



**Application No:** 160623

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

**Scale (approx):** NOT TO SCALE

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **17<sup>th</sup> November 2016**  
Report of: **Head of Professional/Commercial Services**  
Title: **Planning Applications**

**7.1 Case Officer: Bradly Heffer Due Date: 24/11/2016**

**MAJOR**

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

**Application No:** 160623

**Date Received:** 16 March 2016

**Agent:** Mr Paul Belton, Carter Jonas (incorporating Januarys)

**Applicant:** Mr Chris Goldsmith, Turnstone Colchester Ltd

**Development:** Reserved matters application following outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400sq m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas.

**Ward:** Mile End

**Summary of Recommendation:** Conditional 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 reserved matters application that has given rise to material planning objections and which is recommended for permission, subject to the conditions as set out in this report.

## **2.0 Synopsis**

- 2.1 The key issues explored below are the fact that the site to which this application relates forms part of a larger area of land which has the benefit of outline planning permission. This proposal seeks approval for reserved matters that were not proposed at the time of the outline planning application.
- 2.2 Notwithstanding the objections to the proposal that have been received it is considered that the reserved matters application submission is acceptable in planning terms and approval is recommended to Members.

## **3.0 Site Description and Context**

- 3.1 The application site for this reserved matters proposal is an area of undeveloped land (4.54 hectares) the main part of which is bounded to the east by the third phase of the Northern Approach Road (NAR) – identified as Via Urbis Romanae, and to the south by United Way, which links the NAR with Boxted Road. A linear section of the application site extends from United Way to Tower Lane to the south. The site falls within a larger area of land (20.2 hectares) that was covered by the outline planning permission granted under O/COL/01/1622.
- 3.2 Generally the application site is level, but graded land is found where the site abuts the adjacent roads which are set at a higher level. The majority of the site is grassed, having been used previously for agricultural purposes. The larger part of the site also contains an established hedgerow that runs in a north-east/south-west alignment, augmented by established deciduous trees. The southern linear part of the site runs across land that appears to have been used for agricultural purposes in the recent past.
- 3.3 Immediately to the west of the northern part of the application site is the Weston Homes Community Stadium and associated land uses including a car park. To the north is the A12 trunk road and associated junction with the NAR (junction 28) – and to the north of these is a petrol filling station, restaurant/takeaway building and the Colchester Park and Ride facility. To the east of the site, on the opposite (east) side of the NAR is undeveloped land also allocated as Strategic Employment Zone land in the adopted Local Plan. To the south of the site is Tower Lane – a public right of way incorporating a bridleway – and to the south of this is the site of the former Severalls Hospital which has the benefit of outline planning permission for a mixed use redevelopment (including detailed planning permission for residential development).
- 3.4 The application site forms part of an extensive area to the north of the town which is identified as the Colchester Northern Gateway. Within the adopted Local Plan the application site is located in the North Colchester Strategic Employment Zone and a Regeneration Area as well as forming part of the defined Northern Growth Area.

## **4.0 Description of the Proposal**

- 4.1 Under outline planning application ref. O/COL/01/1622 planning permission was granted for the following development:

‘Outline application for community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, two storey business unit, employment use, associated parking, transport interchange facilities and landscaping.’

- 4.2 Among the conditions attached to the grant of planning permission by the Council was a condition (no.5) that specifically limited the amount of floor space that could be provided on the site as follows:

‘The development shall not exceed the maximum size, for buildings within the specified Use Class of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to these Classes in any statutory instrument revoking or re-enacting that Order), for each class shown below:-

### Use Class Maximum Size

- a) Community Stadium 10 000 seats
- b) Class C1 (Hotel) 80 bedrooms
- c) Class D2 (Health & Fitness Centre) 9 290 sq. metres
- d) Class A3 (Restaurant, Pub, Cafe, Wine Bar) 10 400 sq. metres
- e) Class B1 (Business Unit) 9 600 sq. metres

Reason: To ensure that the A12 trunk road will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980, and for the safety of traffic on that road. The proposed improvement to the A12 trunk road has been assessed on the basis of a total floor areas and building sizes shown above. An increase in the total might invalidate the assessment.’

