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Item No: 7.2

Application: 212685

Applicant: Ms Harriet Vincett-Wilson, City & Country Mersea Ltd

Proposal: Application for Variation of Condition 1 (reserved matters, as approved under 202492), Condition 3 (submission of RM), Condition 4 (detailed access) and removal of Condition 2 (submission of RM) and Condition 6 (schedule) of planning permission 192136 (and subsequent Reserved Matters 202492), comprising updated access arrangements and minor amendments to the layout and housetypes.

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 it is a Section 73 application with a Deed of Variation that makes material changes to the previous Section 106 agreement.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the proposed minor changes to the access point at East Road, the new access point on Seaview Avenue to enable the retention of the dwelling at no.43 and the other changes proposed to the internal layout of the development. These matters are all held to be acceptable.
- 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.
- 3.2 The application site measures 9.2 hectares and was formerly in agricultural use. The site also incorporates No.43 Seaview Avenue which is located to the east of the site set within an established 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 Twentieth Century construction.
- 3.4 The site can currently be accessed from Brierley Paddocks leading from East Road to the north. The scheme also formerly 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 no longer requires the removal of an existing dwelling on Seaview Ave (number 43) as it previously did at outline stage.
- 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 nor 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 also listed (Grade II). Two converted 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.

4.0 Description of the Proposal

- 4.1 This is a section 73 application to vary the plans conditions of the outline and reserved matters permissions. It proposed the Variation of Condition 1 (reserved matters, as approved under 202492), Condition 3 (submission of RM), Condition 4 (detailed access) and removal of Condition 2 (submission of RM) and Condition 6 (schedule) of planning permission 192136 (and subsequent Reserved Matters 202492), comprising updated access arrangements and minor amendments to the layout and house types.

5.0 Land Use Allocation

- 5.1 Formerly agricultural land, now development site allocated for housing in CBLP 2017-2033, Section 2.

6.0 Relevant Planning History

This site has a complex planning history but as this application is a Section 73 variation of condition application, the most important applications to note are the approved outline permission 192136 and the reserved matters approval 202492 as they are the applications for consideration now.

Construction of the approved scheme (192136/202492) has started on site.

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 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP7 Place Shaping Principles

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

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

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

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

SD1 - Sustainable Development Locations
 SD2 - Delivering Facilities and Infrastructure
 SD3 - Community Facilities
 CE2c - Local Centres
 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
 TA5 - Parking
 ENV1 - Environment

- 7.4 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

DP9 Employment Uses in the Countryside
 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

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

- 7.6 The Neighbourhood Plan for West Mersea (WMNP) is soon to go to referendum and is therefore held to carry significant weight.

- 7.7 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on the Inspector’s modifications. Section 2 will be afforded significant weight due to its advanced stage with the Inspectors report expected imminently.

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

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

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

The Essex Design Guide
 Affordable Housing
 Community Facilities
 Open Space, Sport and Recreation
 Sustainable Construction
 Cycling Delivery Strategy
 Sustainable Drainage Systems Design Guide
 Managing Archaeology in Development.
 Developing a Landscape for the Future
 ECC’s Development & Public Rights of Way
 Planning Out Crime

8.0 Consultations

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

8.2 Arboriculture Planner

Condition bespoke methodology as set out in AIA addendum.

8.3 Essex County Fire and Rescue

Scheme will need to comply with Building Regs – comments made about fire tender turning. Fire hydrants may be needed on site. *Officer note – this will be dealt with at Building Regs. stage*

8.4 Highway Authority

No objection – Having reviewed the information on your website, it would appear the proposed layout now reflects the layout as shown on S278 agreement drawing 20090-C-XX-XX-EL-1101 C02.

8.5 Historic England

No comment.

8.6 Landscape Planner

No objection.

8.7 LLFA/SuDS

No objection to amended scheme.

8.8 Natural England

No comment to make.

8.9 Urban Design

Comments addressed below in report below.

9.0 Parish Council Response

9.1 The Parish Council have stated that:

Comment: Layout for properties adjacent to/backing onto existing development at Seaview Avenue:

West Mersea Town Council (WMTC) considers that these are updated

proposals in the light of consultation with WMTC and residents of Seaview Avenue and accordingly our previous comments are withdrawn.

Affordable Homes:

WMTC queries the grouping together of all of the affordable homes provision, and questions if this is contrary to policy? Either way, WMTC considers this approach unfortunate/inappropriate and would prefer a more mixed development.

Access to Seaview Avenue:

Reference the access to Seaview, WMTC notes the developers comments to satisfy our previous concerns in respect of the purpose for this access.

Unauthorised use of Dawes Lane by construction traffic:

The developer gave assurances to WMTC that Dawes Lane – a narrow ‘D’ road – would not be used for construction traffic access to the site. This commitment has not been honoured, and residents of Dawes Lane and the wider community are being inconvenienced by totally inappropriate use of this access to the Island by HGV’s accessing the site via the shortcut of Dawes Lane. This is a serious accident waiting to happen.

WMTC requests that this agreement is honoured, reinforced with subcontractors and propose that the developer install “No Construction Traffic Access to Brierley Paddocks” signage at the start of East Mersea Road, and the entrance to Dawes Lane.

Though not requested, the Developer has asked to respond to these in turn and did so on the 19/1/2021, their response is in *italics*:

1.

Comment: Layout for properties adjacent to/backing onto existing development at Seaview Avenue:
West Mersea Town Council (WMTC) considers that these are updated proposals in the light of consultation with WMTC and residents of Seaview Avenue and accordingly our previous comments are withdrawn.

This is in line with the numerous discussions we have had with WMTC recently therefore I am pleased the previous objection/comments have been withdrawn.

2.

Affordable Homes:

WMTC queries the grouping together of all of the affordable homes provision, and questions if this is contrary to policy? Either way, WMTC considers this approach unfortunate/inappropriate and would prefer a more mixed development.

