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Item No: 7.1

Application: 211392 and 393

Applicant: Tollgate Partnerships

Agent: Laura Dudley-Smith, Savills

Proposal: Two Outline Planning Applications for residential development including a Rural Exception Site.

Location: Land at, The Folley, Layer-de-la-Haye, Colchester

Ward: Marks Tey & Layer

Officer: James Ryan

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it is a major application with representations received raising material planning considerations and is also a departure from the currently Adopted Development plan.

2.0 Synopsis

- 2.1 The report concerns two outline planning applications seeking permission for housing in a master planned approach across adjacent sites. The key issues for consideration are the principle of development; flood risk and drainage; impacts on ecology, highways, heritage, landscape and trees; and design. Matters of contamination, amenity, and climate change are also considered, along with other material planning considerations.
- 2.2 The proposed development has been assessed in line with both current and emerging planning policy, with the benefit of consultation responses and representations from third parties. Consideration of the planning benefits of the proposed development has resulted in a balanced judgement which concludes that the benefits of the scheme, in particular the affordable housing provision strongly outweigh any adverse impacts identified and the application is subsequently recommended for approval subject to a number of planning conditions, together with a s106 agreement securing developer contributions/obligations.

3.0 Site Description and Context

- 3.1 The site is located in the northeast of Layer de la Haye, adjacent to the settlement boundary of the village (to the south).
- 3.2 The application sites at The Folley comprise two parcels – one being 3.95ha in size, and the other being 0.95ha.
- 3.3 The wider site is a larger irregularly shaped, cultivated field with vegetation such as hedgerows and a handful of trees defining the site boundary of the overall application site. The division between the land the subject of this application and the site allocation is not defined by any physical features. The north of the site adjoins another field and Public Right of Way 141/3, and the western boundary meets the rear gardens of properties in Les Bois. The other two boundaries of the application site meet the wider allocation site. The eastern boundary of the allocation site however adjoins the road known as The Folley, which comprises interspersed detached residences on large plots, and its southern and western boundaries adjoin existing residential properties, and the current adopted settlement boundary of Layer de la Haye. A number of the trees on the boundary of the site are subject to TPO's.

4.0 Description of the Proposal

- 4.1 This report describes two proposals that are directly adjacent to each other and in effect represent one master planned site. The descriptions are:

211392 *“Up to 39 market homes and 16 affordable homes with vehicular access from Greate House Farm Road and The Folley with all other matters reserved”*

And

211393 *“a Rural Exception Site to provide up to 8 affordable homes and 7 market homes with vehicular access from Greate House Farm Road with all other matters reserved”*

Whilst each parcel is the subject of its own outline planning application, an overarching indicative Masterplan has been prepared to demonstrate the ability for the two sites to be delivered concurrently and read as one overall cohesive development.

5.0 Land Use Allocation

5.1 The land is currently arable farmland. The sites are unallocated in the adopted LDF but allocated in the Section 2 emerging CBLP at Policy SS10.

6.0 Relevant Planning History

6.1 There is no relevant planning history pertaining to the site. There have been a number of planning approvals in the immediate vicinity but these have no material bearing on the site in question.

6.2 Historically, a residential scheme of a larger site area, encompassing this site and the field to the north was refused in 1998, reference 98/0763.

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

SD2 - Delivering Facilities and Infrastructure

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR1 - Regeneration Areas

UR2 - Built Design and Character

PR1 - Open Space

PR2 - People-friendly Streets

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
- DP1 Design and Amenity
 - DP2 Health Assessments
 - DP3 Planning Obligations and the Community Infrastructure Levy
 - DP12 Dwelling Standards
 - DP14 Historic Environment Assets
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - DP17 Accessibility and Access
 - DP19 Parking Standards
 - DP20 Flood Risk and Management of Surface Water Drainage
 - DP21 Nature Conservation and Protected Lanes
- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process: Unallocated in adopted LDF.
- 7.5 There is no Neighbourhood Plan for the area.
- 7.6 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded significant weight due to its advanced stage. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry significant weight in the consideration of the application. Section 2 of the emerging Local Plan allocates the site for housing at policy SS10.

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
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future ECC's
Development & Public Rights of Way
Planning Out Crime

8.0 Consultations

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

Arboriculture Planner

Scheme is acceptable in principle; tree protection will need to be considered at reserved matters stage.

Archaeologist

The proposed development is comparatively large in scale and within a wider landscape that is rich in significant archaeological remains, notably at Gosbecks circa 1.7km to the north west, but equally near Fridaywood Farm 1km to the north east. Archaeological remains have also been identified through cropmarks closer at hand, to the north east of Rye Farm, roughly 400m south of the proposed development site.

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

Anglian Water

The foul drainage from this development is in the catchment of Layer De La Haye Water Recycling Centre which currently does not have capacity to treat the flows from the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

Colchester Cycling Campaign

Detailed response provided – object to scheme and make a number of requests, both on-site and off-site.

Contaminated Land Officer

Requests that a ‘reporting of unexpected contamination’ condition is imposed.

Environmental Protection

Conditions requested.

Essex County Fire and Rescue

Reports that “following a review of these documents I can advise that due to what would be considered an excessive distance to the nearest existing statutory fire hydrant, it is considered necessary that additional fire hydrants are installed within the curtilage of the proposed site.”

ECFR also note the current layout would not comply with the Building Regulations.

Officer note – as these are an outline scheme the layout is only indicative and the comments can be taken on board when the detailed plans are developed.

Essex Police

We would like to see this applicant seek to achieve a Secured by Design award in respect of this development; the proposed site plan does show most of the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties.

Officer note – as an outline scheme the layout is only indicative.

Health and Safety Executive

Do not advise against.

Highway Authority

No objections subject to conditions.

Highways England

No objection.

