



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 09 November 2023 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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Access

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COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 09 November 2023 at 18:00

The Planning Committee Members are:

Cllr Lilley	Chair
Cllr Barton	Deputy Chair
Cllr Davidson	
Cllr Hogg	
Cllr Mannion	
Cllr MacLean	
Cllr McCarthy	
Cllr McLean	
Cllr Tate	
Cllr Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Cllr Arnold	Cllr Bloomfield	Cllr Burrows	Cllr Buston
Cllr Cory	Cllr Dundas	Cllr Ellis	Cllr Goacher
Cllr Hagon	Cllr Harris	Cllr Kirkby-Taylor	Cllr Law
Cllr Laws	Cllr Lissimore	Cllr Luxford-Vaughan	Cllr Naylor
Cllr Nissen	Cllr Pearson	Cllr Powling	Cllr Rippingale
Cllr Rowe	Cllr Scordis	Cllr Scott-Boutell	Cllr Smalls
Cllr Smith	Cllr Sommers	Cllr Sunnucks	Cllr Willetts
Cllr J. Young	Cllr T. Young		

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

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

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

Live Broadcast

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

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

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. These Have Your

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

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

6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 7 September 2023 are a correct record.

2023-09-07 CCC Planning Committee Minutes

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7 Planning Applications

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

7.1 223013 Bypass Nurseries, Dobbies Lane, Marks Tey, Essex, CO6 1EP

15 - 38

Application for the change of use of land to B8 storage, retention of portable cabin for ancillary office, retention of earth bunds, proposed buildings for storage.

7.2 231402 Land Fronting, Gosbecks View, Colchester

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Application for proposed construction of 3 no 3-bedroom & 3 no 2-bedroom bungalows and 1 no-3 bedroom & 2 no 4-bedroom houses with associated garaging and alterations to access road.

8 Exclusion of the Public (not Scrutiny or Executive)

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

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

PLANNING COMMITTEE
7 September
2023

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Buston, Davidson, Hogg, MacLean, McCarthy, McLean, Pearson, Tate
<i>Substitute Member:-</i>	Cllr Buston for Cllr Mannion Cllr Pearson for Cllr Warnes
<i>Also in Attendance:-</i>	Cllr Goacher Cllr Naylor

1015. Minutes

The minutes of the meeting held on the 15 June 2023 were confirmed as a true record.

1016. 231197 Land North of, The Kings Arms, Broad Green, Coggeshall, Colchester, CO6 1RU

The Committee considered an application for the layout of gravel and a change of use for vehicular parking north of and in association with the Kings Arms Pub and Hotel Proposed. The application also sought a change of use of land from agricultural to domestic residential gardens. (Retrospective). The application was referred to the Planning Committee as the applicant is a City Councillor.

The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1017. 231688 The Kings Arms, Broad Green, Coggeshall, Colchester, CO6 1RU

The Committee considered an application for a single-storey extension to existing Public House to provide a wheelchair accessible toilet. The application was referred to the Planning Committee as the applicant is a City Councillor.

The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1018. 231615 7 North View Cottages, Coach Road, Great Horkesley, Essex, CO6 4AT

The Committee considered an application for a single storey rear extension for disabled adaption to include bedroom and bathroom. The application was referred to the Planning Committee as the applicant was Colchester Borough Homes.

The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation.

1019. 231370 4 St Botolphs Street, Colchester, CO2 7DX

Councillors Buston and Tate declared non-pecuniary interests in the application as members of the Colchester Civic Society.

Councillor Lilley declared that they had visited the site with officers but not as part of an organised site visit with the Committee.

The Committee considered an application where planning permission was sought for replacement of timber sash windows with UPVC sash windows which will be painted black. Also new timber door to flats and re-instatement of parapet & clock to front elevation. The application was referred to the Planning Committee in the interests of transparency, given the number of local representations having been received.

The Committee had before it a report and Amendment Sheet in which all information was set out.

Hayleigh Parker-Haines, Senior Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the photographs of the windows that had been replaced on site and detailed that applications such as this were not always supported but that due to the circumstances associated with the application the application was being recommended for approval. The Committee heard that the proposal included the re-instatement of the clock on the building and would be conserving a non-designated heritage asset which would remain in commercial use and was deemed that the benefits of the proposal outweighed the identified less than substantial harm.

Howard Davies addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that paragraph 15.7 of the report detailed an accusation from the Civic Society regarding something that it had not said, and the president of the society had asked that this be removed from the record. The Committee heard that there was a shrinking demand for retail floor space and that detailed that there were inaccuracies regarding a previous application on the site which had been approved in 2017 which detailed that there would be noise insulation and that the glazing on the windows would be internal as the windows formed part of the original conservation. The speaker questioned why this was overlooked and why the Council was overlooking the proper restoration of the City Centre. The speaker concluded by detailing that it seemed that the UPVC windows would be painted black and possibly fade into the background and that there had been other instances where other properties had been denied alternative windows.

Sam Good addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in support to the application. The Committee heard that they represented 500 businesses with one being Silk Road before Members and detailed that the work of the owner and their team should be celebrated who demonstrated their passion for the area and partook in Pubwatch. The speaker thanked the officers for looking at the application in detail and outlined that the climate that businesses were working in was very difficult and was changing and that the work had been done to invest within the area. The speaker concluded by detailing that the works would cost significantly more if the proposals from the Civic Society were implemented and that the report detailed that there would be minimal impact.

Councillor Mark Goacher addressed the Committee as Ward Member for Castle Ward. The Committee heard that the proposal was within a conservation area and detailed that there was concern from residents regarding the replacement of UPVC windows and why businesses were being treated differently to households in the area. The Ward Member was concerned that if the proposal was approved then it would set a precedent in the area and that it could lead to a watering down of standards.

At the request of the Chair, the Senior Planning Officer responded to the points raised by the Have Your Say speakers. The Committee heard that neighbouring complaints regarding enforcement were outlined in the report and that 15.7 noted the updated consultation responses and outlined that the report provided significant detail about the planning balance and the very specific circumstances surrounding the application. The Committee heard that there was some environmental harm that would be subject to mitigation as detailed in the proposed conditions and that the use weighs in favour of the scheme in these specific circumstances.

At the request of the Chair Simon Cairns, Joint Head of Planning detailed that residents had separate requirements and that there was no article 4 direction on dwellings as there was a lesser degree of control for dwellings. The Joint Head of Planning added that the degree of harm in the proposal was of a less than substantial magnitude which was outweighed by the public benefits and that it was up to Members to decide whether they agreed with the officer on balance recommendation.

A proposal was made and seconded that the application be approved as detailed in the officer recommendation.

A vote was taken as follows:

For: Three Against: Six Abstain: One

The motion was lost and the debate continued as follows.

Members debated the proposal with a Member noting that the proposal was a regeneration of the area and that the character fitted into the area. Debate continued with Members detailing that they understood the financial concerns, the listed building status and that there was approval for the improvement of the clock. Members detailed that the rectangular windows did not match the previous wooden ones with arched heads and asked whether a condition could be added to ensure the window frames were wood.

The Joint Head of Planning responded and clarified that the proposal was not part of a listed building and that if Members chose to refuse the application, then a two-year stay could be given before enforcement action was undertaken.

At the request of the Chair the Senior Planning Officer showed the photos that were in the presentation regarding the replacement windows.

Members continued to debate the proposal with some Councillors detailing that they did not have an objection to white UPVC windows or with the applicant and their contribution to the city but that the Committee and the Council needed to decide whether to enforce the conditions imposed for a retrospective application. The Committee discussed how a separate example of a nursery school in Lexden Road had changed their windows in a similar fashion and had ended up at the Crown Court. Some Members felt that there needed to be an even enforcement of the rules.

Members noted that the remark in 15.7 was not the opinion of the Civic Society and was noted by Members and an application on the site had previously been received in 2017. Some Members felt that without the details of the previous application before them then they could not make a decision on the application.

At the request of the Chair, the Joint Head of Planning outlined that the discussion should not be looked at as binary mode of policy but taking the plan as a whole and needed to be looked at holistically and could not be compared to binary nature of policies such as those that could be assessed under building control regulations. The Committee heard that the application needed to be looked at on its own merits weighing up the harm of the proposal with the benefits. It was noted that until the enforcement complaint had been received the change of the windows had not been noticed and that this was a good test of whether it was having a material detrimental harm.

The Committee continued to debate the application on the issues including the delicate balance of acceptability of the proposal and that the site was on the local list of historically important buildings, and that some Members felt that the proposal should be replaced with wooden window frames.

A proposal was made to defer the application to seek amendments to the window shape as those that had been removed. The proposal was subsequently withdrawn.

At the request of the Chair, the Joint Head of Planning outlined that the applicant could appeal the decision and if dismissed then the Committee could add to the resolution that a grace period of 2 years grace could be given before enforcement action was taken.

It was proposed and seconded that the proposal be refused for the following reasons:

The comprehensive unauthorised replacement of the original painted timber sliding sash windows by plastic double glazed windows has resulted in *less than substantial harm* to the character and appearance of the Colchester No.1 Conservation Area by reason of the uniform extruded appearance of the plastic frames, prominent trickle vents and the reflective quality of the double-glazed units. In the opinion of the Local Planning Authority, inadequate justification advanced to justify the harm identified to designated heritage asset contrary to policies Env1 and DM16 of the adopted local plan 2017-2033 together with paragraphs 199, 202 and 203 of the NPPF 2023 which together seek to prevent unjustified harm to designated heritage assets.

Plus informative:

The Local Planning Authority has agreed to allow a two-year period for the applicant to agree details of appropriate replacement painted timber box sash windows and carry out the works of reinstatement.

RESOLVED (SIX votes FOR and FOUR votes AGAINST) That the application is refused for the following reasons:

The comprehensive unauthorised replacement of the painted timber sliding sash windows by plastic double glazed windows has resulted in *less than substantial harm* to the character and appearance of the Colchester No.1 Conservation Area by reason of the uniform extruded appearance of the plastic frames, prominent trickle vents and the reflective quality of the double-glazed units. In the opinion of the Local Planning Authority, inadequate justification advanced to justify the harm identified to designated heritage asset contrary to policies Env1 and DM16 of the adopted local plan 2017-2033 together with paragraphs 199, 202 and 203 of the NPPF 2023 which together seek to prevent unjustified harm to designated heritage assets.

Plus informative:

The Local Planning Authority has agreed to allow a two-year period for the applicant to agree details of appropriate replacement painted timber box sash windows and carry out the works of reinstatement.

1020. 220526 Land Adjacent to 67, Braiswick, Colchester, CO4 5BQ

The Committee considered an application for approval of reserved matters following outline approval 191522 – erection of 27 dwellings and associated development. The application was referred to the Planning Committee as it had been called in by Councillor Sara Naylor for the following reasons:

“I doubt that high quality design can be delivered as required with a density of 27 houses.”

The Committee had before it a report and amendment sheet in which all information was set out.

John Miles, Senior Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee heard that since the applications previous deferral new drawings had been submitted by the applicant addressing the points made at the previous meeting regarding the requirement for open space on the site. It was noted that it had been amended on some plots to create a larger consolidated open space on site. The Committee heard that the recommendation had been updated to require further architectural details to promote the sites' identity. The Senior Planning Officer presented the proposed changes in design of the dwellings which included stone sills and brick plinths. The presentation concluded with the Senior Planning Officer detailing that the proposal had a good quality of design and that the officer recommendation was for approval.

James Ryan, Planning Manager, added to the case officer's presentation as they had been the officer that had dealt with the appeal allowed by the Planning Inspectorate. The Committee heard that the outline application had been refused by the Planning Committee on the basis of the density being too high, that the application was premature and was overdevelopment of the site. The Committee heard that the Inspector had not agreed with

the Planning Committee's resolution and granted outline pp for up to 27 dwellings on the site.

