comment received.

8.11 Essex County Council Emergency Planning

We defer to your own in-house Emergency Planning Team.

8.12 Essex Police

Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development. From experience pre-planning consultation is always preferable in order that crime prevention through environmental design is incorporated into the proposed design to ensure that the security and lighting considerations are met for the benefit of the intended residents and those neighbouring the development.

8.13 Essex Wildlife Trust:

No comments received.

8.14 Highway Authority:

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

8.15 Historic Buildings and Areas

The application includes the same Heritage Impact Assessment that was submitted for application 190200. On the basis of that information, the comments and recommendation on the development of the site in principle remain the same.

It is noted that these comments form the basis of the 'Heritage Implications' section of the report below.

8.16 Historic England

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

8.17 Landscape Officer

No objection subject to conditions for full details of landscape works and landscape management plan.

8.18 Lead Local Flood Authority

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to conditions.

8.19 Natural England

No comments received.

8.20 NHS

See full letter dated 03/09/19 on system. No objection – financial mitigation requested as will be set out below.

8.21 Office for Nuclear Regulation

No comment to date.

8.22 Planning Policy

Detailed response provided setting out adopted policy and emerging policy position. The assessment of the planning policy position will be set out in the main body of this report in the 'Principle of Development' section.

8.23 Private Sector Housing

There does not appear to be any proposed plans for the dwellings, so no specific comments from PSH.

8.24 Ramblers Association

No comments received.

8.25 RSPB

No comments received

8.26 Urban Design

No objection to the scheme given the outline nature of the application, the site isn't particularly constrained (i.e. it's able to accommodate various layout approaches and options which can be explored through reserved matters) and the layout shown in the Illustrative Masterplan appears quite broad-brush and indicative at this stage.



## **9.0 Parish Council Response**

- 9.1 West Mersea Town Council recommends that consent is NOT granted to this planning application for the following reasons:

### **Prematurity:**

In the National Planning Policy Framework (NPPF) February 2019 paragraphs 59-60 (page 14) premature applications are specifically discussed.

The Colchester Borough Council (CBC) Emerging Local Plan is at an advanced stage, it has already been submitted, therefore the justification to refuse is clearly given in paragraph 49 as both sub terms a). "...to grant permission would undermine the planning process..." and b). "the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area" are fulfilled.

The West Mersea Neighbourhood Plan has now progressed to preparation of a Draft Plan and granting permission for this application would therefore "prejudice the outcome of the plan making process" – NPPF February 2019 paragraph 60 (page 15).

### **Lack of Conformity:**

This application is in conformity with the CBC Emerging Local Plan. However, it is not in conformity with the developing West Mersea Neighbourhood Plan which is following the NPPF February 2019 paragraph 29 (page 10) and respective footnote (16).

### **Traffic impact:**

West Mersea Town Council considers that the revisions would result in a detriment to the community with the amendment proposing just the single vehicular access point from East Road. This will have the effect of 'kettling' significant increases in traffic accessing the site via Dawes Lane and East Road.

## **10.0 Representations from Notified Parties**

- 10.1 This scheme has generated significant public interests with 389 representations (some from the same address) made in objection or were general comments noting concern. Some were in the form of a standard letter. Representations were also received from the Local Plan Group and from 'Stop 350'. The representations can be read in full online however in summary they objected to the scheme for the following reasons:

- The Emerging Plan has not been Examined yet.
- This scheme is premature.
- The scheme undermines the Emerging Plan and Neighbourhood Plan.
- The Council should be confident in its five-year housing supply.

- The Council should wait for the garden communities.
- Mersea is at capacity.
- The road network can't cope.
- The other facilities on the island can't cope, for example schools/doctors/dentists.
- There is no Police presence on the island.
- The Fire Service is very limited.
- Colchester Hospital is 10 miles away.
- Mersea is an Island!
- Mersea is already overpopulated.
- The caravan parks cause a huge spike in seasonal population.
- There are many retired people on Mersea
- One hundred is too many dwellings.
- Scheme will be materially harmful to my amenity.
- The Council were previously concerned with the amenity of Seaview Road residents but the access onto East Road is far closer to the dwellings on Brierley paddocks.
- The Seaview access will bring a great deal of traffic down this sleepy seaside avenue for no reason.
- Harm to the caravan site to the south.
- Harm to amenity.
- Loss of good agricultural land.
- The consultation exercise has not changed anything.
- The water treatment plant cannot cope with 100 more houses.
- The Doctor's surgery can't cope and is highly oversubscribed.
- This will destroy wildlife.
- Harm to the Coastal Protection Belt.
- Mersea Homes want to build 100 dwellings at Dawes Lane.
- Approving this would set a dangerous precedent for other speculative proposals.
- Are we really doing this again?
- Why demolish 43 Seaview if there is only a pedestrian access there?
- The removal of the vehicular access will not stop people parking in Seaview Ave and will create issues with the East Road access.
- The access to the north (East Lane) cannot be delivered due to land ownership issues.
- The LPA need to consider the implications of Bradwell Power Station and a potential new Nuclear Power Station on the same site.

## **11.0 Parking Provision**

- 11.1 The application is for outline permission only and the detailed proposals will be established at reserved matters stage. The reserved matters proposals would need to adhere to adopted parking standards. In this instance there is held to be more than sufficient space on site for complete compliance with the minimum standards for residential development including visitor parking and cycle parking.

## **12.0 Accessibility**

- 12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposal does not give rise to any concerns regarding discrimination or accessibility at outline stage. Detailed proposals will be established at reserved matters stage and will need to be considered under the Equality Act.

### **13.0 Open Space Provisions**

- 13.1 Indicative frameworks and landscape masterplans have been submitted with the application which indicate large amounts of open space - 2.8ha is suggested by the applicants. In policy terms least 10% open space would be required in accordance with both adopted and emerging local plan policies but the site has the potential to provide more.

### **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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team and it is considered that the following Planning Obligations should be sought from the Developer via Section 106 (s.106) of the Town and Country Planning Act 1990.

**Archaeology:** £18,150.00 for display case and display of finds.

**Parks & Rec:** this development generates an off-site contribution of £483,498.00- However it is estimated 2.8 of hectare of open space is being provided, and a NEAP standard playground. An adult gym should also be provided Subject to the provision of these onsite facilities there would be no offsite Contribution required. A maintenance sum would be required if CBC were to adopt and maintain the open space.

**Community** £168,652.00- West Mersea Town Council have identified the need for a multiuse community facility with changing rooms at the Glebe Sports Ground.