Landscape Advisor

In conclusion there are no objections to this application on landscape grounds.

LLFA (ECC SuDS)

No objection subject to conditions.

Mineral and Waste (ECC)

The MWPA recognise that the proposed area of development prohibits prior extraction of minerals, and future realistic minerals development. It is noted in section 3.4 that “there is potential for this site-won material to be utilised on-site during construction, which would potentially reduce costs and contribute to the sustainability of the project”. The MWPA encourage this. The MWPA is otherwise satisfied with the conclusions drawn and notes that an MRA is not required for the site.

Natural England

Consider RAMS to mitigate off site impacts and conduct an HRA/AA.

NHS (NEECCG)

The CCG will not be commenting on this planning application with relation to mitigation, the Winstree Medical Practice is not currently over capacity and therefore no mitigation will be requested for either of these planning applications.

Ramblers

Some concerns over pedestrians crossing the staggered junction on The Folley from the new access road for 25 houses to PRow footpath 13, a little to the north. Keeping cars and walkers separate is always beneficial. Pleased to see that the general walking about the field has been acknowledged and that some continued access will be available from footpath 3.

Urban Design

The outline proposals appear broadly acceptable in design terms, subject to more detailed consideration of the means of access. The submitted indicative layout should not form part of any approval, as this has not been considered fully and it is hoped it would be subject to change. The submitted masterplan appears broadly acceptable, but should be amended to include a landscape buffer to the southern boundary of the site as identified on the proposals map for the emerging policy.

Officer note – as an outline scheme the layout is only indicative.

9.0 Parish Council Response

9.1 The Parish Council have stated:

Layer de la Haye Parish Council wishes to make comment regarding this planning application in relation to the impact on the current infrastructure and village services this would have together with the increase of pollution, noise and safety.

Significant extra traffic is going to be brought into the village. The existing estate, in particular Great House Farm Road together with Hawfinch Road will take the brunt of the traffic entering and exiting the proposed new development. All the roads on the existing estate are concrete which is noisy. What can be done to help mitigate these problems?

We would expect a robust traffic plan to be put in place ensuring no Heavy Goods vehicles to pass the school during drop off and pick up times. Access to the site during construction to be from the Folley only. All machinery, materials and contractor parking to be kept on site at all times.

We would expect to see a robust buffer of trees planted between Les Bois and the site and also screening for any other houses overlooking the site, bearing in mind access needs to be taking into account for maintenance of overhead power lines that currently run behind Les Bois.

There should never be any more than 70 units built on the site as this proposal equates to a 10% growth in the village size.

If possible, we would like to see bungalows on the edge of the site and taller buildings in the middle.

Firefighting access should be considered carefully as access roads are already highly congested especially from parked vehicles.

There should be a No Build covenant on the settlement ponds.

With the potential of so many new residents' improvement to the technology infrastructure would need to be made. Currently mobile phone signals within the village are exceptionally poor and Wi-Fi struggles to meet demand.

The village does not have a post office, mobile butcher nor a mobile baker nor does it have a bus service that serves any main supermarket directly. Therefore, an improved bus service would be needed.

No play equipment to be erected on the open space. Any money saved should go towards the play area on the Village Recreation field opposite the Village Hall.

We would like to see all the trees on site and the belt of trees running along the side of the Folley TPO'd. We would expect existing and ancient hedgerows to also be retained. This would help mitigate the wildlife being disturbed.

There should be small bungalows so that people can downsize. These should have a covenant on them so that when sold on they cannot be enlarged.

Officer response: A number of these points will be dealt with at reserved matters stage as they relate to layout and the specifics of housing. The scheme is not large enough to warrant a new bus route although an increase in patronage from additional residents may support a better service. A construction management plan condition is proposed to deal with construction matters and this will also deal with deliveries. The scheme is for a maximum of 70 dwellings in total across the two sites as per the application forms. The SuDS attenuation ponds will not be built on and the reserved matters submission will have to take the SuDS into account. An informative can be imposed to request that the developer arranges for fast broadband to be installed if technically possible.

Follow up letter of 24.01.2022 stated:

Layer de la Haye Parish Council have had ongoing communication with the applicant for a number of years. Discussions have primarily focussed on the development meeting the needs of the local community and ensuring once identified these are carried through into the new Local Plan.

Layer de la Haye Parish Council support the delivery of affordable homes to meet local needs and an important matter was therefore understanding how the land could provide affordable sized homes that would directly meet the needs of the village. The Parish Council commissioned a Housing Needs Survey completed in June 2020 by Rural Community Council of Essex and updated in October 2020 in order to identify these needs.

Together with highlighting the need for a large variety of different sized dwellings within the development as a whole, consideration of a number of housing

options was made and, a Rural Exception Site was found to be the optimum mechanism that would best meet the needs of the Layer de la Haye community, as well as ensuring an appropriate provision of affordable housing to meet the wider needs of the Colchester District. We would certainly expect the first occupants of the affordable houses to be used by the Colchester District, to be allocated to people with a local connection.

The use of a rural exception site approach will ensure that the 21 affordable homes to be delivered on this site will be able to prioritise allocation to people with a connection to the village with 8 in perpetuity rather than only at the point of first-let as might be the case otherwise.

The latest local housing need survey identifies a need of up to 13 affordable homes for people with connections to the village and the Parish Council therefore support the 8 affordable homes in perpetuity that are proposed on the Rural Exception Site given the contribution they will make towards addressing this identified need.

10.0 Representations from Notified Parties

10.1 The applications resulted in a number of notifications to interested third parties including neighbouring properties and this generated a number of comments:

(44 objections, 17 'other comments' and one in support of 211392 and 21 objection, 15 'other comments' and one support for 211392). A letter from Rt Hon. Priti Patel MP setting out the concerns of a resident who wrote to her was also received.

