



Application No: 160825

Location: Colchester Northern Gateway, Land at Cuckoo Farm West, off United Way & Via Urbis Romanae, Colchester, Essex

Scale (approx): NOT TO SCALE

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7.2 Case Officer: Bradly Heffer**MAJOR**

Site: Land at Cuckoo Farm West, off United Way & Via Urbis Romanae, Colchester, Essex

Application No: 160825

Date Received: 13 April 2016

Agent: Mr Paul Belton, Cartas Jonas (incorporating Januarys)

Applicant: Mr Chris Goldsmith, Turnstone Colchester Ltd

Development: Erection of use class A3/A5 restaurant/hot food takeaway units (in the alternative), erection a use class C1 hotel, erection of use class D2 multiplex cinema, erection of use class D2 leisure units, erection of a use class A3/D2 restaurant/leisure uses (in the alternative), provision of a landscaped piazza that shall include associated landscaped areas, erection of an ancillary multi-storey car park, provision of separate drop-off/parking areas, the provision of cycle/pedestrian link to tower lane and associated works including the erection of substations and associated infrastructure apparatus.

Ward: Mile End

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major full planning application, elements of which are a departure from the adopted Local Plan, on an area of land that is currently owned by Colchester Borough Council, that has received objections and which is recommended for permission. Furthermore, in the event that the Officer recommendation is agreed by Members it would also be necessary to secure a s.106 Agreement to mitigate impacts of the development. Members have to endorse a proposed commitment of the Council to be party to an agreement of this type.

2.0 Synopsis

2.1 The issues explored below are the planning context of the application site established through its land use allocation and the previous planning history, together with material considerations pertaining to the planning application submission. In recognising that elements of the proposed development are a departure from the adopted Local Plan it is considered that, on balance, material considerations merit a recommendation of approval of the planning application. If Members agree with the Officer recommendation, then it will also be necessary for the proposal to be referred to the Secretary of State under the current call-in procedure.

3.0 Site Description and Context

- 3.1 The site for this proposal (approximately 4.97 hectares in size) is an area of land that forms part of the town identified as the Colchester Northern Gateway (previously known as Cuckoo Farm). Specifically the bulk of the site is located adjacent to the Weston Homes Community Stadium. Immediately to the north the site is bounded by junction 28 serving the A.12 trunk road, while to the east is the third stage of the Northern Approach Road identified as Via Urbis Romanae (VUR). The application site is divided by United Way (which links VUR with Boxted Road). The majority of the site is located to the north of this road, with a linear area of land forming the southern portion of the site that extends from United Way to Tower Lane, which has public right of way and bridleway status. To the south of Tower Lane is the former Severalls Hospital site that has planning permission for residential conversion of some existing buildings, together with new residential development within the grounds.
- 3.2 Generally the site is level, but there are significant differences in height where it meets VUR; the road sitting above the level of the site. United Way is also set at a higher level than the application site – but not as significantly as those roads that bound the north and east.
- 3.3 Currently the majority of the site is given over to grass, it having been used in the past for agricultural purposes. There are also established hedges and trees on the land – reflecting the historic field boundaries associated with the former agricultural use.
- 3.4 To the north of the application site, beyond the trunk road, is the County Council park and ride development, together with a petrol filling station and a fast food restaurant with ancillary ‘drive-thru’ takeaway facility. To the east, on the opposite side of VUR and to the south, on the opposite side of United Way is vacant land. Also located to the south of United Way, and facing the application site is the recently completed David Lloyd tennis leisure centre.

4.0 Description of the Proposal

- 4.1 This full planning application seeks permission for the following:
- Erection of Use Class A3/A5 restaurant/hot food takeaway units (in the alternative) totalling 3 808 sq. m (of which no more than 400 sq. m shall be used as A5 floorspace within a single unit)
 - Erection of a Use Class C1 hotel (80 beds)
 - Erection of a Use Class D2 Cinema (12 screens)
 - Erection of Use Class D2 leisure units (3 286 sq. m)
 - Erection of Use Class A3/D2 restaurant/leisure uses (in the alternative) (688 sq. m)
- 4.2 Members are advised that since the initial submission of the planning application the mix of uses has been revised – specifically with regard to the amount of ‘flexible’ floorspace’. This is explained in supporting information as follows:

‘...The only change that has been made in respect of the mix of uses hereby applied for is in relation to the amount of ‘flexible floorspace’. The original submission sought

permission for 779 sq. m of floorspace within part of the Leisure Curve building and part of the In-line unit building to be flexible A3 or D2 floorspace in the alternative. As a result of the reconfiguration of the leisure curve building, this quantum of flexible floorspace has reduced from 779 sq. m to 688 sq. m. As a result, a slightly higher proportion of the floorspace being proposed is effectively being fixed for either D2 use or A3 use, rather than being flexible space...'

- 4.3 The proposed development would take the form of blocks of built form that would be located on the larger, northern section of the application site. Of these, the eastern-most building would contain the proposed hotel accommodation, located adjacent to VUR and positioned to address this road and its junction with United Way. Immediately to the east of the hotel (between this building and the highway boundary) the space is defined by a reflecting pond that would augment the setting of the hotel building. Located adjacent to the hotel building, to the west, would be a larger building, identified as the Leisure Curve, which would contain D2 leisure floorspace. A service road would be located between the hotel and the Leisure Curve – leading off United Way.
- 4.4 The space between the Leisure Curve and the proposed cinema and A3 restaurant units would be defined by an extensive area that would contain both hard and soft landscaped environments.
- 4.5 The westernmost element of the proposed development would comprise the cinema building, a row of A3 restaurant premises (identified in the submission as the 'In-line units') and car parking facilities to serve the proposed overall development. The cinema building would be the prominent central element within this particular group. The car park facility would be set at three levels and the In-line units would be single storey facilities. To the south of the main area for the proposed development, south of United Way, a linear area of land would contain a shared footpath and cycleway facility that would link United Way with Tower Lane.
- 4.6 The following descriptions of the proposed buildings (included as part of the application submissions) are included in this report for Members' information:

Hotel

'...The form of the Hotel is designed to rise out of the elevated verge between the Via Urbis Romanae and the site rising up to its full five storey scale on United Way – the orientation of the building means that its form is gradually revealed as visitors move south from the junction of the A.12...The expression of the form is amplified in scale by the positioning of a reflecting pond to its front mirroring the profile as it rises...'

Leisure Curve

'...Similar to that of the hotel, the Leisure Curve form rises out of the elevated verge at its northern end revealing its full scale within the central piazza before dipping slightly at the southern end onto United Way...'

Cinema

'...The scale and form of the cinema responds directly to its functional requirements...Two approaches have been taken to break down and soften the scale of the building. As part of the overall form a curved roof profile is designed to create additional height centrally in order to screen the rooftop plant requirement whilst minimising the perceived scale at eaves level. This undulating form is also envisioned as a reflection of the urban edge context and the surrounding landscape contours. At a closer scale the elements of the built form are deconstructed and junctions expressed in a similar way to the Leisure Curve in order to break down its overall mass...Ultimately the positioning of the smaller scale of the inline units in front creates a transition between the human scale of the public realm and the cinema building...'

Inline Units

'...The form of the inline units uses a subtler, undulating roofline to draw the line of movement into the space...The profile of the southern inline block is designed to resolve two edge conditions. In order to present a well-defined active frontage to United Way the curve of the roofline begins at the first apex drawing the eye along a strong southern eaves elevation...'

Car Park

'...The decked car park has a low profile, the maximum height it reaches along the south and west elevations is 7.5 m (including parapet) and therefore is largely screened from the public realm spaces by the other built forms...Where the north and south elevations are revealed as one moves closer to the site, the horizontal form will be broken down by a layering of façade cladding, greening to the elevation and trees and landform in front...'

- 4.7 As well as information submitted to explain the design approach to the buildings the application submission also includes a Landscape Strategy document that explains the approach taken with regard to landscaping proposals. The following extracts relate to the key landscape 'events' of the central space or 'piazza' and the footpath/cycleway link.

Central Piazza

'...the concept is to create a space for opportunities, providing a multi-functional space to allow events and activities to unfold. The central piazza becomes the main focal point of the site and is framed by the vertical light columns and bench seating...the space will be filled with elements to encourage the public to pause within the spaces rather than traversing through the space quickly to one of the building attractions...This design integrates play value within the landscape experience...a lighting strategy is being carefully considered to enable a functioning and enjoyable open space in twilight hours...'

Footpath/Cycleway Link

‘...The new sinuous cycle and pedestrian path is an off-road route for users that provides a link to the Northern site, the stadium and David Lloyd Leisure Club from [the] Severalls site as well as residential communities locally. To help enhance the existing ecology, the route is punctuated by patterned planting of grass, wildflowers and wild shrub species to create a habitat that will increase biodiversity in the area. This not only reinforces the wildlife corridor but creates a vegetative buffer between the roads and buildings. The mass planting of trees to the new cycle/pedestrian path has been created to emulate the woodland effect of Severalls Hospital. This new route has utilised the use of a gap from an existing hedge to the south and will not affect the mature oak tree...’