**NHS**-£59,027.00 The Mersea Island Practice does not have capacity to accommodate the additional growth resulting from the proposed development, additional improvement requirements to meet growth by way of refurbishment, reconfiguration, extension or other solutions of benefit to patients.

**Affordable Housing:**30% affordable housing is based on the requirement in the emerging local plan but the provision of “gifted” properties as part of the affordable housing provision is not supported, tenure mix would be expected to be no less than 80% affordable rent and no more than 20%

intermediate shared ownership. 3 95% of the affordable homes should meet a minimum of Building Regulations 2015 Part M Category 2 and 5% of the homes to meet Building Regulations 2015 Part M Category 3 (2) (b). A minimum of one dwelling to be Part M4 Cat 3 (2) wheelchair standard.

**Highways:** Requirements conditioned and delivered either as part of site or by a S278 agreement. A. Upgrade to current Essex County Council specification the two bus stops which would serve the proposal site (details to be agreed by LPA) B. For the non-residential element of the proposal if there are 50 employees or more a Travel Plan in accordance with ECC guidance. C. For the residential element of the proposal Residential Travel Information Packs in accordance with ECC guidance. This can be dealt with via a condition.

Not part of the Development Team process but to be secured by legal agreement is the £12,250 **RAMS** contribution.

It must be noted that the developers have not yet agreed to all of the requests above. They do not agree to the provision of the adult gym nor do they accept the affordable housing provision relating to accessibility in excess of Building Control requirements. This is because following the clarity afforded to decision makers in the recent the Supreme Court decision in R (Wright) v Resilient Energy Severndale Ltd & Forest of Dean District Council (Supreme Court, 20 November 2019) compliance with the CIL regulations is more important than ever. In short, if any of the contributions above are not held to comply with the CIL regulations, a decision could be challenged in the courts and could potentially be quashed. This is true even if the developer has clearly agreed to the planning obligation.

On that basis it is requested that Members delegated the negotiation of the planning contributions to officers if they are minded to resolve to approve this scheme. This may involve taking it back to Development Team if need be.

## **16.0 Report**

- 16.1 The main considerations in this case are: the principle of development and the highway safety and impact on the road network. This will also explore the impact on Trees, Flood Risk/Drainage/SUDs, impact on Heritage Assets, Ecology and the landscape amongst other issues as set out below.

### Principle of Development

- 16.2 The Planning Policy Team have dealt with the Principle of the Development and therefore their response is set out in full below:

- 16.3 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 with relevant adopted and emerging policies together with the 2019 NPPF are accordingly key variables in assessing the 'planning balance'. The Council considers that it has a 5-year housing land supply and therefore there is no need to apply the tilted balance principle.
- 16.4 It is considered that the fundamental principles of both the Adopted and Emerging Local Plans are compliant with the new NPPF. The analysis below will consider whether there are any relevant non-compliant elements of CBC policy with the NPPF that justify a reduction in the weight to be given to the policy in assessing the planning balance in this case. 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). In terms of the first criteria, the ELP is in the examination stage so can be given some weight
- 16.5 West Mersea TC are also preparing a Neighbourhood Plan although in the early stages of preparation so can be afforded limited weight in the context of the Development Plan.

#### Adopted Local Plan

- 16.6 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 and ENV1. As the Council is able to demonstrate a 5 year housing land supply these policies are relevant to the decision making on this proposal. 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 weight should still be afforded. SD1 includes West Mersea as a 'District Settlement' which lies below Colchester Town/Stanway and above Rural Communities in the spatial hierarchy. Development in the plan period was however, primarily focused on the top tier with only limited development directed to the District Settlements. Policy H1 provided for 280 units to be allocated in West Mersea in the 2001-21 plan period.

- 16.7 Since the proposal falls outside the settlement boundary for West Mersea, policy ENV1 covering the countryside outside settlement boundaries is relevant. The requirements of policy ENV1 for the conservation and enhancement of Colchester's natural and historic environment is in accordance with paragraph 170 which clearly recognises the intrinsic character and beauty of the countryside and demonstrates that planning policies should contribute to and enhance the natural local environment via protection, maintenance, and preventing unacceptable risk. It is considered that the criteria-based approach of ENV1 accords with the more flexible approach to countryside development adopted in the NPPF.
- 16.8 Based on the protection afforded to land outside Settlement Boundaries (SBs) and outside of the most sustainable locations in SD1 and ENV1, the proposal is not considered to be compliant with these policies. While Policy ENV2 on rural Communities covers rural exception sites, it is of no relevance to this specific proposal which is not based on the rural exception principle. Other policies are relevant to the proposal including those relating to affordable housing and design and layout, but no comment is made in respect of most of these in this response as it is focusing on the key policy principles.

#### Emerging Local Plan (ELP)

- 16.9 The NPPF also 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.
- 16.10 In terms of Paragraph 48(a) of the NPPF, the ELP is considered to be at an advanced stage having been submitted in 2017 with examination commenced in January 2018.
- 16.11 Amongst other matters, the ELP seeks to allocate additional land to meet the housing target up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1).
- 16.12 While the Adopted Local Plan included the 3 District Centres only in the second tier below the urban area of Colchester, the Emerging Plan provides for a wider scope of development in 17 Sustainable Settlements, including West Mersea. Policy SS12a proposes the allocation of land for 200 dwellings on 2 sites in West Mersea. Land at Dawes Lane is allocated to provide 100 dwellings and Land at Brierley Paddocks to also provide for 100 units as part of a mix of uses to be informed further by the Neighbourhood Plan.

- 16.13 The proposed allocation policy SS12a is of particular relevance providing a different policy context than the Adopted Local Plan. The relevant policy wording is set out below;

**Policy SS12a: West Mersea**

*In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the areas identified on the policies map, which contributes towards expanding Mersea Island Primary School, provides suitable landscaping to screen the development to minimize any negative impact on the surrounding landscape and protect the open rural character of land within the Coastal Protection Belt, and meets the requirements for each site indicated below. Housing on both sites should address local needs which will be detailed in the Neighbourhood Plan but are likely to include starter homes and single storey dwellings.*

**Brierley Paddocks**

*Development will be supported which provides:*

- (i) 100 new dwellings of a mix and type of housing to be compatible with surrounding development;*
- (ii) A satisfactory vehicular access;*
- (iii) New public open space; and*
- (iv) Community facilities if identified in the Neighbourhood Plan.*

*This policy should be read in conjunction with the generic Neighbourhood Planning Policy SG8 and the West Mersea Neighbourhood Plan, once adopted.*

- 16.14 The Spatial Strategy Policy SG1 and Policy SS12a are aligned with the NPPF as follows:

- Paragraphs 15 and 16 of the NPPF reinforce that development should be plan led and contribute to the achievement of sustainable development.
- Paragraphs 18 and 28 outline that Local Plans should include non-strategic policies which provide more detail for specific areas and types of development.
- Paragraph 59 of the Framework reiterates the Government objective of increasing the supply of homes.
- Policy SS12a is one of a number which allocates sites for residential dwellings within Sustainable Settlements as identified by the Spatial Strategy. While the site lays within the Coastal Protection Belt, a limited reduction in its extent at the edge of the urban area of West Mersea was considered justified following Sustainability Appraisal and site assessment work to deliver required development land.