10.2 Some of the comments are very detailed and it is beyond the scope of this report to set them all out in full. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- The scheme is premature.
- We were promised 50 dwellings.
- The allocation in the eLP is based on a flawed sustainability analysis.
- The eLP is therefore flawed.
- The Planning Statement contains many errors in terms of the local services available in the village.
- There are little of no services in Layer nor are there any jobs.
- The two applications should be assessed together.
- Layer does not need any more houses.
- We chose to live in a village for a reason.
- The highway network won't cope.
- Off-site highway junctions in the area are not suitable.
- The traffic survey was carried out during lockdown and is therefore unreliable.
- The traffic survey is flawed.
- You have no choice but to drive if you live in Layer as the other options are not workable.

- The schools, doctors and dentists do not have the capacity.
- Harm to residential amenity.
- This will double the size of the village.
- Impact on Ecology
- Noise and disruption.
- The Folley is not a suitable access road.
- All dwellings should be served from The Folley.
- An in-out access system should be proposed.
- Three access points should be proposed.
- The development is too close to existing houses.
- The broadband is poor in Layer.
- Loss of fertile land.
- Four schemes have been refused here before.
- Requests for changes to the layout.
- The site is a brilliant open space used by dog walkers.
- This will devalue existing house prices.
- Access to powerlines for maintenance.

11.0 Parking Provision

11.1 Both applications are outline applications with the internal layout for future consideration but there is sufficient space on site for all dwellings to have off street parking in accordance with the adopted standards.

12.0 Accessibility

12.1 For emerging allocations the accessibility standard for 10% of market housing and 95% of affordable housing will meet Building Regulations Part M4 Cat 2. 95% (excluding upper floor dwellings). 5% of affordable housing should meet Part M4 Cat 3 (2) (b) as set out in Draft Policy DM12 vi. This can be achieved at reserved matters stage.

13.0 Open Space Provisions

13.1 As both applications are submitted in outline, the layout will be determined at reserved matter stage. It is noted that the indicative drawings demonstrate that there is sufficient space on site to provide more than 10% of the site area as open space.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As both applications are “Major” applications, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought towards local projects. The Contributions/Obligations that would be agreed as part of the planning permission 211392 would be:

- ✦ **Education:** circa £108,788 for early years places (subject to final mix)
- ✦ **Communities:** £148,711.75
- ✦ **Parks and Recreation:** £314,917.40 and 91997.34 to maintain POS if adopted.
- ✦ **Affordable Housing** and first let local lettings policy to be part of 106 agreement as set out in detail below.
- ✦ **RAMS** contribution to also be collected via the Section 106 agreement.

It is noted that the spend purposes are still be finalised, as are the contributions for planning application 211393 (the RES). This will require a separate legal agreement to secure the affordable housing in the RES and will also require a **RAMS** contribution to also be collected via the Section 106 agreement.

16.0 Report

16.1 The main issues in this case are:

The Principle of Development

16.2 The whole site is outside of the area allocated for residential development in the Adopted Local Plan.

16.3 It is therefore a departure from the Local Plan. This section of the report will consider whether a departure from the plan should be made.

16.4 Importantly, the land that is the subject of this application is proposed for residential allocation within Colchester Borough Council's emerging Section 2 Local Plan, which is currently undergoing Examination, under Policy SS10. The smaller part of the site has been excluded from the allocation area, to allow it to be delivered as a Rural Exception Site, as allowed under draft Policy DM8 (Affordable Housing), in the interests of providing affordable housing that best meets the needs and desires of the local community and Layer de la Haye Parish Council.

16.5 Policy SS10 proposes the allocation of the land that is the subject of this application, with the policy wording as follows, noting that the underlined sections set out the suggested modifications:

Policy SS10: Layer de la Haye In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the area identified on the policies map which provides:

- (i) At least 35 new dwellings of a mix and type compatible with surrounding development, to include bungalows and small family homes;*
- (ii) Primary highways access to serve the development from Great House Farm Road with secondary, non-thoroughfare access, from The Folley to serve a limited number of dwellings;*

(iii) New areas of public open space, to include an equipped children's play area; and (iv) A masterplan demonstrating how the development will positively and comprehensively relate to the future delivery of a rural exceptions site on adjacent land.

Any proposals will also take into account the Essex Minerals Local Plan and the developer will be required to submit a Minerals Resource Assessment as part of any planning application. Should the viability of extraction be proven, the mineral shall be worked in accordance with a scheme/masterplan as part of the phased delivery of the non-mineral development.

Before granting planning consent, wintering bird surveys will be undertaken at the appropriate time of year to identify any offsite functional habitat. In the unlikely event that significant numbers are identified, development must firstly avoid impacts. Where this is not possible, development must be phased to deliver habitat creation and management either on or off-site to mitigate any significant impacts. Any such habitat must be provided and fully functional before any development takes place which would affect significant numbers of SPA birds.

16.6 Supporting policy text also confirms an expectation for a small adjacent parcel to be delivered as a rural exception site, with the policy itself referring to the need for both sites to be considered as part of one overall masterplan in this regard.

16.7 Reviewing the proposals against policy SS10 in order of criterion:

(i) At least 35 new dwellings of a mix and type compatible with surrounding development, to include bungalows and small family homes;

16.8 It is clear that the number of dwellings has been modified to allow 'at least' 35 dwellings. This scheme proposes 39 market and 16 affordable homes (not including the Rural Exception site). Due to the modification to a minimum figure it stands to reason that more than 35 is acceptable in policy terms.

(ii) Primary highways access to serve the development from Great House Farm Road with secondary, non-thoroughfare access, from The Folley to serve a limited number of dwellings;

16.9 This is dealt with in more detail in the Highway section of the report but the policy aspirations are achievable at reserved matters stage. Both access points are acceptable to the Highway Authority.