- 4.8 As well as the specific areas highlighted there are other landscaping elements that have been incorporated into the proposal that contribute to the overall hard and soft landscaping strategy proposed for the site. These include the treatment where it meets United Way and the space identified as the ‘Northern Quarter’ of the site. With regard to the first of these, the plans include the provision of a boulevard landscaping approach – augmented by tree planting that would extend along United Way and VUR. The design approach taken with regard to the ‘Northern Quarter’ is explained as follows:

‘...The public realm space is terminated to the north by a ‘floating’ viewing platform set within a multifunctional structure. The viewing platform is set 4m above the water providing views south through the site towards Severalls woodland and north past the A12 into the countryside beyond. Access is gained to the platform from an elevated walkway to the west which connects to the car park on the upper level. A sinuous slide provides an element of fun for users to reach the bottom and swings out over the water. Alternatively a spiral staircase or sculpted ramp connects the walkway (viewing platform) to the ground plane. The ramp provides a focus for users entering the car park from the roundabout. The bank to the northern boundary will be planted with clear stemmed trees to allow filtered views into central space upon arrival to the site. The column design will allow for art pieces and signage to be incorporated as required in the coming years...’

- 4.9 Due to the nature and extent of the development proposal it is accompanied by an Environmental Statement. The Statement has been submitted to meet the requirements of the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015. Members are advised that details of the application submission and the Environmental Statement are available to view on the Council’s website.
- 4.10 Members are also advised that since the initial submission of the application the scheme has been amended to achieve minor design and layout improvements, namely revision to the roof of the hotel building, alteration of southern end of the leisure curve building and the position of this building in relation to trees to be retained. An independent assessment of submitted information, in relation to the impact of the proposals on the town centre and sequential issues, has also taken place. The findings of the assessment will be summarised further on in this report.

- 4.11 Members will be aware that a reserved matters proposal (160623) that relates to the same application site was considered by the Committee on 17 November 2016. At this committee it was resolved to grant planning permission. The Secretary of State is currently considering whether to call-in this application and the DCLG has consequently requested that this decision is not issued until a decision has been reached. The main differences between the reserved matters application proposal and this full application is the inclusion of the cinema element in this application, together with the alterations to the proposed organisation of floor space allocated between A3 and D2 uses.

5.0 Land Use Allocation

- 5.1 Within the adopted Local Development Framework the site for this proposal is located within a Strategic Employment Zone which itself forms part of the North Colchester Growth Area.
- 5.2 Within the Local Development Framework Adopted Site Allocations document the defined Strategic Employment Zone is subject to a specific policy – SA NGA 3 Employment Uses in the North Growth Area. This policy states:

‘Within the Strategic Employment Zone allocated on the Proposals Map and falling outside the Growth Area boundary, the following uses will be considered appropriate;

- a) Research and Development, Studios, Laboratories, Hi-Tech (B1b), Light Industrial (B1c), General Industry (B2), Storage and Warehousing (B8). Any such development will be restricted by way of condition to prevent change of use to B1a.
- b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans
- c) Indoor sport, exhibition and conferencing centres
- d) A limited amount of retailing only where this is ancillary to another main use in Class B1b, B1c, B2 or B8
- e) Services and facilities to meet the needs of employees in the Employment Zone
- f) Business uses (B1, B1a) only where already consented
- g) At Cuckoo Farm planning permission exists for a range of uses including an hotel (C1), a public house /restaurant (A3/4), a health and fitness centre (D2) and business units (B1).

6.0 Relevant Planning History

- 6.1 The site to which this planning application relates forms part of a larger site that has been subject to several planning applications as follows:
- O/COL/01/1622
Outline application for community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, two storey business unit, employment use, associated parking, transport interchange facilities and landscaping.
 - O/COL/01/1623
Outline application for employment uses.

- O/COL/01/1624
Residential development (approximately 1500 dwellings including conversion of some retained hospital buildings) mixed uses, including community facilities, employment and retail, public open space, landscaping, new highways, transport improvements, reserved route of the Northern Approach Road Phase 3 (NAR3), and associated development.
- O/COL/01/1625
Outline application for replacement roadside services to include petrol filling station comprising associated Class A1 retail shop, re-fuelling facilities, car wash and Class A3 roadside restaurant and lorry park.
- F/COL/01/1626
Detailed application for the construction of the Northern Approaches Road Phase 3 (NAR3) including a new grade separated junction with the A12 and east/west link road to Severalls Lane plus all ancillary highway works (including segregated bus corridor)

A subsequent planning application was submitted for an identical development as proposed under O/COL/01/1622 as follows:

- O/COL/03/0998
Outline application for community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, employment uses including 2 storey business unit, associated parking, park and ride, transport interchange facilities and landscaping.

This application was determined at the same time as the other applications mentioned above.

6.2 Subsequent applications that relate to the site covered by application ref. O/COL/01/1622 are included below:

- F/COL/06/1727
'Section 73 application to vary Conditions 9 and 10 of application O/COL/01/1622 which relates to the need for the implementation of a new junction with the A12 trunk road and Northern Approach Road Phase 3 in advance of commencement or occupation of any of the development elements granted by that consent (i.e. the football stadium in this instance).
- F/COL/07/0294
Variation of condition 47 of application no. O/COL/01/1622
- 071539
New 10 000 seat capacity community stadium with associated facilities and 2no. 5-a-side football pitches, plus associated landscaping, roadworks and car parking.

- 081644
Variation of condition 37 attached to O/COL/01/1622 to allow use of the stadium's internal concourses for the holding of a monthly farmers' market on the first Thursday and an annual Christmas fayre and the variation of condition.
- 151216
Application for approval of reserved matters following outline approval (O/COL/01/1622) (layout, scale, appearance, landscaping, access) for the construction of a racquets, health and fitness complex with associated parking, access and ancillary facilities.
- 152370
Application for removal or variation of condition 27 following grant of planning permission (O/COL/01/1622). Resubmission of 151682.
- 160623
Reserved matters application pursuant to outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400 sq. m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas. This application was considered by committee on 17 November 2016 when it was resolved to grant permission. The decision is currently subject to a holding request by the Secretary of State DCLG pending consideration of whether to call-in the application for determination. A verbal update will be provided at committee on the status quo of this application.

6.3 Additionally, following the outline planning permission for residential development on the former Severalls hospital site, granted under O/COL/01/1624, subsequent reserved matters permissions have been granted as follows:

- 100502
Development to provide 248 residential units (Phase 1)
- 152733
Application for approval of reserved matters following outline approval 151401 for the erection of 730 new build residential dwellings, open space, landscaping, parking, access and associated infrastructure.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 – Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE3 - Employment Zones
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 – People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP10 Tourism, Leisure and Culture
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA NGA1 Appropriate Uses within the North Growth Area
- SA NGA3 Employment Uses in the North Growth Area
- SA NGA4 Transport measures in North Growth Area

7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- External Materials in New Developments
- Cycling Delivery Strategy

Myland Design Statement

- 7.6 Members are advised that the Myland and Braiswick Neighbourhood Plan has been through the examination in public and referendum stages and is due to be 'made' i.e. adopted by Colchester Borough Council towards the end of this year.

8.0 Consultations

- 8.1 The following comment has been received from the Spatial Policy Team:

'The current application is for a site covered by a 2006 approval for the Community Stadium and associated leisure, hotel and restaurant uses. A reserved matters application (160623) is under consideration to secure detailed approval for elements of the outline consent that the current scheme is compliant with, including, inter alia, the restaurants and hotel. The full application also includes a proposal for a cinema which was not explicitly permitted in the original permission.

As planning policy comments to the reserved matters application noted, the issue of the principle of development is not in question as the adopted Local Plan specifically notes the approved uses for the site. Site Allocations Policy NGA3 (Employment Uses in the North Growth Area point g) states 'At Cuckoo Farm planning permission exists for a range of uses including an hotel (C1), a public house/restaurant (A3/4), a health and fitness centre (D2) and business units (B1)'.

The leisure and town centre planning implications of the full proposal are accordingly the key planning policy issues. These have been assessed for the Council by Nathaniel Lichfield and Partners, and this critique provides the basis for planning policy comments on the proposal.

NLP state that Core Strategy Policies CE1 and CE2 pre-date the NPPF and these policies did not form part of the Focused Review carried out by the Council to bring selected elements of the adopted Local Plan into compliance with the National Planning Policy Framework. These policies should be afforded less weight where they are inconsistent with the NPPF, but NLP go on to note that the Council's hierarchy is still an important consideration in determining the location of new Town Centre development. They refer to a recent Secretary of State decision relating to retail development [in] Exeter which supports the view that while the NPPF only sets two specific tests regarding town centre uses, it does expect local plans to fill the gaps around deciding the location of such development by providing a network and hierarchy of centres, further to the criteria in NPPF para 23. In Exeter, this meant that the proposed development was considered to contrary to these aspects of the development plan and the appeal was dismissed.

