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Item No: 7.2

Application:	190424
Applicant:	Regent Land And Developments
Agent:	Avison Young
Proposal:	Construction of 20 residential units together with parking, landscaping & associated works, including refurbishment of the existing Grade II Listed Granary Barn
Location:	Land At, East Bay Mill, 19 East Bay, Colchester, CO1 2UD
Ward:	Castle
Officer:	Alistair Day
Recommendation:	Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in by Cllr Crow on the following grounds:

- Design - the proposed houses make no concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development in any town or city and therefore would look completely out of place in this setting.
- Parking - providing 26 parking spaces for 20 three bedroom family homes will be unmanageable and add to existing problems in the area.
- Access – this is unsuitable for large vehicles and due to the narrow nature of the track, there is concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

1.2 This application would also have needed to come before the Planning Committee because it is a major development to which objections have been received and a s106 legal agreement is required.

2.0 Synopsis

2.1 The key issues explored below are land-use, design, traffic and highway implications, flood risk, impact on ecology and built heritage. The impact on neighbouring amenity and the surrounding area are also discussed in the report. The report concludes that subject to appropriate mitigation measures (conditions and s106 obligations), the development is acceptable and is consequently recommended approval

3.0 Site Description and Context

3.1 The application site (East Bay Mill) is located on the south side of East Hill and is bounded by the River Colne to the east and by the East Bay Allotments to the south. To the west of the site is East Bay House, a large late Georgian building which is listed grade II for its special architectural and historic interest, with further residential dwellings beyond.

3.2 The application site was formerly used for the sale of animal feed with associated residential accommodation. The site has been vacant since about 2004. Within the site there is a derelict Granary Barn (listed grade II) which has been severely damaged by fire and is currently enclosed by wrapped scaffolding. The remainder of the site contains areas of overgrown shrubs, fly-tipping and mounds of rubble. Access to the site is from East Hill and a non-adopted lane bisects the site. The lane forms part of National Cycle Route 1 and the Wivenhoe Trail. The northern part of the site is located within Colchester Conservation Area No.1 (Town Centre). The Sycamore tree in the centre of the site is the subject of a tree preservation order (18/02). The group of trees to the boundary of East Bay House are also protected by a tree preservation order (169/10). The trees that stand between the access and East Hill are also important in terms of their contribution to character of the area;

these trees stand within the highway and are not covered by a tree preservation order.

- 3.3 The character of the surrounding area is varied. To the north and west, the character is predominantly residential with two and three storey terraced properties. Large footprint industrial development is situated to the east of the site across the River Colne and there is an area of open space and playing fields to the north. To the south is an area of allotments and The Moors.

4.0 Description of the Proposal

- 4.1 The application seeks permission for the construction of 20 residential units together with parking, landscaping & associated works, including the refurbishment of the redundant Grade II Listed Granary Barn. A listed building application has also been submitted for the alteration of the former Granary Barn.

5.0 Land Use Allocation

- 5.1 Open space
Green Link
Conservation Area (northern part of the site)
- 5.2 Emerging Plan; Residential – up to 22 units including the listed building

6.0 Relevant Planning History

- 6.1 The relevant planning historic for this site includes:
- O/COL/02/1697 Outline permission for demolition of existing agricultural outbuildings and the retention, refurbishment and change of use of existing Grade II granary building to lounge and the erection of 49 retirement apartments (including 9 affordable units) with access, parking and associated works)
 - RM/COL/04/0884 - Application for Reserved Matters concerning Siting, Design and Access for demolition of existing buildings shown on plans and erection of 55 no. retirement apartments with access road, parking and associated works
 - 072117 Application for Reserved Matters concerning Landscaping for demolition of existing buildings and erection of 55 retirement apartments
 - LB/COL/03/0459 and CA/COL/02/1782 – conversion and alteration of listed building (the Granary Barn) and the demolition of ancillary buildings

In addition to the above, an appeal against an enforcement notice (ref. 200-000-090) was dismissed on 6th March 2013. This confirmed that the consented retirement apartment scheme had not been lawfully implemented and this permission has now lapsed.

6.2 More specific to the current application are the following preliminary enquires:

- 180838 - Restore former mill building for flexible A1/A3 use and to develop apartment buildings to provide 48 new homes.
- 182522 Preliminary Enquiry – Erection of 20 residential units together with parking, landscaping and associated works. This Preliminary Enquiry was also subject of an early Member Engagement Meeting.

7.0 Principal Policies

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the following documents:

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP15 Retention of Open Space and Indoor Sports Facilities
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

7.4 Emerging Local Plan

In addition to the above, consideration also needs to be given to the Submission Draft Colchester Borough Local Plan 2017-2033 (the emerging local plan). The following emerging policies are considered to be relevant:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP3 Meeting Housing Needs
- SP5 Infrastructure and Connectivity
- SP6 Place Shaping Principles
- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM3 Education Provision
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM18 Provision of Public Open Space
- DM19 Private Amenity Space

- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to Development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water, Waste and Recycling

Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

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

As to the first limb, the Local Plan was submitted to the Planning Inspectorate in October 2017 and the formal examination commenced in January 2018. The Plan is at an advanced stage and may therefore be taken into consideration in the determination of planning applications. Many of the Development Management Policies follow similar principles to those of the current Local Plan and reflect national policy in the NPPF..

- 7.5 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.6 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.
- 7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - EPOA Vehicle Parking Standards
 - Backland and Infill
 - Affordable Housing
 - Community Facilities
 - Open Space, Sport and Recreation
 - Cycling Delivery Strategy
 - Sustainable Drainage Systems Design Guide
 - Street Services Delivery Strategy
 - Planning for Broadband 2016
 - Managing Archaeology in Development.
 - Developing a Landscape for the Future

- Planning Out Crime
- Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

Landscape Officer

- 8.2 The Landscape Officer has advised there are no objections to this application on landscape grounds. Conditions are recommended

Archaeological Advisor

- 8.3 The development affects a designated heritage asset (Grade II Listed building, The Old Mill, NHLE no. 1350373) and the site of East Bay Mill, which was located to the south of the Listed Building (granary). The Heritage Statement Addendum, by the Heritage Collective, provides adequate information relating to the Mill. A condition should be attached requiring an historic building recording survey of the barn.

- 8.4 In terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established. Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

Environmental Protection

- 8.5 Environmental Protection do not wish to raise an objection to this application and have recommended conditions to cover a Construction Method Statement.

Contamination Land Officer

- 8.6 The Council's Contaminated Land Officer has not raised an objection to this application and has recommended conditions.

Environment Agency

- 8.7 The site is currently protected by flood defences with an effective crest level of 5.5m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.28m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change.
- 8.8 We have inspected the application, as submitted, and we have no objection to this planning application because the site is currently defended and the SMP policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future.

SUDS

- 8.9 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we recommend no objection to the granting of planning permission subject to conditions.

Urban Design Officer

- 8.10 The comments from the Council's Urban Design Officer (on the amended submission) can be summarised as follows:
- 8.11 Proposals are good in many ways, though have some non-ideal elements. In this respect, I understand the scheme has questionable viability and making previously suggested improvements (dated 19/3/19) would make it distinctly unviable. Crucially, the proposed development would on balance improve the area and restore the listed mill building. I would therefore support the application subject conditions to cover: landscaping and boundary treatments (particularly to the river and western and northern boundaries); the widening of parking space 25 to 2.7m; materials and architectural features.

Arboricultural Officer

- 8.12 The Arboricultural Officer has confirmed that he is in agreement with the tree survey and impact assessment provided and has stated that the proposal will have minimal impact on important landscape features to be retained. The trees shown to be removed are categorised as low value as per BS5837: 2012. However, the extent of pruning suggested within the document, specifically the height of crown raising, needs to be reconsidered as it is too high and will distort the shape of the crown.