(iii) New areas of public open space, to include an equipped children's play area;

16.10 This is a matter for the Reserved Matters but is clearly achievable. A number of the representation note that they do not want a play area on site. This is also a matter for the reserved matters.

(iv) A masterplan demonstrating how the development will positively and comprehensively relate to the future delivery of a rural exceptions site on adjacent land.

16.11 This has been provided and is considered acceptable as will be discussed in more detail below.

16.12 The additions to the policy in terms of the Mineral Extraction and the Wintering Bird survey have both been dealt with via bespoke reports and are now considered satisfactory.

16.13 As noted above the Section 2 Local Plan can be found to be made sound following the consultation on the modifications set out by the Inspector. The modifications proposed to SS10 have been complied with and the modifications to DM8 have no bearing on rural exception sites in the borough, it is held that both policies can be afforded significant weight in the planning balance. Officers therefore consider that both schemes are acceptable in principle having regard to the weight that should be afforded to the emerging policy SS10.

Rural Exception Site (RES) and the Pilot Local Lettings Policy

16.14 In line with the NPPF (2021) Draft Policy DM8 allows land outside (but adjacent to) settlement limits to be released for affordable housing provision. The SS10 allocation has a clear area where this can take place and application 211393 sits wholly inside this area.

16.15 The rural exception site (RES) is being developed at The Folley in Layer-de-laHaye (separately to the larger site which includes the local lettings pilot). The RES consists of 15 properties of which 7 are market sale, 8 affordable, comprising of 6 rented and 2 shared ownership. The rented homes will only be let to housing register applicants with a local connection, which is protected in perpetuity. As can be seen from the second representation from the Parish Council, this approach is supported by the Parish.

16.16 The larger of the two sites will also provide affordable housing. The proposals are providing 16 homes as affordable houses, a total provision of 29%. The provision of affordable homes has been discussed with officers at preapplication stage. Due to the comprehensive approach taken on both sites, which will also result in an additional 8 affordable units (out of 15) equalling 53%, on the rural exception site, the overall provision of affordable homes across the total 70 homes proposed will amount to 34%. This is held to be acceptable and represents a significant public benefit.

16.17 It is noted that the affordable homes on the larger site will be subject to a Local Lettings Pilot.

16.18 Local Lettings can be used for new developments that are not rural exception sites and existing homes. A local lettings plan applies to a specified group of properties and sets out why and who will be given preference for offers of homes. The decision to apply a local lettings plan is made jointly by the landlord of the property and Colchester Borough Council (CBC). Senior managers have delegated authority to agree a local lettings plan. However, they are always shared with the Portfolio Holder before implementation and that has occurred in this case. A local lettings plan would usually be made under the following circumstances:

- To help create balanced communities and achieve wider community objectives (for example to produce a broader social mix).
- To help improve difficult to let areas and/or to tackle anti-social behaviour
- To make best use of the housing stock and give priority for releasing a property in need.

16.19 Properties subject to a local lettings plan are clearly labelled as such in the property advert on the Gateway to Homechoice website when the property is advertised. The local lettings plan is usually for a specific period of time.

16.20 CBC and other landlords of social and affordable housing can use local lettings plans, as this is set out in our Allocations Policy. The Housing Act 1996 (and subsequent revisions made by the Localism Act 2011) enables housing authorities to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories, provided that overall, the authority is able to demonstrate compliance with the requirements of the Housing Act 1996. The Housing Act 1996 requires housing authorities to allocate accommodation in accordance with the housing authority's Allocation Policy which must ensure that certain categories of applicants are given reasonable preference.

16.21 The Housing Act 1996 sets out the five groups of applicants for whom reasonable preference must be given. In summary, these groups are:

- Applicants who are classed as homeless under the law.
- Applicants who are owed a homelessness duty by any local housing authority or who are in temporary accommodation secured by the local housing authority
- Applicants occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions.
- Applicants who need to move on medical or welfare grounds (including grounds relating to disability).
- Applicants who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

16.22 Under this Colchester's Allocations policy, priority bands A, B and C, reflect the reasonable preference categories.

16.23 Local Lettings would be secured via the Section 106 agreement. On sites where affordable housing is provided under a section 106 agreement the agreement will set out matters such as the type and size of affordable homes, the tenure and any nomination and allocation arrangements for the affordable homes. These matters will be agreed through negotiation with developers. The Council can use the section 106 agreement to restrict the way general needs properties (that are not on rural exception sites) are let to households on its housing register. The length of time a restriction remains in place is also determined in the legal agreement.

Implications

16.24 Placing restrictions on the way general needs properties (that are not on rural exception sites) are let to households in housing with a local connection may have unintended consequences. In order to test whether there are any unintended consequences, the impact of such a restriction and whether it achieves what it sets out to achieve, it has been proposed that this site is used as a pilot site. This is a site of 55 homes of which 13 will be affordable rented housing and 3 will be shared ownership. The remaining 39 homes will be for open market sale.

The pilot – local connection restrictions

16.25 The Section 106 agreement will contain a schedule setting out the eligibility criteria, priority and local connection criteria requirement for nominees/applicants who bid for the property on the Gateway to Homechoice, choice-based lettings system at first let only.

16.26 **Eligibility** Prospective tenants will only be considered if they are registered on the Council's The Housing Register and their application is in Bands A to C on the Councils Housing Register. For the shared ownership homes the applicant should not have an annual household income of more than £80,000 and must not be a current homeowner.

16.27 **Priority** for the rented homes will be given to applicants in Housing Register Bands A to C who have a Local Connection (as defined below). This priority will be applicable to first let of the dwellings.

Local Connection – affordable rented homes.