We believe this is in line with adopted policy. The affordable homes are located within the second phase of build out (as is the case with the consented). There is separation provided between the grouping of affordable homes, broken by private properties. On the ground, the streetscape will not be negatively

experienced - all of the new homes across the scheme will be tenure blind, with the same high quality materials palette. It should therefore not be possible to distinguish between the different tenures in any case. The proposed layout has been amended during the consultation process to take account of local concerns, and the arrangement of the affordable properties amended – particularly around plots 10-16 to create an attractive informal green, with open space to the front of properties providing a relaxed setting for residents to enjoy. Properties in this area will additionally benefit from a shared surface driveway with plenty of trees. Furthermore the location of affordable properties (plots 23 & 29-33) fronting onto the larger area of open space running through the spine will have direct views onto green space and very convenient access to these open areas.

3.

Unauthorised use of Dawes Lane by construction traffic:

The developer gave assurances to WMTC that Dawes Lane – a narrow ‘D’ road – would not be used for construction traffic access to the site. This commitment has not been honoured, and residents of Dawes Lane and the wider community are being inconvenienced by totally inappropriate use of this access to the Island by HGV’s accessing the site via the shortcut of Dawes Lane. This is a serious accident waiting to happen.

As far as I can see, there are no specific planning obligations that restrict the use of Dawes Lane for construction traffic, although I do note that the approved CMS sets out that HGV delivery vehicles will be directed via B1025 and East Road. See point 4 in relation to existing signage. We cannot also assume that all instances of vehicles using this shortcut are related to the C&C site only, given the very close proximity of the Dawes Lane development. All sub-contractors, deliveries etc are informed to use B1025 and East Road route (but if not C&C vehicles this is difficult to monitor).

Officer note – it noted that the Dawes Lane residential allocation is not under construction but it is accepted that other construction sites may be using Dawes Lane.

4.

WMTC requests that this agreement is honoured, reinforced with subcontractors and propose that the developer install “No Construction Traffic Access to Brierley Paddocks” signage at the start of East Mersea Road, and the entrance to Dawes Lane.

Signage has been installed onsite already stating ‘construction traffic left turn only’ out of the site (see attached), to encourage vehicles to avoid Dawes Lane. All vehicles are also informed to come into the island via B1025 and East Road. If further signage is required then we can look into providing this. C&C site team are in dialogue recently with WMTC and are assisting in answering queries and seeking managing the situation in a responsible manner.

Case officer response – these points are noted.

10.0 Representations from Notified Parties

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

10.2 A number of representations have been received through the course of this application, 12 in objection and 9 general comments. A number are very detailed. It is beyond the scope of this report to replicate them all but in summary they objected to the scheme on the following grounds, split into before amended layout drawings and post:

PRE AMENDED SCHEME

- The scheme is harmful to highway safety, footways are needed on both sides of the road, the layout is illegal, fails to comply with the NPPF.
- This is an 'E' type road - how can that be acceptable?
- The off-site works should be considered now.
- C&C do not have the land ownership to move the access.
- The scheme should be rejigged to set the dwellings away from the neighbours
- What about the boundary treatment?
- The houses are too near to Seaview Ave and Farthings Lane.
- The Affordable Housing should be spread out across the site.
- The Affordable Housing should be set over towards Cross Lane away from existing residents.
- What is this application all about?
- The island does not have the infrastructure to cope with 101 dwellings e.g. Doctors, Schools Dentists etc?
- Are there covert actions taking place?
- Should this be a new full application?
- The approved scheme was much better than this as that was agreed with neighbours first.
- This new plan ignores all the good work previously done in conjunction with residents.
- This is a greenfield site with ecology on site.
- The new Seaview Access path should not be 'well-lit' to preserve dark night skies.
- The site will overlook my indoor swimming pool which my disabled daughter uses.
- Noise and light pollution
- This is not a tweak it's a full reconfiguration

POST AMENDED SCHEME

- How will car access be prevented along Seaview Ave

- A bollard is needed
- The footpath has been constructed but it is not the correct dimension (its 4.5m wide not 3.5m wide).
- It's a road not a footpath.
- East Road issues noted – full footway east to Cross Lane is needed.
- Better pedestrian and cycle connectivity is needed in order to comply with the NPPF.
- The roads are not being cleaned regularly.
- Very disappointing – still too much AH near my property.
- Why have they built houses on site when this is still awaiting approval?
- Why have they not discharged their conditions yet?
- Have they damaged protected trees?
- They should not have started on site yet.
- I am going to buy a neighbouring property and this scheme is unacceptable due to its impact on the amenity of the neighbours in Farthings Chase.
- You have taken advantage of the fact the owner of the property I am going to buy has died.
- Why has the paddock fence been removed?
- Why has a tree been felled?
- The layout needs to be amended to give neighbours more space.
- There is no 5m of buffer to some of the dwellings.

In response:

10.3 A number of these points either relate to the principle of development on the site which is long secured, or layout matters which are also long secured. This application can only look to change or negotiate elements where change is proposed by the applicant. A number of these points are also dealt with in the report below.

10.4 The buffer between the neighbouring dwellings (existing and proposed to west edge and which is not a policy requirement but was been proposed in consideration of the neighbours) remains in place. The Affordable Housing will be addressed below. The highway implications at East Road have been made at the request of the Highway Authority and they do not require further off site works as part of this application. This application does not propose the felling of trees.

10.5 It is very important to note that the Courts have shown that it is not possible to demand changes or impose more restrictive conditions on a section 73 application such as this. Any new conditions imposed must only relate to the changes proposed by the applicant. It is also not reasonable to require changes to elements of the scheme that are not materially different to the approved scheme.

11.0 Parking Provision

11.1 As with the approved scheme, the on-site parking accords with the adopted standards.

12.0 Accessibility

- 12.1 As per the requirements of the legal agreement, the affordable housing will all be built to Building Regs 2015 Part M4 Cat 2 standards which are capable for wheelchair conversion and one dwelling will be a fully wheelchair accessible M4 Cat 3 (2b) dwelling.

13.0 Open Space Provisions

- 13.1 The Legal agreement requires the developer to provide 2.8ha of public open space on site and this layout complies with this requirement as 3.1ha are provided.