- 16.15 The key policies in the emerging Local Plan relevant to this scheme are accordingly considered to be highly consistent with the NPPF and should therefore be afforded considerable weight.

- 16.16 The final issue to be considered 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 SS12a is necessary to guide the judgement of the weight which should be given to the emerging policy in this case. There were 85 representations received to Policy SS12a. Additionally, 1163 people signed a petition submitted by Stop 350 objecting to the housing allocations. The key issues raised are summarised below;

Development on Mersea Island Policy SS12a

- inadequate infrastructure and community facilities (highways, education, health and water) to support the development;
- additional pressure from the increased seasonal population at the caravan parks on Mersea Island (2200 caravans, some occupied permanently);
- plan proposal is not based on sound or accurate data; lack of proper consideration of Mersea's unique island status and the constraints this imposes on its ability to expand;
- breach of Coastal Protection Belt objectives;
- adverse environmental impacts (wildlife and heritage) and
- concerns about the safety of residents in the event of a nuclear emergency at Bradwell Nuclear Power Station.

- 16.17 The following Additional Comments specific to the Brierley Paddocks Site were also raised;

- Private access – access to site questioned;
- Impact on Listed Building (Brierley Hall).

- 16.18 While the site is allocated for development in line with the scale of development proposed for Sustainable Settlements and the level of development proposed for this site as per the allocation in the emerging local plan, the level of objection to this in response to the regulation 19 consultation was significant. While some of the objections could be addressed and therefore resolved, through mitigating measures and /or planning obligations, others are more about the principle of development and capacity of the Island's infrastructure to accommodate the growth planned through the ELP. Having regard to this, the representations which potentially remain unresolved are those relating to the principle of development and the capacity of the Island's infrastructure to accommodate this and other planned growth in the ELP. It is relevant to consider whether these matters alone are material to the weight to be afforded to the ELP. Paragraph 48 (b) is relevant stating; *"the extent to which there are unresolved objections to the relevant policies (the less significant the unresolved objections, the greater the weight may be given)"*. The objections relating to the principle of development (including capacity) at West Mersea also relate to the Spatial Strategy in Policy SG1. It is also relevant to consider whether the concerns raised by these objections, relating to the principle and level of development based on the capacity of the infrastructure to accommodate the proposed development,



can be addressed by provisions of the application and mitigation which may be secured as part of any permission. The need for thorough consideration of these issues is further enhanced by the local concerns expressed through the Local Plan representations and the planning application objections regarding the capacity of the infrastructure to accommodate the growth planned including, that proposed in the application.

Infrastructure capacity concerns

- 16.19 The key concerns regarding infrastructure capacity appear to relate to traffic; community facilities - particularly health and education; sewage and flooding. In addition, concerns are expressed about the ability of emergency services to reasonably respond to accidents / other emergencies due to the constraints especially when there is a high tide. The response from the relevant infrastructure providers is therefore an important consideration in weighing up the balance to be afforded to these issues. These are summarised below;

16.20 Infrastructure providers response to the planning application

**Highways-** The Highway Authority have not raised any concerns and have indicated that the access arrangements proposed are acceptable.

**NHS / CCG** – NEE CCG acknowledges that there are capacity issues currently and that mitigation would be required and request the land identified as D1/ B1 use to be gifted to support the provision of health facilities or for a financial contribution to be made. No comments regarding ambulance service.

**Environment Agency-** No objection has been made to the application

**Anglian Water-** Confirm they have the capacity to deal with the new dwellings.

**Essex County Council – Lead Flood Authority-** Do not object subject to implementation of the proposed SUDs strategy and standard conditions associated with this being secured to any consent

**Essex County Council – Local Education Authority -** No comment and no request for contributions received. This is confirmed by the relevant Development Team minute and a follow up e-mail.

**Emergency Services** – No response specifically to the application – West Mersea has an “on-call” fire station, and data in the website indicates that in 2017/18 a total of 49 incidents occurred including 17 false alarms and 17 special incidents (which includes road traffic collision, animal rescue and dealing with hazardous materials and flooding).

- 16.21 Although there have been no specific responses to the application from the emergency services they did help inform the Infrastructure Delivery Plan which was produced to support the Local Plan and includes input

from all infrastructure providers. Essex Police stated "the delivery of growth and planned new development in the borough would impose additional pressure on the Essex Police existing infrastructure bases, which are critical to the delivery of effective policing and securing safe and sustainable communities. Essex Police has confirmed that it does not require any site-specific new infrastructure to address the needs arising from growth. Rather, it requires the refurbishment of the existing police estate from which police staff can operate. The specific nature of any requirements will need to be assessed on a case-by-case basis." Essex Fire and Rescue Service stated "that it does not have any needs arising from growth". The East of England Ambulance Service NHS Trust operates ambulance services in Colchester Borough. They stated "that it has no specific infrastructure needs to support growth. Its services are funded from the North Essex Clinical Commissioning Group based on historic emergency call data. This data is reviewed annually and changes in provision are made accordingly."

- 16.22 The response of the Infrastructure providers to the planning application and the Local Plan is the best measure of the extent to which there is capacity for the planned growth. This also provides the context for considering whether any objections to the Local Plan proposals remain unresolved, since those relating to the principle of development, are intrinsically linked to the capacity of the infrastructure to accommodate the planned growth.
- 16.23 In principle community infrastructure including provision of public open space and capacity at the GP practice can be adequately addressed through mitigation and the proposed provisions of the application. Specifically, 0.5ha of land for D1/B1 use could provide the opportunity for relocation of GP facilities into a purpose-built building.
- 16.24 Given the significance of the need to address concerns regarding infrastructure capacity and ensure satisfactory mitigation is provided, this issue is considered below in more detail.
- 16.25 The application proposes a mix of uses which provides the opportunity for many of the community infrastructure requirements to be delivered. The Outline Application comprises the following proposals:
- Demolition of No.43 Seaview Avenue to provide cycle and pedestrian access to the site.
  - Development of 101 dwellings (a net increase of 100 dwellings).
  - Indicative housing mix of 2, 3 and 4 bedroom dwellings.
  - Potential to include bungalows and retirement flats.
  - Dwelling heights of 1-3 storey, with predominately 2/2.5 storeys.
  - Provision of approximately 2.8ha of public open space.
  - Provision of approximately 0.5ha of D1/B1 commercial/community use that is indicatively shown to the north east of the site.
  - Indicative provision of linear park and circular walk within the site.