16.28 An applicant will have a local connection if:

- The applicant or a member of the applicant's household have resided in the Parish of Layer-de -la Haye for not less than 3 years during the previous 5 year period
- They have a son, daughter, brother, sister, mother or father, who is aged 18 or over and lives in the Parish of Layer-de -la Haye, and has done so for at least five years before the date of application

- The applicant or a member of the applicant's household currently reside in the Parish of Layer-de -la Haye and have done so for at least 6 of the last 12 months and the applicant or a member of their household are currently permanently employed in the Parish and have worked in the Parish for at least 6 of the last 12 months
- The applicant or a member of their household has an offer of permanent employment within the Parish of Layer de la Haye for which personal attendance within the Parish of Layer de la Haye is a main or the primary requirement of their employment The work must not be short-term (less than 12 months) or marginal in nature, be ancillary to work in another parish or district; or voluntary work. Work will normally be regarded as marginal in nature if it is less than 16 hours a week.
- If, there are no applicants who have bid for and been successful in securing a property who fulfil the requirements of local connection criteria above, then a person who fulfils any of those criteria in respect of the neighbouring Parishes of Abberton and Langenhoe, Layer Breton, Birch, Great and Little Wigborough and Peldon can be considered when the property is re-advertised (the cascade parishes).
- If there are still no applicants who have bid for and been successful in securing a property, who fulfil the local connection requirements then the property can be let to an applicant who has a local connection to Colchester as set out in Colchester Borough Council's Housing Allocations Policy.

16.29 At second let the affordable rented properties should be let in accordance with Colchester Borough Council's Housing Allocations Policy. The pilot will operate until all the rented homes have been let for the first time and the shared ownership homes have been sold for the first time.

Highway Implications

16.30 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD. Recently adopted Section 1 Policy SG1 states that development that reduces the need to travel will be encouraged. Emerging Plan Policies DM15, DM20, DM21, and DM22 have similar requirements to adopted policy, with particular emphasis on enhancing accessibility for sustainable modes of transport

16.31 In accordance with the requirements of draft Policy SS10, the primary access to the development is proposed to be taken from Greate House Farm Road and

the lack of physical features that define the area to be delivered as a Rural Exception Site will ensure that this part of the wider site can also utilise this primary vehicular access and route through the development proposals.

- 16.32 A secondary access is proposed to be taken from The Folley, for up to 25 units. This capacity has been informed by an assessment of vehicular usage and speeds along the Folley in relation to the visibility splays available.
- 16.33 The proposals for access, including justification for the use of The Folley as a secondary access based on traffic speed surveys are explained in the detailed Transport Statement prepared by Intermodal Transportation Ltd.
- 16.34 The scheme and the accompanying Transport Statement has been assessed by the Highway Authority and they have no objection to the scheme subject to conditions.
- 16.35 In terms of the numbers of dwellings served from each access, some representations would like to see more dwellings serviced from Greate House Farm Road in order to preserve a more rural feel to The Folley than the suggested 25 dwellings would. Some representations would like to see more units serviced from The Folley and less from Great House Farm Road in order to prevent disturbance and congestion to the residents of the existing estate. No footway or lighting has been requested by the Highway Authority along The Folley.
- 16.36 This matter will be dealt with at reserved matters stage. Officers consider there may be a middle ground that preserves the edge of village rural feel of The Folley without servicing all 70 proposed dwellings via Greate House Farm Road. This has been discussed with the Highway Authority and they are satisfied that as long as the overall number of dwellings (i.e. the 70 in total from both applications) does not increase, changing the number taken from either access is acceptable.
- 16.37 Objections have been received that concern traffic impact and cycle infrastructure (specifically LTN 1/20 guidance). Permeability for cyclists through the site was requested as was secure cycle parking, both of which can be achieved at reserved matters stage. It was also requested that significant off-site works and speed limit reductions are proposed some of which are a considerable distance from the site, however this is not considered necessary or reasonable to mitigate the impact of this development.
- 16.38 In terms of traffic impact, paragraph 111 of the NPPF states that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. Given that the Highway Authority have no objections to the proposed development in terms of transport and highway impact, and that a range of mitigatory measures can be secured, it is concluded that it cannot be demonstrated that the proposed development would have an unacceptable or severe impact on the road network. A refusal on these grounds is not considered to be justified or sustainable at appeal.

Indicative Design/Layout

- 16.39 The National Planning Policy Framework (2021) sets out government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality 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 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. The framework is supported by a collection of planning practice guidance which includes a National Design Guide. This document 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.
- 16.40 At a local level these policies are carried through and adopted as part of the Colchester Borough Council Local Plan 2001-2021. Relevant policies include Core Strategy Policy UR2 and Development Policy DP1, which seek to secure high quality and inclusive design in all developments and avoid unacceptable impacts on amenity. These policies are supported by more detailed guidance provided supplementary planning documents such as the Essex Design Guide.
- 16.41 In terms of housing density and diversity, Core Strategy policies H2 and H3 require developments to make efficient use of land and relate to their context. A range of housing types and tenures across the Borough is sought in order to create inclusive and sustainable communities. Emerging Policy DM10 also requires a range of housing types and tenures for the same reason. Emerging Plan Policy DM9 makes specific reference to the setting of important heritage assets; access and local road network; scope to enhance walking and cycling access to local amenities and public transport; and existing landscaping, trees, and hedgerows; matters that have been considered above.
- 16.42 Given the outline nature of the proposal the assessment of the application on design grounds is limited. Ultimately, design considerations are limited to whether the quantum of development proposed is appropriate in the context of the site and whether the application demonstrates that the site is capable of successfully accommodating the quantum of development proposed in an appropriate manner.
- 16.43 The site is located on the eastern rural edge of the existing settlement and consists of open countryside. As a result, the site has a prevailing rural character and the use of a rural system of spatial organisation should be adopted to provide a scheme that is dominated by landscape features. Both applications propose to place dwellings on the site at a density of approximately 15 dwellings per hectare. On this basis, it is considered that the site is capable of accommodating the proposed quantum of development in a sympathetic manner without contradicting the sites context and existing character.