David Mehigan addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that there was a severe concern regarding the topography of the site and layout with the playground being located on the boundary with the A12 where there was a drop of 19 feet down to the A12. The Committee heard that this was the equivalent of jumping from a second storey window and that the play area would not be used as a tree belt could not be planted leading to safety issues of children getting near to the A12 and sheer drop. The speaker outlined that there were also concerns regarding car movements on site and that the urban design officer and applicant agreed that the site could not be built to a high standard of amenity.

Jack Baron addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in support to the application. The Committee heard that the proposed housing numbers, conceptual tree planting and the levels on the site had been agreed in the outline permission of the site. The Committee heard that the small peaceful areas of open space had been created partly through the removal of the double garage for plot 15 which would allow accessible use of the open space for wheelchairs and exceeded the 10% policy requirement for open spaces through the two areas on site. The Committee heard that in hindsight they wished the applicant had made these amendments sooner and that they had studied the character of the local area of Braiswick to ensure that the proposal was in-keeping with the local area.

Councillor Sara Naylor addressed the Committee as Ward Member for Lexden and Braiswick. The Committee heard that the developer was cramming properties on the area and that the developer was lacking in respect for their responsibilities with regards to open space and should not add more at the south of the site next to the steep slope and the noisy A12. The Committee heard that there was still only a lukewarm response from the Urban Design Officer as the design had remained largely the same as before and that the developer was not thinking ahead about what it would be like to live on the site and as such, they would have put forward a better design if they had. The speaker detailed that the presentation and report did not detail how cars would access plot 15 and its associated vehicle movements and that there was no detail regarding the drop down to the A12 and whether there would be a fence and the danger associated with the proposal if there wasn't one. The Ward Member concluded by detailing that they and the residents association would like to see a centralised playground on the site and that the Committee defer the application to allow this to happen.

Councillor Dennis Willetts addressed the Committee as Ward Member for Lexden and Braiswick. The Committee heard that the principle of development on the site had been confirmed and that there was a significant need for housing within the City. The Ward Member drew attention to policy DM12 and the residential development aspiring to be a high standard but qualified that they did not think that this proposal reflected that and that the Urban Design Officer was not supportive of the proposal through a lack of place making features. The Committee heard that the additional chimneys did not convince anyone regarding the quality of design and that the shuffling of the dwellings on site was not a material improvement. The Ward Member detailed that the scheme as amended did not convince them that it had been optimised with too many shortcuts having been taken. The speaker concluded by detailing that the proposal was like the shuffling of chairs on an ill-fated ship and asked that the Committee defer the application until a better design had been secured.

A statement from Councillor Lewis Barber, Ward Member for Lexden and Braiswick, was

read out by the Democratic Services Officer as follows:

"Dear Committee

You will be hearing this application once again after a further referral. I thank you for the time you have given this application to try and resolve outstanding issues. Unfortunately, it is my view that the additional public open space is insufficient to overcome the issues the committee have rightfully identified. For example, the committee is aware of the Neighbourhood Plan policy, which is adopted policy of the council, that specifies as follows:

HOU1: Developers should achieve the highest quality of design commensurate with current national and local design guidance.'; and

DPR1: 'Developments will aim to attain the highest quality and design standards and where appropriate encourage the use of relevant national standards by developers in order to achieve the highest possible levels of overall sustainability in the design and layout of new developments.'

The Urban Design Officer once again notes issues with the proposals:

"This consistency in the composition of the proposed built environment, combined with its homogenous placement, results in a lack of distinct identity and visual interest across the site."

Once again, the application has not reached the necessary planning standard. It is timely to remind the committee that the outline permission is an "up to" permission, not a fixed amount. Therefore, while the applicant may be able to reach this threshold, there is not a planning right to do so. Other factors must be taken into account. These factors continue to not be satisfied, such as policies HOU1 and DPR1. On this basis, I urge the committee to make a decision this evening to reject the application. "

At the request of the Chair, the Senior Planning Officer detailed that the levels on site had not changed since the application was previously at the Committee and that there was a substantial difference in the public open space that was relatively flat and has been recognised by officers as an improvement. The Committee heard that this was to be conditioned and that there were also pre-commencement conditions in place which would require the submission of details regarding safety on the eastern area of the site and concluded by detailing that there was an overprovision of parking on the site.

Members debated the proposal regarding the safety provisions on the site with concern being raised regarding the appropriate conditions being added. At the request of the Chair, the Senior Planning Officer confirmed that the safety elements being discussed were at the heart of the permission and that if the applicant did wish to change these it would have to be for a very good reason, however, they reiterated that the conditions in the proposal currently were enforceable and provided a certainty and security for the Committees decision making.

Members continued to debate the application on the issues of the loss of open space around the rest of the site through the consolidation of open space as well as the amendments to plot 15 and the access arrangements to this property. Some Members were concerned that the public open space in front of plot 15 would mean that there was no front garden for the property. Additionally, some Members were concerned that the levels on site would create a safety risk with the 19-foot drop adjoining the boundary to the A12.

At the request of the Chair, The Senior Planning Officer outlined that the public open space

plan had been amended and had consolidated the open space into the main areas and noted that although there was not a front garden for plot 15 it did have a very generous rear garden. With regards to the overall design of the proposal the Senior Planning Officer detailed that the principle of arcadian development had not been endorsed by the Planning Inspector through the appeal and confirmed that the two large areas of open space were policy compliant and that the safety details of the site would be provided prior to commencement. In response to a question from the Committee the Senior Planning Officer detailed that the approval of the pre-commencement conditions and whether they had been undertaken appropriately would not come before the committee but if there was a variation of a condition then that could be called in for determination to the Committee.

Members continued to debate the application on the issues including: the lack of green energy heating on the site and Electric Vehicle charging points, concern over the consolidation of open space, the maintenance of the public open space and that some Members felt that the response from the Royal Society for the Prevention of Accidents (ROSPA) was required before permission was granted.

At the request of the Chair the Senior Planning Officer detailed that the access road had been developed to incorporate the next tranche of development and link the connectivity and that this was not designed to be a gated community. It was further noted that although the gardens for plots 4 and 5 were smaller than others they were within acceptable standards and that there was a condition within the papers that meant that the open space would be overseen by a management company. In response to further questions the Senior Planning Officer confirmed that there would be natural surveillance of the play area and open spaces.

It was proposed and seconded that the application be approved as detailed in the officer recommendation and amendment sheet.

RESOLVED (EIGHT votes FOR and ONE vote AGAINST with ONE ABSTENTION) That the application be approved as detailed in the officer recommendation and amendment sheet.



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Item No: 7.1

Application: 223013

Applicant: Mr Modani

Agent: Mr Ben Willis

Proposal: Change of use of land to B8 Storage, retention of portable cabin for ancillary office, retention of earth bunds, proposed buildings for storage.

Location: Bypass Nurseries, Dobbies Lane, Marks Tey, Essex, CO6 1EP

Ward: Marks Tey & Layer

Officer: Mr Daniel Cooper

Recommendation: Approval subject to recommended conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Ellis has called-in the application for the following reasons:

The development proposed together with building layout, siting and scale is too industrial in nature/appearance, and will therefore have a detrimental impact on the area.

The proposal does not accord with the adopted Marks Tey Neighbourhood Plan.

Notwithstanding ECC Highways comments/requested conditions, Dobbies Lane is patently unsuitable for the type and quantity of vehicles the proposed use requires/generates, significantly compromising Highway safety for both cyclists and pedestrians. Photographic evidence can easily be supplied by the Parish Council. I would ask for a committee site visit so that they can fully appreciate the issues with this application. I could continue, but this should be sufficient reasons for 'call in' and we will expand on this at Committee.

2.0 Synopsis

- 2.1 The proposed development is for the change the use of the land outlined in red to B8 storage (retrospective), retention of portable cabin for ancillary office (retrospective), retention of earth bunds (retrospective) and two proposed buildings for storage.

- 2.2 The key issues for consideration are principle of development, highway matters, flood risk and drainage, heritage, ecology, impact on the character of the area, and impact on amenity.

- 2.3 The report describes the site and its setting, the proposal itself, and the consultation responses received including those from statutory consultees. The material planning considerations which are relevant to the proposal are detailed in the report. The report considers this submission documentation alongside the key material planning matters and comments set out in representations received. It is acknowledged that a number of third party representations are in relation to highway safety. The Essex County Council Highway Authority has been consulted on the proposal and their comments, included recommended conditions, are considered in the report.

- 2.4 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

- 2.5 On 15th June 2023 this scheme was deferred by members of the planning committee for the following reasons:**

1 - The application is deferred to seek a site visit with the planning Committee and inviting the Essex County Council (ECC) Highways Officer to attend said site visit and the subsequent committee determination hearing

and ask that ECC Highways investigate the use of Dobbies Lane and potential conflicts with pedestrians and cyclists on this key route (MTNP Policy MT08).

2.6 Following this deferral, officers have met with the applicants and new drawings have been submitted showing access direct onto Old London Road avoiding Dobbies Lane entirely. Neither National Highways nor Essex County Highways have any objection to the revised proposals. The application is subsequently recommended for approval subject to the recommended conditions. Updates to the original officer report are set out below in bold text for convenience.

3.0 Site Description and Context

3.1 The application site comprises of the existing Nustone site which is a well established paving stone distribution site within Marks Tey. The on-site business operations comprises of storage of a range of different paving stones and types. The Nustone site (i.e. the brownfield area of the site) has an urbanising effect on the otherwise predominantly rural landscape. The site also includes an undeveloped grassland area which is adjacent to Old London Road. This existing grass buffer helps to maintain separation between the existing Nustone site and the public highway, softening its influence on the character and appearance of the area and creating a softer edge to the wider settlement.

3.2 The surrounding land uses are residential to the north, commercial employment to the east, and open countryside to the south and west. The A12 is in close proximity to the site, this is to the south. Vehicular access is already existing, this is provided via Dobbies Lane, which joins Old London Road, which then links to the A120 and then the A12.

3.3 The application site is located outside of the settlement limits, designated as white land (i.e. “no allocation”) in the Local Plan albeit close to an employment zone. The site is noted as business use within the adopted Marks Tey Neighbourhood Plan.

3.4 The approach to the site from Marks Tey along Old London Road is lined by dwellings, which give way to the employment uses closer to the application site. Adjacent to Old London Road is the A12 dual carriageway with agricultural land, a small number of isolated houses and a petrol station beyond. To the south-west, beyond the wider field boundary and another small collection of houses, is further agricultural land. Despite some elements of urbanising development and the site’s position on the edge of the built-up area, the surrounding area is therefore predominantly rural in character.

4.0 Description of the Proposal

4.1 Change of use of land to B8 storage (retrospective), retention of portable cabin for ancillary office (retrospective), retention of earth bunds (retrospective) and two proposed buildings for storage.

5.0 Land Use Allocation

5.1 The site is previously developed commercial uses but is located in the defined countryside in planning policy terms.

6.0 Relevant Planning History

6.1 151898 - Previous planning permission granted for the change of use of polytunnel and area of hard standing to B8 storage. Approved

6.2 211747 - Change of use of land from Garden Nursery (sui generis) to B8 Storage. Refused and dismissed at appeal. It is important to note that this application related to the greenfield part of the site and introduced a new access point. The refused application is considered materially different to this scheme before Planning Committee.

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP5 Employment
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

- SG1 Colchester's Spatial Strategy
- SG3 Economic Growth
- SG8 Neighbourhood Plans
- ENV1 Environment
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- OV1 Development in Other Villages
- OV2 Countryside
- DM6 Economic Development in Rural Areas and the Countryside
- DM15 Design and Amenity
- DM16 Historic Environment
- 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

7.5 Some “allocated sites” also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:

- SS11 Marks Tey

7.6 The Neighbourhood Plan for Marks Tey. This forms part of the Development Plan in this area of the City.

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

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Sustainable Construction

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below:

Environmental Protection – No objection subject to conditions recommended at 17.1 of this report

Anglian Water – Unable to comment

Essex County Fire and Rescue Service – Recommends the scheme complies with Building Regulations

Essex County Council Highway Authority – No objections subject to conditions recommended at 17.1 of this report.