Essex Fire and Rescue

- 8.13 The access for fire service appliances appears not to comply with ADB B5 in regard to the necessary dimensions required for an appliance turning point. More detailed observations on an access and facilities for the Fire Service will be considered at the Building Regulation consultation stage.

Council for British Archaeology

- 8.14 The summary from the Council for British Archaeology (CBA) is set out below:
- The CBA are supportive of a degree of development at this site, if it is deemed necessary to ensure the conservation-led restoration of East Bay Mill.
 - To meet the requirements of the National Planning Policy Framework, your Authority should be satisfied that the harm to the Conservation Area and the setting of East Bay Mill is outweighed by public benefit.
 - The CBA strongly advise that the conservation-led restoration of the mill should be secured by a section 106 agreement, or similar, should your Authority be minded to permit development at this site.

Anglian Water

- 8.15 The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has available capacity for these flows.
- 8.16 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Historic Buildings and Areas Officer

- 8.17 The comments from the HBAO can be summarised as follows:
- The former granary barn has been vacant since 2002/3 and is currently in a very poor state of repair after having suffered extensive damage from fire. Unless a viable use is secured for the building, its condition is expected to keep deteriorating, resulting in further loss of its evidential and historical value. The scheme to convert the building into a residential unit is welcomed in compliance with NPPF's Par. 192(a)

which states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The Heritage Addendum provides an analysis of the structure's present condition and this has informed a new set of proposals for its conversion. There is some margin for further improvements, e.g. by a more limited use of the proposed rooflights whose number, size and distribution on both sides of the roof results in a strong visual impression that detracts from the building's character, the benefit from the development of the redundant heritage asset to secure its viability, outweighs the concerns regarding specific details which can be addressed at a later stage.

- The redundant East Bay Mill is seen in conjunction with East Bay House and its present fire damaged condition reflects poorly on the setting of the listed house. Any harm caused to the setting of listed buildings will need to be weighed against the public benefits. The public benefit of securing a viable use for the barn which is currently at risk is considered to outweigh any resultant harm identified.
- The site falls partly within the limits of the Conservation Area. The damaged structure is very visible when crossing East Bridge and its very dilapidated condition leaves an impression of neglect that detracts from the quality of the Conservation Area. The redevelopment of this derelict site is expected to benefit the Conservation Area by addressing this situation.
- Taking the above into consideration, there are no objections heritage objections to the proposals.

9.0 Parish Council Response

9.1 The site is not parished.

10.0 Representations from Notified Parties

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

- Insufficient parking is proposed for the development, which when combined with the inadequacy of the existing availability will cause substantial problems. It is a fallacy to think that people will not have cars.
- The access is inappropriate - the existing lane is not wide enough for emergency service or refuse vehicles and is frequently obstructed by parked cars.
- There will be a conflict between vehicle users and users of the National cycle path.
- The development is of inappropriate density - the proposed number of dwellings and scale of properties is disproportionate to the scale and nature of the site (which is a conservation area).
- The design of the buildings is inappropriate. The style and layout of the dwellings is inconsistent with the listed buildings in the immediate vicinity

- The proposal to build 3-storey houses will be unacceptably intrusive and detrimental to the amenity of adjacent residents
- The development should comprise c12-14 bungalows, with a 30-40 parking provision.
- It is stated that in highway terms the proposed development is more akin to a mews. This is significant because the maximum permitted development of a mews is 20 dwellings, and the minimum width of the road must be 6m.
- It is stated that the nearest bus stop to the site is located on East Street and “accommodates a high frequency of bus services (every 2-5 minutes or so on average).” This is very misleading – the majority of services are every 30 minutes or more. Furthermore, the Department for Transport’s ‘Transport Statistics Great Britain 2017’ (published November 2017) found that just 7% of the population nationally use the bus as the usual mode of transport to work. It is unrealistic to suggest that car need for these proposed family dwellings isn’t necessary.
- The report suggests that the redevelopment of the site is not likely to cause a significant impact on local air quality; the current levels are already unacceptable.
- The proposed development has a Risk banding of ‘Black 1’ – the fourth out of a possible fifth ranking in terms of exposure to flood – which corresponds to a high probability of flooding according to the Environment Agency.
- It is stated that all windows passed the 25 degrees line test and were therefore automatically excluded from the detailed day light / sun light assessment. Our own assessment concludes that the windows would not pass the 25 degrees test and therefore a detailed assessment must take place.

10.2 The following comments have been made by Cllr Crowe:

- Design - The surrounding area of East Street and East Bay contains many unique buildings. Recent new builds in the area at Grosvenor Place and Riverside Place have borrowed and replicated architectural features from the Mill, and the new build cottages in Marriages Yard mimic a Tudor style with render and an overhanging first floor. By contrast the proposed houses make no such concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development and would look completely out of place in this setting.
- Parking - If there were one- or two-bedroom flats then it might work, but providing only 26 parking spaces for 20 three bedroom family homes is completely unrealistic. With the best will in the world people's needs change, someone in the household may get a new job requiring the household to need an additional car, a child passes their driving test and wants a car, and visitors need somewhere to park. This will be unmanageable and add to problems in existing problems in East Bay, Grosvenor Place and nearby Rouse Way as people search for places to park.
- Access - Essex County Fire and Rescue service have informed that the site does not comply with the guidance in ADB B5 with regard necessary dimensions for an appliance turning point. Additionally, residents are

concerned that access to the site for fire engines can only be made via a gap of less than 4 metres between the barn and a listed boundary wall. I am told that the dustbin lorries do not attempt to enter the site due to this restriction, and with such a narrow opening there is also great concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

10.3 The Civic Society comments on the amended plans can be summarised as follows:

- We have studied the amended scheme and do appreciate the changes made to address some of the issues attending the original design.
- We note the efforts to improve the visual appearance of the housing by the use now of more sympathetic materials in keeping with the historic nature of the conservation area and the considerable work to reuse the Mill building itself as a modern house.
- The problem remains of the continuing use of the three storey houses which are not a reflection of the local character of the area. The result is a large massing of repeated forms of heights and blocks. There has been no change to produce a mix of building heights that would be more in keeping with the landscape and the historic setting.
- We remain concerned by the dominant nature of the parked cars adjacent to the National Cycle route and the pedestrian pathway. This parking has a detrimental effect on the tranquility of the lane and the strategic nature of the routes. These will include not merely the residents but all the many types of service traffic that housing brings: fire service, delivery vans, refuse service etc. We are quite unconvinced that some surface detail to the road surface can provide the necessary safety that this route deserves.
- We have concerns for the under provision of parking places for the development and unconvinced by the data and arguments in favour of this.
- In conclusion it is our belief that this development would not bring an improvement to the adjacent conservation area and the gain of the restoration of the Mill building will be largely lost in the massing of the site.

11.0 Parking Provision

11.1 Parking provision is considered in the main body of the report.

12.0 Accessibility

12.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

13.0 Open Space Provisions

13.1 The provision of public and private amenity space is referred to below in the main body of the report.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that would be agreed as part of any planning permission would be:

- Archaeology £14,627.5+VAT Display, promotion and management of archaeological discoveries on the site (£12,000+VAT for museum quality display case, design and display material, £2,000+VAT for an interpretation panel, £627.50+VAT for enhancement of the Colchester HER and £290+VAT will be required if no archaeological remains are affected by the development, to integrate the information from the archaeological).
- Parks and Recreation - £136,632.25 was requested for Castle Park and East Bay Walk.
- Communities - £33,000. This contribution was being put forward to St Botolphs Church
- Affordable Housing - Standard 30% Policy
- Highways - Bus stop (eastbound) immediately opposite the site on East Street, Level entry kerbing, new post and flag (approx. £5000).
- NHS - No request as the scheme is under 50 dwellings.
- Education - £30,000.00 for early years, £90,000 towards St James Primary School
- Transportation - £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.