- Provision of one point of access from an upgraded access from East Road/Brierley Paddocks
- Provision of buffer planting
- Provision of green space to protect the neighbouring heritage assets.

- 16.26 The Planning Statement also indicates that 30% affordable housing would be delivered as well as contributions to cover mitigation for health provision and RAMs contribution to meet the requirements of the Habitats Regulations Assessments, secured by section 106.
- 16.27 Based on the proposals set out above, it appears that all of the infrastructure providers are satisfied that there is capacity to accommodate the development proposed or that mitigation can be secured to address the identified issues. The NEE CCG has commented that if this land is gifted it could be considered to provide Health services within a community facility in line with policy. This is an important element of infrastructure that is required on the island and this site provides the opportunity to deliver such facilities. A suitable site on the island has not been identified in more than a decade and this allocation represents an opportunity to address the need. The applicants would rather make the financial contribution than gift the land. This would not stop the provision of a health centre on the site if an agreement between the NHS and the applicants could be agreed in the future however.
- 16.28 It is therefore considered that in terms of Paragraph 48(b) of the NPPF the Emerging Local Plan can be afforded significant weight.

#### West Mersea Neighbourhood Plan (NHP)

- 16.29 A Neighbourhood Plan Area was designated in September 2016 responding to a request from the West Mersea Town Council as the Qualifying Body (QB). Considerable work, including evidence gathering and plan drafting has been undertaken by the QB and more recently a Consultant has been appointed to support the group on moving forward as expediently as possible. It is anticipated that a Draft Plan will be available for consultation early in the new year. Due to the timing and the content of the ELP, the scope of the NHP will not include the allocation of housing sites. The allocation policies in the ELP, do however, reflect that the NHP will have a role in influencing many aspects of development proposals including the application site in respect of housing mix and type, open space and community facilities. Whilst the stage of preparation of the NHP cannot be said to be advanced, good progress is being made and it is expected that this will continue moving forward to the stage of publishing a Draft Plan. It is understood that the Plan will look to provide a greater steer on the detail of housing types and the nature and location of community facilities which are required and appropriate for delivery through development on this site and the other allocation in the Local Plan. As this application is for outline permission with all matters other than access being the subject of a reserved matters application in the future, the NHP should have the opportunity to further influence these details assuming, sufficient progress on the NHP is

made. The extensive work of the QB and engagement with the local community is valued and it is appropriate that it may inform some of the detailed elements of planning for the site.

### Planning Balance

- 16.30 The Adopted Local Plan did not include the application site as an allocation, so it is contrary to policies SD1 and ENV1 restricting development outside development boundaries. The Council maintain that both of these key policies remain up-to-date in so far as they are relevant to this application. The applicant references the West Bergholt appeal decision in which the decision concluded that these policies were not up-to-date despite acknowledging that some elements of the policies are generally consistent with the NPPF. The Council holds the view that those elements which are up-to-date are most relevant to this application and therefore contends that they key policies are not out-of-date. It is the council's view therefore that paragraph 11(d) is not engaged.
- 16.31 It is also the case that the Council is able to demonstrate it has a 5 year housing land supply. The updated Planning Statement supporting this application refers to the West Bergholt decision in which the Inspector concluded that the council was not able to demonstrate a 5 HLS. Whilst this correctly identifies the Inspector's conclusion, the Council does not accept this and has written to the Planning Inspectorate. A response is awaited. The Council considers that there was evidence available to justify inclusion of the sites the Inspector did not include, and the progress made on several of those sites in the interim proves this to be the case. Further evidence to support this has been presented to two subsequent planning appeals;
- Land at Barbrook Lane, Tiptree, the decision of which is awaited following its recovery by the Secretary of State.
  - Alumno scheme, Queen Street – appeal to be determined.
- 16.32 Furthermore, the most recent appeal decision for a site at Marks Tey confirms that the Council can demonstrate a 5 year Housing Land Supply (APP/A1530/W/19/3230908). As the Council is able to demonstrate a 5 year HLS paragraph 11(d) of the NPPF is not engaged.
- 16.33 It is also relevant to consider the extent to which the application is compliant with the ELP. Policy support for any proposal is unlikely to be afforded unless it is fully compliant with all of the relevant emerging policy requirements as indicated in the ELP. In the case of this site, the specific infrastructure requirements are set out in the allocation policy 12a (above) with other requirements including matters such as RAMs and safeguarding impacts on heritage assets included in other policies in the ELP. All matters other than access are subject to a reserved matters application, enabling details including the distribution of uses, safeguarding any impacts of the listed building and its setting and layout etc to be addressed and further considered at that time.

- 16.34 Although this is an outline application, with all matters reserved except for access, it includes a parameter plan illustrating the proposals. The proposed access is acceptable to the Highways Authority and therefore complies with this requirement in the ELP policy SS12a. Other provisions include open space, and an area of land reserved for D1/B1 use which could provide the opportunity for the Medical Centre to relocate. The policy points to the Neighbourhood Plan for more details in respect of community facilities, the content of which is still to be confirmed. However, the grant of outline permission will not prevent the Neighbourhood Plan from further informing detailed elements including the community facilities.
- 16.35 Having regard to the extent to which the objections specific to the site can be resolved through this planning application, the fact that there are no objections from any of the relevant infrastructure providers, it must be the case that objections relating to the principle of development and the capacity of West Mersea to accommodate the level of growth proposal cannot be considered as unresolved.
- . Furthermore, appropriate mitigation can be provided with detailed issues to be addressed through reserved matters, it is therefore considered that the ELP can be afforded significant weight. Paragraph 49 (a) of the NPPF (which indicates where prematurity can reasonably justify a reason for refusal of planning permission) cannot therefore be said to apply it states *“the development proposal is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by pre-determining decisions about the scale, location and phasing of new development that are central to the emerging plan”*.
- 16.36 In respect of the NHP, the Council would not wish to frustrate the progress on this plan or undermine its role in influencing the details of the proposed development in the NHP. It cannot be said to be at an advanced stage of preparation and in any event, it is not intended that the NHP will be allocating any housing sites. It is however considered entirely appropriate for the NHP as it advances to inform key elements of a reserved matters application in accordance with the ELP policy and granting outline permission would not prevent this happening. The NHP has not progressed to a stage where it is considered it could be used to justify a recommendation of refusal on prematurity grounds.