Historic England – No comments to make on this application

National Highways - This proposed application site is located north-western side of Old London Road, where there is existing vehicular access to the site via Dobbies Lane. The Old London Road runs parallel to the A12 and joins at the Marks Tey Road interchange, Junction25 between A12 and A120. Currently, National Highways have a major road within the wider area. We have reviewed the details and information provided. The proposed development is unlikely to have any adverse impact on the Strategic Road Network. Therefore, National Highways offers no objection.

Essex Country Council SuDs – Holding objection

The information provided does not allow us to assess the flood risk development. Please provide information as required within the new ECC SUDS design guide: <https://www.essexdesignguide.co.uk/suds/what-we-expect/>

We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below:

<https://www.essex.gov.uk/protecting-environment>

Landscape Advisor –

In support and addition to the policy/policies and guidance, the following point(s) should be taken into consideration. This to avoid potential harm to the existing and future character/amenity of the site and its environs that might occur through agreement of the currently proposed scheme, as it is considered it may not adequately conserve/enhance/restore the landscape of the site for the betterment of its wider setting:

In order to allow the development to better reflect, conserve and enhance the landscape character of the Easthorpe Farmland Plateau within which the site sits, the following amendments should be considered:

1. Propose using an architectural design and materials to the proposed buildings that are demonstrably in keeping with modern farm buildings within the Easthorpe Farmland Plateau, this to allow the development to conserve and complement the character of its wider landscape setting.

Following the deferral and amended drawings the Council's Landscape Officer has commented on the revised proposals with no objections subject to a landscape condition

Contaminated Land Officer – no comments

Archaeological Advisor –

While the proposed buildings are relatively large, under these proposals they will have small pad foundations, with low archaeological impact. There are no known archaeological sites nearby, with the course of a Roman road circa 240m away. Therefore there are no archaeological requirements.

Heritage Officer –

The application site is situated to the south-east of Palmer's Farmhouse which is listed at Grade II (List UID 1224575). The listed building has a well-defined domestic curtilage but its wider setting is much altered by modern development, including the A12 Interchange Park to the north-east and the former facilities of the Bypass Nurseries to the south-east. The present application proposes retention of existing portable cabin for ancillary office, retention of earth bunds and two new buildings for storage.

The proposed buildings would be large warehouses of utilitarian/ industrial appearance but they would be located at the north-east corner of the site. I appreciate that this is less desirable in terms of landscape impact but it reduces their potential to intrude into the views of the listed building and affect its immediate, domestic curtilage (in combination with an appropriate landscape strategy).

However, harm to the listed building can also occur from the introduction of an unsuitable use in its vicinity (due to increased noise, traffic, light spillage etc). I note that some objectors raise the matter of traffic etc, but these considerations are rather outside my remit. If there are wider concerns that the proposal would result in the intensification of the site's use and overdevelopment, then the harm to listed building could be added to those concerns. However, having in mind that the site was previously in use, I don't feel there are enough grounds for heritage objections unless there are wider planning issues for the proposal.

Built Heritage Response to revised proposals:

The impact of the current (revised) proposals is very limited and potentially positive. The stopping up of the existing vehicular access to Dobbies Lane will remove HGV's from the lane and create a greater sense of the formerly tranquil rural lane. This is a positive outcome that will return a degree of the historic isolation of the formerly rural farmhouse. Furthermore, the stopping up of the access and introduction of new planting belts of screening trees and shrubs as part of detailed landscape proposals, will serve to mitigate the continued use of the site as a distribution depot. The net resultant impact upon the setting of Palmers Farmhouse will thus be potentially positive and this will become more apparent as landscaping matures.

In conclusion, having regard to the statutory duty (s.66(1) 1990 PI (Lb & CA) Act 1990) and relevant local plan policies (DM16, ENV1) the proposals would serve to preserve the setting of the listed former farmhouse and in the medium and longer term potentially deliver an enhancement for the reasons set out above.

9.0 Parish Council Response

- 9.1 The Parish Council feel compromised by the redevelopment, change of use, extended use, and operation of this site by Nustone without them undertaking any of the statutory preparation that is required for such use, and without any consultation. Nustone, without any statutory permissions are operationally using almost twice the area of the former use that could be considered 'brown land' and almost 5.5 times more area than the legitimate existing B8 permission. The erected and proposed buildings are out of character with the former use and the size of vehicles servicing the site overwhelm narrow Dobbies Lane and the adjacent reduced width part of Old London Road and the junction. This vehicular use is a threat to pedestrians and cyclists from the Marks Tey estate using the rail bridge and attractive rural unlit and shared pedestrian/vehicle Dobbies Lane to access the rest of the village.
- 9.2 The planning application is simplistic, internal facing only, lacks any specifics or projected use data, and does not address nor meet the adopted Marks Tey Neighbourhood Plan which is now a statutory planning document (it only refers to a supporting document). The situation also creates a significant precedent for similar approaches to development across Colchester City.

9.3 For these reasons the Parish Council would prefer the Application to be refused and enforcement action to be taken against Nustone. However, the Parish Council recognise the difficulty the situation creates, that part of the area is 'brown land' formerly used for employment, with a small area with existing B8 permission. Thus if the Planning Authority feel that the current use is acceptable including the effect on Dobbies Lane and Old London Road then we would ask that the following restrictions be imposed:

- The site use is reduced to the original Bypass Nurseries 'blown field area, the earth bund repositioned, and the green field area made good.
- That no industrial/storage use is made of the green field part of the site.
- That the proposed buildings be required to be more small scale and less industrial in nature.
- That the site be considered a sensitive boundary site bordering an urban area and turning to a rural one.
- Thus any new building be located away from the rural boundary i.e. closer to Dobbies Lane and suitably landscape screened.
- Suitable tree and hedge landscaping be effected and reinforced to all boundaries around the development.
- Any transport statement and operation ensures that there will be only one business vehicle use of Dobbies Lane at any one time and that there be no vehicular waiting allowed in Dobbies Lane nor Old London Road.
- That no articulated vehicles be allowed in Dobbies Lane.
- Vehicle movement warning signage be applied to the Dobbies Lane/Old London Road junction with warning markings on the junction road surface.
- Direct vehicular access to the detrunked A12 be created (and Dobbies Lane disused) should detrunking result from the proposed A12 development.

9.4 A more detailed analysis of the Application and the Planning Statement has been prepared for the Parish Council and is being sent to the Planning Officer and our City Councillors as background information. Two photographs are included below to indicate the effect of Nustone vehicle movements on Dobbies Lane.

9.5 *Officer comment:* Please note the two photographs provided by Marks Tey Parish Council could not be reproduced for this Committee Report, however they are available to view on the Council's website.

9.6 **Further Officer Comment – Following the deferral and amended drawings, Marks Tey Parish Council have indicated they would like to comment. This will be published on the Committee update sheet or verbally updated.**

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. Following the consultation exercise, ten letters of objection have been submitted and eighteen letters of support have been received. The letters of support can be viewed in full on file via the Council's website. The received objections are summarised below:

- Unauthorised development has already taken place on site, further development should not be allowed
- Dobbies Lane is not suitable for larger vehicles including HGV's and therefore causes highway safety implications
- Dobbies Lane is not wide enough to accommodate the traffic access/existing the Nustone site
- The proposal will increase congestion within the locality
- The site has remained in operation despite enforcement complaints
- The proposal will be a noisy intrusion to neighbouring amenity, causing harm to neighbouring amenity
- Concerns that letters of support are not from neighbouring residents

10.2 Following the deferral and amended drawings, the following comments were received and summarised below:

10.3 One further objection has been received raising concerns about dust levels on the site and the wider impact of such levels on neighbours. An air quality assessment is requested. (Officer comment – Given these concerns, it is considered necessary that a dust mitigation method condition is included in the decision notice. This has been included in the conditions below. This should provide adequate control over dust arising).

11.0 Parking Provision

11.1 There is no change to the existing vehicle car parking provision on site. There are an existing 12 car parking spaces and 6 HGV parking spaces on site. The scheme is considered to provide adequate parking on site and complies with the adopted Vehicle Parking Standards SPD.

12.0 Open Space Provisions

12.1 Not applicable

13.0 Air Quality

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

14.0 Planning Obligations

14.1 As a "Major" application in size, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should not be sought in this instance since residential development is not proposed.

15.0 Report

Principle

15.1 The Local Plan supports rural communities and sets out a flexible approach that maintains a balance between environmental considerations and appropriate business growth. Economic development proposals in the countryside, within a designated Local Economic Area or on a rural site serving a similar function,

must contribute to the local rural economy and help sustain rural communities. The proposed use is likely to be small scale and not harm the rural character of the local area either by the nature and level of activity (including the amount of additional traffic generation on rural roads) or any other detrimental effects such as noise, fumes and pollution.

- 15.2 Employment in the countryside is supported in the NPPF, in particular paragraphs 83 and 84. Paragraph 84 states:

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

- 15.3 In this instance, the application site comprises part of the wider grounds of the former ByPass Nurseries Ltd. This previously took the form of a substantial collection of buildings all of permanent structures. The majority were demolished.

- 15.4 Policy DM6 of the Local Plan Section 2 seeks to maintain a balance between environmental considerations and appropriate business growth. In the cases of expansion of an existing business however, any new development will be expected to have adequate landscape mitigation to compensate for any additional impact upon the surrounding countryside.

- 15.5 In response to DM6, there are no further appropriate buildings on site which would be suitable for conversion to storage purposes. While there is further land in the wider City, this application site is already a long established commercial site and thus would be inappropriate to request the applicant to seek a brand new commercial site and there is no such guarantee that an alternative site would be suitable for the required operations of Nustone. The applicant has confirmed that if it is not possible to secure planning permission, operations would need to be moved to another site which is outside of the City, in Warwick. This would therefore result in a loss of employment opportunities for locals. A specific business need has been addressed and two new buildings are proposed to provide covered storage for particular products. It will also provide refuge for operational works during adverse weather.

- 15.6 Marks Tey Neighbourhood Plan is also of direct relevance. Policy MT15 states; *“the adjacent former By-Pass Nurseries site shown on Map 6.10 is safeguarded for employment use subject to those uses being consistent with the existing edge of settlement rural location. All schemes must maintain or enhance residential amenity and landscape character.”* In addition Policy MT08 seeks to avoid adverse impacts on Dobbies Lane to return the lane to a primarily cycling and walking route.

15.7 Drawing the above together, the site is not considered to be physically isolated and is related to the existing settlement and nearby commercial sites. The site relates to a well-established business in Marks Tey which provides for local employment opportunities and is considered to be previously developed land. It is acknowledged the scheme proposes two new buildings, however DM6 provides support for new buildings in the exceptional circumstances. It is considered the criteria is met in these instances. **Overall, the revised proposal is now considered to be in compliance with the requirements of local plan policy, including the Marks Tey Neighbourhood Plan, and the NPPF.**

15.8 It is acknowledged the application site has seen an intensification of an employment use in a rural area over the years. However, given the existing long historic use of the site for B8 (storage) and garden nursery (now Class E) at the site, on balance it is considered that this intensification is not significant enough to warrant recommending a reason for refusal, subject to the detailed planning consideration below. **Adverse traffic impacts upon Dobbies Lane have now been addressed by the revised access arrangements and the stopping up of the vehicular access between the site and the Lane with direct access from the extreme western end of Old London Road..**

Character, Appearance and Design

15.9 Policy ENV1 of the Local Plan Section 2 states that development will only be permitted where it would not adversely affect the intrinsic character and beauty of the countryside. This policy seeks to control development outside of settlements to protect open stretches of countryside around and between exiting settlements to prevent coalescence and retain settlement identity. Any development outside of settlement boundaries must be compatible with local landscape character and setting. Policies SP7 and DM15 are also relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Policy SP7 states in particular that all new development must meet high standards of urban and architectural design. The aspiration for high quality design and well-designed places is also reflected in the Framework and Marks Tey Neighbourhood Plan.