14.0 Air Quality

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

15.0 Planning Obligations

- 15.1 As part of this S73 application, the applicant are suggesting a Deed of Variation to the existing S106 Agreement to link this application to the original S106 obligations.
- 15.2 This seeks to correct one inconsistency within the original S106 Agreement which is an additional financial sum in respect of the Healthcare Contribution so that the contributions are all based on a net increase of 101 new build dwellings. Previously, the Healthcare Contribution was calculated on an increase of 100 dwellings only.
- 15.3 Although there is a very small change proposed to the private house mix (1 no. additional 5 bed unit, and 1 no. less 4 bed unit), this does not affect any of the other financial contributions already agreed in the existing S106 Agreement.
- 15.4 The Community Contribution was based on an average standard of 2.3 residents per dwelling (and therefore not calculated by a specific unit mix) and the RAMS Contribution prescribes a cost per dwelling, so this also remains unaffected.
- 15.5 The Healthcare Contribution was also calculated on the basis of the standard 2.3 residents per dwelling on average, but the financial contribution is proposed to be amended for reasons set out above.
- 15.6 The Archaeology Contribution and Open Space Maintenance Sum remain unaffected by this application.

16.0 Report

Principle/Introduction

- 16.1 The principle of residential development has been established as set out in the planning history section of this report. The approved scheme is currently being built out. There is therefore no scope to resist this scheme on the matter of principle. It is noted that since the previous approvals on this site the West Mersea Neighbourhood Plan (WMNP) has moved forward a great deal and is soon to go to referendum. It now carries significant weight. At 5.7 it notes: *Planning permission was granted for a net increase of 100 dwellings at Brierley Paddocks in May 2020 and in February 2021 construction commenced on site. The site is therefore not allocated in the Neighbourhood Plan and the housing requirement subsequently reduced to around 100 dwellings.* The WMNP does not have a specific policy for this site, unlike the Dawes Lane allocation. The allocation of the site (along with Dawes Lane) stems from Section 2 Local Plan Policy SS12a which has also gained weight since the previous approval as set out above.
- 16.2 This is a section 73 application to vary the approved plans condition pursuant to both the outline (to deal with matters of access that were conditioned on the outline permission) and the reserved matters approval (to deal with matter of detail and layout). In many respects the scheme is very similar to that approved. No changes are proposed to the commercial element of the approved scheme in the north eastern corner, that being the Doctors Surgery/Commercial Units.
- 16.3 The main change is to allow the retention of the dwelling at No.43 Seaview Avenue. This was proposed to be demolished under the outline application. The applicants have decided that this dwelling can be fully renovated to become an attractive dwelling. It has been granted permission to be extended already. The implications of this change will be addressed below. It is noted that it is not possible to change the description of development by Section 73 and the outline description refers to the demolition of number 43. The applicants have confirmed they will change the description via a Non-Material Amendment (following this application under s.96.a of the Act) for the sake of completeness.

Access Changes

- 16.4 The East Road access has been amended in line with the requirements of the Highway Authority. In fact, it was the HA who contacted the LPA to request that this change was made whilst they were in the process of drafting the Section 278 highway agreement (this is the agreement between the HA and the applicant to enable changed to the highway network).

16.5 The report for the previous reserved matters Section 73 (202492) said:

As can be seen from the drawing above this scheme proposed the removal of a section of the footway to the east of the access way past the East Road junction.

This has been discussed with the Highway Authority and they are happy with this arrangement. Representations noting the loss of footway have been noted but the Highway Authority accept this layout. It is an improvement in urban design terms as will allow for a softer entrance to the residential development, opposite the listed building so this is a positive step in that regard also.

As per the current plans, to accord with the outline permission there is still a section of proposed footway around the bellmouth radii in front of 78 East Road. The Highway Authority have approached the LPA to ask if this could be removed also as that is their preference. This has been discussed with the applicants but they wish to leave this section 73 running currently. They have confirmed that they will then vary the plans condition on the outline and then vary the reserved matters again at a later date. So what is shown on the plan is unlikely to be the last variation the Council are asked to determine, but the Highway Authority are happy with the layout anyway and therefore it is held to be acceptable.

16.6 This application seeks to remove the small section of footway that was left over.

This footway does not connect to an existing section of footway (as there isn't one on the south side of East Road). Therefore it's removal is sensible as requested by the HA. It is noted that the S278 agreement will provide a new section of footway where there is currently verge on the western side of the bellmouth.

16.7 The scheme also looks to slightly shift the access over to the west to avoid conflict with the access point at no. 78 East Road.

16.8 The representations noting the need for the footway on this side of the road and also those that look for the scheme to address wider issues or request more off-site works are noted, however the majority of the footway on the east side of the road was removed in application 202492 and this application simply looks to remove the section around the bellmouth (as noted as very likely in the previous report).

16.9 Pedestrian access to the commercial/doctors surgery area will be facilitated by using the footway on the western side of the access road and which can be crossed further into the new estate near the proposed speed table. A walkway/cycle way then affords onward movement south – this is all very much like the approved scheme. The Highway Authority are happy with this. The scheme is therefore held to comply with Development Policy DP17 and WMNP Policy WM12 both of which require development to provide safe access for all.

Impact on Setting of LB

- 16.10 The shifting of the access slightly towards the listed Brierley Hall is not held to have a materially different impact on its setting compared to the approved reserved matters layout. Removing the small remaining section of new footway that does not connect to an existing footway and therefore serves no purpose is a material improvement to the access point in visual amenity terms however, and this is especially positive close to a listed building. The scheme therefore complies with sentiments of Development Policy DP14 and WMNP WM26 which requires development to preserve or enhance the significance of the heritage assets, their setting and the wider built environment in line with the statutory duty (s.66(1) PL (LB & CA) Act 1990.