It is accordingly appropriate for the Council to consider whether the scale and nature of development in Northern Gateway is appropriate in terms of the two specific tests required by the NPPF: the sequential test assessing alternative sites in higher order centres and the impact test assessing likely harm development could have on the network of centres. The hierarchy included in Council policies CE1 and CE2 reflects the direction in [NPPF] para 23 for the Council to 'define a network and hierarchy of

centres that is resilient to anticipated future economic changes'. These policies further the application of the sequential test by setting forth the areas of search and order of preference between centres when applying the sequential approach. The Northern Gateway area is not a designated centre, so appraisal of the scheme needs to involve appraisal of potential alternative schemes in the Town Centre, the preferred location for Town Centre uses, followed by Edge of Centre Locations and Urban District Centres.

Application of the sequential test -

NLP agree that there are only three potential sites which could accommodate the development in higher ranked centres. NLP conclude that Vineyard Gate, in the Town Centre and the Cowdray Centre, edge of centre can be dismissed as sequentially preferable sites. On Tollgate, they conclude that although it is sequentially preferable to the Northern Gateway in locational terms as it is part within and part edge of an Urban District Centre, it would result in a scale of cumulative development for the site that would be inappropriate for the area's place in the spatial hierarchy. NLP state:

The Stane Park development along with the Tollgate Village proposals would create a significantly enhanced retail and leisure destination, and in our view this scale of development will create a sub-regional shopping/leisure destination. The creation of a new sub-regional shopping/leisure destination, in competition with Colchester town centre, is not consistent with the hierarchy set out within the adopted development plan (Policies CE1 and CE2).

The cumulative impact of the scale of development proposed on Colchester town centre will be far greater if the development is concentrated at Tollgate Village. The diversion of linked retail and leisure trips from the town centre to a greatly expanded Tollgate Village will be significantly more harmful than a leisure only development at Northern Gateway. In addition if the development was relocated to Tollgate Village then the fall-back position could still be implemented at Northern Gateway which would lead to an even greater cumulative impact on the town centre. (Paras 2.34 and 2.35)

The Northern Gateway proposal is accordingly considered to have met the sequential test on the basis that the only potentially alternative sequential site at Tollgate can be discounted as unsuitable in impact terms.

Impact –

NLP consider that there is scope for additional cinema seats in Colchester by 2021. They conclude that there is no evidence to suggest the Odeon Cinema would be forced to close due to the loss of trade, and as a result there should be no reduction in local consumer choice. Equally, the Northern Gateway cinema is not considered to jeopardise or delay the Curzon cinema at St. Botolphs. The impact assessment suggests there will be a 38.6% reduction on the existing number of cinema trips in the town centre between 2016 and 2021. As this impact would primarily be in the evening, this is not considered to be significant in the context of the vitality and viability of the town centre as a whole. NLP note, however that the loss of cinema trips in the town centre is a disbenefit of the proposed development that should be weighed against the benefits of the scheme. (Paras 4.11-4.15)

Given that the diversion of trips to the town centre is limited and focussed on evening hours, it is considered that the Northern Gateway proposal would not have an unacceptable impact on Town Centre investment or on vitality and viability.

The applicants have submitted evidence pointing to the general health of the Town Centre, and this conclusion is not disputed by NLP. NLP also note the relevance of other material considerations for Northern Gateway, including the objectives of the Northern Gateway Master Plan Review. The proposals form part of an integrated sports and leisure development scheme for the wider area which relies on cross-subsidy and comprehensive delivery of all elements.

Based on these points and in light of the NLP critique, Planning Policy does not object to the cinema as it would not be of a scale and character that would damage the pre-eminent position of the Town Centre and would further the comprehensive development of the leisure attractions at Northern Gateway.'

- 8.2 The Highway Authority originally queried elements of the Traffic Assessment that accompanied the planning application submission. Following liaison with the Applicant additional information has been provided. Members are advised that the final comments of the Highway Authority will be reported at the Committee meeting.
- 8.3 Highways England has confirmed that it has no objection to the proposal.
- 8.4 The Environmental Control Officer and the Contaminated Land Officer would require the imposition of conditions on a grant of planning permission.
- 8.5 Natural England has confirmed that it has no objection to the proposal on the basis of potential impacts on statutory nature conservation sites. The Council's attention is also drawn to standing advice with regard to protected species and also the opportunity to provide green infrastructure and biodiversity and landscape enhancements to improve the potential ecological value of the site.
- 8.6 ECC as SUDS authority has confirmed it has no objection to the proposal subject to the imposition of conditions on a grant of planning permission.
- 8.7 The Environment Agency has confirmed no objection to the application and has offered advice on drainage and sustainability. A copy of the letter was also forwarded to the applicant's agent by the Agency. Anglian Water Authority did not comment on the proposal but did provide suggested conditions on the reserved matters application 160623. These have also been included in the list of recommended conditions for this application. If any further comments are received these will be reported at the Committee meeting.
- 8.7 Historic England has advised that it does not wish to comment on the application.
- 8.8 When the Council's Landscape Officer was originally consulted on the proposals, additional information regarding landscape impacts was requested. This has since been supplied and the Officer has advised that no objection is raised subject to the imposition of conditions on a grant of planning permission.
- 8.9 Following on from archaeological investigation work being carried out on site and the absence of any finds of significance, the Council's Archaeological Adviser has no comment to make or conditional requirements relating to the proposals.

- 8.10 The Council's Arboriculturalist has confirmed that the proposals as amended i.e. incorporating the minor revision to the position of the Leisure Curve building, would not jeopardise the health of trees that are identified to be retained on the application site.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 Myland Community Council made the following comment:

'MCC is disappointed that our concerns with regard to the proposed car park access road have not been addressed. Our view remains that this is inadequate and will have the potential to create severe traffic problems. It is disappointing that in an otherwise pleasing design the car park access system has been so poorly thought out. We also note that we have yet to have sight of the revised scoping report and are therefore unable to comment on this before the deadline. Whilst MCC has overall support for the project because of these concerns we must confine our response to 'comment' only.'

Officer comment: Members are advised that the Scoping Opinion referred to by the Community Council relates to the Environmental Statement accompanying the planning application. The Opinion establishes the scope of the Statement i.e. the range of issues and impacts to be covered.

10.0 Representations

- 10.1 As a result of notification on the originally-submitted scheme, six representations of objection and two of support were received. The objection representations were received on behalf of the Tollgate Partnership, the Odeon cinema chain, M&G Real Estate, CBRE Global Investors, the Colchester Bus Users Group and Colchester Cycle Campaign. The following summarised points are made:

Barton Willmore on behalf of Tollgate Partnership

All applications should be assessed on their merits and this application requires appropriate justification and assessment against relevant policy matters. The outline permission and reserved matters applications do not represent genuine fall-back positions. The application site is allocated as a Strategic Employment Zone. The proposal will result in the loss of some highest rated employment land without justification and should be refused. The application has failed to undertake an appropriate sequential assessment, including the land at Tollgate West which is sequentially preferable. Both this application and the proposals for Tollgate Village should be considered at the same time to ensure fairness and equitability.

Metropolis on behalf of Odeon

The inclusion of a cinema as part of the development proposals would have a significant implications for the Odeon cinema in the town centre. The application falls to be determined with regard to the requirements of the NPPF and the applicants have failed to meet its requirements. The proposed increase in D2 floorspace above that established under the outline planning permission raises serious concerns regarding the impact on the vitality and viability of the town centre. Information regarding the need for additional cinema screens is out of date and the town centre is clearly the

preferred location for leisure facilities. The town centre would struggle to compete with the proposal.

GL Hearn on behalf of M&G Real Estate

The applicant has failed to justify this town centre use in an out-of-town location. The proposal will have a detrimental effect on the town centre's vitality and viability and investor confidence. Furthermore the proposal will have implications upon the Council's Strategic Employment Land supply – particularly when the implications of the applications at Tollgate Village and Stane Park are taken into consideration.

CBRE on behalf of the owners of the Odeon cinema building

The scale and scope of the proposed cinema operation is not consistent with the adopted development plan for the area and has not been sufficiently assessed through the planning application submission.

Colchester Bus Users Group

The application fails to make any provision for access for persons who do not own a car and is in an inaccessible location. The application is clearly contrary to relevant national and local planning policy and the fact that CBC would have a financial interest in the scheme means that it should not be determined by CBC as planning authority. The pre-application process engaged in by the applicant was meaningless. The fact that the site is located near to the Park and Ride facility does not mitigate the impact of the development as this facility is not available when the proposed uses will be busy.

Colchester Cycling Campaign

The proposal will worsen car dependency and traffic congestion, bad air quality etc. The proposal will also have a detrimental impact on the town centre in terms of cinema and restaurant viability. The scale of the development should be reduced in order to reduce its impact. If the scheme is approved there should be clear line of sight for the foot tunnel and funds should be set aside for a light-controlled crossing of United Way. Pedestrian and cycle linkage between the site and the Severalls housing estate to the south should also be improved.