## Conclusion

- 16.37 The proposed development is contrary to the Adopted Local Plan in particular Policies SD1 and ENV1, both of which are considered to be up-to-date in so far as they are relevant to this application. In addition, the Council is able to demonstrate a 5 year HLS. Paragraph 11(d) of the NPPF is therefore not engaged.
- 16.38 The ELP is considered to be relevant to this decision since it changes the planning context for the application site through a proposed site allocation. It makes up one of two sites proposed to accommodate planned growth for West Mersea with the key requirements set out in Policy SS12a. In respect of Paragraph 48 of the NPPF, it is considered that the ELP can be given significant weight due to its stage of preparation, consistency with the NPPF and limited unresolved objections. This is supported by the responses to this application from the infrastructure providers which suggests that there is capacity for the development with mitigation where appropriate.
- 16.39 In addition, the Council are increasingly faced with applications for speculative development on sites which are not allocated in the Adopted or ELP, including a number of these going to Appeal. A number of speculative applications have been made in other Sustainable Settlements, including Tiptree and West Bergholt. It is anticipated that pressure from speculative development is only likely to increase until the Emerging Local Plan has been Adopted in locations throughout the Borough which could include West Mersea. Therefore, a pragmatic approach to proposed allocations is required. It is preferable to allow schemes on allocations in the Emerging Local Plan where they are policy compliant. The Emerging Local Plan allocations have been through a Sustainability Appraisal, public consultation and other rigorous assessment as part of the Local Plan process. Whereas speculative proposals are usually sited in locations which received less favourable Sustainability Appraisal / or other assessment or, have not been through such assessments as part of the Local Plan process. There are no objections from infrastructure providers subject to the scheme providing appropriate mitigation. It is proposed to provide 0.5ha of D1/B1 commercial use (which includes the opportunity to relocate the Medical centre), associated parking, public open space, landscaping, Sustainable urban Drainage systems and vehicular access from East Road at Brierley Paddocks. In addition, 30% affordable housing is proposed as well as mitigation contributions for health provision, and RAMs. The NHS capacity constraint is also of significant relevance and this is an important infrastructure element which was a key theme in the representations to the Emerging Local Plan. The NHS NEE CCG have requested the land identified as D1/ B1 use to be gifted to support the provision of health facilities or for a financial contribution to be made. The Planning Policy team support this approach as it provides the only opportunity to provide a site and facilities to address the additional requirements resulting from this development which cannot be absorbed within the existing surgery. The developers have confirmed that they do not intend to gift the site to the NHS

and therefore the financial contribution that the NHS have requested stands. This is held to be acceptable.

- 16.40 Although the NHP may be an important consideration in informing a future reserved matters application, it is currently not at an advanced stage of preparation as a Draft Plan has not yet been published so is unable to be a material consideration to this application.
- 16.41 Based on a thorough consideration of the issues it is considered that proposal is in principle compliant with the Emerging Local Plan Policies.

#### Highways/Access

- 16.42 Aside from the principle of development, the only matter for approval at this stage is the access. It is therefore also important to consider the impact on the highway network.
- 16.43 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 16.44 The scheme has been accompanied by a Transport Assessment that considered the East Road junction to be sufficient to accommodate the traffic flows this scheme will generate. It states that a simple priority junction at the East Road access will need to be provided and there is sufficient room to provide this. This Transport Assessment and the proposed access arrangement at East Road have been considered by Essex County Council (the Highway Authority). They have no objections to the scheme subject to conditions that are suggested at the end of this report.
- 16.45 A material difference between this scheme and the previously refused scheme (190200) is the fact the scheme has been amended within the application period to downgrade the Seaview Avenue vehicular access to that of a pedestrian and cycle link only. This is held to be the optimum situation as it allows permeability from the new development to the west on foot and by bike but removes motorized traffic that was held to be detrimental to the amenity of those living on Seaview Avenue.

- 16.46 The Highway Authority have considered this change and have no objection to the scheme. The East Road access will still be upgraded as per their requirements. It is therefore held to be sufficient to serve a development of 101 houses. It is further noted that the Highway Authority did not object to the access being used to serve 201 houses and the commercial land in the previous application 190200.
- 16.47 On that basis this scheme is held to be acceptable in highway safety terms.
- 16.48 It has been noted by some of the neighbours that they do not believe that the East Road access can be delivered due to ownership issues. The developers disagree with this. Land ownership is not a planning matter and therefore this is not a reason to refuse this scheme. If it was to transpire that this was the case however, the scheme would not be implementable in its current format.

#### The Impact on Trees

- 16.49 Two TPO's have been served, an initial TPO covering the trees on the boundary with the site and 45 Seaview and a more recent TPO covering those trees and a number of other trees on the boundary.
- 16.50 As noted above, amended drawings showing the access way downgraded to a pedestrian vehicular link at the 43 Seaview Avenue have been provided. The Arboricultural Officer is satisfied that there is sufficient space to provide this without harming the protected trees. The scheme is therefore acceptable in that regard.
- 16.51 The protected trees and the other trees that surround the site can be protected by condition and by the provision of an appropriate layout at reserved matters stage.

#### SuDS

- 16.52 A sustainable drainage assessment has been provided with this application. It is recommended that a detention basin is provided at the southern end of the site to work with the existing topography. This basin will be dry and will only contain water in storm events to manage run off rates. It is therefore designed to form part of the open space for local residents. This approach, alongside other supplementary SUDs features, will simultaneously provide a valuable landscape feature and will aid the natural management of surface water runoff.
- 16.53 The LLFA are satisfied with the scheme and have recommended conditions. At outline stage, this matter is held to be acceptable.



### Flood Risk

- 16.54 The site is within Flood Zone 1. As such, it is at the lowest risk of fluvial or tidal flooding in accordance with the Technical Guidance that accompanies the NPPF and is suitable for residential development from a flood risk perspective.
- 16.55 The Emerging Local Plan (Paragraph 15.125) states that the overall aim of national policy and guidance on flood risk is to steer new development towards land on the lowest risk from flooding (Flood Zone 1).
- 16.56 As part of the proposals, the SUDs are proposed at the southern part of the site. These features are strategically located to work with the existing topography of the site in order to manage surface water runoff and to ensure the site manages surface water entirely within the site to reduce the risk of flooding elsewhere. The detail of this arrangement can be dealt with at reserved matters stage.
- 16.57 Further information on the flood risk and drainage proposed on site is included in the accompanying FRA which can be read on the system.
- 16.58 It is noted that the EA did not object to the scheme, nor did they object to the previously refused scheme for 201 dwellings.