Retention of No.43 Seaview

- 16.11 The fundamental reason for this Section 73 application is to retain the existing dwelling at No.43 Seaview Avenue. This was originally proposed to be demolished to facilitate the shared pedestrian and cycle route from the south of the site to Seaview Avenue. Following further investigation it is clear that there is sufficient plot width at 43 Seaview to provide this cycleway without demolishing the dwelling.
- 16.12 This application still seeks an adjustment to the Seaview Avenue access, proposing to shift the access point and pedestrian gateway further to the south of No.43 Seaview Avenue and reduce the width of the shared (pedestrian and cycle) pathway to 3.5m, in line with the Essex Design Guide.
- 16.13 This pathway will permanently serve as an attractively landscaped pedestrian and cycle access only, which will allow permeability of the site and connectivity for local residents. It will therefore prevent the development being a cul-de-sac for pedestrians and cyclists in line with WMNP 29 which seeks to maintain or create a sense of place and/or local character avoiding, where possible, cul-de-sac developments – although as previously approved it is noted that this scheme will be a cul-de-sac for car users. Once finalised, the pathway will be surfaced with block paving, which alongside appropriate planting, is intended to create an attractive gateway into the site on foot or bicycle. Some existing mature trees will also be retained along the route (which will be discussed below), which alongside additional planting, will encourage local wildlife and provide ecological benefits.
- 16.14 It is envisaged that coastal planting species will be delivered, which alongside appropriate lighting, will deliver a safe and desirable route on foot or cycle alike. As depicted in the indicative landscaping plan high quality and well considered landscaping will be delivered, providing the benefits outlined above. The overall planting style of the scheme will be coastal, which is addressed by introducing specific coastal planting species such as *Armeria maritima* (sea thrift), *Eryngium varifolium* (sea holly), *Limonim latifolium* (sea lavender), and combining them with swathes of ornamental grasses to create a flowing planting scheme. The

Landscape consultants say this is inspired by the movement of flocks of starlings.

- 16.15 The impact this change would have on the street scene has been at the forefront of officers minds since the idea was tabled. Following discussions, the pedestrian gateway has been well considered and an indicative sketch based on the current proposals demonstrates that the route will still feel inviting, spacious and green and will encourage modes of sustainable transport. It is therefore considered that this change is acceptable. The scheme is therefore held to constitute good design, be beautiful as required by the NPPF (2021) and WMNP Policy WM 29.

Impact on Trees

- 16.16 It is accepted that this scheme will bring the footway/cycleway closer to protected trees sited on the boundary with the neighbour than the approved scheme. It is also noted that as set out in a number of the representations, a 'temporary' road has been installed in order to facilitate the construction of the approved/implemented scheme beyond. This road is not in the position as previously approved (as the dwelling at 43 is still standing) nor is it quite in the position that is intended. It is wider than the 3.5m required for a cycleway footway which it will be returned to eventually.
- 16.17 It's construction is unfortunately likely to have caused some damaged to the roots of the protected trees as the temporary road/track is well within the Root Protection Areas (RPA's) of the trees. This was reported to the Enforcement Team but as the temporary road was constructed in one go the damaged had already been done.
- 16.18 This has been discussed with the Arboricultural Officer in some detail. He asked for the applicant's Arboriculture Consultant to consider the best way to move this scheme forward in the best interests of the protected trees. They suggested the following:
- *Regarding the methodology for removing the temporary surfacing, we would use hand tools or, under supervision by an arboriculturist, by mechanical means, ensuring the soil level is not disturbed. If any roots are found, these would be covered to prevent them drying out. We would work on the surface itself working backwards, away from the tree, and would not enter soft ground once exposed without adequate ground protection installed. Once cleared, we can then install the no-dig surface, in-line with the chosen manufacturer's installation guidance.*
 - *We note that the submitted addendum report does not advise what, if any, impact may have occurred regarding potential impact on the stability of the tree or damage to roots. As such, we have liaised with our Arboricultural Consultant for advice on the most appropriate way for this to be successfully investigated. We propose:*

1. *Investigation works, to be undertaken by a suitably qualified team, to comprise a root survey with excavation along the edge of the works closest to the tree with hand tools and an air spade (if required). The aim of this would be to find and identify any damaged roots and the establish the diameter of any said roots to ascertain how much, if any, damage may have been caused to the tree. The LPA Tree Officer may of course oversee any investigation works and/or attend site once excavations are completed to discuss and agree any mitigation measures should they be required.*
2. *Following the undertaking of investigation works, we will set out a scheme of appropriate mitigation measures as required, to be agreed with the LPA. Whilst we cannot offer and agree a specific mitigation strategy until it is ascertained whether potential damage has been caused, possible mitigation measures for any severed/damaged roots could include the pruning / cleanly cutting the roots in question with appropriate tools, and monitoring of the tree over a 18-36 month period, for example. If any compaction has occurred, potential mitigation could include the addition of well-rotted mulch on top of the affected area and a light air spade to effectively work this into the ground. However, the mitigation measures appropriate to this specific scenario can only be agreed post investigative work being carried out.*
3. *In respect of the S73 application, we could agree to an additional condition on the matter, if desired, to provide reassurance that the path of action outlined above will be implemented in accordance with the agreed strategy.*

16.19 This plan of action was set out to the Council's Arboriculture consultant and he has agreed with this. A condition to ensure that this occurs is therefore suggested. The scheme will therefore comply with Development Policy DP1, Core Strategy Policy ENV1 and WMNP Policy WM 22 which, at criteria iii. Requires development to retain important landscape characteristics including trees and ancient hedgerows and other prominent topographical features.

Other Changes

16.20 This scheme proposed a number of other changes to the scheme. As submitted this scheme proposed changes to the dwellings that are closest to the Seaview Ave boundary (but separated by a planting belt). This resulted in a number of objections from neighbouring dwellings and West Mersea Town Council (WMTC). Following detailed discussions with officers and also with WMTC the applicants have almost reverted to the approved layout (with some minor changes). A car park area next to Farthings Chase that lacked surveillance and was considered to be fundamentally unacceptable has been removed and the previous layout reinstated in that area. As noted previously WMTC are now broadly content with the scheme.

16.21 A number of other minor changes were suggested as set in detail by the design addendum. Following consultation with the in-house urban designer, they have been reversed where requested or left as is where the applicants have justified it and request the scheme determined as it is.

The changes are:

16.22 The parking courtyard area has been removed (as noted above), reverting back to the 'T shaped' driveway arrangement similar to the approved scheme. As such, house types and grouping of units have been shuffled around this area and offer an improvement to the street scene and design of the development compared to the both the approved layout and previously.