10.2 The representations of support are summarised as follows:

- Colchester has grown and residents deserve new leisure facilities. This proposal will also increase Colchester's regional draw.
- The development will be easier to access than those in the town centre and will provide employment opportunities.

10.3 The following comment has been received from Ward Councillor Goss

'The application must be heard in front of the Planning Committee for the final decision if recommendation is approval. The application must ensure ample bus and cycling provision is included. The park and ride must call at this development and also other bus services also encouraged to attend the area so bus stops and shelters must be provided please. Adequate cycling provision with paths and safe cycling storage areas must also be included.'

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 The proposed development would be served by 750 car parking spaces and 114 cycle parking spaces. Members are advised that if the *maximum* applicable standards were applied to each of the identified uses, based on the proposed floor spaces, the following would be the maximum number of spaces that would result:

- 2339 seat cinema @ 1 space per five seats – 469 spaces
- 4548 sq metres Gross Internal Area for A3/A5 use @ 1 space per 5 square metres (A3 parking standard) – 910 spaces
- 80 bed hotel @ 1 space per bedroom – 80 spaces
- 3344 sq metres D2 Leisure Use @ 1 space per 20 square metres - 167 spaces

11.2 In total therefore the *maximum* number of spaces that could be required under the Council's adopted standards is 1626.

11.3 The following information in relation to parking is included as part of the planning application submission:

'...The proposed parking provision for the development has been guided by Essex Planning Officers Association (EPOA) Parking Standards 2009, adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009...In total 750 car parking spaces are proposed in the on-site multi-storey car park. This multi-storey car park also includes 38 disabled spaces. Along the hotel access road a further 3 disabled parking spaces and two drop-off parking spaces are provided for the hotel. The total number of car parking spaces is below the maximum number permitted by the EPOA standards. A car parking accumulation assessment presented in Section 7 of [the] TA [Traffic Assessment] indicates that the proposed provision would adequately meet expected demand. A total of 114 cycle parking spaces will be provided within the development. This is split between 14 spaces for the hotel and 100 spaces across the site for the restaurants, active leisure units and the cinema. Justification for the level of proposed cycle parking is provided in Section 7 [of the Traffic Assessment report]...'

11.4 The following comments are made on behalf of the applicant company in relation to ongoing management of car parking on-site:

'...The proposed multi-storey car park will be managed by a car park operator company. It is proposed that the car park will be operated using automatic number plate recognition (ANPR) technology. ANPR cameras would be situated on each entry and exit lane. Payment equipment will be conveniently located in the pedestrian entrance lobbies of the car park. Tariffs will be payable for parking to minimise any potential abuse, however, bona fide customers will benefit from free parking by way of a validation scheme; customers will be able to obtain validation for their stay from one or more of the tenants' outlets that they visit, be it restaurant, cinema or hotel, for example. A car park charging regime will be established that discourages on-site parking by non-site users. For non-customers (including those that do not validate), standard charges will apply for parking. This will ensure that use of the car park by home and away football

fans visiting Colchester United's adjoining ground is suitably controlled. A Car Park Management Plan (CPMP) will be prepared and implemented prior to occupation of the site. An initial CPMP is submitted in support of this application...'

12.0 Open Space Provisions

12.1 The nature of the development is such that there is no specific policy requirement for open space provision to accompany the proposals. That said, Members will note that there is a significant area of open space being provided and this facility will be described in more detail in the body of this report.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones. It should be noted that the issue of impacts of the proposed development on air quality is an element that was considered in the Environmental Statement submitted as part of the planning application. Furthermore this has not given rise to concerns from the Environmental Control team.

14.0 Development Team and Planning Obligations

14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:

- Agreement with regard to target a number of job opportunities in leisure and hospitality on jobseekers/returners/college leavers in the Borough
- Funding to provide three wireless CCTV cameras to cover the site. If the Applicant is to provide cameras agreement would be sought to agree real time monitoring
- Contribution to ensure litter from site does not impact upon amenity outside of the site.

14.2 Members should however note that at the time this report was drafted the mitigation requirements in relation to highways impacts, sustainable transport etc. has not been established. Therefore an update will be provided at the Committee meeting.

15.0 Report

Principle

15.1 Within the adopted Local Plan the application site for this proposal is located within the North Colchester Growth Area (formerly Cuckoo Farm) and forms part of an identified Regeneration Area. Additionally, the site is part of the North Colchester Strategic Employment Zone (SEZ). Previous analysis undertaken on behalf of the Council has established that this SEZ is the highest rated employment site (CBC Employment Land Needs Assessment 2015). In the case of the North Colchester SEZ the relevant policy in the Adopted Site Allocations document of the Local Development Framework (SA NGA3 – Employment Uses in the North Growth Area) identifies the range of uses that would be acceptable in the SEZ as follows:

- (a) Research and Development, Studios, Laboratories, Hi-Tech (B1b), Light Industrial (B1c), General Industrial (B2), Storage and Warehousing (B8). Any such development will be restricted by way of condition to prevent change of use to B1a.
- (b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans
- (c) Indoor sport, exhibition and conferencing centres
- (d) A limited amount of retailing only where this is ancillary to another main use in Class B1b, B1c, B2 or B8
- (e) Services and facilities to meet the needs of employees in the Employment Zone
- (f) Business Uses (B1, B1a) only where already consented
- (g) *At Cuckoo Farm planning permission exists for a range of uses including an hotel (C1), a public house/restaurant (A3/4), a health and fitness centre (D2) and business units (B1). (Officer emphasis).*

15.2 Members will note that criterion (g) of the policy specifically identifies the range of uses that were established through the approval of planning application O/COL/01/1622 as being acceptable within the SEZ. Members will also be aware that the health and fitness centre, approved in principle under the outline planning permission, has subsequently been given reserved matters planning approval and has been completed – the site identified as the David Lloyd tennis facility located to the south of the application site. Lastly the site identified as Cuckoo Farm in the policy is now identified as the Northern Gateway.

15.3 Given the SEZ allocation for the application site, a key issue to be addressed in the consideration of this planning application is the principle of the use of this land for non-industrial purposes, as proposed. In this regard, it is pertinent to note that at a recent appeal decision relating to another a non-conforming land use in a defined SEZ – at Stane Park in Stanway – the Inspector, in allowing the appeal to provide a non-industrial use on the site made the following comments in relation to the provision of employment land in the borough:

‘...The site forms part of a SEZ allocation in the development plan...The Colchester Employment Land Needs Assessment (Nathaniel Lichfield and Partners 2015) is the basis of the emerging local plan to 2032. This identifies a requirement in the range of 22 to 29.8 ha and a supply of almost 77 ha...the current position, as agreed at the Inquiry... is that there are about 65 ha of vacant employment land including SEZ and Local Employment Sites...It was further agreed at the Inquiry that the take up of employment land, based on the last 10 years economic cycle, is in the region of 1 ha per year. The agreed position, therefore, is that there is 65 years’ supply which the Council agreed constituted very substantially more than sufficient land. Based upon the agreed figures, that seems a fair conclusion...’

15.4 Whilst the magnitude of the exact supply of employment land is a moot point, a new employment land study has been commissioned as part of the emerging local plan evidence base. In qualitative terms, a significant supply of employment land is known to exist. In any event, the use of the application site land, for non B-class uses has long established – following the grant of outline planning permission in 2006,

notwithstanding the fact that the application site forms part of the defined SEZ. This current proposal does not therefore seek any further loss of employment land beyond that established by the previous outline planning permission. It is also of relevance that significant parts of the SEZ have been taken up for employment uses e.g. Flakt Woods and there remain significant areas of the SEZ that are available for employment uses.

15.5 Members will also be aware that at the present time the Local Plan is undergoing a Review in order to ensure that a new Plan is in place to serve Colchester until 2033 and beyond. It is the case that as part of the Review of the Local Plan the future development of North Colchester is proposed to include significant leisure, sport and recreation facilities in addition to employment generating uses. Although little material weight can be attached to emerging policy statements at this stage, it is considered useful to include the following extracts for Members' information in order that a proper context for the future aspirations for this part of the town can be established.

15.6 The following statement is included within the Preferred Options document:

'...The North Colchester area has been the subject of various planning applications and development in recent years and this is expected to continue through the plan period. The road infrastructure has already seen significant change with Axial Way, United Way, A12 Junction 28 and the Northern Approaches Road all opened by April 2015. The early delivery of the transport infrastructure allowed Colchester United football club to relocate to the Weston Homes Community Stadium in 2008. The stadium was part of a comprehensive development granted planning permission in 2006. The applications allowed for an element of leisure use as well as employment space to support future housing growth in the area. The uses permitted included the community stadium, health and fitness centre, an hotel, public house and other food and drink uses, some of which are under construction. The mix of uses was permitted to enable funding of the stadium and local road infrastructure...'