### Impact on Heritage Assets

- 16.59 Policy DM16 states that the historic environment should be conserved where possible through new development proposals. This includes preserving and enhancing Listed Buildings as per the statutory test.
- 16.60 A full Heritage Impact Assessment is provided with this application. Brierley Hall, which is located to the north of the site is Grade II Listed. Furthermore, the two barns at Brierley Hall are also Grade II Listed in addition to the garden wall east of Brierley Hall. The Council's in-house HB&AO has assessed this document in full and does not consider the scheme to be harmful in terms of the setting.
- 16.61 In order to further conserve and enhance the significance of these listed structures, it is proposed that a green buffer space is retained at the northern part of the site. The impact on the listed building and its value is assessed to be acceptable and the scheme is considered to conform to Policy DM16 and the statutory tests that require the setting of listed buildings to be preserved.

## Ecology

- 16.62 Section 40 of the Natural Environment and rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Policy ENV1 of the emerging Local Plan states that the Local Planning Authority will conserve and enhance Colchester's natural and historic environment, countryside and coastline. Furthermore, proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas, protected species or result in the loss of irreplaceable habitats such as ancient woodland, important hedgerows and veteran trees will not be permitted.
- 16.63 A Preliminary Ecological Appraisal has been prepared by The Ecology Partnership. Land at Brierley Paddocks is not designated, however a number of local, national and international designated sites are within a 2km radius of the site. Given the national and international importance of these sites a Habitat Regulation Assessment has also been provided which has informed the Council's Appropriate assessment.
- 16.64 It has been recommended through the Preliminary Ecological Appraisal and the Arboricultural Impact Assessment, that the existing planting and vegetation on site is to be maintained. A number of mammal burrows have been identified along the eastern, southern and north west site boundaries, some of which were characteristic of badgers. As such, it has been recommended that where possible, these burrows be buffered from development by at least 15m. This will be considered when confirming the layout in the reserved matters stage of the application and further survey work will be expected at that time to fully investigate whether these holes are in use and then advise the layout accordingly.
- 16.65 On recommendation from the Phase 1 Ecological Survey, a Wintering Bird Survey has been provided. The Survey found that 22 bird species other than water birds were recorded, including some species of conservation concern. The report states that the majority of these birds feed within field boundary habitats that will be retained and enhanced as part of the proposed landscape plan. As such, the report argues that there will be little impact on those species. The potential impact of the development will be on those birds that purely feed on the arable land; namely Redwing, Meadow Pipit and Skylark. The survey confirms that the density of those species is at the lower end of the scale for this habitat. Furthermore, the habitat is locally widespread, thus it is held that the impact will be of no more than local significance.

- 16.66 On recommendation from the Phase 1 Ecological Survey, a Bat Survey of 43 Seaview was also carried out. It was found that the building supported historic evidence of brown long eared bats and is considered that the building is a roost, albeit one of low conservation significance. As such the building would require demolition under licence and ecological supervision.
- 16.67 Due to the time that has passed since the Preliminary Ecological Appraisal (2016) the Wintering Bird Survey (2017/2018) and Bat Survey Report May and Oct (2018) it is expected that these reports will be refreshed at reserved matters stage by a competent ecologist.
- 16.68 It is also suggested that an Ecological Enhancement and Management Plan condition be imposed to ensure the site is managed in an ecologically sensitive manner and to ensure that the suggestions of the ecological reports are built into a workable framework that can be delivered on site after approval of the reserved matters.

#### Habitats Regulations Assessment (HRA) /Appropriate Assessment (AA)

- 16.69 It is necessary to assess the application in accordance with the Habitats and Species Regulations 2017 (as amended). The whole of Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment was therefore required to assess recreational disturbance impacts as part of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS).
- 16.70 A shadow HRA was requested and was duly provided. The LPA then drafted an appropriate assessment (AA). The AA concluded that with the on-site measures set out in the shadow HRA and with a financial contribution to the Essex Coast RAMS as mitigation the scheme would be acceptable.
- 16.71 Following this Natural England were re-consulted but no comments were made.
- 16.72 The RAMS financial contribution will be secured via legal agreement.

#### Landscape Impacts

- 16.73 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting. The site also sits in the Coastal Protection Belt (as does the rest of Mersea Island) and therefore Policy DP23 is relevant.

16.74 The scheme has come with a Landscape Visual Impact Assessment (LVIA) carried out by Tyler Grange LLP. It found that:

“The site has a settlement edge character, with existing residential properties creating a harsh edge on the western and northern boundaries. Rear and side garden boundaries form many of the edges to the site, and these boundaries are irregular comprising close board fencing, evergreen hedging and scattered tree planting. Residential properties sit along the skyline along the western and northern boundaries and form a backdrop to the site;

- The site is well contained and has an enclosed character, with existing residential development enclosing the site to the north and west, and established vegetation forming the southern and eastern boundaries. This enclosed character separates the site from the wider more rural land to the west;
- There are no internal landscape features within the site, with the site used for open arable land. The low lying and flat nature of the site also contributes to its contained and enclosed nature, with no prominent landform present; and
- The existing landscape structure and boundary vegetation found on the southern and eastern boundaries consists of established tree, hedge and scrub planting. Evergreen hedge planting is present along the north eastern boundary and forms the edges to the larger gardens found to the north east of the site. The hedgerow and tree planting found along the eastern boundary, adjacent to PRoW 154-25 is gappy in places.”

16.75 After a very detailed assessment of the proposed the LVIA concludes:

*Overall we conclude that the proposed redevelopment of Brierley Paddocks would provide a good contextual fit within the settlement edge and adjacent landscape context. The extent, scale, layout and design of the new development, combined with the retained and additional new tree, hedgerow, wildflower meadow, open space and SUDS proposals will assimilate development into the settlement edge of West Mersea, helping to reduce and mitigate the visual effects of the proposals. The visual effects of the proposed development upon public views and visual amenity will be largely neutral. The screening of the development by existing trees and hedgerows to the southern and eastern site boundaries, and within the local landscape means that the new residential development will be filtered and assimilated into the wider landscape and rural edge of West Mersea.*

16.76 The findings of the LVIA have been considered by the Council’s in-house Landscape Advisor who accepts its findings. On that basis, the scheme is held to be acceptable in landscape terms and will not materially compromise the Coastal Protection Belt set out in Policy DP23.