15.10 The existing Nustone site features numerous stacked pallets stored externally and several parked trailers, amongst other structures and chattels. These have an urbanising effect on the otherwise predominantly rural landscape. The proposal seeks planning permission to change the use of the land outlined in red to B8 storage (retrospective), retention of portable cabin for ancillary office (retrospective), retention of earth bunds (retrospective) and two proposed buildings for storage. **Following the deferral and amended plans, there is only now one new building for storage proposed. A new access is proposed directly on to Old London Road.**

15.11 The development proposal remains fully contained within previously developed land. It is contained by an earth bund to the east and west, already constructed.. It is considered that the current proposal has lesser of a visual impact upon the

wider setting than that of the existing. Around the entire site exists soft landscaping.

- 15.12 Further to the above, the scheme has been amended to enhance the planting and landscape setting as required by Section 2 policy DM6 and the Marks Tey Neighbourhood Plan. The existing brownfield area of the site has clearly been defined and the proposed new development is entirely contained within the brownfield site. The undeveloped areas of the site are proposed to be enhanced with additional planting features, these are considered to mitigate the proposal.
- 15.13 The mitigation includes a new 10m planting belt located adjacent to Old London Road, creating additional screening to the access road and the wider A12. The existing undeveloped grassland area is to be retained and enhanced with a new native wildflower meadow mixture sown on top of the existing bund (both of which are to be reduced to 1m), this will help to screen the bund and the Nustone storage site within the wider landscape setting. A new 5-8m deep woodland belt is to be planted along the south west of the site, spanning the entirety of this site boundary. The proposed native woodland tree planting belt is considered to mitigate views from the wider countryside to the west.
- 15.14 The details submitted include the construction of two storage buildings located centrally in the plot, and closer to Dobbies Lane. Regarding the scale in terms of the previous nursery use and associated buildings on site, the proposed storage building would be smaller in scale when compared to the previous structures on site. The proposed layout of the site is considered to enhance the appearance of the area by ensuring adequate storage is provided on site, allowing external paving stones to be stored away from view. Overall, in terms of the layout of the new buildings, these would be appropriately positioned within the site and yard area, positioned away from any neighbouring properties and would be well accommodated within the large site. **Following the deferral and new drawings the proposal is now for one new building on site and in a different location to the previously proposed two new buildings.**
- 15.15 It is noted the Landscape Advisor has suggested the buildings appear as modern farm buildings. However it is important to note the existing site is not a farm and therefore a farmstead appearance would be somewhat out of context with the commercial storage use, that is existing on site. The proposed buildings are fairly simple and utilitarian in appearance, however they are an honest design expression of their functionality. The design is not considered to be harmful, despite their fairly simplistic appearance. Subject to conditions to secure the materials, the functional appearance of the storage buildings is not considered to be harmful in this location. It is not considered that a design refusal could be sustained given the buildings are located on the urbanised area of the site and would comfortably fit with this context. **Following the deferral and revised drawings and as noted above, the proposal now provides for one new building only within a different location in the site from the previously proposed two buildings. The Council's Landscape Officer has no objections to the revisions subject to the inclusion of a landscape condition (see above consultation responses).**

Heritage

- 15.16 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. 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. These requirements are echoed within Section 2 Local Plan Policy DM16.
- 15.17 The application site is situated to the south-east of Palmer's Farm house which is listed at Grade II (List UID 1224575). The listed building has a well-defined domestic curtilage but its wider setting is much altered by modern development, including the A12 Interchange Park to the north-east and the former facilities of the Bypass Nurseries to the south-east
- 15.18 It is considered that the proposed new development will affect (change) the setting of the nearby listed building to a small extent. The proposal is considered to be sufficiently distanced from the nearby listed building to ensure any impact is neutral on the significance of the asset. As can be seen from the Heritage Officer comments, the scheme is not considered to be harmful enough to sustain a refusal on heritage grounds. The proposal also represents an enhancement to the area, by providing additional soft landscaping to screen the application site from wider environs. The proposal would also ensure the retention of employment on site. These public benefits are considered to weigh positively in favour of approval. **Following the deferral and new drawings, the proposed storage building has been moved away from the heritage asset. It is also noted that the old Dobbies Land access will be blocked up and re-planted further reducing the visibility between the Listed Building and the proposed development site.**
- 15.19 In this instance, the public benefits weigh in favour of the scheme. These public benefits constitute the social, economic and environmental benefits that stem from creating employment in the area. 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

- 15.20 Paragraph 130 of the National Planning Policy Framework (2021) requires planning decisions to ensure development creates places with a high standard

of amenity for existing and future users, while Paragraph 185 further requires planning policies and decisions to ensure that new development is appropriate for its location taking into account likely effects and potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

15.21 Section 2 Policy DM15 states that all development must be designed to a high standard and protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Section 1 Policy SP7 echoes these sentiments, requiring all development to protect the amenity of existing and future residents, including with regard to noise and vibration.

15.22 There are residential properties adjacent to the site to the east and south, with a wider residential estate located further to the north. It is acknowledged the application site is situated between Marks Tey Railway Station and the A12. Both of these are considered to be noise generating uses in the vicinity. It is considered that the site is adequately screened, subject to recommended conditions, to ensure that the proposal would not adversely impact on the residential amenity of the neighbouring properties. Further to this, the scheme is recommended to be open during the following periods:

Weekdays: 07:00-19:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No operation

15.23 Given the restricted hours of opening, landscaping and existing noise causing uses in the locality, it is not considered that the proposal would have an unacceptable impact on the residential amenity of neighbours.

Highway safety

15.24 Section 2 Policy DM21 requires all new developments to seek to enhance accessibility for sustainable modes of transport. Policy DM22 states that parking standards for non-residential development should be agreed through joint discussions with the local Highway Authority and the Local Planning Authority in accordance with the most recent local Parking Standards, with a more flexible approach to the parking standards only considered if supported by a parking survey and accumulation data.

15.25 It is noted that many of the objections that have been received in relation to the proposed development have identified the perceived inadequacy of the local highway network and the problems experienced by pedestrians and cyclists at present, especially when met with a HGV along Dobbies Lane. A number of objections have highlighted concerns in relation to the width of Dobbies Lane and the in lack of space for two HGV's to pass each other. These concerns contribute to the perceived inadequacy of the local highway network. The concern is that the proposed development would exacerbate current problems and also create highway safety issues. These views are fully acknowledged and appreciated.

- 15.26 Essex County Council Highways have been consulted on the acceptability of the use and proposed development in this location on highway safety. Notwithstanding these concerns, the Highway Authority has advised in its consultation response (available to view on file) that the existing highway infrastructure provision would be sufficient to cater for both the existing traffic and that likely to be generated by the development. The Authority's recommendation includes a condition that would, inter alia, limit HGV and LGV traffic attending the site to two vehicles only being on site together. The recommendation also includes measures to prevent HGV and LGV traffic from waiting, parking or lay overs on Dobbies Lane which shall be kept clear of all vehicles associated with the sites activities.
- 15.27 **Following the deferral and resubmitted drawings, the scheme has undergone fundamental changes in terms of the access strategy. Dobbies Lane will no longer be used and a new access will be created onto Old London Road. The existing Dobbies Lane access to the site will be permanently blocked and will be filled by new planting. This is held to comply with the objectives of Marks Tey Neighbourhood Plan Policy MT08 Rural Lanes.**
- 15.28 **Policy MT08 further provides that rural lanes shall be protected or enhanced. In terms of this proposal, the new access and blocking up of the old access removes the use of Dobbies Lane by users of this site and subsequently any previous parking on Dobbies Lane by site users will also likely cease as there will be no opportunity to access the site from this side. In addition, a landscape condition shall be included (see Landscape Officer's comments above) for the submission of an appropriate landscape scheme that will also result in a positive impact to Dobbies Lane through further landscaping and greening of the locality.**
- 15.29 **Further to the above and following the deferral and subsequent revisions to the proposal, it is worth taking a closer look at the relevant Mark Tey Neighbourhood Plan policies.**
- 15.30 **Policy MT05 Local Character and Design states that all development proposals should contribute in a positive way to the quality of the built environment and settings in the Parish. Due to the above mentioned removal of use of Dobbies Lane and the on-site landscape enhancement, it is considered that the revised proposal contributes positively to the area. Dobbies Lane will return to a lightly trafficked rural lane to the significant benefit of all road users including pedestrians and cyclists.**
- 15.31 **Policy MT15 provides that employment uses will be safeguarded subject to being consistent with the existing edge of settlement rural location. It goes on to state that development must maintain or enhance residential amenity and landscape character. As noted above, pedestrian users of Dobbies Lane will find a safer walking environment as the use of the Lane will be greatly reduced in particular by heavy goods vehicles. This also contributes positively to the character of the locality. The conditioned landscaping scheme yet to be submitted is again intended to enhance the**

site and setting of the area and in particular will improve the setting of the Listed Building known as Palmer's Farm located close to the access that is proposed to be closed on Dobbies Lane.

Flood Risk

- 15.28 Section 2 Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Policy DM23 includes the provision that, where proposals include driveways, hard standing or paving, the use of permeable materials and landscaping will be sought to minimise the cumulative impacts of flooding from such developments
- 15.29 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%), with no recording of flooding on site. The development itself is, therefore, unlikely to be susceptible to flooding. In terms of the development leading to flooding elsewhere, the proposal consolidates the previous hard standing and structures on site. The extended area of hard standing will be formed of crushed gravel, thus retaining permeability and so surface water run-off would be limited. The previous drainage on site went into soakaways to the front field. This will remain the case with the development proposal.
- 15.30 While a holding objection has been issued from the Lead Local Flood Authority (LLFA), **To be amended Monday 30th OCT after full comments received.** holding objections of this nature for major development are not uncommon. Further clarification is being sought with the LLFA given the circumstances of the case and the submission of further information. Given the nature of the proposal, it is reasonable to consider that this matter can be resolved. As such, it is requested that delegated authority be given to pursue the matter further to a satisfactory conclusion, subject to any conditions that the LLFA may advise.

Ecology

- 15.31 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment.
- 15.32 Various Section 2 Local Plan Policies seek opportunities to safeguard and enhance biodiversity throughout the Borough. In particular, policy ENV1 requires development proposals to be supported by appropriate ecological surveys where necessary; conserve or enhance the biodiversity value of greenfield and brownfield sites (minimising fragmentation of habitats); maximise opportunities for preservation, restoration, enhancement, and connection of natural habitats; and incorporate biodiversity net gain (BNG) of at least 10% in line with principles outlined in the Natural England Biodiversity Metric.
- 15.33 The site has been assessed in line with Natural England's Standing Advice, which provides guidance on when an ecological survey should be submitted. In

this instance, the urbanised area of the site (and where the proposed development is located) is made up of various structures, areas of storage, unmade ground, containers and hard standing and parking areas. This part of the site is also the parking and turning area for cars, HGV's and LGV's. Given these characteristics of the site, it is not considered the site would be a suitable area for protected species. Development is not proposed within the grassed area to the south of the site, adjacent to the A12, and therefore it is not considered the scheme would impact upon protected species. A condition is recommended for a scheme of ecological enhancement measures, which secure a 10% BNG, are provided prior to the construction of the storage buildings. On balance, the development area of the site is not suitable habitat for protected species, however an enhancement of the ecological value of the site can be secured via a planning condition.