Officer comment: the above statement is useful as it highlights the reason why the identified uses such as the hotel, food and drink uses etc. were originally permitted in this location i.e. as a funding source for the community stadium and stage 3 of the Northern Approach Road.

15.7 It is noted that the future approach to land use at the Northern Gateway is proposed to be altered. In relation to the application site the following comment is made:

'...Approximately 4.24 hectares of land adjacent to the community stadium is allocated for mixed use reflecting the planning permission granted in 2006. It is expected that a mixed use leisure and commercial scheme will be delivered to compliment the sport offer elsewhere in the Strategic Economic Area...'

15.8 Additionally, the emerging policy for the North Colchester and Severalls Strategic Economic Area contains the following text in relation to the area to which this planning application relates (identified as Zone 2):

'...The area defined on the policies map as zone 2 will be safeguarded for a mix of uses to reflect the extant planning permission and to provide flexibility. Alternative non-B class uses will be permitted where they clearly demonstrate the potential for job creation and provided that they do not undermine or constrain the main purpose of the

economic function of the wider area. Uses may include an appropriate scale of leisure and commercial space and green infrastructure to enhance connectivity. No retail use will be permitted unless it is ancillary to another use...'

- 15.9 Members are also advised that the Myland and Braiswick Neighbourhood Plan has now been through public consultation and referendum and is due to be 'made' by the Council at a meeting scheduled to take place in December. Considerable weight can therefore be attached to it as a material planning consideration. It is pertinent to highlight relevant statements in relation to the Northern Gateway area in order that the possible future direction of development can be understood. The Plan includes the following comment:

'...MCC and BRA identify the emerging Northern Gateway proposals as having the potential to deliver an array of sport and leisure facilities which will provide much needed opportunities for sport and recreation and which will make an important contribution to the sustainability of the Neighbourhood Plan Area. To that end MCC and BRA will work with CBC to ensure the proposed Northern Gateway sports and leisure development area will help to satisfy resident aspirations. The CBC Sports Strategy and Action Plan, published July 2015 will help to inform these discussions. After all "access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities" is a message at paragraph 73 of the NPPF. There is also a high demand for cultural aspects of leisure on a more local basis, for example performing arts, arts and crafts, further education, cinema and clubs of various types for all ages. These may be catered for in the promised community centres or may need to be found other dedicated venues.

- 15.10 The following policy statement is also included:

SPL1 – In harmony with active lifestyles afforded by greenspace provision MCC and BRA will encourage developers and CBC to enable the provision of sport and leisure facilities, as far as possible on the Chesterwell, Severalls Phase 2 and Northern Gateway developments.

- 15.11 In considering the acceptability in principle of this proposed development taking place on the application site, the current Local Plan contains specific relevant policy by which the application must be judged. This identifies the site as an SEZ and a subsequent employment study for the Council has identified this SEZ as the highest order of this type of site within the Borough. Nevertheless, the site specific policy does recognise a range of leisure uses that were established as acceptable through the planning permission granted under O/COL/01/1622 – identified in a specific criterion. Furthermore the emerging policy base for the site, as highlighted above, does recognise a growing leisure, sport and recreation role for the Northern Gateway location – in addition to its important employment function. As advised, the weight that can be attached to this emerging policy at this stage is limited but it is felt important to advise Members of the developing policy direction.

- 15.12 In relation to the application site, the Council has received two applications for consideration. The first of these is a reserved matters submission that seeks approval for details of the hotel and A3 uses permitted by the outline planning permission, together with landscaping and parking proposals. This application was considered by the committee on the 17.1.16. At this meeting it was resolved to grant permission but this resolution is held in abeyance pending the decision of the Secretary of State whether to call-in the application for determination. Members will be aware that a health and fitness centre has already been approved and erected, identified as the David Lloyd site.
- 15.13 This full application also seeks permission for the hotel element of the development approved at the outline application stage as well as the landscaping and car parking proposals as shown on the reserved matters proposal. The full application differs from the reserved matters proposals in that it includes an increase in the amount of D2 (Assembly and Leisure) development – including the provision of an IMAX multiplex cinema – and a reduction in the amount of A3 floorspace from that established at the outline stage. Notwithstanding the acceptability of the uses established by criterion (g) of the identified policy, given the fact that the proposed cinema is a town centre use, and it will clearly be a primary element of the development (as a main visitor attractor), this planning application has been advertised as a departure from the current Local Plan, given the site's SEZ allocation.
- 15.14 As such, and as made clear in the National Planning Policy Framework (NPPF) it therefore falls for the cinema element of the proposal to be considered in terms of the sequential test with regard to location, and also the potential impact on the vitality and viability of the town centre as the highest order centre in the Borough.
- 15.15 In accordance with the requirements of the NPPF, the proposal to provide a town centre use (such as a cinema) in an out-of-town location has to be justified on the basis that there are no sites available elsewhere that could accommodate the proposed development, and which are locationally-preferable to the proposed site. Members are advised that the planning application's Environmental Impact Assessment submission includes a Leisure and Town Centre Policy Statement that considered this particular issue. The findings of the Statement have been independently analysed by consultants Nathaniel Lichfield and Partners (NLP).
- 15.16 The Assessment considered a number of possible locations that were capable of accommodating the proposed development including sites that could be considered sequentially potentially preferable to the application site. It is important to note that, as part of the process of site consideration, the applicant is not obliged to 'disaggregate' the development proposal – in other words identify locations where *parts* of the development could be provided (this point having been established through case law). The process is therefore concerned with finding sites where the proposed development could be located *in its entirety*. Three sites were identified that were capable of accommodating the development and also could be considered sequentially preferable - namely the Vineyard Gate site, land at the Cowdray Centre, and Tollgate.

- 15.17 Of the identified sites Vineyard Gate was, potentially, the most appropriate as it is located within the town centre and, therefore in the highest order location. However, the redevelopment of the Vineyard Gate site should be a retail-led scheme in policy terms (as identified in the relevant allocation policy SA TC1 (3)) and the proposed scheme does not include any retail element – being a leisure and restaurant based scheme. The location of the proposed development on this site would severely curtail the space available for retail uses. On this basis the site was discounted in the Assessment and the critique undertaken by NLP agrees with this view.
- 15.18 Land at the Cowdray Centre – identified as a ‘Town Centre Fringe Area’ in the applicant’s Leisure and Town Centre Policy Statement - was also considered as part of the sequential assessment and found to be unsuitable. Again, this is on the basis that the site is allocated for a mixed use development of predominantly residential use and an outline planning permission is in place for this type of development (ref. 151850).
- 15.19 In relation to the land at Tollgate West Members will be aware that a previous planning application for a retail and leisure development (including the provision of a cinema) has been refused by the Council and an appeal against this decision is due to take place in February of next year. Furthermore a resubmitted, identical application is with the Council for determination at the present time (24.11.16 Agenda). Additionally Members will also be aware that refusal of planning permission for a food and drink proposal at Stane Park (located near to Tollgate West) was recently overturned at appeal.
- 15.20 The adopted Local Plan identifies the relevant land at Tollgate as being in an Urban District Centre and again, in sequential terms such allocation is preferable to the location of the application site. However, pertinent to the consideration of this location as an alternative to North Colchester include the impacts of extant permission for commercial development at Stane Park and the proposal for a significant retail development identified as Tollgate Village, combined with the proposed development at Colchester Northern Gateway. Importantly, NLP identifies that the proposals for development currently allowed and proposed at Tollgate (without the inclusion of the Colchester Northern Gateway proposals) will seriously undermine the town centre’s viability and vitality. In combination with these the Colchester Northern Gateway scheme would add further pressure on the town centre. The *cumulative* impact of the proposals at Colchester Northern Gateway and those allowed and intended at Tollgate would seriously undermine the town centre’s primacy in the hierarchy of centres. It is noted that the assessment undertaken by NLP reaches this conclusion and that this view is endorsed by Council’s Spatial Policy team. Sequentially therefore it is considered that the application submission has satisfactorily demonstrated that there is no preferable site that is available for the development proposed under this application.
- 15.21 As well as the sequential issue, another issue to be considered is the impact of the development on the vitality and viability of the town centre – not least arising from the effect the development could have on existing cinema provision within the town. Members will be aware that as well as the established Odeon cinema in Head Street, the Council has recently approved another ‘boutique’ cinema, to be operated by the Curzon group, in an empty building in Queen Street. Clearly the provision of a cinema as part of this application proposal will have an impact on these existing and proposed

facilities. The review of the applicant's Assessment, carried out by NLP, does highlight that it doesn't provide sufficient detail regarding this point. That said, NLP has its own expertise with regard to this particular issue – having carried out this type of assessment previously, and provides advice on this particular point.