- The tenure split and extent of house types remain the same across the site, with the exception of 1 no. additional 5 bed unit and 1 no. less 4 bed unit (private). The affordable housing split remains as already approved.
- Corner turning properties have been re-introduced (plots 49 and 50) to improve the street scene and address the road more successfully.
- Double garages introduced to plots 61-63 (previously these were car ports), to create a more solid and continuous frontage to the primary street.
- Some rear garden boundaries have been adjusted but all still meet or exceed minimum standards.
- The parking provision for plots 39 & 42 has been reconsidered in response to comments from Urban Design. As such plot 39's garage has been moved to the rear of the property, and plot 42's garage has been pushed forwards to reduce car dominance upon the approach into site.
- Minor adjustments to boundaries made, considering consultee comments from the Landscape Officer.
- The Urban Design Officer raised concern over parking provision; although the applicants have increased the number of garages across the site, these do not meet size standards and therefore cannot be counted as parking spaces. The parking provided remains in line with policy.
- For avoidance of doubt, there is no change to the western boundary landscape buffer proposed, and this will still be delivered.

A number of other minor adjustments to the layout are proposed, with a view to improving upon the consented scheme following further technical design development, including:

- Emergency turning areas to southeast corner of the site further reviewed and adjusted to ensure they can effectively accommodate emergency vehicles.

Locations of SUDS basins revised following technical review therefore there are no longer swales running through the site and there are no conflicts with the proposed footpaths (as suggested by the Landscape Officer).

- Footpath routes reviewed and pedestrian only connection to Cross Lane provided. This connection is now shown as a rolled gravel surfaced footpath.
- The footpaths through the central public open space spine are also to be surfaced in rolled gravel (or similar), and the emergency access path (near plots 62 & 68) has been tweaked to create a more legible and attractive route for pedestrians.
- Following discussion with case officer it was agreed that the 'kick-about area' label can be removed off the plan, as there will be plenty of open space remaining for informal 'kick abouts', and the scheme is consistent with the S106 requirement for a Neighbourhood Equipped Area of Play on site with an appropriate offset from properties.

- The Landscape Officer commented that the 1.8m brick wall enclosure and on-plot close board fence was not shown in the key – for avoidance of doubt, these are picked up in the ‘detailed layout’, to be read alongside the ‘development layout plan’.

16.23 House type Changes:

Finally, as a result of internal adjustments to the approved house types, there are some elevational adjustments sought, as summarised below. There have been no changes proposed to these from the initial submission of plans in September.

The elevations of these house types however have been updated (in the Dec 21 submission) to match the approved materials palette for the scheme for consistency.

For clarification, in response to a query raised by the Council officers, the insertion of Velux rooflights into house types 2014, 2089, 2200 is to provide natural light to the loft space only, and City & Country will not be building stairs from the second floor to loft space (and subsequently the submitted floorplans show 2 storey houses). This will be controlled by a new condition to ensure that changes to utilise the loft space in the future by prospective purchasers will follow the normal planning approvals process.

16.24 The Urban Designer has provided comments set out below. The developers have responded to those in *italics* and the case officer’s responses to both in planning balance terms follow:

- The originally approved integrated sustainable drainage system appears to have been replaced by two large detention basins. This diminishes a degree of the character and sense of place established by the approved scheme. *The revised swale locations enable residents to have more usable POS green spaces, as they are more contained – the previous scheme had drainage basins running down the central spine, which would be empty for the majority of the time and reduce the amount of circulation/usable open space.* Case Officer – on balance and whilst the approved scheme is optimum, the amended scheme does allow more space for play/movement and less conflict with the footpath, so on balance is acceptable.
- House-type HA-Aa appears incoherent as a pair of mirrored semi-detached units. In instances where this occurs it should be replaced by house-type HA-A, at least in part. *This arrangement has already been approved under the approved scheme (202492) – specifically plots 30 & 31, 59 & 60, 61 & 62. Furthermore, this specific arrangement occurs less on the S73 scheme (only 2 pairs of this arrangement of semis proposed, rather than 3). Given that this type of semi-detached unit has already been approved I do not see that there is an issue.* Case Officer – this point is accepted.

- Areas of POS to the side of dwellings have been enclosed. *This was to address comments that 'HT 2089 & HT 2200 show secondary doors opening onto the public realm' and reducing ambiguity about how the space to the sides of these properties were treated. The landscape officer is comfortable with the latest boundary treatments to these plots, which offer attractive estate railings.* This diminishes the open character of some areas of the site, reduces the quantum of open space and fails to resolve the duality of the units with two public facing entrances (will also likely result in future pressure to fully enclose these areas). *Firstly the S106 Agreement sets out that the site is to provide at least 2.8ha of POS; the s73 layout provides 3.21ha of POS, in excess of the site specific requirement, and still provides 0.12ha more POS than the approved scheme. Therefore there is not an overall reduction in POS across the site. Secondly, condition 12 of 202492 sets out that future plot purchasers would have to seek permission from the LPA for installation of any additional boundaries/ enclosures where fronting a highway/footpath, so in any case this would be down to the LPA to determine on a case-by-case basis, should the individual purchaser want to seek to pursue a change in boundary treatment down the line. C&C do not therefore believe that this approach is problematic.* Case Officer - On balance this is accepted as the Council will have control of additional boundary treatments via the removal of PD.
- The above also appears to have led to revised approach to the enclosure/demarcation of public and private spaces. i.e. amended use of hedging and estate railings, loss of knee rails. The original approach and placement applied a logic that contributed to the road hierarchy and individual character areas within the site. As a result, the revised approach further diminishes a degree of the character and sense of place established by the approved scheme. *Please refer to revised landscaping strategy Rev Z (which is currently being finalised to address two minor comments from the Landscape Advisor), that has been agreed with the landscape officer.* Case Officer - On balance this is acceptable.
- The reduced use of the second brick type, reduces the degree of visual interest and contrast it provides, Thus diminishing its contribution the road hierarchy and individual character areas within the site. *The approach to materials follows the approved plot by plot materials schedule (as approved under 211686) and the established approach.* Additionally, two pairs of bricks are listed in the legend as "50/50", this is unclear and ambiguous. *The 50:50 brick pairing is due to supply issues with one of the initially approved bricks – the detail is currently being determined under 213504, which will provide greater certainty on the brick manufacturer etc. The details of external materials is an element that is reserved by condition.* Case Officer - On balance this is acceptable.
- Changes to more common/standard colours for windows, doors and rainwater goods also diminish the approved design aesthetic. *For*

avoidance of doubt, materials changes are not sought under this s73 application. The details of materials have already been approved through discharge of conditions (211686) against the approved scheme. The elevations were therefore updated to reflect the approved materials for consistency. Case Officer - This point is correct and is therefore acceptable.