Trees

15.34 Section 2 Local Plan seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline. Policy CC1 seeks, where appropriate, to increase the level of canopy cover on site by a minimum of 10%.

15.35 A row of willow trees, subject to a Tree Preservation Order (TPO), lie on the north west and south west boundaries of the site. While a detailed tree survey (including canopy assessment) has not been provided, this is due to the circumstances of the proposal. The previous nursery site contained a number of structures and hardstanding against the boundary with the trees. Given the hardstanding has been in place for a number of years, it is not considered the scheme would result in additional impacts upon the existing trees. The scheme actually reinforces the trees and proposes to plant a significant woodland buffer along the site boundaries. The scheme also seeks to place buildings further away from the tree lined boundaries. The distance is considered to be significant enough to ensure the proposed storage buildings would not be in close proximity of the trees (and associated root protection areas). As described in this report, a significant amount of tree planting is proposed, the amount is considered to be in excess of the 10% required by policy CC1. On balance, the scheme demonstrates that the proposed development of land could take place without causing harm to the retained trees or without having a negative impact on the local tree population.

16.0 Planning Balance and Conclusion

16.1 Following the deferral and revised drawings, the applicants have worked with officers to amend the scheme to attempt to overcome member's concerns raised at the committee meeting of 15th June 2023. It is considered that the amendments have resulted in a scheme that will enable a local business that employs 38 members of staff to remain located in the Colchester City Council Area whilst satisfactorily mitigating the harm to the environment including the access concerns raised.

16.2 In terms of the **social role**, the proposal would comply with the policies in terms of principle of the employment uses within the countryside and it is considered the scheme results in general conformity with the spatial strategy. The proposal provides

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very convincing benefits in terms of providing employment opportunities within the City.

16.3 In terms of the **economic** role, in construction employment, albeit this is temporary and there is no guarantee that these jobs would be provided for residents of Colchester. Although the proposal would result in longer term employment opportunities on site and as a business, this can provide wider contracting opportunities.

16.4 In terms of the planning balance and the **environmental** role of sustainability, the scheme is considered to improve the landscape setting of the site. The proposal is considered to be mitigated with landscaping with the addition of suitable soft and hard landscaping (controlled via planning condition). **Following the deferral, as set out above, the scheme has been amended to ensure that the site and its operation has an acceptable level of impact on the environment in terms of highway safety. The closing up of the existing access on Dobbies Lane is held to have significant environmental benefit to both the setting of the Listed Building noted above and the users of Dobbies Lane.**

16.5 Summarising the above, it is officers' opinion that the planning balance tips in favour of an approval given the positive weight attracted to the wider public benefits of the employment generating use.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

To grant Delegated Authority to address the Lead Local Flood Authority holding objection (in relation to Sustainable Urban Drainage) and apply or modify any conditions as necessary. Subject to drainage matters being resolved, APPROVAL of planning permission subject to the following conditions:

1. Time Limit for Full Permissions

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

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

2. Development to Accord With Approved Plans

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

22-032-PL-03A (PROPOSED UNIT LAYOUTS)

22-032-PL-02H (PROPOSED SITE PLAN & SITE SECTION)

P2530-SLS01 V5 (Soft Landscaping Plan)

22-032-PL-01A (EXISTING SITE PLAN, SITE SECTION & LOCATION PLAN)

22-032-PL-04A (PROPOSED ELEVATIONS UNIT A)

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

3. Materials To Be Agreed

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

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

(Environmental Protection recommended conditions)

4. Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

5. Restriction of Hours of Operation

The outside yard activity hereby permitted shall not OPERATE and the premises be open to customers outside of the following times:

Weekdays: 07:00-19:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No operation.

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

6. Restricted Hours of Delivery

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

Weekdays: 07:00-19:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries.

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

7. Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of

Obtrusive Light for zone E2 RURAL (low district brightness – sparsely inhabited rural areas, village or relatively dark outer suburban locations).

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

8. Dust Mitigation

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

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

(End of Environmental Protection recommended conditions)

(Highway Authority recommended conditions)

9. Highways

Prior to the first beneficial use of the proposed development the existing historic access in the south-eastern corner of the site shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating a suitable boundary treatment, the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority.

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

10. Traffic and highway management

Within 2 months from the date of this decision, the applicant shall provide a written scheme of traffic and highway management which includes the following:

- i) An appointment system which limits the HGV and LGV traffic attending the site to two vehicles only being on site together,
- ii) Measures to prevent HGV and LGV traffic from waiting, parking or lay overs on Dobbies Lane which shall be kept clear of all vehicles associated with the sites activities, and
- iii) Measures to prevent mud and deposit from the site being brought onto Dobbie Lane

The proposed management scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented immediately and adhered to thereafter.

Reason: To ensure that the adjoining highway is not obstructed by servicing activity, in the interests of highway safety. In addition, to preserve and protect the integrity and fabric of the highway, in the interests of highway safety.

11. Highways – vehicular turning

Prior to construction of the storage buildings, a vehicular turning facility for delivery vehicles with dimensions commensurate with the largest vehicle attracted to or generated by the site's activities and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety

(End of recommended Highway Authority conditions)

12. Landscape Management Plan

Prior to the construction of the storage buildings, a landscape management plan detailing long term design objectives and management responsibilities 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.

13. Landscape Works

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

- Finished levels or contours.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform) – this including reprofiling the bund that subdivides the site to have a very low (max 1m high) broad profile.
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.

- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.
- Biodiversity enhancement proposals including a minimum of 10% uplift in tree canopy cover

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.

14. External Storage Limited in Height

No goods, materials or equipment shall be stored, stacked or deposited externally on the site to a height exceeding 3 meters as measured from any immediately adjacent ground level.

Reason: The external storage of goods in excess of this height would be visible and would have a harmful visual impact on the surrounding areas.

15. External storage

Prior to the construction of the storage buildings, a plan scaled shall be provided which indicates any land which will require external storage post construction of the storage buildings. Any areas of external storage shall be within the previously developed area of the site and shall not exceed more than 3m.

Reason: To protect the visual amenity of the site, wider countryside area, residential amenity and landscape setting.

16. No external storage on greenfield areas

No goods, materials or equipment's shall be stored, stacked or deposited on land described as the following:

New 5-8m deep woodland belt

Native wildflower meadow... sown atop bund,

Existing grassland

New 10m deep woodland belt

As shown on the approved Drawing Number P2530-SLS01 V2 (soft landscaping scheme).

Reason: This is the basis indicated within the submitted application and upon which the proposal has been considered and any further external storage would need further consideration at such a time as it were to be proposed as it could cause visual harm to the surrounding areas.

17. Removal of PD Industrial/Warehouse Extensions

Notwithstanding the provisions of Classes A and B of Part 8 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no building shall be extended or altered and no further plant or machinery shall be installed outside any building on the site unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and the amenities of the surrounding area.

18. No Floodlighting

No floodlighting shall be constructed, installed or illuminated at any time.

Reason: To ensure that there are no undesirable effects of light pollution

19. 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 the continuity of amenity afforded by existing trees and hedgerows.

18.0 Informatives

18.1 The following informatives are also recommended:

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.

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.

Highways

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

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

Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape webpage: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the 'read our guidance' link').

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 City Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

a. Positivity Statement

- b. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



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Item No: 7.2

Application: 231402

Applicant: Mr Ross Bain

Agent:

Proposal: Proposed construction of 3 no 3-bedroom & 3 no 2-bedroom bungalows and 1 no 3-bedroom & 2 no 4-bedroom houses with associated garaging and alterations to access road

Location: Land fronting, Gosbecks View, Colchester

Ward: Shrub End

Officer: John Miles

Recommendation: Approval, subject to conditions and the prior completion of the necessary Unilateral Undertaking

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. Sam McCarthy for the following reason:

Gosbecks View is a narrow country road that simply cannot cope with more cars utilising the road, let alone pedestrians and cyclists. There's no pathways planned. This causes serious safety concerns for current and potential new residents. Refuse collection is already difficult, with a refuse vehicle causing damage in the past.

An objection has also been received from Cllr. Dave Harris:

I have been contacted by residents of the area who are concerned over the access lane being used for these extra dwellings

The worry which is real is the new houses will reverse onto what is a well used pedestrian walk route

Also the lay byes passing places it is thought will be used for visitor parking and thus the road will no longer have users able to pass safely

Highways is a county council issue and as County Councillor my duty is to heed the comments and concerns that the existing householders have expressed

I have seen the site and see no other way than to create an access off the main road nearby

2.0 Synopsis

2.1 The key issues for consideration are the design of the proposed development, impacts on the surrounding area, including the landscape and setting of heritage assets, and highway safety.

2.2 The scheme, as revised since first submitted, is considered to represent sustainable development. The scheme has evolved since first submitted in order to ensure the proposal relates satisfactorily to the existing landscape setting and respects the setting of heritage assets. The proposals are also considered to provide sufficient parking facilities and subject to the imposition of the conditions requested by the Highway Authority the proposal is considered acceptable from a highway safety and capacity perspective. The development is also held to achieve an appropriate quality of design and is otherwise acceptable with regard to wider material planning considerations.

2.3 The application is subsequently recommended for approval.

3.0 Site Description and Context

3.1 The site is approximately 0.45ha in size. Access to the site is proposed via Gosbecks View. To the north is existing residential development and beyond the south of the site is the recently completed Gosbecks Road Bloor Homes development. The land directly beyond the site's eastern boundary forms part of a Schedule Monument known as 'Gosbecks Iron Age and Romano-British site' (LEN 1002180). The wider context comprises a mix of residential and commercial land uses.

4.0 Description of the Proposal

4.1 The application seeks planning permission for 3 x 3-bedroom and 3 x 2-bedroom bungalows, 1 x 3 bedroom and 2 x 4-bedroom houses, associated garaging and landscaping.

5.0 Land Use Allocation

5.1 The site is current grassland and forms part of the Land at Gosbecks Phase 2 allocation, under Policy SC1 of the Section 2 Adopted Local Plan 2017-2033. Under this policy the application site and the wider allocation (which includes the aforementioned Bloor Homes development off Gosbecks Road) is allocated for up to 150 new dwellings.

6.0 Relevant Planning History

6.1 There is no site history particularly relevant to the development proposed.

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

- 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

- DM2 Community Facilities
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- 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

7.5 Some “allocated sites” also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:

SC1 South Colchester Allocations

7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
 The Essex Design Guide
 Biodiversity
 External Materials in New Developments
 EPOA Vehicle Parking Standards
 Community Facilities
 Open Space, Sport and Recreation
 Managing Archaeology in Development.

8.0 Consultations

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

Arboricultural Officer:

Regarding the proposed development and AIA provided:

I am in agreement with the tree report and the AIA.

Agreement to the arboricultural aspect of the application subject to condition.

Make the tree report an approved document (including plans).

Archaeological Advisor: No objection - detailed comments included in the main body of the report.

Contaminated Land Officer: No objection, subject a condition covering the reporting of unexpected contamination.

Environmental Protection: No objection. Conditions recommended covering a construction management plan (including limits to hours of work) and post development noise levels (internal and external).

Essex Place Services Ecology: No objection subject to conditions.

Officer comment: The suggested conditions are discussed in more detail in the main body of the report.

Essex Police: *In relation to planning application 231402, Essex Police - Designing Out Crime officer has had a productive on-site meeting with a representative from the applicant. Following a constructive discussion relating to boundary treatments, defensive planting, the benefits of photocell (dusk to dawn) security lighting as opposed to PIR security lighting, and the advantages of crime prevention through environmental design, the representative has indicated that the applicant will be applying for Secured by Design (SBD) Gold accreditation for this development. Essex Police welcome the opportunity to consult with the developer to provide a safe and secure environment for this development.*

Achieving the SBD recognition will demonstrate to residents that their security has been considered and incorporated "by design" to the current approved, and therefore proven effective, standard.