If the site was shown to not be viable, a proportionate approach to the contributions (excluding affordable housing, which would not be required) was recommended.

16.0 Report

The Proposed Development

16.1 Planning permission is sought for the construction of 20 residential units together with parking, landscaping & associated works, including refurbishment of the existing Grade II Listed Granary Barn. A concurrent listed building application has also been submitted.

Principle of the Development and the Planning Background

- 16.2 The site was last used for sale of agricultural feed with a linked residential property. These activities ceased in about 2003 with the sale of the land for redevelopment. At that time, the site comprised an eighteenth-century Granary Barn with a modern framed building attached and mid twentieth century brick extension. To the south of these structures were various outbuildings arranged around a courtyard. Set against the west boundary was a group of much altered cottages.
- 16.3 In 2004, outline planning permission was granted for the erection of 49 two-bedroom retirement apartments with access, parking and associated works. Listed building consent was also granted for the alteration and conversion of the former Granary Barn to a lounge for the retirement apartments and for the demolition of other listed curtilage buildings. Reserved matters applications pursuant to the outline planning permission were submitted in 2004 (siting, design and access) and 2007 (landscaping). The approved development was essentially 3 storeys in height with the main entrance rising to four storeys to create a focal feature. The layout of the proposed building was 'L' shaped, providing a continuous frontage to the river and a courtyard style development to the interior of the site. The form of the proposed development was designed to reflect the historic layout of the former granary yard. The approved development was not however commenced and this planning permission has now lapsed.
- 16.4 Today, with the exception of the listed Granary Barn, all of the buildings have been cleared from the site due repeated problems of vandalism, anti-social behaviour and arson. The listed building has also suffered from vandalism and arson and is currently in a very poor condition.
- 16.5 The Council's Core Strategy (CS) provides the spatial strategy for the Borough and this directs development towards the most accessible and sustainable locations. The application site is located in close proximity to the town centre and is thus considered to be in an accessible and sustainable location.
- 16.6 The adopted Proposals Map identifies the site as forming part wider riverside 'open space / green link'. Notwithstanding this, the site, due to its past use, is a brownfield site where the principal of development can be accepted.

16.7 The emerging local plan shows evolved thinking in respect of this site and takes into account that this site is previously developed land (brownfield land) and the planning history. The relevant policy in the emerging plan is Policy EC3. This policy states that development will be supported where it provides:

- (i) Up to 22 new dwellings of a mix and type of housing to be compatible with surrounding development, including the Listed Building;
- (ii) Adequate access including appropriate treatment / diversion of the existing Public Right of Way;
- (iii) A satisfactory NPPF flood risk exception test and if met, provide flood risk mitigation measures;
- (iv) Protection and enhancement of the setting of listed buildings and the conservation area;
- (v) Appropriate conversion of the listed mill;
- (vi) Satisfactory contamination mitigation measures as required;
- (vii) An air quality assessment and mitigation against any harmful effects to the AQMA likely to be caused by proposals.
- (viii) Access to river frontage”

16.8 Given that the site constitutes previously developed land and is located in an accessible location, there is not an objection in principle to its redevelopment. Officers are also mindful that that planning permission has in the recent past been granted for the redevelopment of this site, albeit the previous permission has now lapsed. With regard to the emerging policy for this site, officers do not consider that the current scheme conflicts with the criterion set out in Policy EC3 (for the reasons set out in the report).

Heritage and Design Considerations

16.9 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester’s historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies reflects the requirements of currently adopted policies in terms of design, place shaping principles and heritage matters.

- 16.10 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.
- 16.11 Objections have been received to this application claiming the design of the proposed buildings is inappropriate for this context, they are too large (tall) and that the proposal constitutes overdevelopment. Objection has also been received alleging, due to the design and layout, that the scheme will have a detrimental impact on the character and appearance of the conservation area / setting of nearby listed buildings.
- 16.12 The proposed development has been designed to create an enclave of terraced housing arranged around the principal trees on the site. Most of the proposed dwellings are three storey units while the westernmost unit has been limited to part one/part two storeys. The Planning Statement explains that the size of the smaller unit has been designed to ensure that it has an appropriate relationship to the adjacent dwellings. The listed Granary Barn is also proposed to be converted into a two-storey dwelling with a mezzanine level. The proposed new buildings adopt a traditional domestic form and use materials that are typically found in Colchester. The use of weatherboarding, in addition to two types of brick, has been proposed to visually tie the new development to the former Granary Barn. The concerns raised regarding the three-storey nature of the dwellings are appreciated. It is however important to note that the scheme previously approved by the Planning Committee was for a denser development which ranged in height between two and four storeys. Given this fact, provided it can be adequately demonstrated that the current application does not have a significant detrimental impact on the amenity of the adjacent residential properties, it is not considered that an objection can be sustained to the height of the proposed dwellings. The concerns expressed regarding the design of the proposed dwellings are also noted. As originally submitted, large picture windows were set in a random disposition. Through negotiation, the treatment of the facades has been amended so that they now adopt a more ordered composition and, in doing so, reflect more closely the pattern found on traditional Victorian dwellings, albeit reinterpreted in a contemporary style. There is not an objection to this approach, provided high quality materials are used and architectural features are appropriately detailed. Conditions to cover such elements are accordingly recommended. Whilst the design of the scheme is generally

considered acceptable, further amendments have been requested to house type 5 and the listed building. Amended drawings are expected prior to the Planning Committee meeting.

- 16.13 The impact that the proposed development will have on the character and appearance of the conservation and the setting of the nearby listed building is an important consideration. The group of buildings at East Bay are described as follows in the draft Colchester No.1 Conservation Area Character Appraisal:

“East Bay, with its green and trees in front, has something of a village character. The curving block of houses (nos.1-13) mostly dates from the early and mid 19th century, but nos.1 and 2 incorporate the remnants of a 15th century cross wing with screens passage. No.16 (Bay Cottage) is a detached timber-framed and plastered cottage dating from the 18th century. Further towards the river is East Bay House (nos.17/18), a large late Georgian red brick house c1780, with a doorcase with Ionic columns”

The views north and south from the bridge are also considered:

“The view north from the bridge is pleasant, with the green open space on one side and the restored and new buildings and terraced walkway on the other. In contrast, the view south is not so attractive and there is little or no public access to the riverbanks. On the west bank stands the dilapidated remains of the old East Bay Mill, built of Baltic pine and weatherboarding in the 18th century. “

- 16.14 The Colchester No.1 Conservation Area Appraisal (Area 4) identifies the “derelict site” of the old East Bay Mill as the one area in need of significant improvement. In its current form, the site detracts from the character and appearance of the conservation areas and its redevelopment has the potential to enhance both the site and its surroundings.
- 16.15 The listed Granary Barn is an important building in terms of the historic development of Colchester and the Colne river frontage. It originally formed part of a wider complex of mill buildings (located to the south). The barn itself was converted by the Doe family into a feed mill in about 1923. A large lorry shed was added to the south side of the building in the 1930s and a brick extension add to the east gable in the 1940s. The barn has been vacant since about 2003 and is currently in a very poor condition due to extensive fire damage. In its present condition, the building is of diminished ‘evidential’ value, with its upper floors substantially destroyed and with it, limited ability to understand or interpret the way in which the building was constructed and/or used. Even before the fire, the alterations to the barn and the wider site made it difficult to appreciate how the building once functioned and/or its relationship with river transport. The overall significance of the Granary Barn in its present state remains high, but the ability to appreciate it as low. The barn remains at extreme risk. The current application proposes the full repair and conversion of the Granary Barn which is welcomed. The comments made by the Archaeological Officer

regarding the need for further historic context analysis and building recording are noted. A further Heritage Statement has been submitted to address these concerns. With regard to building recording, a condition is proposed, and the result of this analysis will be used to inform the repair of the listed building.