The points raised by the in-house Urban Designer have been discussed with him in light of the developers responses. Whilst they are all valid concerns, the developer's responses are also valid and the Council must be alive to the planning history, the elements of the scheme already approved via condition and the commercial realities of bringing this site forward. In particular the construction industry is facing a national materials supply shortage therefore the Council must be flexible in that respect. In the planning balance it is not held that these changes to the scheme materially degrades the scheme to the point that warrants or could sustain a refusal.

The Affordable Housing

- 16.25 A number of representations note changes to the AH and its grouping.
- 16.26 In fact this is very similar to what was previously approved. Whilst it is grouped together as it was before this is only really appreciated in plan view. It is the same in type and mix. The applicants are not providing more affordable housing (AH) as has been suggested (though officers suggest it would not be a negative point if they were) and in street scene terms there is still market housing in amongst in the AH as you travel along the road. For example, if you travel south along the spine road you would pass market housing, then affordable housing, then market housing. If you turned west you would enter an area with affordable housing on both side of the road and then you would pass through that into an area of market housing.
- 16.27 It is accepted that the AH is not 'pepper-potted' throughout the development as requested by the WMNP Policy WM4 but it never has been and is not on the scheme currently being implemented. The benefit of this approach is that it keeps the AH in the earlier phase of construction (the Eastern/Cross Lane side of the site still being under significant archaeological investigation) and will therefore be delivered early on to meet the AH need.
- 16.28 It is clear as with previous application, the neighbours would like the AH set over towards Cross Lane, but that matter has been dealt with in some detail at the time of the first reserved matters approval ref:200960. That aspiration is therefore not possible at this time.

Impact on Amenity

- 16.29 The changes to the East Road access will not have a material change in amenity terms as the change is very minor.

- 16.30 The change to the Seaview Road access point does bring the pedestrian footway/cycleway closer to the neighbour to the south so this must be carefully considered. As there is still scope for good quality planting as shown in the relevant section of this report, it is not considered that the movement of position will cause an increase in harm when compared to the approved scheme. It will not result in a material increase in use of the access point (noted to be only used by pedestrians and cyclists) and therefore is not foreseen to be harmful. It will be lit by low level lighting (secured via the landscaping condition) to minimize light pollution in line with WMNP 28.
- 16.31 The various minor layout tweaks have also been considered. It is noted that the landscape buffer that was offered at Reserved Matters stage along the boundary with Seaview Ave (including Farthings Chase) remains. This is not a policy requirement but was provided by the applicants in the spirit of neighbourliness. The Seaview Ave back-to-back distances are far in excess of the adopted policy in the Essex Design Guide. The scheme (as approved) is still orientated to sit comfortably around the Farthings Chase dwellings. Therefore this scheme as amended is acceptable in that regard.

Climate Emergency

- 16.32 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the 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. Consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework.
- 16.33 It was considered that this scheme comprised sustainable development at the outline stage and that is still the case with this section 73 submission. As was intended at outline stage, the scheme has a layout with large areas of open space, room for tree planting that will be secured by condition and a layout that prioritises the pedestrian and cyclist. It is considered that the application represents sustainable development.

Deed of Variation

- 16.34 As part of this S.73 application, the applicant are suggesting a Deed of Variation to the existing S106 Agreement to link this application to the original S106 obligations.
- 16.35 This seeks to correct one inconsistency within the original S106 Agreement which is an additional financial sum in respect of the Healthcare Contribution so that the contributions are all based on a net increase of 101 new build dwellings. Previously, the Healthcare Contribution was calculated on an increase of 100 dwellings only.

- 16.36 Although there is a very small change proposed to the private house mix (1 no. additional 5 bed unit, and 1 no. less 4 bed unit), this does not affect any of the other financial contributions already agreed in the existing S106 Agreement.
- 16.37 The Community Contribution was based on an average standard of 2.3 residents per dwelling (and therefore not calculated by a specific unit mix) and the RAMS Contribution prescribes a cost per dwelling, so this also remains unaffected.
- 16.38 The Healthcare Contribution was also calculated on the basis of the standard 2.3 residents per dwelling on average, but the financial contribution is proposed to be amended for reasons set out above.
- 16.39 The Archaeology Contribution and Open Space Maintenance Sum remain unaffected by this application.

17.0 Conclusion and Planning Balance

- 17.1 To summarise, this scheme will align the East Road access point with the requirements of the S278 agreement. It will allow the retention of an existing dwelling and will therefore increase the quantum of development on site by one dwelling indirectly. It will ensure the early phased delivery of the on-site AH whilst the very complex archaeological works are still being undertaken on the eastern side of the site.
- 17.2 Essentially this scheme is still an intelligent and robust proposal that makes good use of the opportunities of the site in delivering a relatively low-density mixed use scheme. It incorporates some worthy design features that aid placemaking and protect the amenities of neighbouring properties.
- 17.3 The planning balance tips strongly in favour of an approval.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:
- 18.2 APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions set out below.
- 18.3 PLEASE NOTE: It is noted that the following draft conditions also note the condition they will replace/amend on either the outline or the reserved matters application, as a number of these are currently with the Council for discharge and therefore may become compliance conditions by the time the Deed of Variation is engrossed so the decision can be issued. Delegated Authority is therefore requested to rework the conditions below as applicable.