- 4.3 The permission also allowed for the submission of details of the first phase of development within 4 years of the date of the permission, and details of further phases within a 10 year period. The first phase of reserved matters approval was for the Community Stadium. As the outline planning permission was granted via decision notice dated 21<sup>st</sup> March 2006 this, in effect, enabled the submission of further reserved matters applications until 20<sup>th</sup> March 2016. This current application was validated by the Council on 16<sup>th</sup> March 2016 and seeks reserved matters approval for the following development:

‘Reserved matters application following outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400sq m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas.’

- 4.4 The submission therefore seeks reserved matters approval for the quantum of A3 (restaurant) and C1 (hotel) uses approved at the outline application stage, together with ancillary parking provision and a landscaped open space area that would serve the development. The proposed development would take the form of blocks of built form that would be located on the northern section of the application site. Of these, the eastern-most building would contain the proposed hotel accommodation, and adjacent to this a larger building would contain some of the proposed A3 floor space. An extensive landscaped open space area would be located between this building and the remainder of the A3 buildings located to the west of the site. The multi-storey car park to serve the proposed development would be located adjacent to the western group of A3 units. Members will note that a rectangular space is created by the arrangement of the western A3 units and the adjacent car park building. It is proposed that this space would contain a cinema building, but it is important to emphasise that the proposed cinema is not an element for which planning permission is being sought under this particular planning application. Rather, the cinema element is being applied for as part of a separate, full planning application for development on the same site as this application and which has the reference 160825. This planning application will be presented for determination by Members as a separate item.
- 4.5 The design of the proposed buildings follows a contemporary architectural approach, whereby curved forms and roofs are used, and the palette of materials includes metal panels, timber, glazed screens etc. The following extracts are taken from the Design and Access Statement in relation to the design approach taken in the case of each of the proposed buildings:

#### Hotel

‘...The form of the Hotel is designed to rise out of the elevated verge between the Via Urbis Romanae and the site rising up to its full five storey scale on United Way – the orientation of the building means that its form is gradually revealed as visitors move south from the junction of the A12...The expression of the form is amplified in scale by the positioning of a reflecting pond to its front mirroring the profile as it rises...’

#### Leisure Curve

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

*Officer comment: the use of the term ‘Leisure Curve’ is appropriate here as a way of identifying the building. The phrase itself, however, refers to the range of uses that are proposed under the separate full application – including predominantly D2 uses.*

#### Inline Units

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

## Car Park

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

- 4.6 Members are advised that the original outline planning application submission that established outline planning permission for the development was accompanied by an Environmental Statement. Given the age of this outline planning application (approved in 2006) it was the case that much of the information in that Statement was out of date. As part of this reserved matters submission an updated Environmental Statement has been included, together with a range of supporting documents including a Planning Statement. These are available to view on the Council’s website. The following extracts are taken from the Planning Statement for Members’ information:

‘The proposal does not include any D2 space. This is because legal advice has been obtained which confirms that there is probably no scope to include any further D2 space within the development via the reserved matters route. The description of development on the outline planning permission is specific that the permitted D2 use within the development is for a ‘health and fitness centre’. A health and fitness centre has already been granted RMA [reserved matters approval] and is in the course of construction (David Lloyd). The wording in the outline permission description implies that there will be one health and fitness centre so it is not possible to promote a further one and be in compliance with the outline permission.