- 16.16 It is accepted that the proposed new development will affect (change) the setting of nearby listed buildings, most notably the Granary Barn and East Bay House. Whilst the proposed new housing is taller than the listed barn, the height difference is not considered to be so great so as to dominate (and therefore significantly detract) from the setting of this building. The harm caused is therefore considered to be less than substantial and, as such, the public benefits need to be weighed against the harm caused. In this instance, the public benefits constitute the repair and re-use of the listed building 'At Risk' and this is considered to outweigh the harm caused by the new development to the setting of the barn. The enhancement of the conservation area is also considered to be a public benefit. With regard to East Bay House, the proposed development is subservient to the height and presence of this building and set at a distance from it. In view of this, it is not considered that the proposed development would introduce a new element of built form that would significantly detract from the setting of this building. Any harm caused to the setting of East Bay House would again be outweighed by the public benefits of securing the repair of the listed barn and the enhancement of the conservation area. The comments made by some residents that the scheme constitutes overdevelopment are noted. The density of the proposed development is 54 dwellings per hectare which is reasonable given the site's central location and the pattern of surrounding development. Member should also note that the emerging local plan for this site indicates that up to 22 dwellings would be suitable; the current application provides fewer dwellings than that anticipated by the emerging plan.
- 16.17 An archaeological assessment has been undertaken to assess the likelihood of archaeological remains existing on the application site. The Council's Archaeological Officer has advised that in terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken. Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. A planning condition to record and advance understanding of the significance of any buried heritage asset is recommended.
- 16.18 The design and layout of the proposed development is considered to be consistent with relevant adopted and emerging policies and the guidance set out in the NPPF in so far as they promote high quality design and the conservation of heritage assets. Viewed from the north (within the conservation area), the refurbished Granary Barn will reassume a positive role as part of a group of 18th and 19th century buildings. Any harm that will be caused by this development will be less than substantial. In this instance, the public benefits (which include the redevelopment of a derelict site, which

detracts from the appearance of the conservation area, and the repair and reuse of an 'At Risk' listed building) weigh heavily in favour of the scheme. Given this, the proposed development is considered to be consistent with the aforementioned relevant adopted local plan policies and national planning policy guidance in relation to the historic environment.

Residential Amenity

- 16.19 DPD Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. DPD Policy DP12 requires high standards for design, construction and layout in new residential development. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity. Emerging Policy SP6 states that all new development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light and overlooking.
- 16.20 Objections have been made to this application on the grounds that it would have a detrimental impact on the existing residential properties (including loss of private amenity and outlook). Concern has also been raised regarding noise and disturbance from construction and additional residential traffic.
- 16.21 East Bay House and 23 Berry Fields are the two existing properties that are potentially most affected by this application. The Essex Design Guide considers that where properties are set parallel to one another, a back-to-back distance of 25m is sufficient to protect private amenity. The proposed terrace of housing to the south of the listed barn is set (at its nearest point) approximately 18m from the side return of East Bay House and is angled away from it. The first and second floors of the new dwellings (facing East Bay House) contain bedrooms and bathrooms. It is understood that bedrooms are also located on the upper floors of side return of East Bay House. The relationship between the proposed development and East Bay House is more akin to a situation where a side return of a house addresses a street and the properties opposite front onto that street. In such circumstances the key consideration is the potential impact on daylight / sunlight (discussed below). There are also two proposed dwellings that 'face' directly towards the south elevation of East Bay House (which is considered to be the rear elevation of the property). Plot 20 is located directly adjacent to the southern boundary of East Bay House. There are two windows on north elevation of the ground floor of the proposed dwelling which serve a kitchen and bathroom. These windows, although facing directly towards East Bay House will not cause an overlooking issue due to the intervening boundary wall. At first floor level, no windows are proposed on the north elevation of the new dwelling and therefore an issue of overlooking is not created. Plot 15 is also located south of East Bay House. This property is set at an angle to and some 27m from the rear elevation of the East Bay House. Given the degree of separation between these properties, a significant issue of overlooking is not created. With regard to 23 Berry Field, the nearest proposed dwelling (plot 20) has been designed so that

there are no windows in the west elevation at first floor level (i.e. directly looking towards the property). Furthermore, the number of windows to the first-floor bedroom on the south elevation of this plot have also been reduced from two to one and the window has been moved further to the east (i.e. away from the boundary) to help prevent the perception of overlooking of 23 Berry Fields. Regarding the siting and design of the other proposed dwellings, these have been detailed with careful consideration to the orientation of windows and the use of obscured glazing for the proposed roof terraces to mitigate the potential overlooking to neighbouring properties. Given the sensitivity surrounding potential overlooking, it is recommended that conditions are attached removing permitted development rights for the insertion of new windows and that balcony screens are installed prior to the occupation (and thereafter retained)

- 16.22 Concern has been expressed that the development will also result in the overshadowing of existing properties. The Building Research Establishment's Report "Site Layout Planning for Daylight and Sunlight 1991" suggests that acceptable daylight to interiors is achieved if a 25° vertical angle from a point two metres above the floor is not obstructed. Details submitted with the application show that the proposed development will not result in the infringement of this guideline. It is also stated the layout of the proposed development has followed the methodology of the BRE Guidelines in assessing the area of the neighbouring amenity spaces receiving more than 2 hours of sunlight, as this is the BRE criterion for adequate sunlight provision throughout the year. With the exception of plot 20, the proposed development is largely located away from existing residential properties and it is not considered that these units will have an unacceptable impact on neighbouring properties. Plot 20 is located in close proximity to the adjacent properties (notably East Bay House and 23 Berry Field). Given this, and in order to safeguard the amenity of these properties, the height of this building has been limited to part 1 and part 2 storeys. The BRE tests described above have been applied and demonstrate that the proposals would have minimal to no impact on the lighting levels to existing properties.
- 16.23 With regard to noise and disturbance from construction work, it is accepted that this can have an adverse impact on local residents and, as such, it is recommended that a condition is attached requiring the submission of a Construction Method Statement.
- 16.24 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the amenity of neighbouring properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 and DP12 or the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings

Trees and Landscape

- 16.25 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in the NPPF.
- 16.26 There are a number of mature trees within and adjacent to the application site, which make an important contribution to the character of the area. An Arboricultural Impact Assessment (AIA) has been prepared in support of this application. The Council's Tree Officer confirmed that he is in agreement with submitted report and that the trees proposed for removal are low value. The concerns expressed regarding the extent of proposed pruning work are noted and a condition is proposed recommending a revised pruning scheme to be agreed.
- 16.27 In terms of landscaping, the scheme provides a central communal area and a landscaped path alongside the river embankment. The hard and soft landscaping proposals will result in a significant visual enhancement of the site and its immediate surroundings. It is proposed that the open space is maintained by a management company; it is recommended that this is secured in the legal agreement and that the general public have access to this space. The comments made by the Council's Urban Design Officer regarding the boundary treatment to the river bank frontage are noted. The Council's Landscape Officer has not however raised an objection to these elements and it is considered the concerns raised can be adequately controlled through the detailed landscape scheme (condition).
- 16.28 In terms of the tree protection and the landscaping proposals, the planning application is considered to accord with CS Policy ENV1 and policies DPD DP1 and DP21 that require development schemes to respect and enhance the landscape and assimilate it into new development.