Draft condition 1
(condition 1 of outline permission & condition 3 of RM)

The 'reserved matters' relating to APPEARANCE, LANDSCAPING, LAYOUT and SCALE are to be delivered in accordance with the following approved plans:

- CC-336-AJ01 Rev B - Proposed access to East Road
- CC-336-AJ02 Rev A - Proposed access to Seaview
- CC008-PL-02 rev Zd Detailed Layout
- CC008-PL-03 rev Zd Color of Materials
- CC008-PL-06 rev V Garden Areas
- CC008-PL-11 rev B HA Location
- West Mersea Revised Phasing Plan Rev B
- CC008-ST-01 Rev L Proposed Street Elevations A, B & C
- CC008-CP-01 rev Zp Dev Layout
- CC008-PL-04 rev Za Landscape
- CC008-Apt1-01 Rev E HA APT 1 Plans
- CC008-Apt1-02 Rev F Apartment 1 Elevations
- CC008-Apt2-01 Rev F Apartment 2 Plans
- CC008-Apt2-02 Rev F Apartment 2 Elevations
- CC008-HA-C-01 Rev I Plans & Elevations
- CC008-HA-D Rev D Plans
- CC008-HA-D-02 Rev E Plans & Elevations
- CC008-HT-1286-01 Rev C Plans & Elevations
- CC008-HT-1596-01 Rev A HT-1596 Plans
- CC008-HT-1596-02 Rev C Elevations
- CC008-HT-2014-01 Rev A HT-2014 Plans
- CC008-HT-2014-02 Rev C HT-2014 Elevations
- CC008-HT-2089-01 Rev B HT-2089 Plans
- CC008-HT-2089-02 Rev B HT-2089 Elevations ps
- CC008-HT-2200-01 Rev A HT-2200 Plans
- CC008-HT-2200-02 Rev B HT-2200 Elevations ps

And in accordance with the reserved matters details approved under reference 202492:

CC008-910a-01 Floor Plans & Elevations Rev E
CC008-HT-1016-01 Floor Plans & Elevations Rev C
CC008-1285a-01 Floor Plans & Elevations Rev E
CC008-1285b-02 Plans & Elevations Rev A
CC008-1285c-03 Floor Plans & Elevations Rev A
CC008-1465-01 Floor Plans Rev C
CC008-1465-02 Elevations Rev G
CC008-1465-03 Elevations Rev A
CC008-1683-01 Floor Plans Rev A
CC008-1683-02 Elevations Rev E
CC008-1747-01 Floor Plans Rev A

CC008-1747-02 Elevations Rev F
CC008-Aa-01 Floor Plans & Elevations Rev A
CC008-A-01 Floor Plans & Elevations Rev E
CC008-HA-B-01 Floor Plans & Elevations Rev G
CC008-BT-01 Boundary Treatment Details Rev 00
CC008-SU-01 Surgery Plans Rev 00
CC008-SU-02 Surgery Elevations Rev 00
CC008-CO-01 Commercial Plans Rev 00
CC008-CO-02 Commercial Elevations Rev 00
CC008-CP-01 Single Carport - Store Rev 00
CC008-CP-02 Double Carport - Store Rev 00
CC008-CP-03 CP1 Double Carport Side Rev 00
CC008-CP-04 CP2 Single Carport Side Rev 00
CC008-CP-05 CP3 Double Carport Link Rev 00
CC008-CP-06 CP4 Single Carport Link Rev 00
CC008-CP-07 CP5 Double Carport Rev 00
CC008-PG-01 2 & 3 Bay Parking Pergola Rev A
CC008-PG-02 4 Bay Parking Pergola Rev A
CC008-SG1-01 SG1 Single Garage Floor Plans & Elevations Rev 00
CC008-SG2-01 SG2 - Double Garage Floor Plans & Elevations Rev 00
CC008-TG1-01 Triple Garage Floor Plans & Elevations Rev 00 001.

Reason: To clarify the plans that are approved in the interests of proper planning.

Condition 2 of outline permission – remove

~~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.~~

Remove condition 2.

Condition 2
(condition 3 of outline permission)

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

Reason: To comply with the Town and Country Planning Act 1990 (as amended).

Condition 3
(condition 4 of outline permission)

The scheme must be delivered in accordance with the following approved access plans:

- Site Location Plan - 17003/OPA1-001
- CC-336-AJ01 Rev B - Proposed access to East Road
- CC-336-AJ02 Rev A - Proposed access to Seaview

Reason: To clarify the plans that are approved in the interests of proper planning.

Condition 4

(condition 5 of outline permission)

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.

(condition 6 of outline permission) - remove

~~Any reserved matters application seeking approval of scale and layout shall include a detailed schedule of the proposed housing mix, to be agreed by the Local Planning Authority through the approval of that reserved matters application. No development shall commence until the housing mix schedule has been agreed as part of the reserved matters and the development shall be carried out in accordance with the approved details. The detailed schedule shall include the following: >The plot number, >The type of dwelling, >The number of storeys, >The number of bedrooms and bedspaces, >The size of the outdoor private amenity space, >The number and sizes of parking/garage spaces provided~~

Condition 5

(condition 7 of outline permission)

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.

Condition 6
(condition 8 of outline permission)

The development shall not commence above damp-proof course level until a scheme comply with for the provision and implementation of electric vehicle (EV) charging points (Electric Charging Points Statement - Feb 2021 (updated April 2021) has that has already 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.

Condition 7
(condition 9 of outline permission)

No works shall take place until the implementation of a programme of archaeological work has been secured, is to be carried out in accordance with an approved 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.

Each archaeology area (as defined in the WSI) 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).

Condition 8
(condition 10 of outline permission)

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to: Limiting discharge rates to not exceed the existing greenfield runoff rate from the site for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change. Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus- 40% climate change event. Provide the inclusion of 10% urban creep. Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event. Final modelling and calculations for all areas of the drainage system. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. Detailed engineering drawings of each component of the drainage scheme. A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features. A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason: To ensure that flood risk is not increased elsewhere by development.

Condition 9
(condition 11 of outline permission)

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

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the . Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 10
(condition 12 of outline permission)

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.

Condition 11
(condition 13 of outline permission)

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.