The applicant is seeking to deliver a leisure/restaurant led scheme on the RMA application site. The ultimate scheme therefore includes a multiplex cinema and other active leisure uses. As these elements cannot be secured via the outline permission supplemented by this reserved matters application, a separate, full planning application is being submitted for the entire development which it is ultimately hoped to deliver but which, importantly, will include the proposed cinema and additional active leisure uses provided within internally reconfigured buildings that are all proposed as entirely A3 uses within this RMA and which will result in less A3 floor area than currently proposed...The approach being adopted results in the reserved matters submission leaving a ‘void’ within the set of buildings at the western end of the proposed pizza (sic) into which it is proposed the cinema building being pursued under a full application would be ‘slotted’ in...’ *(Officer note: the David Lloyd development referred to above has now been completed and is open to the public).*

- 4.7 In summary, therefore, this current application seeks to secure elements of development already permitted at the outline stage. A separate full planning application has been submitted that proposes a cinema on this site, together with a variation in the mix of uses proposed, and this application will also be presented to Committee for determination.

## 5.0 Land Use Allocation

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

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

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

## 6.0 Relevant Planning History

- 6.1 As mentioned elsewhere in this report, the outline planning permission to which this reserved matters proposal relates was granted under planning application reference O/COL/01/1622. This outline planning application was one of a number of proposals submitted at the same time and which related to the Colchester Northern Gateway area. These other applications are listed below for Members' information:

- O/COL/01/1623  
Outline application for employment uses
- O/COL/01/1624  
Residential development (approximately 1500 dwellings including conversion of some retained hospital buildings) mixed uses, including community facilities, employment and retail, public open space, landscaping, new highways, transport improvements, reserved route of the Northern Approach Road Phase 3 (NAR3), and associated development.
- O/COL/01/1625  
Outline application for replacement roadside services to include petrol filling station comprising associated Class A1 retail shop, refuelling facilities, car wash and Class A3 roadside restaurant and lorry park.

- F/COL/01/1626  
Detailed application for the construction of the Northern Approaches Road Phase 3 (NAR3) including a new grade separated junction with the A12 and east/west link road to Severalls Lane plus all ancillary highway works (including segregated bus corridor)

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

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

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

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

- F/COL/06/1727  
'Section 73 application to vary Conditions 9 and 10 of application O/COL/01/1622 which relates to the need for the implementation of a new junction with the A12 trunk road and Northern Approach Road Phase 3 in advance of commencement or occupation of any of the development elements granted by that consent (i.e. the football stadium in this instance).
- F/COL/07/0294  
Variation of condition 47 of application no. O/COL/01/1622
- 071539  
New 10 000 seat capacity community stadium with associated facilities and 2no. 5-a-side football pitches, plus associated landscaping, roadworks and car parking.
- 081644  
Variation of condition 37 attached to O/COL/01/1622 to allow use of the stadium's internal concourses for the holding of a monthly farmers' market on the first Thursday and an annual Christmas fayre and the variation of condition.
- 151216  
Application for approval of reserved matters following outline approval (O/COL/01/1622) (layout, scale, appearance, landscaping, access) for the construction of a racquets, health and fitness complex with associated parking, access and ancillary facilities.
- 152370  
Application for removal or variation of condition 27 following grant of planning permission (O/COL/01/1622). Resubmission of 151682.



## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out how the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

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

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

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

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

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

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

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

Community Facilities  
Vehicle Parking Standards  
Sustainable Construction  
Open Space, Sport and Recreation  
External Materials in New Developments  
Cycling Delivery Strategy  
Sustainable Urban Drainage Systems Design Guide  
North Colchester Growth Area Supplementary Planning Document

Myland Village Design Statement

As well as the above documents the Myland and Braiswick Neighbourhood Plan is due to be adopted by the Council at a forthcoming meeting.

## **8.0 Consultations**

- 8.1 The following comment has been received from the Council's Spatial Policy Team

'The reserved matters application is associated with a partially implemented planning permission originally granted in 2006 providing for a community stadium along with a range of leisure and business uses. The construction of the stadium has maintained the validity of the planning permission as a basis for further development for a 10 year period. The reserved matters application has been submitted within this 10 year period.