#### Loss of Agricultural Land

- 16.77 Some representations have argued that the scheme will result in the loss of good quality agricultural land. The land is rated as on the edge of non-agricultural Urban G2 and Grade 3 'Good to Moderate' on the Agricultural Land Classification. The Council's Landscape Advisor considers that it is likely that the site strongly relates to the Urban G2 area and is divorced from the wider G3 area within which it is captured by Cross Lane. In short it is not considered that the loss of this land in favour of development is an issue that warrants a refusal of this scheme.

#### Health Impact Assessment

- 16.78 Policy DP2 requires all development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. Health Impact Assessments (HIA) are required for all residential development in excess of 50 units, with the purpose of the HIA being 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.
- 16.79 The NHS have assessed the HIA and in this instance do not object to it. They have requested a financial contribution towards their services and the applicants have accepted this.

#### Contamination

- 16.80 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.
- 16.81 A Phase 1 Geo-Environmental Desk Study Report has been submitted with the application that investigates matters of contamination. The Council's Contaminated Land Officer has assessed the submitted report and confirms that it is acceptable for Environmental Protection purposes. Conditions for further work have been requested.
- 16.82 On this basis, the information submitted is considered to be acceptable and the site considered suitable for its proposed use in accordance with paragraph 178 of the National Planning Policy Framework.

#### Design and Layout

- 16.83 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.
- 16.84 As an outline application, details of design and layout would be put forward at reserved matters stage and would be assessed in accordance with

relevant planning policy to ensure that the proposals are acceptable. There is no further detail required at outline stage as it essentially determines the principle of development rather than the detail.

- 16.85 The Council's Urban Designer has confirmed that the proposed 101 dwellings can be accommodated on site without compromising policy principles.

Impact on Amenity

- 16.86 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 16.87 Application 190200 was refused in part due to the impact on the vehicular access point in Seaview Avenue. Whilst this was originally retained in this resubmission for 101 dwellings, it was removed within the application period.
- 16.88 The retention of a pedestrian/cycle way is considered to be essential in urban design terms. Downgrading the access to a pedestrian/cycle route will retain the permeability at this end of the site and will allow access on foot or bike to and from that corner of the development. It is not held to be materially harmful in terms of neighbouring amenity as pedestrian and cycle traffic is generally held to be less disruptive and noisy than vehicles. It will also allow for more planting either side due to the reduced width needed and this will facilitate a great buffer for the neighbours. The detail of this can be dealt with via the reserved matters submission.
- 16.89 It is accepted that this scheme will increase noise and disturbance to the existing neighbours located close to the East Road junction at Brierly Paddocks. This is an existing access point and is the only realistically deliverable vehicular access point to the site. In terms of built form, at reserved matter stage it will be possible to provide the existing residents with a buffer area at this end of the site so they do not feel encroached upon but there is no doubt that residents in this area will be subject to a significant increase in passing traffic. The impact on residents has been carefully considered but in this instance it is not held to be materially harmful to the neighbours to the point that warrants a refusal of this scheme.

- 16.90 Any housing design/layout uses would need to respect the privacy and amenity of the residents of these properties and adhere to policy DP1 in terms of impact, as well as the design and layout principles of the Essex Design Guide which prescribes back to back distances between properties in order to preserve a satisfactory level of amenity. These matters would need to be assessed on the submission of reserved matters which will provide the detailed layout for the scheme.

#### Environmental and Carbon Implications

- 16.91 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030.
- 16.92 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.
- 16.93 This report has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. This scheme has limited detail as it is an outline proposal however it would be possible to secure a significant amount of good quality tree planting on site as part of the landscape element which is a reserved matter. The landscape masterplan is only indicative but drawing 10618/P10e Rev A sets out areas of buffer planting and suggests a number of tree species. The Landscape Parameter plan 17003/OPA-004A also reflects this.
- 16.94 The scheme has also been amended during the application period to remove the unnecessary vehicular access onto Seaview Road and replace it with a pedestrian/cycle access so this will actively encourage residents to leave their cars and walk or cycle west towards the facilities of West Mersea. The fact the scheme is an emerging allocation demonstrates that is considered to be an accessible location where growth is sustainable and the strong footpath links to the West (and to the PRow to the east) adds to this.
- 16.95 In addition to this Environmental Protection have suggested EV charging points to be conditioned and the applicants have agreed to a condition requiring approval of a scheme for EV charging. This will help facilitate the uptake of ultra-low emission vehicles.
- 16.96 It is therefore considered that on balance the application is considered to represent sustainable development.

### Bradwell Power Station

- 16.97 Representations have been received from neighbours that are concerned about Bradwell Power Station and the possible new Nuclear Power Station (NPS) that may be proposed next to the existing NPS.
- 16.98 Bradwell Power Station is in a very advanced stage of decommissioning and is in a 'Care and Maintenance State'. It is the first NPS in the country to enter this state of decommission.
- 16.99 Bradwell 'B' proposed by EDF Energy and China General Nuclear Power Group (CGN) is only at very early investigative stages. The Bradwell B project website notes it could be 7 years before construction. The website set out how they would need regulatory approval, planning permission including a nuclear site licence, a development consent order and various environmental permits. In officer's opinion it would not be reasonable to resist a new increase of 100 houses on the basis that Bradwell B is a possibility.

## **17.0 Conclusion and Planning Balance**

- 17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the emerging Local Plan but is contrary to the adopted Local Plan as the site is outside the current settlement boundary of West Mersea. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy. The social role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.
- 17.2 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in West Mersea and is located within walking distance of a number of key local services and facilities required for day-to-day living. In respect of the third dimension (environmental), the proposal will provide housing in a sustainable location so that future residents would not be reliant on private car, being able to walk or use public transport to access necessary services and facilities, thereby minimising environmental impacts; ecological enhancements can also be secured as part of the development.
- 17.3 There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby



residents or have a severe impact upon the highway network. Whilst the proposed development would have an impact on the existing character of the site (i.e. by introducing built development where there is none currently) through a general suburbanising effect on the wider setting, which weigh against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme and could reasonably be judged to clearly outweigh the shortcomings identified given the weight afforded to the supply of new homes in the Framework and the possible design that could be secured as part of any future reserved matters application.

- 17.4 In conclusion, it is considered that the benefits of the scheme convincingly outweigh any adverse impacts identified and the proposal is considered to be acceptable on this basis.