Outdoor Space and Private Amenity Space

- 16.29 DPD Policy DP16 sets out standards for private amenity space and public open space as part of new housing developments. Regarding public open space, this policy states that open space provision will depend on the location of the proposal but as a guideline, at least 10% of the gross site area should be provided as useable open space. The emerging local plan sets out a similar requirement to the adopted local plan in respect of amenity space.
- 16.30 With regard to private amenity space, Policy DP16 sets out a range of garden sizes which are as follows for houses:
- One or two bedroom houses – a minimum of 50m²
 - 3 bedroom houses – a minimum of 60m²
 - 4 bedroom houses – a minimum of 100m²

- 16.31 The proposed development provides each dwelling with a private garden that range in size from 20sqm to 58sqm. In addition to this, 12sqm roof terraces are also proposed to maximise amenity space provision to all units (other than to the Granary Barn and western most detached dwelling). Notwithstanding this, some of the amenity areas fall short of the required 60sqm. Whilst it is a clear aspiration to achieve a policy compliant scheme in respect of garden sizes, it has not been possible to achieve this due to the constraints of the site. Moreover, in constrained / historic urban areas, it is not unusual for residential properties to have smaller gardens. In this instance, the proposed private amenity space is, on balance, considered to be acceptable.
- 16.32 With regard to public open space, the scheme provides a landscaped central communal area of 303sqm. There is also a landscaped riverside path for the enjoyment of residents which provides further communal amenity space. This amenity space exceeds the 10% policy requirement.
- 16.33 In terms of the private and public amenity space, it is accepted that the scheme does not fully comply with policy DPD 16, however given the site's context and constraints, the proposal is, on balance, considered to be acceptable.

Ecology and Biodiversity

- 16.34 Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. DPD Policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Conserving and enhancing the natural environment is also a core principle of the NPPF.
- 16.35 The application site largely consists of rough ground. In terms of biodiversity, a Phase 1 Habitat Survey has been undertaken to support the application. This survey notes that the site itself does not fall within a statutory/non-statutory designation, but that there are three statutory designated sites and 17 non-statutory designated sites within 2 km of the site. The Local Wildlife Site of the Moors is found 0.2km to the south, beyond the East Bay Allotments.
- 16.36 The original submitted habitat assessment notes that the site has the potential to support reptiles, bats, nesting birds, invertebrates and hedgehogs, with possible otters using the connectivity provided by the River Colne. The original report notes that the remains of a Granary Barn and a single mature sycamore tree have the potential for bat roosts. The site was further inspected by a licenced bat surveyor and the tree was re-assessed

as being of low potential and the barn, in its current condition, as being of negligible to low roost potential. The supplemental report does however comment that a survey at a later date could be used to identify species active in the area and inform enhancement in the form of new roosting provision in the restored building and wider development. With regard to reptiles, the supplemental report notes that the site contains a limited amount of potential for reptiles but is connected to suitable habitats. This report goes on to state that it will be necessary to determine whether common reptile species are present; if they are, the proposed landscape buffer will provide a connecting habitat and a suitable receptor area during construction. If reptiles are not found, an exclusion fence is recommended along the southern boundary of the site to prevent reptiles entering the site during construction. The supplemental report states that, with a few exceptions most invertebrates are not legally protected or considered to be species of principal importance. Of those with potential to be present in Colchester town centre only *Lucanus cervus* (stag beetle) is anticipated in the wider area and however there are currently no suitable habitat for this species within the site. Finally, the supplemental report notes that both otters and water voles are present in the River Colne but that the application site does not provide a suitable habitat for these species. Conditions are recommended for the additional survey works described above and for the submission of a scheme of ecological mitigation and enhancement. In addition to the above, the installation of bird boxes is also recommended.

- 16.37 The application site also lies within a zone of influence of a European designated site and to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of any recreational impact will be required in accordance with the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This will equate to a financial contribution that can be secured via S106 agreement
- 16.38 The ecological potential of the site has been carefully considered and the potential for European Protected Species to use the habitats on site assessed. The fauna protected by the Wildlife and Countryside Act 1981 and species listed as of principal importance in Section 41 of the Natural Environment and Rural Communities Act 2006 are material considerations for local planning authorities. Subject to conditions to secure ecological enhancement measures, it is considered that the proposed development accords with the relevant statutory provisions, the adopted policy ENV1 and the requirements of the NPPF which seek to minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity.

Transport and Accessibility

- 16.39 CS Policies TA1 to TA4 seeks to improve accessibility and change travel behaviour. Public Realm Policy PR2 requires that the design creates secure attractive, safe and people friendly streets. The Adopted Cycling SPD (January 2012) sets out several measures to enhance and promote cycling. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway

safety, or the residual cumulative impacts on the road network would be severe.

- 16.40 The existing vehicular access to the site is currently afforded from the southern side of East Street via a track, the northern part of which is public highway (under the jurisdiction of ECC); the remainder of the track is owned by Colchester Borough Council. The access road is used by cyclists (as part of cycle route NCR51) and pedestrians, as well as serving East Bay House, the electricity substation and the allotments.
- 16.41 It is proposed to retain the access road along its existing alignment and widened this, where possible, to around 6.0 metres. The Transportation Statements explains that the widening of the access road would be undertaken to ensure that two vehicles could generally pass each other without causing inconvenience to other users of the track. The Transportation Statement also states that the access track would be suitable for emergency vehicles and provides a turning loop within the site to allow for larger servicing and delivery sized vehicles to turn and egress the site in a forward gear safely. The Statement does acknowledge that the access road narrows adjacent to the Granary Barn but opines that due the straightening of the lane in this location, larger vehicles would be able to access the site and drivers would be afforded with suitable forward inter-visibility. In addition to the above, upgrade works are proposed to the junction with East Street to improve this junction.
- 16.42 Representations have been made claiming the access road is inadequate to accommodate additional traffic due to its width and that the intensification of its use will create a conflict with pedestrian and cycle users. The Highway Authority has been consulted on the application and have requested a number of amendments to the scheme. These concerns principally relate to the possibility that residents will pass the southern end of the loop looking for a parking space, not be successful in finding a space and will then be required to reverse back along the road; that some of the car parking spaces are 'tight' and that high quality cycle parking should be within the curtilage of the properties and this should be safe and convenient to access. Revised drawings have been submitted which seek to address the concerns raised. At the time of writing this report, updated comments from the Highway Authority are still awaited.
- 16.43 Comment has been made from a local resident that the width of road between the Granary Barn and the boundary wall of East Bay House is incorrectly stated on the submitted drawings. This comment is the result of misinterpreting a spot height as the width of the access track.
- 16.44 Provided the comments raised by the Highway Authority are satisfactorily addressed, it is considered that the proposed development would accords with relevant development plan policies and national planning policy guidance set out in the Framework.

Parking

- 16.45 CS Policy TA5 refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. DPD Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009. Emerging Policy DM22 states that parking should be provided in accordance with the most up to date parking guidance taking into account the following factors:
- i. Levels of local accessibility;
 - ii. Historic and forecast car ownership levels;
 - iii. The size, type, tenure and location of the dwellings; and
 - iv. The appropriate mix of parking types including opportunities for car-sharing (e.g. unallocated, on-street, visitor, car club etc).
- 16.46 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this, provision for visitor parking at a ratio of 0.25 spaces per unit is required. The guidance does however state that in accessible location, such as town centres, a reduction in car parking can be considered.
- 16.47 A selection of parking arrangements are proposed which would provide parking for up to 26 cars; this represents a parking provision of 1.3 spaces per unit. Two sets of tandem parking spaces are proposed, whilst the remaining 22 spaces would be independently accessible spaces.
- 16.48 Objection has been made to this application on the grounds that insufficient car parking is being provided and that this will exacerbate parking problems in the area.
- 16.49 The application site is located in an accessible location, due to close proximity to the town centre and public transport facilities. Given this, the site is considered to have good accessibility and sustainability credentials and is therefore a site where a reduced level of parking can be accepted.
- 16.50 Notwithstanding the above, the Transport Statement also considers car ownership levels in the local area (Castle Ward) and notes that there is an average car ownership of 0.85 cars per household. If this figure is applied to this development this would lead to an anticipated car parking demand of 17 vehicles. Assuming the maximum number of visitors is provided (i.e. 0.25 spaces per unit), an overall parking provision of 22 vehicles would be required.