The Council as landowner is now working with the developers Turnstone to bring forward unimplemented elements of the permission. The full development envisaged includes a multiplex cinema and other active leisure uses, but as those elements cannot be secured via the outline permission supplemented by the reserved matters application, a separate full planning application has been submitted for this development which will need to be assessed for its planning policy implications. The current reserved matters application accordingly only covers those elements of the 2006 approval that are explicitly covered by that permission.

As the application is for reserved matters rather than planning permission, the issue of the principle of development is not in question. This point is reinforced by Site Allocations Policy NGA3 (Employment Uses in the North Growth Area) which lists appropriate uses for the area, and in point g) states 'At Cuckoo Farm planning permission exists for a range of uses including an hotel (C1), a public house/restaurant (A3/4), a health and fitness centre (D2) and business units (B1).

The applicants have submitted a Planning Statement in support of their application which notes the lack of relevance of the strategic policy framework given that the principle of use has been established. Planning policy concurs with this view and does not wish to raise any objections to the application.'

- 8.2 Essex County Council as Highway Authority has not raised any objections to date but its final comments are awaited and will be reported verbally.

- 8.3 Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. Additionally it is identified that the proposal would take place in an area that could benefit from enhanced green infrastructure provision and Natural England would encourage the incorporation of provision into the development. Also, the Council's attention is drawn to standing advice in relation to protected species, together with other advisory comments.
- 8.4 Anglian Water Authority has requested the inclusion of conditions on a grant of planning permission.
- 8.5 The Environment Agency has confirmed it has no comment to make.
- 8.6 When initially consulted on the application submission Essex County Council as SUDS authority raised an objection to the proposal on the basis of inadequate information as follows:
- ‘...The Drainage Strategy submitted with this application does not comply with the requirements set out in Essex County Council's Detailed Drainage Checklist. Therefore the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development...’
- Subsequent submission of additional information has led that authority to revise its comment to one of no objection subject to the imposition of conditions.
- 8.7 Environmental Control has confirmed no objection to the proposal subject to the imposition of conditions on a grant of planning permission.
- 8.8 Highways England, as the authority with responsibility for the trunk road network, has no objection to the submitted application. Furthermore it does not require any conditions to be imposed on a grant of permission.
- 8.9 The Contaminated Land Officer would require the imposition of conditions on a permission.
- 8.10 Historic England responded to advise that it did not have any comments to make on the proposal.
- 8.11 The Council's arboriculturalist originally expressed some concerns about the potential impact of the development (specifically the curved building adjacent to the hotel) on the trees that are proposed to be retained on the site. The design and position of the identified building has since been amended. The arboriculturalist's latest comments will be reported at the meeting.
- 8.12 The Landscape Officer originally requested additional information to demonstrate the impact of the proposed development on the landscape – including additional viewpoints. Following the submission of this information the officer has confirmed no objection to the proposal subject to the imposition of conditions.

- 8.13 The Archaeological Officer originally requested a condition requiring the submission of a written scheme of archaeological investigation, prior to the commencement of development on the site. However, during the period of consideration of this application further investigative work has taken place on site via trenching and geophysical examination. The works have not revealed any archaeology of note. On the basis of the findings of this additional work the Officer has advised that a condition is no longer considered necessary.

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

## **9.0 Parish Council Response**

- 9.1 The following comment has been received from Myland Community Council:

'MCC has concerns regarding the decision to proceed with this planning application without inclusion of the cinema complex. We do not feel that the site without the cinema will attract the required number of visitors to make it viable. We take the view that this application should have been stayed until the cinema could be included. MCC have concerns over the proposed entrance slip road to the car park. On busy days this has the potential to cause gridlock on what is now a major gateway to Colchester. MCC is also puzzled as to why the Scoping Report for this application is separately listed as 160499. There are references in that report under transport that do not appear to make sense. It refers to this project alleviating traffic flows and environmental concerns regarding Mile End Road, Mill Road, Turner Road. We are at a loss to see how this can be stated or verified. Whilst MCC has overall support for the project because of these concerns we must confine our response to 'comment' only.'