Highway Authority:

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

Prior to the occupation of any of the proposed development the internal roads and junctions, vehicular accesses and turning facilities shall all be provided in accord with V & B DRAWING NUMBERED 736/1 REV C

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Prior to the occupation of any of the proposed development, a 11m x 2.4m x 11m visibility splay, shall be provided on both sides of the new bellmouth junction with Gosbecks View and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the carriageways or highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the

highway and to preserve the integrity of the highway, in the interests of highway safety in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

The development shall not be occupied until such time as details of the provision for parking and storage of bicycles sufficient for all occupants of the proposed development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

No development shall take place, including any site clearance, ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted as a scaled drawing to and approved in writing by the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans shall provide for:

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Prior to the occupation of any of the proposed dwellings the applicant shall provide a new informal pedestrian crossing (pram crossing) to the eastern side of the bellmouth of Gosbecks View together with tactile paving to each pedestrian crossing here to current patterns and standards and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel

Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development in accord with Policy DM 9 of the Highway Authority's Development Management Policies February 2011.

Historic England: No objection - more detailed comments included in the main body of the report. The proposed mitigation is now considered satisfactory in mitigation of any adverse visual impacts.

Landscape Advisor:

Regarding the landscape content/aspect of the strategic proposals submitted principally under drawing(s) 736/1.C lodged on 10/10/2023 and the Landscape & Visual Impact Assessment (LVIA) dated September 2023 lodged 25/09/2023:

In support and addition to the policy/policies and guidance detailed in 3.1 below, the following point(s) should be taken into consideration. This to avoid potential

harm to the existing and future character/amenity of the site and its environs that might occur through agreement of the currently proposed scheme, as it is considered it may not adequately conserve/enhance/restore the landscape of the site for the betterment of its wider setting:

To help meet national/local policies/guidelines, from a landscape perspective any revised proposal should:

*The new frontage hedge onto Gosbecks Lane and the SAM should be proposed as single species native *Crataegus monogyna* hedging (rather than mixed hedging) with numerous locally compatible native trees proposed along and within (rather than behind) the frontage hedges, this so as to replicate the characteristic 'enclosed atmosphere' of the Lane and help protect the SAMs landscape and visual integrity and setting in the long-term, whilst allowing for traditional unit hedge enclosure. This could be conditioned.*

Given the national importance of the adjacent/abutting SAM, any proposed units should seek to face onto and be set well back from the monument. Units 8 & 9 appear to run contrary to this, however, given the constrained nature of the site, reorientating these units to face onto and be set well back from the SAM would be the preferred option from a landscape perspective, as, when considering the importance in landscape terms of the SAM and Gosbecks Lane, it is the nationally important SAM that is the more valued/important element within the landscape.

Publicly visible hard rear garden boundary enclosure should be in brick wall rather than fenced, see clause 6.4 of LIS/A.

Officer comments: The requested amendments to the proposed boundary treatments and form of the proposed planting have been agreed in principle by the applicant and can be controlled by condition. The position and orientation of the proposed dwellings has been carefully considered and Historic England have confirmed that under the plans as revised they have no objection to the spatial relationship between proposed built form and the Schedule Monument, nor do they have an objection to the impact of the development on the Scheduled Monument more widely.

Planning Policy: No objection.

9.0 Parish Council Response

9.1 The site is non-parished.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. Objections have been received from 19 interested third parties. Two general comments were also received.

The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations raised are given below.

- Insufficient infrastructure

- Increased traffic
- Gosbecks View is not capable of accommodating additional vehicle movements
- Highway safety issues
- Gosbecks View is used by pedestrians and cyclists
- Alternative land uses would be more appropriate
- Loss of trees and shrubs
- Impact on wildlife
- Insufficient parking
- Emergency access
- No new footpath is proposed

11.0 Parking Provision

11.1 Each dwelling is served by a minimum of 2 on plot parking spaces. When policy compliant garaging is included a majority of dwellings are served by 3 off-road parking spaces.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. In considering the application due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Taken as a whole, the proposed development does not raise any concerns from an accessibility or equality perspective. It is also noted that the proposed development includes the provision of 6 bungalows, with level accommodation across a single floor, providing accommodation that is expected to be more versatile for those with restricted mobility.

13.0 Air Quality

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

14.0 Planning Obligations

14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team. Under the provisions of the adopted Local Plan, the Council does however collect contributions for community and sport/recreation projects to mitigate the impact arising from small scale housing development, which includes this case. A Unilateral Undertaking (UU) will be required to facilitate payment in accordance with the schedule of payments derived from the adopted SPD and draft unilateral undertaking. The following contributions have been calculated as being due:

Sport and Recreation: £56,235.32

Community Facilities: £24,618.28

Associated projects for spend have accordingly been identified:

Sport and Recreation:

- *Car park and access improvements at Gosbecks Archaeological Park to increase capacity to meet additional demand.*

- *Swimming pool improvements at Leisure World to increase capacity to meet additional demand.*

Community Facilities:

- *Improvement/refurbishment works at All Saints Church; and/or/either*
- *Improvement works at 34th Colchester Scout Huq HQ including additional parking and new accessibility toilet facilities; and/or/either*
- *Improvement and refurbishment works Shrub End Social Centre.*

More information is held on the Planning. The contributions are considered to meet the relevant tests for planning obligations, as well as being consistent with the approach identified in the Council's adopted SPDs.

It is also proposed that the relevant RAMS contribution be secured through the Unilateral Undertaking. This is discussed in the main body of the report.

Delegated authority is sought for officers to oversee the completion of the Unilateral Undertaking.

15.0 Report

Principle

- 15.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how they should be applied, it affirms that the determination of applications should be in accordance with Development Plans, including spatial development strategies.
- 15.2 In terms of the principle of development, Section 1 Policy SP3 and Section 2 Policy SG1 state existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period and development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Policy SG1 places a focus on Colchester for new sustainable growth. The spatial hierarchy ranks areas of Colchester in order of their sustainability merits and the size, function and services provided in each area.
- 15.3 Development will be focused on accessible locations to reduce the need to travel. Development will be supported where a real travel choice is provided and sustainable travel for different purposes is promoted throughout the day.
- 15.4 The application site is within the settlement boundary for Colchester, in a sustainable location, and notably forms part of the SC1 Land at Gosbecks Phase 2 site allocation which covers the provisions of up "Up to 150 new dwellings of a mix and type of housing to be compatible with the surrounding development."

Policy SC1: South Colchester Allocation

Allocations as shown on the policies map will be safeguarded for residential uses. In addition to the requirements in Policy PP1, proposals will be required to satisfy the Local Planning Authority with regard to the site-specific requirements as identified below.

Land at Gosbecks Phase 2 Development of this site will be supported where it provides: (i) Up to 150 new dwellings of a mix and type of housing to be compatible with the surrounding development; (ii) New bus stop provision to service the site and improve sustainable transport links to Colchester Town Centre; (iii) New public art and improvements to the public realm; and (iv) A contribution to Gosbecks Archaeological Park.

- 15.5 A majority of the allocation has already been brought forward under application 190522, which granted permission for 144 dwellings on the land to the south of Cunobelin Way. This permission has been implemented by Bloor Homes.
- 15.6 While it is recognised the proposed development would take the total consented dwellings across the wider allocation to 153 dwellings – marginally more than the 150 dwellings referenced in Policy SC1 - subject to the proposal being acceptable with regards to wider material planning considerations it is not considered this undermines the principle of the development proposed.
- 15.7 In this regard it is also important to note that Planning Policy have been consulted as part of the application process and have confirmed they have no objections from a policy perspective, including in respect of the provisions of Policy SC1.

Design and Layout

- 15.8 The National Planning Policy Framework (2023) sets out the Government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, going on to state that 'good design is a key aspect of sustainable development'. The framework also states that 'development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'.
- 15.9 Government guidance on design is provided by the National Design Guide and National Model Design Code, both of which form part of the government's Planning Practice Guidance. The National Design Guide seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice. Whilst the National Model Design Code sets out clear design parameters to help establish what good quality design looks like and provides a common overarching framework for design. These

documents are intended to help create beautiful and distinctive places, with a consistent and high-quality standard of design.

- 15.10 At a local level these policies are carried through to Section 1 Plan Policy SP7, which seek to ensure development responds positively to local character and context to preserve and enhance the quality of existing places and their environs. These policies are supported by more detailed guidance provided by supplementary planning documents such as the Essex Design Guide.
- 15.11 Section 2 of the Colchester Borough Local Plan 2013-2033 Policy DM15 is also of particular relevance with regard to setting design standards and amongst other requirements seeks to ensure proposed developments respect and enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.
- 15.12 The scheme's layout has evolved since first submitted to ensure the dwellings achieve a meaningful relationship with Gosbecks View, Cunobelin Way and the Scheduled Monument beyond the site's eastern boundary.
- 15.13 A new frontage hedgerow along Gosbecks View and to the Scheduled Monument are also proposed, in addition to estate rail fencing and brick walls to the site's other publicly visible and visually sensitive boundaries. These matters are discussed further in the sections below.
- 15.14 In terms of scale there are a mix of bungalows and two storey dwellings proposed. The proposed buildings are relatively traditional in form and adopt a number of design features reflective of the traditional Essex vernacular. Revisions have been secured over the course of the application which are considered to improve the detailed design of the dwelling's and ensure that there is sufficient variation between the dwellings to avoid an overly homogeneous built environment. In addition to this it is considered there are sufficient detailed designed features to the dwellings to ensure there is a good degree of visual interest, and such features are of a consistent character, to aid site identity.
- 15.15 Welcomed detailed design features include sliding sash windows, decorative and feature brickwork, stone heads and cills, bay windows, pentice boards and brick plinths. Proposed materials include facing brick, slate, pantiles and render. The proposed detailed design of the dwellings and their proposed materiality draws cues from the existing development beyond the north of the site and the more recent development on the Bloor Homes site to the south-east.
- 15.16 While the detailed design of the dwellings has been improved and the dwellings are generally considered to achieve a good quality of design, it is considered there is scope and justification for the detailed design of Plot 7 and 9 to be further enhanced. Recommended Condition 4 (architectural details) is therefore worded in such a manner to secure additional detailing

to the aforementioned dwellings in the form of exposed rafter feet to Plot 7 and additional brickwork detailing to Plot 9. It is also recommended that the external finish of Plot 8 is amended to render, to provide improved consistency of external finishes, with only Plot 5 currently specified to be rendered.

- 15.17 These amendments and exact details on the design features and materials to be used are recommended to be controlled by condition for precision, and to ensure that these important aspects of the scheme are taken forward in an appropriate manner and with an appropriate quality of finish.
- 15.18 Taken as a whole, the proposed development is considered to achieve an acceptable and policy compliant standard of design, subject to appropriate conditions.

Impact on Heritage Assets

- 15.19 Local Plan Policies ENV1 and DM16 seek to conserve and enhance Colchester's historic environment. In line with the NPPF, development that will lead to substantial harm to or total loss of significance of a listed building, conservation area, historic park or garden or important archaeological remains (including the setting of heritage assets) will only be permitted in exceptional circumstances where the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where development will lead to less than substantial harm this harm should be weighed against the public benefits of the proposal. In addition, Policy DM16 requires development proposals to be supported by archaeological evaluation, with a mitigation strategy as necessary.
- 15.20 The main heritage interest of the application is the impact on the land directly beyond the site's eastern boundary which forms part of a Scheduled Monument known as 'Gosbecks Iron Age and Romano-British site' (LEN 1002180).
- 15.21 When the application was first submitted concerns were raised by Historic England that the application contained insufficient information to consider potential impacts on the historic environment and that on the basis of the information available, while they had no objection to development per se on the application site, the development as originally proposed could result in unacceptable and unmitigated harm to the significance of the Monument through the development proposed in its setting.
- 15.22 Over the course of the application additional heritage investigation work has been undertaken including a Heritage Impact Assessment. Revisions have also been made to the layout and landscaping of the development, taking into account advice received from Historic England. As revised the proposed dwellings to the east of the site have been reorientated to establish a meaningful frontage towards the Scheduled Monument to recognise and reflect the importance of the Monument and also assist in the interpretation and delineation of the line of the Roman road, which historically traversed the Schedule Monument site (north-east to south-west).