16.51 The Transport Statement acknowledges that, during the public consultation several residents identified a concern relating to the potential for parking on the access road. The Transport Statement goes on to explain that:

- The widened and private sections of the access road would be the subject to parking enforcement through a management company responsible for the private areas of the site.
- The proposed layout is designed such that private parking is accessed from the access road thereby meaning that drivers would not be able to park in certain locations due to the fact that it would block access to designated parking spaces.
- The width of the looped arrangement is designed to be tight; the reduced width of the loop ensures that it is not practical for a car to park on the loop without obstructing the roadway and therefore would be self-policing.
- The lack of parking including on street parking outside the application site will discourage car ownership. All other parts of the public highway within 250 metres of the site are restricted by double yellow lines where no parking can occur. It is typical for residents to park up to a maximum of 200 metres (as per the Lambeth parking stress methodology) from their home if parking on street, hence 250 metres represents a robust assumption.

16.52 The potential problems associated with car parking are fully appreciated. The design and layout of the site has been carefully considered to reduce the risk of indiscriminate parking as far as possible. The potential for unauthorised parking will be further managed by the introduction of formal parking control measures across the development (secured by the s106 legal agreement). It is considered that an acceptable balance has been struck between need to accommodate an appropriate level of parking to serve the development and need to ensure that car parking is not so overly dominant so as to detract from the landscape qualities of the site and/or the nearby heritage assets.

16.53 In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling to be provided. Each dwelling is to be provided with a secure cycle parking stores and it is proposed that a planning condition cover this matter.

16.54 The sensitivities surrounding parking are fully appreciated however in this instance, given the site's sustainable location and the unique constraints of the site, the proposed parking provision is considered to be acceptable.

Drainage and Flood Risk

16.55 CS Policy ENV1 sets out the strategic policy approach to safeguard people and property from the risk of flooding. ENV1 seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk. CS Policy ER1 relates to Energy, Resources, Waste, Water and Recycling in

Colchester. DPD Policy DP20 supports development proposals that include flood mitigation/ attenuation measures as well as flood resilience measures.

16.56 Most of the site is classified as Flood Zone 3 with the remainder classified as Flood Zone 2. The Flood Risk Assessment (FRA) states that the site is shown to benefit from the presence of established flood defences; these comprise high ground along the edge of the site and also the Colne Barrier (located approximately 5.9km downstream at Wivenhoe). The FRA goes on to state that, as the site benefits from defences which protect it from tidal flooding, the fluvial risk represents the more significant threat to the site.

16.57 The NPPF requires a Sequential Test to be applied at all stages of the planning process. This approach is designed to steer new development away from high risk areas towards those areas at lower risk of flooding. In this instance, the FRA has established that while a proportion of the site lies within Flood Zone 2 (and is therefore suitable for residential development) the remainder of the site is classified as Flood Zone 3a and therefore subject to the Exception Test. The FRA explains that there are three elements to the Exception Test, all of which must be satisfied. These are:

- Sustainability – it must be proven that the development confers wider benefits to community at large that outweigh the potential flood risk;
- Brownfield land – the site should be previously developed land; and
- Safe – a site specific FRA must demonstrate that the development will be safe, without increasing flood risk elsewhere and where possible will reduce flood risk overall

The FRA concludes that:

- the proposal will provide much needed family homes while also supporting the regeneration in this part of Colchester.
- The site is currently vacant and classified as brownfield having been formerly occupied by the now derelict East Bay Mill.
- The FRA has demonstrated that the site is safe from flooding originating from the River Colne, being protected by defences for all fluvial events up to and including the 1% AEP. Finished floor levels can be set above the design flood level, including an allowance for climate change. There is no significant risk of groundwater, pluvial, artificial or sewer flooding.

16.58 Given the above the FRA concludes that the redevelopment of this site is acceptable from a flood risk (fluvial and/or tidal) perspective. It is important to note that the Environment Agency has not raised an objection to this application. In their letter, the Environment Agency has drawn to the Council's attention a number of flooding related matters, including that consideration should be given to the preparation of a Flood Warning and Evacuation Plan and the incorporation of Flood Resilient Measures and that Council's Emergency Planning Officer should be consulted on these. Conditions are proposed in respect of Flood Warning and Evacuation Plan and Flood Resilient Measures and the Emergency Planning Officer can be consulted prior to approving these details.

- 16.59 Regarding surface water drainage, it is standard practice for new developments to limit surface water discharges to Greenfield rates of runoff, via the use of sustainable drainage techniques. The FRA however, comments that as the adjacent watercourse is tidally influenced, the impact of the total runoff from the site is insignificant compared to the overall capacity of the river and, as such, it is typically accepted by the Environment Agency that there is no need to restrict the rate of runoff. In this instance, the site already includes a significant proportion of building footprints and hardstanding, any change in the impermeable surfacing, has the potential to have a significant impact on the surface water regime and therefore the use of a sustainable drainage system will be crucial in preventing future flooding, both on and off-site. The FRA therefore recommends that tanked permeable paving is used on the circulation road and parking bays. This will allow all surface water runoff from the areas of hardstanding to be captured within the sub base and released gradually. It is proposed that roof runoff will also be discharged into the sub-base prior to undergoing an unattenuated discharge into the River Colne. Neither the Lead Local Flood Authority nor the Environment Agency have raised an objection to this approach. The former has however recommended a suite of planning conditions.
- 16.60 Anglian Water has a number of assets in the area and they have therefore been consulted on this application. Anglian Water has confirmed that the sewerage system at present has available capacity for the flows associated with this development. Anglian Water also note that the preferred method of surface water disposal would be to a sustainable drainage system (SuDS). Anglian Water has advised that, from the details submitted, the proposed method of surface water management does not relate to Anglian Water operated assets and that the Lead Local Flood Authority should be consulted. The Lead Local Flood Authority have confirmed that they do not have an objection to this application subject to condition.
- 16.61 For the reasons given above, the proposed development is not considered to generate an unacceptable flood risk and, as such, is considered to accord with local and national policy guidance in respect of this matter.

Contamination

- 16.62 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 16.63 A desk top based contamination report accompanies this application. The Council's Contamination Land Officer agrees with the conclusions of the submitted reports and has recommended conditions to provide a framework for further assessment, and remediation works (as appropriate).