- 16.44 Both proposals seek to establish means of access via their respective applications and the proposed vehicular access points are considered appropriate in terms of safety, connectivity and permeability.
- 16.45 Given the quantum of development proposed and the site area, it is considered that an acceptable and policy compliant standard of design could be achieved at a reserved matters stage.
- 16.46 The presence of power lines on the site boundary has been noted and concerns for their maintenance was also raised. This is a matter that can be taken into consideration at reserved matters stage to ensure the statutory undertaker can still gain access to the power lines as required.

Impact on Surrounding Area

- 16.47 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Core Strategy policy UR2 and Development Plan policy DP1 seeking to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. These principles are also reflected in adopted Local Plan Section 1 Policy SP7 and Emerging Plan Policy DM15. In addition, Emerging Plan Policy PP1 requires suitable design and screening/landscaping to minimise any negative impacts on surrounding landscape.
- 16.48 The scheme has been accompanied by a Landscape Appraisal and in turn this has been assessed by the Council's in-house Landscape Advisor. The landscape content/aspect of the strategic proposals lodged principally under drawing(s) 6572-1119.P1 lodged on 27/05/2021 and the Landscape & Visual Impact Assessment dated September 2021 were considered to be acceptable and it is therefore held that at reserved matters stage it is possible to provide a layout that is sensitive to landscape interests.
- 16.49 The Landscape advisor has noted that the double hedge lining the PRow that runs along the northern boundary of the site is protected under the Hedgerows Regulations 1997 and should therefore be retained, as far as is practical, fully intact. To this end the proposed pedestrian accesses should be moved slightly to the existing pedestrian desire lines at the NE and NW corners of the site. This however could be addressed as part of the detail design under the reserved matters submission.

Impact on Neighbouring Amenity

- 16.50 Development Plan policy DP1 and Emerging Plan Policy DM15 require all development to be designed to a high standard that protects existing public and

residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

- 16.51 This is a matter that will be dealt with via the reserved matters as the layout is only for indicative purposes. There is nothing to suggest that a scheme of this density cannot be achieved in a matter that is not compliant with the Essex Design Guide in terms of overlooking and back to back distances.
- 16.52 It is accepted that the scheme will intensify the use of both access points and in turn that will cause an increase in noise and disturbance to existing dwellings. This has been carefully considered but it is not held to be a matter that warrants refusal of a scheme of this scale.

Amenity Space Provision

- 16.53 This is a matter that will be dealt with via the reserved matters as the layout is only for indicative purposes. It is clear from the layout that all dwelling can be provided with gardens in excess of the minimum stands as set out in the Local Plan.

Ecology

- 16.54 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. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.55 A Preliminary Ecological Appraisal was prepared by Essex Ecology Services Ltd (EES) in November 2018. A letter from EES has been provided alongside this report (dated: 16th April 2020), which provides an updated assessment of the site and validates the original findings and recommendations. The Assessment relates to the entirety of the Masterplan area (inclusive of the rural exception site).
- 16.56 The original assessment recommends further surveys, which were undertaken as follows: Reptiles (May 2019); Great Crested Newts (September 2019); and Bats (October 2019).
- 16.57 The letter confirms that the site remains largely unchanged since the original 2018 survey. The site does not provide suitable terrestrial habitat for Great Crested Newts. There are no identified bat roosts, but the previous survey did identify that the site is used by commuting and foraging bats, and as such a sensitive lighting plan should be incorporated into the design.

- 16.58 As confirmed in the original report, the unmanaged rough grass could provide suitable habitat for reptiles. The report also suggested that any site clearance should therefore take appropriate measures and be supervised by a consultant ecologist. Likewise, with suitable habitats for birds, any clearance should be carried out outside the main breeding season. Mitigation is also recommended for badgers and hedgehogs.
- 16.59 Following the modifications to the Section 2 Local Plan, a wintering Bird Survey was carried out. The scheme, and the wintering bird survey has been independently assessed by Place Services ecologists. They are now satisfied with the scheme. Suggested conditions are awaited and will be imposed.

Biodiversity Net Gain, Canopy Cover and Trees

- 16.60 In terms of Biodiversity Net Gain (BNG), EECOS have provided a detailed BNG Strategy. This states that as an outline scheme the extent of achievable BNG is not yet known. However, the applicant intends to achieve a minimum 10% Net Gain, in line with the Section 2 Local Plan, with this being achieved through onsite habitat enhancements and/or off-site offsetting, to be determined at Reserve Matters. The current proposals plan indicates that the greater part of the site will be used to provide housing, residential gardens and landscaping. The Biodiversity Net Gain metric does not value such features highly, as they cannot be managed for their ecology post-development. Other proposed features comprise public open space and attenuation basins, and it is anticipated that the appropriate management of these features for biodiversity could achieve a measurable Net Gain in terms of area habitats.
- 16.61 It seems likely that the creation of more ecologically beneficial habitats, such as grassland and wetland, will need to be included within the final development plans for a significant on-site Net Gain to be achieved in terms of area habitats. The development has the potential to result in a significant gain in terms of linear habitats. While the final development plans have yet to be determined, the current proposals plan indicates that existing hedgerows are to be retained, with existing gaps and access points being utilised for site entrances and exits. The proposals indicate that existing hedgerows will be enhanced and approximately 0.24 kilometres of hedgerow will be planted. In addition to seeking a measurable Biodiversity Net Gain, the site could be further enhanced by additional measures, including provision of bird nesting and bat roosting opportunities in buildings, provision of 'hedgehog highways' in gardens and provision of reptile and amphibian hibernacula in areas of suitable habitat.
- 16.62 The BNG strategy states that management of parts of the development's green infrastructure, public open space and the promotion of wildlife-friendly gardening among new residents could add to Net Gain achieved for the development. Interpretative material could also be provided for new residents, aiming to foster a caring attitude to the local environment and biodiversity. It is anticipated that management of created habitats will be continuously reviewed, both during the

construction phase of the development and once development is complete. In this way, progress can be monitored and any appropriate changes in management can be identified.