Condition 12
(condition 14 of outline permission)

No works shall take place above damp-proof course level until an The development shall be carried out and maintained in accordance with the approved Ecological Enhancement and Mitigation Plan (EEMP) (Ecology Enhancement and Mitigation Plan by The Ecology Partnership (Aug 2020) .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.

Condition 13
(condition 15 of outline permission)

Development shall be carried out in accordance with Arboricultural Implications Assessment Addendum OAS/18-019-AR01 Rev E, unless otherwise agreed in writing with the LPA.

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

Condition 14
(condition 16 of outline permission)

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.

Condition 15
(condition 17 of outline permission)

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 (although it is noted that this is to be used for an 18 month temporary period (from first use) for sales and light residential traffic) 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

Condition 16
(condition 18 of outline permission)

The development is to be carried out in accordance with Bus stop specifications and program as per approved VD20319-100-, and the works are to be installed prior to first occupation, unless otherwise agreed in writing by the LPA. . 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.

Condition 17
(condition 19 of outline permission)

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.

Condition 18

(condition 20 of outline permission & condition 5 of outline permission)

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

Condition 19

(condition 21 of outline permission)

The development shall be carried out in accordance with the approved Construction Method Statement (CONSTRUCTION METHOD STATEMENT V.2 and plan CC008-PL-04.001 REV D), as already 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.

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.

Condition 20

(condition 22 of outline permission)

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.

Condition 21

(condition 23 of outline permission)

No fires may be lit on site at any time.

Reason: In the interests of neighbouring amenity.

Condition 22
(condition 24 of outline permission)

No works shall take place except in complete accordance with Delta Simons, Geo-Environmental Assessment, Brierley Paddocks, West Mersea, Issue 2, Final, Ref. 17-0806.03, dated 3/7/20

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

Condition 23
(condition 25 of outline permission)

If the Investigation and Risk Assessment submitted under Condition 24 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.

Condition 24
(condition 26 of outline permission)

Following completion of measures identified in the approved remediation scheme (Delta Simons, Geo-Environmental Assessment, Brierley Paddocks, West Mersea, Issue 2, Final, Ref. 17-0806.03, dated 3/7/20.), 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.

Condition 25
(condition 27 of outline permission)

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 24, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 25 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.

Condition 26
(condition 28 of outline permission)

If the Investigation and Risk Assessment submitted under Condition 24 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 24.

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.

Condition 27
(Condition 4 of RM conditions)

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

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

- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Retained historic landscape features and any proposals for restoration.
- Planting plans.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.
- Position of footpaths and connection to Cross Lane.
- The full details of a 2m high close boarded timber fence along the full length of the western site boundary with Seaview Avenue.

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

Condition 28
(condition 4 of RM conditions)

No above ground works shall take place until full details of the proposed landscape buffer/tree belt along the western site boundary comprising a minimum of 5m in depth have been submitted to and approved in writing by the Local Planning Authority. These details shall include, as appropriate:

- details of all associated walls, fences and railings;
- planting plans;
- schedules of plants, noting species, plant size and proposed numbers/densities;
- implementation timetable and management proposals.

Reason: To safeguard the provision of amenity for existing and proposed residents.

Condition 29
(condition 6 of RM conditions)

The scheme must be carried out in complete accordance with the Spectrum Acoustic Consultants report ARC7086/20369/First Issue/Revision 1 10.12.20

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the existing residents by reason of the traffic entering and leaving the site. This report was submitted to discharge the condition on application 200960 and therefore this condition is needed to ensure it is carried over to the new reserved matters approval.

Condition 30
(condition 7 of RM)

No external facing or roofing materials shall be used in the construction of the development hereby permitted except those that have already been approved by the LPA. Such approved materials shall be those used in the development, unless otherwise agreed in writing by the LPA.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

Condition 31
(condition 8 of RM)

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution.

Condition 32
(condition 9 of RM)

Prior to the commercial or surgery element of the development hereby permitted coming in to use, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

Condition 32
(condition 10 of RM)

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

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

Condition 33
(condition 11 of RM)

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

Condition 34
(condition 12 of RM)

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

Condition 35
(condition 13 of RM)

Notwithstanding the provisions of the Use Classes Order (1987 as amended) or any subsequent replacement statutory instrument, the surgery building as shown on the approved plans shall be retained for a doctor's surgery/medical purposes permanently. The commercial unit as shown on the plans shall be retained as commercial uses permanently. Those being:

- (a) as an office
 - (b) for research and development of products or processes, or
 - (c) for any industrial process, being a use which can be carried out in any residential area
- without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

No changes to other uses are permitted without the benefit of a full planning application.

Reason: To ensure the scheme as has been assessed with the provision of these elements in place and it has been approved on that basis. These uses are needed to secure the provision of employment opportunities and local healthcare facilities in conformity with the Emerging Local Plan. Any other uses would need careful assessment by the LPA to ensure they did not cause material harm to neighbouring amenity and were acceptable in policy terms.

New Condition 36 - Seaview Ave Access Works

No later than the 31/07/2023, the temporary access serving the marketing building that has been created at the Seaview Road access point shall be carefully removed in accordance with the AIA addendum (OAS/18-019-AR01 Rev E) before being adjusted and narrowed to a width of 3.5m to provide the permanent pedestrian/cycle only route as shown on the approved drawings. No later than 31/07/2023, this route shall be bollarded at either end to prevent vehicular traffic passing along this pedestrian/cycleway. The shared pedestrian/cycleway route shall be retained as such with no vehicular traffic allowed to pass along it, in perpetuity.

Reason: This condition will ensure the temporary access track is removed without causing damage to the TPO'd trees on the boundary and to ensure that the shared pedestrian/cycleway is delivered in line with the outline permission as a non-vehicular access.

New Condition – 37 Loft space for stage only

No second floor living accommodation is hereby approved on any of the dwellings. The loft spaces shall not be used for any purpose other than storage.

Reason: This is the basis on which the application has been made. The conversion of any of the loft spaces to habitable accommodation will require the benefit of planning permission. This is to enable the LPA to assess the impact of an conversion to neighbouring amenity to both existing neighbours and neighbours on the development site.

19.1 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

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

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