- 15.22 The findings of NLP in this regard are that although there will be an impact on the number of visits to the cinemas in the town the existing facilities would continue to trade – there being an unmet demand for additional cinema provision in the local region. The NLP findings are that the impact of the development is likely to be felt more during evening periods with a reduction in the amount of linked trips whereby customers to the cinema also patronise local eating and drinking facilities. During the day the vitality of the town centre would not be greatly impacted on the basis that the retail, service and food and drink offer in the town is not heavily dependent on visitors to the cinema.

Design, layout and scale

- 15.23 As set out in the adopted Core Strategy, North Colchester is expected to be the focus of significant new development within the Local Plan period. As identified elsewhere in this report specific policies for this planning application site are contained within the adopted Local Development Framework Site Allocations (adopted October 2010). Policy SA NGA1 – Appropriate Uses within the North Growth Area requires that ‘...All new development should seek to draw on the character of the existing landscape, within and adjacent to individual sites. Proposals should seek a comprehensive integration of identified existing and new green links and desire lines which link both public and private open spaces. All new development will be expected to provide on-site infrastructure as well as provide or contribute towards off site infrastructure improvements to ensure the North Growth Area objectives are achieved.’
- 15.24 The future development of the Colchester Northern Gateway site previously led to the creation of a ‘Vision’ document for the location – produced on behalf of the Council by Allies and Morrison. The vision document was approved by Cabinet in September 2012 and included the following key aspirations:
- A new gateway for Colchester
 - A cutting edge destination for sport and leisure
 - A distinctive place defined by memorable buildings and spaces
 - An exemplary approach to sustainability
- 15.25 The location of this site at a ‘gateway’ to the town, requires a development of appropriate presence and quality in order to enhance the overall character of the area and ensure its attractiveness as a destination, both locally and regionally. This is reflected in the relevant Core Strategy policy UR2 – Built Design and Character which states the Council's aim to secure high quality and inclusive design in all developments. Specifically the following statement is made in the policy ‘...High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable. Creative design will be encouraged to inject fresh visual interest into the public realm and to showcase innovative sustainable construction methods...’
- The architectural approach taken with the submitted scheme follows a contemporary character. In the context of the surroundings it is considered that this approach is appropriate. Firstly because the surrounding form of development follows, generally, a

contemporary approach (for example the Community Stadium, David Lloyd Health and Fitness Centre, commercial development along Axial Way to the east and the restaurant facility to the north of the A.12 trunk road). Secondly, because the use of this type of architecture, within an extensive green 'parkland' setting has sufficient drama and presence. Elements such as curved forms and roofs give the buildings an 'organic' appearance. Furthermore the provision of a high-quality public realm, as part of a bespoke landscaping approach, would further augment the overall visual value of the scheme as a development proposal in this location.

- 15.26 Members will note that the position of buildings is such that important spaces such as United Way and also Via Urbis Romanae are directly addressed by built form.
- 15.27 Members are advised that pre-submission discussions took place with the applicant, in order that issues around layout and design could be addressed prior to the formal submission of the application. Since the submission of the application, additional minor revisions have been secured in order to further improve the design and appearance of the proposed development. Revisions include variation to the design of the roof of the hotel in order to augment its curvature, bringing it closer to the United Way public realm. The roof overhang of the building identified as the Leisure Curve has been reduced and the building itself slightly repositioned in order that its potential impact on a tree to be retained is reduced. A consequence of the relocation is to reduce the space between the Leisure Curve and the Hotel, thereby making the service area between the buildings less prominent and better screened. Another minor revision post-submission is the adjustment of the southern end of the Leisure Curve building in order to improve its visual relationship with United Way – which would be a key public space in the overall development.
- 15.28 Other minor changes that have been secured include the use of muted colour tones for the finishes of the buildings in lieu of the primary colour palette that was originally proposed. This will have the effect of ensuring that the overall appearance of the development is more sensitive in the landscape.
- 15.29 The arrangement of buildings creates a main focal point between that is a key shared space within the development proposals. This space is shown as being treated as a hard and soft landscaped location. The intention is that the space is used, rather than providing merely a pleasant area to walk through on the way to the facilities on offer. To this end the proposed landscaping scheme includes features such as the viewing platform and slide leading off the entrance to the car park at the northern end of the open space. Additionally the central section of the space would incorporate a formal seating area, lighting and features that would add to the attractiveness of this space. It should be noted that the proposed areas of soft landscaping would be bounded by walling features that would provide additional visual interest, and also act as ad-hoc seating that would encourage visitors to linger in the space. The space would also include permanent water features that would add to the overall appearance of the development while at the same time underpinning a sustainable approach to surface drainage. Members are advised that the open space serving the development would be maintained by a management company as opposed to being adopted by the Borough Council.

- 15.30 The overall scale, height and massing of the proposed development is significant. However, it is considered as a planning judgement that the size of the proposed buildings is an appropriate design response to the role that the development would have in defining the character of this important gateway location in the town, and acting as a leisure destination. Clearly the established stadium building is of relatively significant scale; other building that has taken place thus far is admittedly smaller scale in comparison but in this setting still has considerable visual impact. In this context it is considered that the proposed group of buildings would not appear overly large or incongruous. Additionally the location of the buildings is such that they would not appear as an adjunct to existing development (save for the Stadium and the David Lloyd site), but rather as new built form within an essentially 'parkland' setting. It is considered that the scale and massing of the development is an appropriate design response within this type of setting. Of course, a key consideration is also the appearance and subsequent impact of the development when viewed from farther afield – in particular the nearby trunk road and the route of the Northern Approach Road.
- 15.31 In the case of views from the A12 it is case that the Stadium currently dominates views to the south around junction 28. Bearing in mind that the development would in all likelihood act as a sub-regional attractor, it is important that the scale of development is appropriate to the location to underpin its crucial role in the creation of a 'gateway' development, whilst at the same time not being visually overwhelmed by the Stadium. Additionally the proposed development would address the VUR, primarily through the hotel building. Any building in this location is required to have sufficient presence and impact and it is considered the scale of this building, together with its design, would satisfactorily ensure these requirements are achieved.

Impact on surroundings and neighbouring properties

- 15.32 In terms of the impacts of the proposed development on the surroundings and the amenity of neighbouring properties it is concluded that the proposal would not be unacceptably harmful. As advised above, it is considered that the visual impact of the proposal would be appropriate, given the location and function of the development. In terms of amenity impact (generated mainly, if not solely, by noise from traffic generated by and visitors to the development), it is considered that the proposal would be acceptable. It is the case that the environmental impacts of the development have been quantified through the Environmental Statement that accompanied the application submission. Therefore issues such as noise and air pollution were considered in detail.
- 15.33 The nearest existing development to the application site is the Stadium which is immediately to the west and the David Lloyd development that is to the south of the main part of the site, adjacent to the proposed footpath and cycleway link between United Way and Tower Lane. As a planning judgement it is considered that the proposed development would not have a deleterious impact on the amenity of these existing developments – not least due to their shared commercial nature. In terms of the nearest residential development, this is located along Boxted Road to the west, with an enclave located further north on this road, to the north of the trunk road. Significant newer residential development is located to the south east of the site – the nearest of which is the dwellings located at Oxley Parker Drive. In both cases it is

considered that the relative remoteness of the development would mean that the amenity of the occupiers of these dwellings would not be unacceptably impaired by the proposed development. The future development of the Severalls hospital site to the south of the site will bring residential development nearer to the application site. Nevertheless it is not anticipated that the proposed development would have a detrimental impact on the amenity of the future occupiers of these dwellings. Again, the site is relatively remote and the Severalls site benefits from significant tree planting that would assist in filtering views, and hence the overall visual impact of the development.

- 15.34 Members should note that whereas the reserved matters proposal also under consideration is impacted by the conditions that were imposed under the outline planning permission, it is the case that the proposed hours of operation of the development covered by this full application (which of course includes a cinema use) are extensive – and would extend into the early hours of the morning. Nevertheless the Environmental Control officer has not raised an objection to the proposed hours of operation. It has also been pointed out by the applicant's agent that the proposed hours of use would reflect the maximum that would be applicable to the development and in all likelihood the regular hours of operation would be less. In any event, as noted by the Environmental Control Officer, the hours of operation that have been applied for would mean that the operator or operators of the facility would have to apply for a license from the Council as Licensing Authority.