15.23 An interpretation panel is also now proposed (exact details to controlled by condition) to provide public benefits in terms of improved opportunities for the public to interpret and appreciate the Scheduled Monument and its significance.

15.24 In Historic England's most recent consultation response (available to view on file), Historic England have lifted their previous objections, commenting as follows:

Impact

Our former view was that the development would potentially have a harmful impact upon the significance of the scheduled monument through a development within its setting. We recommended changes were made to the design and layout in order to mitigate the impact.

Policy

In policy terms the National Planning Policy Framework sets out the desirability of sustaining and enhancing the significance of heritage assets, paragraph 199. It continues that great weight should be given to their conservation and that any harm requires clear and convincing justification, paragraphs 199 and 200. Where a proposal will lead to less than substantial harm, this should be weighed against the public benefits of the proposal, paragraph 202 and 203.

Position

We note further revision have been made to the proposal since our letter of September 2023. We would draw your attention to the letter provided by the applicant (Ref: Stamfords dated 10th October) which details design and layout changes and sets out proposals for an interpretation panel. The design and layout changes are also detailed in the revised plan (Ref: Proposed Site Layout drawing no. 736/1 C) and accompanying sections.

Broadly speaking we appreciate the revisions that have been made and consider that they, with the addition of the interpretation, would be enough to mitigate the harm.

We defer on matters if archaeology, design and materials to your specialist advisors.

Recommendation

Historic England does not now object to the application on heritage grounds. We consider that the revisions made to the application are enough to meets The requirements of the NPPF at paragraph numbers 199, 200 and 201. Your authority should take these representations into account in determining The application.

15.25 In terms of on-site archaeology the application is supported by an Archaeological Evaluation, prepared by the Colchester Archaeological Trust. The Council's consultant Archaeological Advisor has reviewed the material submitted and has provided the following comments:

Despite the close proximity of this site to the route of the former Roman road from Colchester to Gosbecks and to the Gosbecks Iron Age and Roman-British scheduled area, the submitted geophysical survey, archaeological trail-trench evaluation and heritage impact assessment indicate that during the Roman period this particular parcel of land was not as busy as the nearby archaeological landscapes would suggest. The excavated features, many of which were tree throws, were all sterile and largely uneven in their compositions both in profile and in plan, suggesting that they were more likely to be part of the land clearance of trees and scrubland in preparation for farming practices in antiquity. The geophysical surveys from 2015 (ArchaeoPhysica Ltd) and 2023 (Magnitude Survey) both showed readings across the development area which the evaluation trenches attempted to resolve. The 2023 geophysical survey identified a buried surface which has since been revealed to be the compacted modern compound material, while the 2015 geophysical survey showed a linear-shaped response on an almost north-south alignment through the eastern end of the development area, which was not identified during the evaluation.

On this basis, it is apparent that the proposed development will not result in material harm to the significance of below-ground archaeological remains. Therefore, there will be no requirement for an archaeological mitigation condition to be applied to any consent granted.

- 15.26 In conclusion the proposal is considered acceptable with regards to any impacts to heritage assets, including the adjacent Scheduled Monument and below ground archaeological assets, subject to appropriate conditions.

Landscape and Trees

- 15.27 Paragraph 130 of the National Planning Policy Framework [NPPF] requires planning decisions to ensure development is sympathetic to local character, including landscape setting. Policy ENV1 of the Section 2 Local Plan states that the Council will conserve and enhance Colchester's natural environment. Policy SP7 requires development to respond positively to local character and protect and enhance assets of natural value, while Policy DM15 requires development to positively integrate with landscape assets.
- 15.28 The application is supported by a detailed Arboricultural Impact Assessment, Tree Protection Plan and Landscape Visual Impact Assessment.
- 15.29 The proposed development looks to retain a majority of the existing trees on site, including the veteran Oak Tree to the site's northern boundary. Where existing trees are proposed to be removed, they have been assessed as being of a low quality and it is considered the proposed new tree planting on site will more than compensate the removal of any existing natural features. The Arboricultural Officer has confirmed he is in agreement with the arboricultural content of the proposal.

- 15.30 It is understood that the existing vegetation to the site's northern boundary is *Rubus fruticosus* (invasive blackberry brambles) which appear to have suffocated the hedgerow which previously lined this section of Gosbecks View. The proposal includes the removal of the existing brambles and the planting of a new native hedgerow, supportive of the overall aim from a landscape perspective of ensuring Gosbecks View retains a verdant and rural feel.
- 15.31 Other boundaries are proposed to be finished in a mix of hard and soft boundary treatments. To the eastern boundary further hedgerow and tree planting is proposed, in addition to low level estate rail fencing. While the proposed timber fencing currently shown on the submitted plans to part of the site's southern and western boundary is considered unacceptable in visual amenity terms, the applicant has agreed to the boundary treatments to these areas to be revised to a brick wall set behind a new hedgerow, as requested by the Landscape Advisor. These revised landscape details and the implementation and management of an appropriate scheme of hard and soft landscaping can be controlled by condition.
- 16.32 Overall, the proposal is considered to either provide appropriate landscaping in terms of the details submitted or, where required, amendments can be secured by way of condition, to ensure any final detailed scheme successfully integrates with the surrounding landscape and achieves a high-quality public realm.

Highway Safety and Parking Provisions

- 16.33 Paragraph 111 of the National Planning Policy Framework [NPPF] (2023) provides 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.
- 15.34 Section 2 Local Plan Policy DM22 relates to parking standards in association with the Vehicle Parking Standards SPD. Section 2 Local Plan Policy DM21 requires development to create safe, secure, convenient and attractive layouts.
- 15.35 It is noted that a majority of the objections received are in relation to the proposed vehicular access to the development along Gosbecks View. Concerns are understood to relate mainly to the width of the existing road, anticipated increase in vehicle numbers and the existing use of the road by pedestrians, in the absence of a formal footway. These views are fully acknowledged and appreciated by Officers, with careful consideration having been given to these matters.
- 15.36 Essex County Council Highways have been consulted on the acceptability of the proposed development, including in respect of issues of highway safety. Essex County Council Highway Authority has advised in its consultation responses that the proposal is considered acceptable from a

highway and transportation perspective and that the existing highway infrastructure provision would be sufficient to safely cater for the existing traffic likely to be generated by the development, subject to recommended conditions.

- 15.37 It should be noted that proposal includes the provision of two new vehicle passing bays along Gosbecks View, to the north-east of the site. In addition to this under the conditions recommended by the Highway Authority the developer will be required to provide a new informal pedestrian crossing (pram crossing) to the bellmouth where Gosbecks View meets Gosbecks Road to current patterns and standards.
- 15.38 In addition to the above, taking into account the relatively modest number of dwellings proposed, while the development is anticipated to increase vehicle movements along Gosbecks View, it is not anticipated the proposal will fundamentally alter the character or nature of vehicle movements along the road, which is anticipated to remain lightly trafficked. Furthermore, while the relatively modest dimensions of the highway along Gosbecks View has been raised as an area of concern in representations received, on the other hand the existing characteristics of the road are such that it is not considered the road is conducive to vehicles travelling at high speeds.
- 15.39 Taking into account the anticipated levels of vehicle movements, low traffic speeds and mitigation proposed, with due regard to the consultation response received from Essex County Council Highway Authority in their role as statutory consultees, the proposed development is considered acceptable from a highway safety perspective.
- 15.40 In terms of vehicle parking the EPOA Parking Standards sets general parking standards, including for residential uses. In terms of residential development EPOA parking standards set a standard of 1 car parking space per 1 bedroom dwelling and 2 parking spaces per dwelling with 2 bedrooms and above.
- 15.41 A minimum of 2 off-road parking spaces are provided per dwelling. Including policy compliant garaging a majority of dwellings are served by 3 off-road parking spaces. Subject to a condition requiring the proposed garaging to be retained for vehicle parking the proposed on-plot parking provisions are considered adequate to serve both residents and visitors. The provision of suitable cycle parking facilities for each dwelling can be ensured through the imposition of the cycle parking condition recommended by the Highway Authority.

Impacts on Neighbouring Properties

- 16.42 Paragraph 130 of the NPPF (2023) requires, amongst other things, planning decisions to ensure development promotes health and well-being and provides a high standard of amenity for existing and future users. Section 2 Local Plan Policy DM12 and DM15 also require all development to protect the amenity of existing and future residents, including with regards to loss of light, overbearing impacts and overlooking.

- 15.43 In terms on neighbouring amenity, the nearest neighbouring properties are the dwellings beyond the north of the site. Taking into account the position, scale and orientation of proposed built form the proposed development is not expected to result in material harm to neighbouring amenity through a loss of light, outlook, or through affording unsatisfactory angles of overlooking, with due regards to the relevant tests for assessing these issues, as set out in the Essex Design Guide SPD.
- 15.44 The vehicle movements associated with the development proposed are also not expected to result in material harm to neighbouring amenity as a result of increased noise, vibrations and/or disturbance.
- 15.45 As recommended by Environmental Protection, a condition is proposed covering the provision of an appropriate Construction Method Statement covering matters such as the hours of construction deliveries and work, and measures to control noise, vibration and dust during the construction phase. Subject to the imposition of such a condition, it is considered it can be ensured that the construction phase of the development takes place in a suitable manner, in the interests of the amenities of existing residents.

Occupier Amenity

- 15.46 Paragraph 130 of the NPPF (2023) requires, amongst other things, planning decisions to ensure development promotes health and well-being and provides a high standard of amenity for existing and future users.
- 15.47 Section 2 Policy DM12 states residential development will be supported where high standards of design, construction and layout are promoted, and sets general amenity standards for new dwellings, while Policy DM19 sets specific private amenity space standards. Policy DM15 also set further residential amenity requirements.
- 15.48 All the proposed dwellings have internal floor areas that meet or are in excess of Nationally Described Space Standards and it is considered all dwellings will be afforded acceptable levels of light and outlook to all habitable rooms. A condition can also be imposed to ensure that appropriate sound insulation and passive ventilation measures are included to the properties (where found to be required) to ensure appropriate internal noise levels are achieved, in accordance with recognised standards.
- 15.49 Taking into account the size, orientation and shape of the amenity spaces proposed it considered that the scheme delivers private amenity space provisions of an acceptable quality, and which are afforded an acceptable degree of privacy.

Ecology and Biodiversity Net Gain

- 15.50 Section 40 of the Natural Environment and rural Communities Act 2006 [NERC] places a duty on all public authorities in England and Wales to have

regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Paragraph 174 of the NPPF specifically, states development should contribute to and enhance the natural and local environment and minimise impacts on biodiversity, with appropriate ecological surveys required when there is reason to suspect the presence of protected species.