- 16.63 In terms of tree matters and Canopy Cover (CC), a Tree Survey/AIA and letter from Andrew Day Arboriculture has been submitted. This states that the existing trees on site will be retained and protected (save for some loss at the proposed access points and facing back to provide visibility splays on The Folley), so the canopy cover from these trees will not change significantly, instead new planting will increase existing CC. There is space on site for a reserved matters layout that retains the boundary trees and keeps development away from their root protection zones.
- 16.64 The indicative layout shows that space has been provided to support trees that have a growth potential to become large visual, landscape features such as Oak, Field Maple, Hornbeam and Ash (subject to Chalara not being an issue). As well as these species, small trees such as Hawthorn, Rowan and Cherry can also be incorporated. The internal area of the site is currently cropped with no tree cover, only those trees around the edges. The consultant advises that the 10% canopy increase can easily be achieved with new tree planting incorporated in a soft landscape design, that can be conditioned as part of a planning consent with the scheme.

Public Rights of Way

- 16.65 This scheme retains the definitive route of public footpath 3 that runs along the northern boundary of the site. As this PROW follows the boundary of the northernmost part of the site it will be relatively simple to incorporate into the scheme at reserved matters stage. A direct pedestrian link to the footpath will also be secured at reserve matters stage.
- 16.66 Essex Legal Services have also noted that an application has been made to add a path along the eastern boundary of the site from Old Forge Road to Footpath 3 but note this may take some time to deal with. They have recently written to the Council and applicants to state they will be recommending the footway for inclusion on the Definitive Map. As a matter of fact this potential footpath is not on the definitive map at this time, however as with Footpath number 3, due to the location near to the site boundary it is relatively simple to ensure that its route can be retained at reserved matters stage.

Flood Risk

- 16.67 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff. Emerging Plan Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Major

development proposals required to reduce post development runoff rate back to the greenfield 1 in 1 year rate, with an allowance for climate change. On brownfield sites where this is not achievable, then a minimum betterment of 50% should be demonstrated for all flood events. In addition, emerging plan policy DM24 requires all new residential development to incorporate Sustainable Drainage Systems (SuDS) appropriate to the nature of the site.

- 16.68 The NPPF also establishes policy relating to flood risk management. The main focus of the policy is to direct development towards area of the lowest possible flood risk without increasing the risk elsewhere. The NPPF advises that the sequential test should be used to steer new development to areas with the lowest risk of flooding. This a requirement for developments located in either Flood Zone 2 or 3.
- 16.69 The application site is located in Flood Zone 1, which is land that is considered to be at low risk of flooding and does not need to undergo the sequential test. All sources of flood risk are assessed in the accompanying Flood Risk Assessment and Drainage Strategy document prepared by Ingent Consulting Engineers.
- 16.70 As detailed in the Drainage Strategy specifically, surface water drainage from private areas is to discharge into the ground via private soakaways and the adoptable carriageway is to discharge via three infiltration basins within soft landscape areas. A preliminary design based on the Illustrative Masterplan has been prepared and included within the aforementioned Drainage Strategy. This demonstrates the ability to use Sustainable Urban Drainage Systems across the site with the space that is available, to an extent that would be required for a 70 unit scheme.
- 16.71 The strategy has been informed by infiltration testing that has been completed on the site, and which confirmed that suitable infiltration rates were achieved through the sand strata beneath the site. The associated Geotechnical Investigation report prepared by BRP Associates also forms part of this planning application. The LLFA have assessed the scheme and are satisfied subject to conditioning.
- 16.72 In terms of Foul Water Anglian Water sewers records show a number of potential connection points surrounding the site. A new connection will be made and is represented in the appendices of the Drainage Strategy.

Land Contamination

- 16.73 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. Emerging Plan Policy ENV5 supports proposals that will not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses due to land pollution.
- 16.74 A Phase 1 Geo-environmental Desk Study has been prepared by 'Brown 2 Green' Consultants and accompanies this planning submission. Policy DP1 –

Design and Amenity confirms that development will need to undertake appropriate remediation of contaminated land. Paragraph 178 of the NPPF, also states that a site should ensure it is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

16.75 The report concludes that no potential sources of contamination were identified at the application site, and as such no further recommendations were given or works necessary. The inhouse Contaminated Land officer agrees with these findings and subject to a condition is satisfied with the scheme.

Agricultural Land Classification

16.76 An assessment of agricultural land value was requested to support this planning application given that the development of the site will result in the loss of agricultural land. An assessment has therefore been undertaken by Strutt & Parker and accompanies this application.

16.77 Prior to this updated assessment being made, the land was classified by Natural England in their pre-1988 Agricultural Land Classification Map as Grade 3. The updated assessment concludes that the site is Grade 2 in part (19%) and Grade 3a for the remainder of the site (81%).

16.78 Grade 2 is very good quality agricultural land with minor limitations which affect crop yield, cultivations or harvesting. Subgrade 3a is good quality agricultural land with moderate limitations that affect the choice of crop, timing and type of cultivation/harvesting or level of yield. This land can produce moderate to high yields of a narrow range of crops or moderate yields of a wide range of crops.

16.79 Whilst this scheme will therefore result in the loss of 'best and most versatile' agricultural land, this is convincingly outweighed by the public benefits of the scheme, namely the provision of housing and affordable housing in particular. The agricultural land in the Borough generally falls within these categories and this constraint is not unique to this site.