Amenity Provision

- 15.35 Due to the nature of the development there is no policy requirement for the provision of private amenity as such. The key public element that would be secured as part of the proposal would be the extensive area of open space located at the centre of the proposed development, between the two groups of built form, which will have a significant role in establishing the overall character of the development as experienced by members of the public. The treatment of this space is therefore of fundamental importance as it has to have attractiveness as a facility, in which visitors would want to spend time.
- 15.36 The proposed open space consists of a variety of soft and hard landscape treatments that would include waterbodies, sculptures and street furniture that would also make an aesthetic contribution. The following extracts are taken from the Landscape Strategy that forms part of the application submission:

'...Soft landscaping will dominate the space, consisting of grassed landscape mounds and hollows, forming informal play areas and serving as a water storage area at times of heavy rainfall. Structure planting will provide a sense of scale to the space and form a microclimate. Seasonal variation in the planting will provide year round interest...The tree planting strategy is divided into five categories: avenue trees, street trees, waterside trees, buffer trees and ornamental trees...The aim is to plant 169 new trees that will complement the retained tree structure, proposed development, hierarchy of spaces and individual character...the furniture strategy seeks to reinforce the unique image of Colchester Northern Gateway and be robust, monolithic and fun in character. The furniture will articulate the brick, timber, metal palette of the buildings and hard landscape and create a contemporary look for the scheme...Public art strategy will form a large part of the public realm, providing a series of interactive pieces that encourage the public to linger, sharing the space with others and increasing a sense

of community. Other pieces will provide links through the site to aid pedestrian legibility and orientation. The emerging art strategy aims to include opportunities for an open call to all artists to create artworks inspired by Colchester's past, present and future for the site. Elements will include interactive art pieces and water fountains, playful benches enabling small children to play on. The landscape will also accommodate some of the internal activities externally, for example adventure golf or bouldering could spill outside...'

- 15.37 As well as the main landscaped open space to the north of the site, the submitted reserved matters includes details of the proposed footpath and cycleway link between the main (northern) part of the site and Tower Lane to the south. This would consist of a shared cycle and pedestrian 'meandering' route set amidst landscaping. The Landscape Strategy document comments on this overall space as follows:

'...The new sinuous cycle and pedestrian path is an off-road route for users that provides a link to the Northern site, Severalls, the stadium as well as residential communities locally. To help enhance the existing ecology, the route is punctuated by patterned planting of grass, wildflowers and wild shrub species to create a habitat that will increase biodiversity in the area...The mass planting of trees to the new cycle/pedestrian path has been created to emulate the woodland effect of Severalls Hospital...'

- 15.38 The provision of this feature would be a practical feature to encourage non-car based trips to the development. This is particularly important bearing in mind that the redevelopment of the Severalls site for *inter alia* residential purposes includes the provision of a link to Tower Lane.

Highway Matters

- 15.39 As part of the application submission an assessment of the traffic impacts arising from the proposed development was included. This document *inter alia* also considered the issue of parking provision to serve the development. Members are advised that following on from analysis of the initial Traffic Assessment by consultants working for ECC Highways, further work has been carried out to address queries that had been raised by that Authority.
- 15.40 At the time this report was drafted the final position of the Highway Authority with regard to the proposal had not been provided and Members will be updated accordingly at the Committee meeting. In terms of sustainable transport, the development relies on the road infrastructure provided previously (United Way/Axial Way/VUR). There is a subway link to the east of the VUR and a footway cycleway link southwards to Tower Lane and onwards to Severalls. The developer has proposed to fund a new bus service linking the site to the town centre and rail station. This service would be operated outside the times served by the existing No.11 service. The County Highway Authority sought a modified route to serve a wider area including the Hospital and Rosewood development (Severalls Phase I). The Transportation Policy Manager remains concerned that the proposed solution may lapse after the funding period ceases should the service not prove viable. Further discussions with ECC Passenger Transport has confirmed that they are also supportive of a mixed solution to include extension of some existing bus services and a demand responsive operation to cover the late evening period and provide sustainable access throughout the trading period. These discussions are on-going and officer have requested delegated powers to

negotiate the most effective and economic solution to providing a strategic solution to sustainable transport for the Northern Gateway development. At the time of writing, ECC remain unconvinced that the contribution offered is adequate and this issue will be considered further by Development Team and a verbal update provided at the committee.

Other Matters

- 15.41 Members will note that the consultation responses received from ECC SuDS team, Environment Agency, Anglian Water Authority, Natural England and Historic England do not raise an objection to the proposal, subject to the imposition of conditions and informatives on a grant of planning permission.
- 15.42 Additionally, the Council's Landscape Planning Officer, Arboricultural Officer and Archaeological Adviser have no objection – again some conditions are requested.

16.0 Conclusion

- 16.1 As demonstrated in this report, the application site is located within a defined SEZ – one of three identified in the borough, the others being located at Stanway and the University of Essex. Additionally, the Zone at North Colchester is recognised as the highest order Zone within the Borough. Relevant policy identifies acceptable uses that may be located within such Zones. Primary Uses are identified as B1b (Research and Development, Studios, Laboratories, Hi-Tech), B1c (Light Industry), B2 (General Industry) and B8 (Storage and Distribution) uses as defined in the Use Classes Order. Secondary uses are identified as B1a (Offices), C1 (Hotels), D2 (Assembly and Leisure) and Sui Generis Uses.
- 16.2 In the case of the North Colchester SEZ a site specific policy, as well as identifying the range of acceptable uses, also includes the uses that were approved as part of the outline planning permission granted under application O/COL/01/1622. An element of the approved uses i.e. the David Lloyd centre has subsequently been provided. A current separate application seeks approval for details relating to the hotel and A3 elements of the permission, under application ref. 160623, together with the car parking to serve the development and the landscaping proposals. Committee has resolved at grant permission for these reserved matters on the 17 November 2016.
- 16.3 This full planning application also seeks permission for the hotel, car parking and landscaping as submitted under the reserved matters application. However, the submission also seeks planning permission to erect a cinema on the site (within the doughnut blank spot at the centre of the reserved matters application 160623) and increase the amount of D2 (Assembly and Leisure) floorspace within the Leisure Curve whilst reducing the A3 element that was established at the outline planning permission stage. As the provision of the cinema would constitute a town centre use, and the site is in an out of town location and is defined as an SEZ, the proposal represents a departure from the adopted Local Plan. Furthermore the requirements of the NPPF are that the provision of a town centre use in this location would have to be justified in terms of the sequential test, and the impact of the proposal on the vitality and viability of the town centre assessed.

- 16.4 In relation to these issues the planning application includes a report that considers the sequential issues pertaining to the proposal, as well a qualitative impact analysis. The report concludes that there is no other site that is firstly sequentially preferable and also available to accommodate the proposed entire development. Also the impact of the cinema on the town centre (including existing and proposed cinema facilities in the town) was acceptable.
- 16.5 The report has been independently assessed by NLP and their assessment did identify some shortfalls. For example, NLP did identify that the assessment did not adequately consider the impact of the proposed cinema on existing/proposed facilities in the town centre. However, NLP are able to carry out this analysis and have concluded that the impact of the proposed cinema on the town centre is not a sustainable reason for refusal. Importantly, the Council's Spatial Policy Team has considered the findings of the application submission and the NLP critique and concludes that there is no policy objection to the proposals.
- 16.6 Leading on from this the Council's aspirations for development at the Northern Gateway are to create a place of appropriate status, reflecting its emerging role as a sport and leisure destination. The facilities proposed on the application site will be a key element within the overall concept, and the quality of development must attain an appropriate standard. It is considered that the submitted scheme achieves this aim. It is considered that the buildings themselves are of a scale and design appropriate to the setting and would enable a context of development to be established here i.e. visually dramatic structures within a landscaped setting. Furthermore the open spaces serving the development should encourage interaction and involvement in their own right and, again, it is considered that the submitted proposals demonstrate that this will be successfully achieved.
- 16.7 A s.106 package has been identified that would mitigate the impacts of the development. Additionally the scheme proposes to create a link with the wider existing Public Right of Way network which would encourage visits to the site by foot and cycle. Given the pending growth of residential development in the vicinity of the application site, in particular at the former Severalls hospital site, it is felt that this improvement will prove increasingly important in the future.
- 16.8 On the basis of the above the officer recommendation to Members is to approve the planning application, subject to the s106 agreement being secured, and also subject to the list of conditions that have been included at the end of this report.

17.0 Recommendation

- 17.1 Members are advised that under the Town and Country Planning (Consultation) (England) Direction 2009 if the recommendation of approval is accepted it will be necessary to refer the application to the Secretary of State in order that a decision can be made with regard to whether the application is to be called in for determination. The following recommendation is made:

1. APPROVE 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 Environmental and Protective Services to refuse the

application, or otherwise to be authorised to complete the agreement to provide the following:

- Agreement with regard to target a number of job opportunities in leisure and hospitality on jobseekers/returners/college leavers in the Borough
- Funding to provide three wireless CCTV cameras to cover the site. If the Applicant is to provide cameras agreement would be sought to agree real time monitoring
- Contribution to ensure litter from site does not impact upon amenity outside of the site.

Plus the mitigation required as a result of further assessment of the highway issues relating to the development - (Members to be advised further at the Committee meeting) to include sustainable transport measures as outlined at paragraph 15.39 above.