*Officer comment: Following receipt of this comment your officer contacted the Community Council to advise that the proposed cinema would be the subject of a separate application (previously referred to in this report). The Council has been consulted on this application in the normal way. Furthermore the concerns expressed about the potential traffic impacts were relayed to the Highway Authority and the applicant's agent. Members will note the comments from the Highway Authority and Highways England in this regard.*

## **10.0 Representations**

- 10.1 As a result of local notification and advertising one objection has been received to the proposal - received on behalf of the Colchester Bus Users Group (C-BUS); the comments of which are summarised below:

- The application submission fails to address national and local planning policy with regard to transport. A large percentage of cinema users are under 25 and have limited car access. The site would be largely inaccessible to these users.
- The proposal is in conflict with policy and a positive recommendation would be open to legal challenge.
- The pre-application consultation process was flawed.
- The site is not a sustainable location and Colchester is already too car-dependent.

- The transport considerations are different from those that were relevant in 2006 (when the outline planning application was approved).
- The use of the Park and Ride facility will not be relevant given that the proposed uses will operate at different times. It is unlikely that Park and Ride buses would serve the development.

*Officer comment: Members are advised that the comments forwarded by C-BUS also relate to the full application submission that includes the cinema proposal. This current proposal seeks reserved matters approval for elements of development that already benefit from outline planning permission. Additionally the application is accompanied by an updated Transport Assessment as part of the submitted Environmental Statement.*

10.2 An objection has also been received on behalf of Tollgate Partnership. The following points of objection are made:

- Since the grant of outline planning permission the site has been allocated as a Strategic Employment Zone and is the highest rated employment site in Colchester
- The submitted scheme forms part of a wider scheme that includes D2 leisure uses – as evidenced by the full application submission
- The Environmental Statement submitted with the application does not take account of the wider scheme
- The impact of the car parking provision on the wider road network cannot be properly quantified in this reserved matters application
- There is no 'residual' D2 floor space that can be used to justify additional floorspace
- The applicant should be asked to withdraw the current application and the full application should be assessed on its merits and against current planning policy.

*The following officer comments are made in response to the points raised:*

- *It is acknowledged that the site forms part of an overall area that has an allocation as a Strategic Employment Zone in the adopted Local Plan. Nevertheless the specific area policy for the site (SA NGA3 – Employment Uses in the North Growth Area) recognises the uses established under the outline application O/COL/01/1622 as being appropriate for this site – criterion (g) refers*
- *The report to Members identifies that the application site is also subject to a planning application that proposes a different mix of uses together with the provision of a cinema. This is a separate proposal that would have to be considered on its own merits*
- *This point is noted and following the initial submission of this application the applicant was advised that the Environmental Statement accompanying the submission needed to be updated to reflect the impacts that would arise from the full application submission. The Statement has been amended accordingly.*
- *As part of the application submission a traffic impact assessment has been submitted that deals with the traffic impacts of the development.*
- *This reserved matters application does not propose additional floorspace above that established at the outline planning permission stage.*

- *This submission of details following the grant of outline planning permission is a valid application, submitted within the permitted timescale established at the outline application stage.*

10.3 Ward Councillor Goss has made the following general points with regard to this proposal:

1. If the application is recommended for approval it should be heard before the Planning Committee.
2. The proposal must ensure that ample bus and cycling provision is made, including the provision of cycle paths and safe cycle storage.
3. The Park and Ride Service should call at the development as should other bus services in the area, and bus stops and shelters provided.