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for:

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

### **1. Time Limit for Outline Permissions Part 1 of 3**

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to 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. Time Limit for Outline Permissions Part 2 of 3**

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

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

### **3. Time Limit for Outline Permissions Part 3 of 3**

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

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

### **4. Approved Drawings**

The drawings hereby approved as part of this application are:

Site Location Plan - 17003/OPA1-001

East Road Junction Plan – DR1 Rev A

Seaview Avenue Cycle/Pedestrian Walkway Plan – DR7

Reason: For the avoidance of doubt as to the scope of this permission.

### **5. D1/B1 Uses details**

The D1/B1 uses hereby approved shall not operate apart from in complete accordance with a schedule of operation that shall be submitted to and approved in writing by the Local Planning Authority. This schedule shall include details of:

The specific D1 or B1 use proposed.

The hours of operation of the D1 and/or B1 use.

The hours and details of servicing of the D1 and/or B1 use.

The hours and details of deliveries to and from the D1 and/or B1 use.

The D1/B1 uses shall not operate apart from in complete accordance with the approved schedule unless otherwise agreed in writing with the Local Planning Authority.

Reason: This condition is necessary as this outline permission is approving 0.5ha of the site as D1/B1 uses but has no details of those D1/B1 uses at this stage. Therefore the Council needs this extra detail to ensure the proposed uses do not materially harm neighbouring amenity.

### **6. D1/B1 uses no permitted changes of use**

The 0.5 ha of the site that is to be used for commercial purposes shall be used solely for B1 or D1 uses and for no other purpose.

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. Electric Charging Points**

The development shall not commence above damp-proof course level until a scheme for the provision and implementation of electric vehicle (EV) charging points has been submitted to, and approved in writing by, the Local Planning Authority. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

### **8.Archaeology**

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

- The programme and methodology of site investigation and recording.
- The programme for post investigation assessment.
- Provision to be made for analysis of the site investigation and recording.
- Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- Provision to be made for archive deposition of the analysis and records of the site investigation.
- 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).

### **9.SUDs**

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:

- The programme and methodology of site investigation and recording.
- The programme for post investigation assessment.
- Provision to be made for analysis of the site investigation and recording.
- Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- Provision to be made for archive deposition of the analysis and records of the site investigation.

- 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).

#### **10.Scheme to Minimise Offsite Flooding during Construction**

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: To ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution as construction may lead to excess water being discharged from the site.

#### **11.SUDs Maintenance and Management**

No occupation of the development shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be 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 and to ensure that the SUDs are maintained for the lifetime of the development.

#### **12.SUDs Monitoring**

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.

#### **13.Ecology**

No works shall take place above damp-proof course level until an Ecological Enhancement and Mitigation Plan (EEMP) has been submitted to and approved by the Local Planning Authority. The EEMP shall follow the principles set out in the submitted ecological reports as a minimum. The development shall then be carried out and maintained in accordance with the approved EEMP.

Reason: In order to mitigate the impact of the development upon ecology and biodiversity and in the interest of ecological enhancement.

#### **14.Tree Protection**

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees and in particular the TPO'ed specimens that are of particular significance.

#### **15.Used Water Sewerage Network**

No works shall take place above damp-proof course level until a scheme for on-site foul water drainage works, including connection point and discharge rate, has been 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.

#### **16.Highway Works**

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

- a. A priority junction off East Road to provide access to the proposal site as shown in principle on the planning application drawings
- b. A pedestrian/cycle access off Seaview Avenue as shown in principle on the planning application drawings
- c. For the non-residential element of the proposal, if there are 50 or more employees, a Travel Plan in accordance with Essex County Council guidance
- d. For the residential element of the proposal, Residential Travel Information Packs 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.

### **17.Highway Works - Bus Stops**

Prior to commencement of the development, a specification for upgrading the two bus stops which would best serve the proposal site, including a program of works for implementing the upgrades, must be submitted to, and agreed in writing by, the Local Planning Authority. The bus stops must be upgraded in accordance with the approved scheme in accordance with the agreed program.

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.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.

### **19. Landscape Management Plan**

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

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

### **20.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 unless otherwise agreed in writing with the Local Planning Authority 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.

### **21.Limits to Hours of Construction Deliveries/Worker Traffic**

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

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

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

Sundays and Bank Holidays: **No 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.

## **22.Fires**

No fires may be lit on site at any time.

Reason: In the interests of neighbouring amenity.

## **23.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 investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced and agreed in writing by the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

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

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

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

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

## **24.Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)**

If the Investigation and Risk Assessment submitted under Condition 22 identifies a need for remediation, 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.

#### **25. Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

If the Investigation and Risk Assessment submitted under Condition 22 identifies a need for remediation, no works shall take place other than that required to carry out remediation, until the approved remediation scheme has been carried out in accordance with the details approved. 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

#### **26. 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 22, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 23 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 26.

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

#### **27. Validation Certificate**

If the Investigation and Risk Assessment submitted under Condition 22 identifies a need for remediation, prior to the first OCCUPATION or 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 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

## **19.0 Informatives**

19.1 The following informatives are also recommended:

### **1.ZT0 – Advisory Note on Construction & Demolition**

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

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

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

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

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

#### 4.INS - Notes from the Highway Authority:

- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only
- 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
- 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 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)
- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or SMO1 – Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

#### 5.INS - Archeology

The Council's in-house specialist will, on request of the applicant, provide a brief for the archaeological investigation – **extensive archaeological excavation** - and it is recommended that this is procured at the earliest opportunity to establish the costs of the archaeological investigation and to establish the likely time scale (potentially considerable) of the archaeological fieldwork, in order to avoid any delays to the commencement of the development.

#### 6.NS – Private Sector Housing

Private sector housing suggest the following:

##### Excess Cold

Please consider the thermal comfort of the new dwellings. They should be able to maintain a temperature of 21 degrees C when the outside temperature is -1 degree C. Consider adequate, efficient and affordable heating, insulation and ease of ventilation without excessive draughts.

##### Crowding & Space

The bedrooms should have adequate space for the number of people sleeping in them. Double rooms suitable space for 2 persons single bedroom for 1 person including furniture and space to circulate.

## **7. INS – Environmental Protection**

### Acoustic fencing

At reserved matters stage Environmental Protection suggest a 2m high acoustic fence would be required along the boundaries with existing residential properties at the site access points (to reduce disturbance from vehicles entering and leaving the site) as the size of the development will impact on their properties from increased traffic.

## **8. INS – Anglian Water**

(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.