- 15.51 Policy ENV1 seeks to conserve or enhance biodiversity of the City and sets a requirement for development to achieve a 10% Biodiversity Net Gain [BNG], where appropriate and that development proposals that have adverse effects on the integrity of habitats sites will not be supported.
- 15.52 A Preliminary Ecology appraisal has been submitted in support of the application. This document concludes that with the mitigation outlined there will be no unacceptable impacts to existing ecology, including protected species. Essex Place Services have reviewed the information submitted and confirmed they are satisfied that there is sufficient ecological information available for determination of this application and that the information submitted provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable in these regards.
- 15.53 Compliance with the recommendations of the submitted ecological appraisal and the implementation of a biodiversity enhancement strategy can be controlled by the conditions recommended by Essex Place Services, as can the use of a wildlife sensitive lighting design scheme.
- 15.54 While it is understood that in this instance it has not been possible to demonstrate measurable biodiversity net gain of at least 10% on site at this stage, it is proposed by the applicant that biodiversity net gain is achieved through a combination of on and off-site provisions. While there is a presumption that measurable net gain in biodiversity is made onsite wherever possible, there are provisions for off-site compensation to be used in both policy and emerging legislation, and this is accepted by Officers. Subject to a pre-commencement condition to secure exact details of the on and off-site biodiversity provision and their long-term management and maintenance, the proposal is considered acceptable from a biodiversity net gain perspective and is considered to be in accordance with Policy ENV1 in this regard.

HRA/RAMS

- 15.55 Development proposals must not have an adverse effect on the integrity of habitat sites. Section 1 Policy ENV1 states that development proposals that have adverse effects on the integrity of habitats sites will not be supported.
- 15.56 A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been completed as part of the local plan in compliance with the Habitats Directive and Habitats Regulations. Further to Section 1 Policy SP2,

contributions are required from qualifying residential development, within the Zones of Influence as defined in the adopted RAMS, towards mitigation measures identified in the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The proposed development has been considered in line with Natural England guidance, which concludes that the whole of Colchester is within the zone of influence for the East Coast RAMS and that, unless a financial contribution is secured (to fund avoidance and mitigation measures in line with the RAMS), the proposed development is likely to have a significant effect upon habitat sites through increased recreational pressure, when considered in-combination with other plans and projects.

- 15.57 A proportionate financial contribution towards the Essex Coast RAMS is to be secured as part of the Unilateral Undertaking. Subject to the completion of the Unilateral Undertaking the proposed development is acceptable in respect of its impact upon habitat sites, as appropriate mitigation will be secured, in accordance with the conclusions of the Habitats Regulation Assessment [HRA] undertaken. This mitigation is considered sufficient to ensure that likely significant effects on the integrity of habitat sites does not occur, including when the development is considered in combination with other plans and projects.

Contamination

- 15.58 Paragraph 183 of the NPPF states that a site should ensure it is suitable for its proposed use, taking account any arising risk from contamination. This is reflected in policy ENV5.
- 15.59 A Phase 1 Contamination Risk Assessment has been submitted as part of the application. The Council's Contaminated Land Officer has reviewed the document and is in agreement with the report's conclusions that there does not appear to be any significant sources of contamination associated with the site and no intrusive investigation is considered to be required in respect of contamination. A precautionary condition covering the reporting of unexpected contamination is however recommended. Subject to the imposition of such a condition the proposal is considered acceptable from a contamination perspective.

Climate Crisis and Sustainability Measures

- 15.56 The site is located in a sustainable location which will encourage sustainable transportation modes to be used by residents. The applicant has also confirmed that each dwelling will be provided an EV charging point and the proposed dwellings will be served by air source heat pumps.
- 15.57 In addition to this the application proposes extensive new planting, including a good number of new trees and new native hedgerows.

Other Matters

- 15.58 The application site is located within Flood Zone 1 which has a very low risk of flooding from rivers or the sea (less than 0.1%) according to Environment Agency Long Term Flood Risk Information. The site is also outside any areas at risk of flooding from reservoirs. The site is not, therefore, considered to be particularly susceptible to flooding. The use of porous materials to all driveways and/or provisions being made to direct run-off water from driveways to permeable or porous areas is specified as a requirement of the landscaping plan, to assist in further reducing flood risk.
- 15.59 Finally, in terms of other material planning considerations, the proposed development does not raise any concerns.

16.0 Planning Balance and Conclusion

- 16.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the adopted local plan. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental.
- 16.2 In respect of the first of these, **the economic role**, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.
- 16.3 The **social role** of sustainable development is described as supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, that reflect current and future needs and support communities' health, social and cultural well-being.
- 16.4 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in the south of Colchester, would provide an appropriate mix of house types, is located within walking distance of a number of key local services and facilities required for day-to-day living and will make an important contribution to the Councils' housing land supply. The proposal would also deliver social benefits in terms of increasing the public's ability to interpret the significance of the Scheduled Monument through the interpretation panel proposed.
- 16.5 In respect of the third dimension, the **environmental role**, the proposal will provide housing in a sustainable location so that future residents would not be wholly reliant on private car, being able to walk, cycle or use public transport to access necessary services and facilities, thereby minimising environmental impacts. Ecological enhancements and biodiversity net gain can also be secured by condition.

- 16.6 There is also sufficient information to be confident that overall the development would not cause material harm to the amenity of nearby residents and the scheme is considered to achieve appropriate standards of design. It is recognised that the proposed development would have an impact on the existing character of the site (i.e., by introducing built development where there is none currently) however with sensitive landscaping it is not considered the proposal will result in unacceptable harm to the character and appearance of the area, including the landscape setting. While concerns have been raised about the proposal's impact on the highway network, the issues raised have been carefully considered and, for the reasons outlined in the main body of the report, the proposal is considered acceptable from a highways perspective.
- 16.6 In summary, it is officers' opinion that the scheme represents sustainable development and taking into account the factors identified above, the planning balance tips towards an approval in this instance.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a Unilateral Undertaking to secure the contributions outlined, and the following conditions:

1. Time Limit for Full Permissions

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

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

2. Approved Plans

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

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

3. Materials (Exact Details TBA)

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority.

Notwithstanding the details submitted, the exterior of Plot 8 shall be predominantly finished in render, exact details to be agreed. Such materials as may be approved shall be those used in the development.

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

4. Architectural Details

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include brick bonding, mortar joint, window detailing (including details of the depth of reveal), bay windows, doors, cills, arches, eaves, verges, gullies, ridge, brickwork /stone work detailing, recessed/projecting/decorative brickwork, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The details shall also include the use of exposed rafter feet to Plot 7 and additional brickwork detailing to Plot 9. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: To ensure that these important architectural details are implemented in a satisfactory manner, to ensure the development achieves a good degree of visual interest and demonstrates a high quality of design.

5. Landscaping Scheme

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The scheme shall be broadly inline with the details already submitted under the application but shall also comply with the following requirements:

- The new frontage hedge onto Gosbecks View and the Scheduled Monument should be proposed as single species native *Crataegus monogyna* hedging (rather than mixed hedging) with numerous locally compatible native trees proposed along and within (rather than behind) the frontage hedges.
- Publicly visible hard rear garden boundary enclosure should be brick walls rather than fenced.
- All private driveways shall be finished in a porous material, or provision shall be made to direct run-off water from driveways to a permeable or porous area or surface within the curtilage of the dwellinghouse.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out and where the details submitted appear generally acceptable but in some areas revisions and/or additional information is required. In the interests of visual amenity, landscape character and reducing flood risk.

6. Landscaping Scheme Part 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development.

7. 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.

8. Tree Protection

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, the relevant British Standard and the details submitted within the submitted Arboricultural Impact Assessment (Revision A, Dated 10/10/2023, Produced by Hayden's Arboricultural Consultants) and the associated Appendices.

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 the continuity of amenity afforded by existing trees and hedgerows.

9. Ecological Mitigation

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Liz Lord Ecology, Rev A – May 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

10. Biodiversity Net Gain

No development shall commence unless and until a Biodiversity Management Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time and the Biodiversity Management Plan shall include:

- a) Proposals for the on-site biodiversity net gain;
- b) A management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;
- c) Where it has been demonstrated to the satisfaction of the Local Planning Authority that 10% net gain in biodiversity cannot be achieved on site, proposals for any off-site biodiversity net gain provision;
- d) Where off-site provisions are required, a management and monitoring plan for all off-site biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed; The development shall be implemented in full accordance with the requirements of the approved Biodiversity Management Plan. Reason: To conserve and enhance protected and Priority species / habitats and allow the development to demonstrate measurable biodiversity net gains.

11. Wildlife Sensitive Lighting

Prior to the first occupation of the development hereby approved a

lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority. Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

12. Interpretation Panel

Prior to the first occupation of the development hereby approved details on the siting, design (including means of construction) and content of the proposed interpretation panel (in respect of the adjacent Schedule Monument) shall have been submitted to and approved in writing by the Local Planning Authority. The interpretation panel shall be installed by the developer in the form agreed prior to the first occupation of the development and shall thereafter be retained in the approved form in perpetuity and be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority. Reason: As this is the basis on which the application has been considered and to ensure that anticipated public benefits of the scheme are delivered in order to mitigate any harm to the setting of the Scheduled Monument, in accordance with Paragraph 202 of the NPPF.

13. Removal of PD (Means of Enclosure)

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure (other than those approved under the provisions of the conditions attached to this permission) shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority. Reason: In the interests of visual amenity with regard to the context of the surrounding area, with particular regard to preserving the existing landscape character of Gosbecks View and ensuring the setting of the adjacent Scheduled Monument is not unduly impacted through unsympathetic means of enclosure.

14. Removal of PD (Garaging Retained for Parking)

The garages hereby approved shall be retained for the parking of motor

vehicles at all times and shall not be adapted to be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate intentional on-site parking provision for residents and visitors, in the interest of public amenity and highway safety.

15. Removal of PD (Residential Extensions)

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

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

16. Noise

Prior to construction of the development above ground level, a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces shall be submitted to and approved, in writing, by the Local Planning Authority. Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) significantly enhanced ventilation will be required, with any reliance upon building envelope insulation with closed windows should be justified in supporting documents that cross reference the mitigation measures used. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime. The development shall thereafter be carried out in accordance with any details approved and shall be retained in accordance with these details thereafter. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

17. Construction Method Statement

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

details for:

the parking of vehicles of site operatives and visitors;
hours of deliveries and hours of work;
loading and unloading of plant and materials;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
wheel washing facilities;
measures to control noise and vibration;
measures to control the emission of dust and;
a scheme for recycling/disposing of waste resulting from demolition and construction works (no waste materials should be burnt on the site).

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

18. Reporting of Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Reason: The site lies on or in the vicinity of filled land where there is the possibility of contamination.

19. Highways 1/7 (Parking and Turning Areas etc.)

Prior to the occupation of any of the proposed development the internal roads and junctions, vehicular accesses and turning facilities shall all be provided in accord with V & B DRAWING NUMBERED 736/1 REV C Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

20. Highways 2/7 (Visibility Splays)

Prior to the occupation of any of the proposed development, a 11m x 2.4m x 11m visibility splay, shall be provided on both sides of the new bellmouth junction with Gosbecks View and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in the interests of highway

safety.

21. Highways 3/7 (No Unbound Materials)

No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the carriageways or highway boundary. Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

22. Highways 4/7 (Planting Set Back)

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway.

23. Highways 5/7 (Cycle Parking)

The development shall not be occupied until such time as details of the provision for parking and storage of bicycles sufficient for all occupants of the proposed development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter. Reason: To promote the use of sustainable means of transport.

24. Highways 6/7 (Construction Management Plan)

No development shall take place, including any site clearance, ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted as a scaled drawing to and approved in writing by the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans shall provide for:

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

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

25. Highways 7/7 (Off-site Crossing Works)

Prior to the occupation of any of the proposed dwellings the applicant shall provide a new informal pedestrian crossing (pram crossing) to the eastern side of the bellmouth of Gosbecks View together with tactile paving to each pedestrian crossing here to current patterns and standards and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway

channel Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development.

18.1 Informatives

18.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

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.

Highways Informative

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

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan 1989*) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

1. Necessary
2. Relevant to planning
3. Relevant to the development permitted
4. Reasonable
5. Precise
6. Enforceable

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer’s Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyards or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.