Health Implications

16.80 Policy DP2 of the adopted Local Plan requires all developments in excess of 50 units to be accompanied by a Health Impact Assessment to identify the potential health consequences on a given population and maximise the health benefits and minimise potential adverse effects. It is noted that the threshold in the eLP is 100 dwellings. In any case, a HIA has been provided and it concludes that the scheme will have health benefits by virtue of its sustainable location, proposed open space and links to footpaths. It is further noted that the NHS have stated that the GP surgery has the capacity to serve the proposed development. The scheme is therefore acceptable in this regard.

Heritage

- 16.81 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. Emerging Plan Policy DM16 states that development affecting the historic environment should seek to conserve and enhance the significance of the heritage asset.
- 16.82 The relevant legislation for the review of the application from a heritage perspective includes Planning (Listed Buildings and Conservation Areas) Act (1990), whose Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 16.83 The application site does not contain any listed buildings and is not located in a conservation area, or by a historic park or garden. Whilst there are some listed buildings in Layer de la Haye, they are removed from the immediate vicinity of the site therefore it is not considered that either scheme has a material impact on the setting of any listed buildings in the wider area.
- 16.84 In terms of below ground heritage, the site sits within a wider landscape that is rich in significant archaeological remains, notably at Gosbecks circa 1.7km to the north west, but equally near Fridaywood Farm 1km to the north east. On that basis, an archaeological condition has been suggested at the request of the Council's Archaeological Advisor.

RAMS

- 16.85 A further requirement is that development proposals must not have an adverse effect on the integrity of habitat sites. Emerging Plan Policy ENV1 states that development proposals that have adverse effects on the integrity of habitats sites will not be supported. A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been completed as part of the 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 Borough 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. A contribution is included as part of the s106 requirements (see Section 15 of this report) and the

proposed development is therefore considered to be in accordance with emerging policy ENV1 and acceptable in respect of its impact upon habitat sites.

17.0 Conclusion and Planning Balance

17.1 To summarise both applications comprise departures from the Adopted Development Plan but accord with the Emerging Section 2 Local Plan and in particular the site specific policy SS 10 Layer De La Haye which it has been expressly formulated to comply with. The larger of the two schemes (211392) facilitates a Rural Exception Site (211393) and, as per the policy requirement, they have been master planned as one.

17.2 In terms of the planning balance and the **environmental role** of sustainability it is accepted that the scheme will have a minor to moderate adverse impact on landscape interests. It is also accepted that there is will a potential very minor impact on neighbouring amenity and an intensification on the highway network. It is however held that this scheme has the potential to be a well designed, beautiful development befitting the rural area.

17.3 In terms of the **economic role**, this scheme will be beneficial as new dwellings equal new residents who will use local and Borough wide facilities. The scheme will also generate new Council Tax receipts and the New Homes Bonus.

17.4 In terms of the **social role** this scheme provides very convincing benefits, namely the provision of market housing, the provision of affordable housing and the facilitation of the Rural Exception Site in a comprehensive master planned manner. It is also noted that this scheme will pilot a new local letting policy to allow for the letting of the first let of a property to local people.

17.5 It is officers' opinion that the planning balance tips convincingly in favour of an approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions, for which delegated authority is requested to add to and amend as necessary:

1) Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2) Time Limit for Outline Permissions Part 2 of 3

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

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

3) Time Limit for Outline Permissions Part 3 of 3

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

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

4) 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:

6572 1101 P1
IT1904/TS/02

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

5a) Highways (for 211392 only)

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

- a) A priority junction off The Folley to provide access to the proposal site. Junction shall have but not be limited to a minimum 43 metre visibility splay in both directions as measured along the nearside edge of The Folley's carriageway
- b) An extension of Greate House Farm Road to provide access to the proposal site
- c) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) Improvements to Footpath 3 Layer-de-la-Haye between the B1026 (High Road) and The Folley (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- e) Residential Travel Information Packs in accordance with Essex County Council guidance

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

5b) Highways (for 211393 only)

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

- f) An extension of Greate House Farm Road to provide access to the proposal site
- g) Residential Travel Information Packs in accordance with Essex County Council guidance

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

Please note, all other conditions to be replicated on both permissions:

6 Archaeology

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

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

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

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

Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

7) 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 proposed use would be vulnerable to contamination, if present, and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

8) Landscaping

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

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Retained historic landscape features and any proposals for restoration.

- Planting plans (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 in order to provide at least 10% canopy cover uplift.
- Implementation timetables and monitoring programs. Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

9) 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.

10) 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 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.

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

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

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

12) Limits to Hours of Work

No site deliveries, 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.

13) EV Charging points

Prior to occupation, a scheme showing EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the occupation of the dwellings in which the charging points serve.

Reason: To facilitate the uptake of low emission vehicles.

14) Street Name Signs

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

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

15) SuDS

No development shall take place except in complete accordance with the submitted Flood Risk Assessment and Drainage Strategy.

Reason: To ensure that the proposal does not result in on site or off-site flooding during the lifetime of the development including the construction phase.

16) Ecology

Ecology conditions will be inserted once a suite of suggested conditions have been received from Place Services Ecology Team.

19.1 Informatives

19.1 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.

ZTB - Informative on Any Application With a Site Notice

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

Landscape Informative

'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](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)'

Anglian Water Informative:

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

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

SUDS Informative

INFORMATIVES: Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed Suds which may form part of the future register, a copy of the Suds assets in a GIS layer should be sent to suds@essex.gov.uk. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note. It is the applicants responsibility to check if they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside our area of expertise. 3 We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Broadband Informative

The developers are strongly encouraged to ensure the site is served by broadband in the interests of connectivity.