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

## **11.0 Parking Provision**

11.1 The application submission advises that the proposed development would be served by 750 spaces in the proposed multi-storey car park. It is noted that the adopted parking standards of the Council would require the following *maximum* provision in relation to the proposed uses:

- C1 Hotel - 1 space per bedroom which would equate to a *maximum* provision of 80no. spaces
- A3 (Restaurant) – 1 space per 5 square metres gross floor space which would equate to a *maximum* provision of 2 080 spaces.

11.2 Members should also note that the amount of spaces proposed would be the same for the development scheme proposed under the full application (that includes a cinema together with a range of D2 uses in lieu of a proportion of the A3 floor space that is proposed under this scheme). The supporting documentation for the full application includes a Traffic Assessment, which itself includes an assessment of parking provision. This indicates that the proposed level of parking is acceptable.

## **12.0 Open Space Provisions**

12.1 There is no specific open space requirement for the type of development that is shown under this reserved matters proposal. That said, Members will note that a significant area of publicly-accessible open space is proposed as part of the submitted scheme. The responsibility for maintenance of this space would remain with the applicant – rather than being transferred to the Council.

## **13.0 Air Quality**

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

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was agreed by the Team that as this proposal is an application to approve reserved matters following the grant of outline planning permission, and as an overarching S106 agreement was secured as part of the approval of the various suite of applications of which O/COL/01/1622 formed part, Planning Obligations should not be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

### **Introduction**

- 15.1 This proposal is a reserved matters submission that seeks approval for details of development. The previous approval of the outline planning application ref. O/COL/01/1622 established the acceptability of the development on this site. At the time of the outline approval all matters of detail were reserved for future consideration. Members will note that subsequent reserved matters proposals on the overall site covered by the outline application have been submitted – including those for the stadium and also a health and fitness centre. Members should also note that the time period for the submission of reserved matters applications has now expired – the cut-off date being 21 March 2016. This current submission was made prior to the identified date, when the outline application was still extant and the application is therefore valid.
- 15.2 In terms of providing context for this application submission, Members are advised that the Applicant’s ultimate aim is to create a leisure/restaurant led scheme on the application site – including the provision of a multiplex cinema and other leisure uses. The full application has been submitted to seek planning permission for this development. The following explanation has been included in the Planning Statement accompanying the planning application:

‘...The applicant is seeking to deliver a leisure / restaurant led scheme on the RMA (Reserved Matters Application) site. The ultimate scheme therefore includes a multiplex cinema and other active leisure uses. As these elements cannot be secured via the outline permission supplemented by this reserved matters application, a separate, full application is being submitted for the entire development which it is ultimately hoped to deliver but which, importantly, will include the proposed cinema and additional active leisure uses provided within internally reconfigured buildings that are all proposed as entirely A3 uses within this RMA, and which will result in less A3 floor area than currently proposed...’

### **Policy**

- 15.3 Members will be aware that as this is a reserved matters submission the acceptability in principle of the development proposed is not an issue to be considered. Nevertheless, Members are advised that within the adopted Local Plan a specific policy relates to this part of the Colchester Northern Gateway site. Site allocation policy SA NGA3 states, inter alia, that ‘Within the Strategic Employment Zone allocated on the Proposals Map and falling outside the Growth Area boundary, the following uses will be considered appropriate...At Cuckoo Farm planning permission

exists for a range of uses including an hotel (C1), a public house/restaurant (A3/4), a health and fitness centre (D2) and business units (B1)...'

- 15.4 Members will note the policy recognition of the terms of the outline planning application. This reserved matters proposal includes details of the hotel and A3 units which is considered to be in accordance with the terms of the policy. In reaching this conclusion it is the case that the description of proposal refers specifically to a public/house restaurant in the singular. However the terms of the relevant floorspace restriction condition (included previously in this report) the A3 element of the approval covers restaurant, pub, café and wine bar uses. At the time the outline planning permission was granted the Use Classes Order included all these uses within the same use class. The Order was subsequently amended in 2005 when separate A3 (Food and Drink), A4 (Drinking Establishments) and A5 (Hot Food Takeaways) use classes were established.