Air Quality

- 16.64 The Core Strategy contains policies for the delivery of development, infrastructure, facilities and services in Colchester to 2021. Whilst the Council does not have a specific policy on air quality within the Core Strategy; Policy TA4 does however state that "The demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character." The adopted Colchester Borough Council - Air Quality Guidance Note is a material consideration. In the emerging plan, Policy ENV5 states that proposals will be supported that will not result in an unacceptable risk to public health or safety or the environment. This policy goes on to state that proposals for developments within designated Air Quality Management Areas (AQMA's) will only be granted where the Council is satisfied that after selection of appropriate mitigation the development will not have an unacceptable significant impact on air quality, health and well - being. Emerging Policy EC3, furthermore, requires *"An air quality assessment and mitigation against any harmful effects to the AQMA likely to be caused by proposals."*
- 16.65 The site is located approximately 50m east of Colchester's 'Central Corridors' Air Quality Management Area (AQMA) and 50m west of the 'East Street and adjoining end of Ipswich Road' AQMA. Both AQMA's have been declared due to measured exceedances of the long-term air quality objective for nitrogen dioxide (NO₂). The primary source of emissions of this pollutant in the area is road traffic.
- 16.66 An Air Quality Assessment has been submitted in support of this application. During the construction phase, the site has the potential to generate dust nuisance beyond the application boundary. The assessment however states that through the implementation of appropriate air quality dust management measures as part of the Construction Management Plan, the impacts will be effectively minimised and are unlikely to be significant. The assessment notes that construction traffic will contribute to existing traffic levels on the surrounding road network. The increase in traffic will however be temporary and is unlikely to be significant in terms of total flow or construction duration. Given this, the impact of vehicular emissions of NO₂ and PM₁₀ from construction traffic and on-site machinery on local air quality is therefore considered to be negligible.
- 16.67 With regard to operational traffic the Air Quality Assessment notes that the proposed development will include parking and it is anticipated that this will not normally generate more than 56 additional vehicle movements on East Street per day. Given this, the assessment opines that the impact on local air quality of emissions from operational traffic will be negligible. Dispersion modelling of emissions from traffic on East Street and Brook Street has also been undertaken to predict pollutant concentrations at the proposed development to determine whether on-site mitigation will be required to protect future occupants from poor air quality. The assessment indicates that concentrations will be well within the relevant long-and short-term air

quality objectives. In view of the above, the Air Quality Assessment states that air quality would not pose a constraint to the redevelopment of the site as proposed. The Council's Environmental Protection Team have not raised an objection to this application on the ground of air quality impacts.

- 16.68 With regards to air quality, therefore, the proposals are considered to be acceptable and in accordance with policy.

Development Obligations

- 16.69 Policy SD2 of Colchester's Core Strategy provides that new development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. This policy goes on to state that the Council will seek to employ standard charges where appropriate to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. The viability of developments will also be considered when determining the extent and priority of development contributions. Further policies on specific topic areas are provided within the Core Strategy and the Development Plan Policies (for example on affordable housing, health, community facilities and open space etc).

- 16.70 The NPPF provides guidance on when planning obligations should be used. Planning obligations must only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The NPPF goes on to state that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

- 16.71 The Council's Development Team considers all major planning applications submitted to this Council and makes recommendations in respect of priorities for s106 obligations. The Development Team requested that the following obligations were required to mitigate the impact of this development proposal:

- Archaeology - £14,627.5+VAT
- Parks and Recreation - £136,632.25
- Communities - £33,000.
- Affordable Housing – Standard 20% Policy
- Highways – Upgrading of the bus stop on East Street, (level entry kerbing, new post and flag (approx. £5000)
- Education - £30,000.00 for early years, £90,000 towards St James Primary School

- Transportation - £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.

- 16.72 The Development Team noted that the applicant had stated that the proposed scheme was not viable and therefore it could not fund all s106 obligations. The Development Team recommended that an independent viability assessment was undertaken to verify the applicant's claim in respect of this matter.
- 16.73 BPS has audited the developer's viability appraisal, which currently shows a profit 5.83% of Gross Development Value (GDV), against the proposed target of 20% or £1,434,000. BPS has advised that the site has no existing value in planning viability terms (which effectively constitutes a write down in the suggested land value of £211,200). BPS has also recommended that a developer's profit of 17.5% is used (rather than 20% as suggested by the applicant). BPS has advised that the submitted cost plan is considered reasonable by reference to BCIS elemental analysis but that the abnormal costs appear very high. The total abnormal costs included in the construction cost estimate is £1,385,000 comprising: facilitating works £98,000, abnormal costs £337,000 (secant piled wall to river, upgrade access route, extra renovation to mill building), site works drainage and external services £610,000 and risk items £340,000 (asbestos, ground remediation, ground obstructions, substation, flood attenuation). Included in the abnormal costs are allowances for asbestos removal and scaffolding (£48,000 and £50,000 respectively) which are not considered to be justified as abnormal costs. BPS has also advised that insufficient information / justification has been provided on the other abnormal costs to demonstrate whether these are reasonable.
- 16.74 In addition to the above, BPS has noted that the appraisal uses the planning obligations provided at the preliminary enquiry stage £263,197. The updated contributions (£338,260) include requests from the Highway Authority and Education Authority neither of whom comment on preliminary enquiry applications. The appraisal does not include the provision of affordable housing. BPS also note that the NPPF (Paragraph 64) requires all major developments involving the provision of housing to provide at least 10% affordable housing (unless it falls within an exemption category, which the current development does not).
- 16.75 In order to gain a greater understanding of the viability of the development, the developer has been asked to re-run their assessment to include nil value for the land and to exclude the abnormal costs. This shows a developer's profit of about 11.17%. If the updated s106 contributions are included (excluding the affordable housing) the profit level falls to 10%.
- 16.76 Given the above, it is concluded that the current proposal does not deliver a market return for the developer and officers accept the current proposal cannot viably support all the requested planning obligations. Notwithstanding the viability position of the development, the applicant has offered £165,000

to cover the transport, archaeology and education contributions and agreed to a viability review.

16.77 The reduced level of s106 contribution means that the development will fail to mitigate its full impact. Given this, Members may wish to take the view that the failure to provide the requested s106 obligations and to deliver a minimum of 10% affordable housing means that the proposal does not constitute sustainable development and should be refused on this basis. Officers would however caution against such an approach. The application site, due to its poor condition, has attracted anti-social behaviour for many years. Officers believe that the current scheme offers a pragmatic solution to the redevelopment of this derelict site and that would secure the repair of an 'At Risk' listed building and the enhancement of this part of the conservation area. (These benefits are in addition to the more generic ones such as maintaining the supply of housing, potential employment creation etc). For this reason, it is recommended that the s106 contributions offer is accepted and that the development is the subject of a viability review.

16.78 In addition to the planning obligations requested by the Development Team, it is also recommended that there are obligations requiring RAMS payment, a trigger point for refurbishment of the listed building, undertaking a Viability Review and the introduction of a Parking zone Control

17.0 Conclusion

17.1 The current application will deliver 20 residential units in a sustainable and accessible location. The development will contribute positively towards the Borough's supply of housing. There would be economic benefits as a result of construction activity, the regeneration of the East Bay Mill area and the possible creation of additional jobs. There is sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of local residents, ecology, flood risk, air quality or would not have a severe impact upon the highway network in terms of capacity.

17.2 The NPPF has at its heart the promotion of sustainable development. The proposal has significant sustainability credentials. A core planning principle of the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The proposal would secure the repair and reuse of Granary Barn, a grade II listed building and will serve to enhance the character and appearance of this part of Colchester Conservation Area No.1. It is considered that the scheme would acceptably fulfil the environmental dimension of sustainable development by preserving and enhancing the identified heritage assets and by promoting new development of a high quality design. The failure to fully mitigate its impact by through the provision of s106 obligations weighs against this scheme; however, on balance, the benefits of this scheme are considered to outweigh this shortcoming.

- 17.3 In conclusion, it is considered that the benefits of the scheme significantly outweigh any adverse impacts and, as such, Members are asked to endorse the officer recommendation that planning approval should be granted subject to the suggested conditions heads and the signing of the s106 agreement.

18.0 Recommendation

- 18.1 It is recommended that Members resolve to grant planning permission, subject to:

- (1) The receipt of a favourable consultation response from the Highway Authority and the incorporation of conditions recommended by them or conditions to address any concerns that they may raise;

- 18.2 Following the submission of the above, the Assistant Director for Policy and Corporate is authorised to enter into and complete a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting to provide the following:

- Archaeology - £14,627.5+VAT
- Highways – Upgrading of the Bus stop (eastbound) immediately opposite the site on East Street; works to comprise level entry kerbing, new post and flag
- Education - £30,000.00 for early years, £90,000 towards St James Primary School
- £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.
- All sums to be index linked
- RAMS payment
- Management of open space and public access to this
- Trigger points for refurbishment of the listed building
- Viability Review
- The introduction of a Parking zone Control

- 18.3 In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director is authorised at their discretion to refuse the application.