17.2 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

1 - Time Limit for Full Permissions

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

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

2 - *Development to Accord With Approved Plans

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

- C108/P101 - Location Plan (Planning Boundary)
- C108/P102 - Existing North Site Plan
- C108/P103 - Existing South Site Plan
- C108/P104 pl1 - Site Plan
- C108 P105 pl1 - Detailed Site Plan
- C108/P106 - Proposed Car Park Plans
- C108/P107 - Cinema and Inline Restaurants Ground Floor Plan
- C108/P108 - Cinema and Inline Restaurants Auditorium and First Floor Plan
- C108/P109 - Cinema and Inline Restaurants Lower Projection Level Plan
- C108/P110 - Cinema and Inline Restaurants Upper Projection Level Plan
- C108/P111 - Cinema and Inline Restaurants Plant Well Level Plan
- C108/P112 - Cinema and Inline Restaurants Roof Plan
- C108/P113 - Cinema and Inline Restaurants Roof Plan
- C108/P114 - Cinema and Inline Restaurants Section CC
- C108/P115 - Cinema and Inline Restaurants East and South Elevations
- C108/P116 - Cinema and Inline Restaurants West and North Elevations
- C108/P117 pl1 - Leisure Curve Ground Floor Plan
- C108/P118 pl1 - Leisure Curve First Floor Plan
- C108/P119 pl1 - Leisure Curve Sections AA and BB
- C108/P120 pl1 - Leisure Curve West and South Elevations

- C108/P121 pl1 - Leisure Curve East and North Elevations
 - C108/P122 pl1 - Hotel Ground Floor Plan
 - C108/P123 pl1 - Hotel First and Second Floor Plan
 - C108/P124 pl1 - Hotel Third Floor Plan
 - C108/P125 pl1 - Hotel Fourth Floor Plan
 - C108/P126 pl1 - Hotel East and South Elevations
 - C108/P127 pl1 - Hotel West and North Elevations
 - C108/P128 pl1 - Leisure Curve and Hotel Roof Plan
 - C108/P129 pl1 - Site Sections - Sections 1 and 2
 - C108/P130 pl1 - Site Sections - Sections 3 and 4
 - C108/P131 - Bin Enclosure
 - C108/P132 - Substation Enclosure
 - C108/P133 - Inline Units Detailed Part East Elevation
 - C108/P134 - Inline Units Detailed Part South Elevation
 - C108/P135 pl1 - Detailed Part Leisure Curve Elevation - Two Storey Elevation
 - C108/P136 pl1 - Detailed Part Leisure Curve Elevation - Double Height Elevation #
 - C108/P137 pl1 - Detailed Part Elevation - Hotel Entrance
 - C108/P138 pl1 - Detailed Part Elevation - Hotel South and East Elevation
 - C108/P139 - Car Park Facade Conditions Elevation and Section Details
 - C108/P144 - Leisure Curve North and South Elevation (roof overhang cutback)
 - 595_PL_006 P02 - GA Plan
 - 595_PL_007 P02 - Rendered Landscape Plan
 - 595_PL_008 P02 - Site Wide Rendered Plan
 - 595_PL_009 P02 - Cycle Expansion Plan
 - MMD-360079-E-DR-00-XX-2701 - External Lighting Layout
- Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3 - *Access for Disabled Persons

No works shall take place until a scheme indicating the provisions to be made for disabled people has been submitted to and approved, in writing, by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason: To ensure that convenient provisions to facilitate access for all.

4 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

5 - Surfacing Material to be Agreed

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

6 - Non-Residential BREEAM (Part 1 of 2)

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

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

7 - Non-Residential BREEAM (Part 2 of 2)

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

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

8 - Refuse and Recycling As Shown

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

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

9 - Communal Storage Areas

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

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

10 - Litter

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order.

Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.

11 - Non-Standard Condition/Reason - Foul Water Strategy

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

12 - Non-Standard Condition/Reason - Surface Water Drainage Scheme

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 approved in writing by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site To ensure the effective operation of SuDS over the lifetime of the development To provide mitigation of any environmental harm which may be caused to the local water environment.

13 - Non-Standard Condition/Reason - Minimise Risk of Offsite Flooding

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 has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved in accordance with a timescale previously agreed in writing with the Local Planning Authority.

Reason: The National Planning Policy Framework paragraph 103 states that Local Planning Authorities should ensure flood risk is not increased elsewhere by development.

14 - Non-Standard Condition/Reason - Surface Water Maintenance Plan

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing by the Local Planning Authority.

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

15 - Non-Standard Condition/Reason - Yearly Maintenance Logs

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

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

16 - Non-Standard Condition/Reason - Removal of Permitted Development Rights

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) the development hereby approved shall be used solely as described in the planning application submission documents and supporting materials and for no other purpose(s) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent in any Statutory instrument revoking and re-enacting that Order with or without modification).

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

17 - *Full Landscape Proposals TBA

No works shall take place 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:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- 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.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

18 - Landscape Management Plan

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

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

19 - Earthworks

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include 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. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

20 - Tree and Natural Feature Protection: Protected Areas

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

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

21 - Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

22 - Tree Canopy Hand Excavation

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

23 - Public Art

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

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

24 - Construction Method Statement

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

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

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

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

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

25 - Limits to Hours of Work

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

Weekdays: 8am - 6pm

Saturdays: 8am - 1pm

Sundays and Public/Bank Holidays: Not at all

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.

26 - *Restriction of Hours of Operation

The uses hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 6:30am - 2:00am

Fridays, Saturdays and on Sundays (where followed by a Bank Holiday or other statutory holiday): 6:30am - 3:30am

The hotel will be a 24 hour use.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission. Note: Premises requiring a License will need to apply to the Licensing Authority and each application will be assessed on its own merits; there is no guarantee that the above hours would be approved.

27 - *Restricted Hours of Delivery

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

Weekdays: 0700 - 1900

Saturdays: 0800 - 1900

Sundays and Public Holidays: Not at All

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

28 - Food Premises (Control of Fumes and Odours)

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

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

29 - Grease Traps Required

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

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

30 - Site Boundary Noise Levels

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

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

31 - Restriction of Amplified Music

Prior to the first use or occupation of the development hereby permitted, the level of internal amplified sound shall be restricted by the installation and use of a noise-limiting device that complies with details that shall have been submitted to and agreed, in writing, by the Local Planning Authority. Thereafter, such devices shall be retained and operated in accordance with the approved specification and working order at all times.

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

32 - Self-Closing Doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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

33 - Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

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

34 - *Light Pollution for Major Development

Prior to the first use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ3 SMALL TOWN CENTRES OR URBAN LOCATIONS shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

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

35 - Details of Floodlighting

No works shall take place until details of any floodlighting have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

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

36 - Illuminated Signs

Any externally illuminated sign shall comply with the guidelines in the current "Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements".

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

37 - External Light Fixtures TBA

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

38 - Non-Standard Condition/Reason – External Lighting

All external lighting serving the buildings hereby approved shall only be illuminated during the authorised hours of opening of those buildings.

Reason: To control periods of illumination in order to reduce the risks of any undesirable effects of light pollution.

39 - Contaminated Land Part 1 of 4 (Site Characterisation)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

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

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

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

40 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

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

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

41 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

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

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

42 - 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 39, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 40, 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 41.

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.

43 - *Validation Certificate

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 40.

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.

44 - Oil Interceptor Required

Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

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

45 - Ecological Survey

No works shall take place until an ecological survey of the site shall be undertaken with a detailed assessment of the impact of the proposed development thereon and the survey (together with any intended remedial measures) has been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

46 - Non-Standard Condition/Reason – Electric Charging Points

Prior to the commencement of the development hereby permitted a scheme for the provision of electric charging points for vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type of charging point to be provided, their location, a timeframe for their implementation and details of their on-going management and maintenance. The development shall be implemented in accordance with the approved details.

Reason: In the interest of promoting sustainable transport modes and reducing pollution.

47 - Non-Standard Condition/Reason - Crossing point on United Way required

Prior to the commencement of works necessary to implement the permission hereby granted details of a pedestrian/cycle crossing of United Way, that would serve the proposed pedestrian /cycle route that would link Tower Lane with United Way, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented to the satisfaction of the Local Planning Authority (in liaison with the Highway Authority) prior to initial beneficial occupation of any part of the development hereby approved and shall be retained as such.

Reason: to ensure that there is a safe point of crossing for pedestrians and cyclists accessing the site from the south, in the interests of promoting sustainable access provision.

19.0 Informatives

(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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) – Informative on Conditions stating prior to commencement/occupation

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

(4) – Informative on any application with a site notice

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

(5) Informative on Noise and sound Insulation Competent Persons

PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as 'someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience'.

(6) – Informative on Section 106 agreements

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

(7) – Informative on works affecting Highway land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at development.management@essexhighways.org or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

(8) Informative on Public Rights of Way

PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563. (ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network. (iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

(9) – Informative on Bats

PLEASE NOTE that it is understood that bat roosts exist within the application site. Bats are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 which relate to the protection of bats and their roosts are fully complied with.

(10) Non Standard Informative

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

(11) - Non Standard Informative

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting may be obtained from ECC as Lead Local Flood Authority.

(12) - Non Standard Informative

An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

20.0 Positivity Statement

- 20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.