Conditions

1. ZAA - Time Limit

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

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

2. ZAM - Development to accord with Approved Plans

The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below.

0502 PL_1100 REV C Proposed Ground Floor Plan
0502 PL_1300 REV C Proposed House Type 1 - Listed Building
0502 PL_1301 REV B Proposed House Type 2
0502 PL_1302 REV C 1302 Proposed House Type 3
0502 PL_1303 REV B Proposed House Type 3A
0502 PL_1304 REV C Proposed House Type 3B (received on 14 May 2019)
0502 PL_1305 REV B Proposed House Type 3C
0502 PL_1306 REV C Proposed House Type 4 (received on 14 May 2019)
0502 PL_1307 REV C Proposed House Type 5 (received on 14 May 2019)
2018 4413 019 Rev 1 Surface Materials Plan

No variation from the approved plans should be made without the prior approval of the Local Planning Authority. Amendments may require the submission of a further application

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

3. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

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

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

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

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

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

5 ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

6. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, 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 5.

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

7. ZG3 - *Validation Certificate*

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

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

8. Non Standard Condition - Construction Method Statement

No works, including works of demolition and/or enabling works shall take place 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. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) hours of deliveries
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the hours of work
- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities
- vii) measures to control the emission of dust and dirt during construction
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- ix) a method statement for piling works

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.

9. Non Standard Condition - Recording and Protection of Heritage Assets

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

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

10. Non Standard Condition – Programme of building recording

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

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

11. Non Standard Condition - Materials and detailing

No development shall take place (except for underground enabling works) until full details of the materials (including brick bond and mortar type) to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to ensure that suitable materials are used on the development and to safeguard the character and appearance of the heritage assets and their setting.

12. Non Standard Condition – Additional drawings

Notwithstanding the details submitted, no works shall start (except for underground enabling works) until additional drawings that show details of any proposed new windows (including the depth of reveals), doors, eaves, verges, cills, arches, plinths, porches, balconies and screens, brickwork / stonework detailing, roof features and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: In order to ensure that the architectural detailing of the development is appropriate and to safeguard the character and appearance of the heritage assets and their setting.

13. ZFQ - 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.

14. ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

15. Non Standard Condition – Tree Pruning Details

Notwithstanding the submitted tree pruning details, a revised package of tree pruning works (including a timeframe for implementation) shall be submitted to and approved in writing prior to the commencement of any works on site. The development shall be implemented in accordance with the agreed details.

Reason The proposed pruning works are too high and will distort the shape of the trees crown.

16. ZFB - *Full Landscape Proposals TBA*

No works of development 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.);
- Works to the river embankment;
- 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

17. ZFE - Landscape Management Plan

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

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

18. Non Standard Condition – Boundary walls

All boundary walls that front onto a public or semi public space shall be enclosed by a brick wall unless otherwise agreed in writing by the Local Planning Authority. Brick walls shall be finished with a brick on edge coping and terminated at each end by either a pier or return. Where changes in the height of walls occur, the higher wall shall be raked smoothly downwards to the level of the lower wall.

Reason: To ensure a satisfactory form of development and in the interests of visual amenity.

19 – Non Standard Condition – Bat Survey

No works shall take place until a Bat Survey has been undertaken and a scheme of mitigation and enhancement (which shall include as a minimum the provision of bat boxes, an implementation timetable and responsibilities for maintenance) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of bats during the course of this development and to ensure that there is appropriate and enhancement.

20. Non Standard Condition – Reptile Survey

No works shall take place until a Reptile Survey has been undertaken and a scheme of mitigation and enhancement strategy (including an implementation timetable and responsibilities) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in

accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of reptiles during the course of this development and to ensure that there is appropriate enhancement

21. Non Standard Condition – Provision of bird boxes

Prior to the occupation of the dwellings hereby permitted, a scheme for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of any the dwellings.

Reason: To ensure that appropriate provision is made for birds as a part of the development.

22. ZCF - Refuse and Recycling As Shown

The refuse and recycling storage facilities shall be implemented in accordance with the details shown on the approved plans and made available prior to the occupation of each building they are intended to serve. Such facilities shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority

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

23. Non Standard Condition – Parking Provision

No unit shall be occupied until the car parking space(s) intended to serve that unit and any associated unallocated visitor car parking space(s) intended to serve that part of the development have been hard surfaced, sealed, marked out and made available for use to the satisfaction of the Local Planning Authority. The respective spaces shall thereafter be retained at all times for their designated purpose.

Reason: To ensure that each unit is provided with an appropriate parking space and that the unallocated parking space available for use by all residents and their visitors and in the interest of highway safety.

24. Non Standard Condition – Cycle Parking space

Each residential unit shall be provided with at least one secure covered cycle parking space that is convenient to access / use. No unit shall be occupied until cycle parking for that unit has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be retained in accordance with the agreed details.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety

25. Non Standard Condition - Travel Pack

On the first occupation of each dwelling, the residents shall be provided with Travel and Information Packs, the contents of which shall previously have been agreed in writing by the Local Planning Authority, in consultation with Essex County Council.

Reason: To promote modal shift towards more sustainable forms of transports.

26. Non Standard Condition - Drainage

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- A Management and Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system, the maintenance activities/frequencies and the retentions of maintenance of logs.

The scheme shall subsequently be implemented prior to occupation

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development; to provide mitigation of any environmental harm which may be caused to the local water environment and because the failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

27. Non Standard Condition – 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 and prevent pollution has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater

level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. The construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

28. Non Standard Condition - Drainage

The development hereby permitted shall not be commenced until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Reason: To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site. The failure to carry out the required maintenance before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

29. Non Standard Condition - Flood Resilient Measures

Prior to the commencement of the development hereby permitted details of the Flood Resilient Measures to be incorporated within the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To minimise flood risk of damage to property.

30. Non Standard Condition - Flood Warning and Evacuation Plan

Prior to the occupation of the units hereby permitted a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Flood Warning and Evacuation Plan shall be adhered to at all times

Reason: To minimise flood risk to residents.

Permitted Development Rights

31. ZDC - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and to safeguard the character and appearance of heritage assets and their setting

32. ZDI - *Removal of PD for Windows Above Ground Floor Level*

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

33. Non Standard Condition - Permitted Development Rights

Notwithstanding the provisions of Part 40 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no micro-generation equipment shall be installed unless otherwise approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to safeguard the character and appearance of heritage assets and their setting.

19.0 Informatives

The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3 ZTB - Informative on Any Application With a Site Notice

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

4 Informative on Archaeology:

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

5 Informative on Anglian Water

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

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

Notification of intention to connect to the public sewer under S106 of the Water Industry Act

Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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

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

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

6 Informative – Works on River Bank

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Colne, is designated a 'main river'.

7 Informative Refuse Collection

Please Note: The Council is under no obligation to collect refuse from properties on private streets and/or private drives that are located more than 25m from the adopted highway. Prior to the Council agreeing to the collection of refuse and recycling from properties located on private roads, the applicant will need to provide evidence that each relevant residential property is party to a covenant that stipulates that Colchester Borough Council (or any future third party provider) has:

- rights of access the road at all times (including the ability to turn collection vehicles around free from obstruction);
- no-one at any time can refuse the collection provider access;
- the Council has no maintenance liability; and

If the above is not provided, the Council will not collect refuse and/or recycling from the said properties and alternative collection arrangements will need to be made. It should also be noted that should the Council encounter a problem with the collection of waste from the private roads within this development, it reserves the right to withdraw its waste collection service.

The applicant is asked to draw to the attention and fully explain the implications of the above requirements to all purchasers of these properties.