### **Design and Layout**

- 15.5 The location of this site at a 'gateway' to the town, requires a development of appropriate presence and quality in order to enhance the overall character of the area and ensure its attractiveness as a destination, both locally and regionally. This is reflected in the relevant Core Strategy policy UR2 – Built Design and Character which states the Council's aim to secure high quality and inclusive design in all developments. Specifically the following statement is made in the policy '...High-quality design should also create well-integrated places that are usable, accessible, durable and adaptable. Creative design will be encouraged to inject fresh visual interest into the public realm and to showcase innovative sustainable construction methods...'
- 15.6 Members will note that the architectural approach taken with the submitted scheme follows a contemporary character. In the context of the surroundings it is considered that this approach is appropriate. Firstly because the surrounding form of development follows, generally, a contemporary approach (for example the Community Stadium, David Lloyd Health and Fitness Centre, commercial development along Axial Way to the east and the restaurant facility to the north of the A.12 trunk road). Secondly, because the use of this type of architecture, within an extensive green 'parkland' setting has sufficient drama and presence. Elements such as curved forms and roofs give the buildings an 'organic' appearance. Furthermore the provision of a high-quality public realm, as part of a bespoke landscaping approach, would further augment the overall visual value of the scheme as a development proposal in this location.
- 15.7 Members will note that the position of buildings is such that important spaces such as United Way and also Via Urbis Romanae are directly addressed by built form. Additionally the proposed open space area in the centre of the development is directly addressed by built form of substantial scale. Given the overall size of the open space area it is considered that the proposed built form provides sufficient 'enclosure', to ensure the space does not feel amorphous for users
- 15.8 Since the initial submission of this application further discussions have taken place with the applicant in order to further improve the design and appearance of the proposed development. Changes to the proposal that have been secured include variation to the design of the hotel in order to increase the curvature of the roof of the building, bringing it closer to the United Way public realm. Additionally the building



adjacent to the hotel has been moved closer to the hotel. This has the dual benefit of reducing its impact on a tree to be retained and also lessening the amount of space afforded to the service access between this building and the hotel. The design of the southern end of this building has also been amended to ensure that it relates better to the United Way frontage.

- 15.9 Other minor changes that have been secured include the use of muted colour tones for the finishes of the buildings in lieu of the primary colour palette that was originally proposed. This will have the effect of ensuring that the overall appearance of the development is more sensitive in the landscape.

### **Impacts on Neighbouring Properties**

- 15.10 The nearest existing development to the site for this proposal is the Community Stadium – located immediately to the west of the site – and the David Lloyd Health and Fitness Centre which is located immediately to the south of the main part of the site, and adjacent to the proposed footpath and cycleway link between United Way and Tower Lane. As a planning judgement it is considered that the proposed development would not have a deleterious impact on the amenity of these existing developments – not least due to their shared commercial nature. In terms of the nearest residential development, this is located along Boxted Road to the west. Members will also be aware that significant residential development is located to the south east of the site – the nearest of which are the dwellings located at Oxley Parker Drive. In both cases it is considered that the relative remoteness of the development would mean that the amenity of the occupiers of these dwellings would not be unacceptably impaired by the proposed development. The future development of the former Severalls development to the south of the site will bring residential development nearer to the application site. Nevertheless it is not anticipated that the proposed development would have a detrimental impact on the amenity of the future occupiers of these dwellings. Again, the site is relatively remote and the Severalls site benefits from significant tree planting that would assist in filtering views. Additionally, hours of operation for uses that were imposed under the outline application (and which would apply to this reserved matters proposal) would assist in protecting the amenity of local residents. For Members' information the hours of operation secured under the outline planning permission are as follows:

*'No customers shall enter any Class A3 or A5 premises before 1000 hours on any day; no customers shall remain on the premises after 2300 hours on any day nor shall any food or drink be provided to customers off the premises after these times except with the prior written consent of the Local Planning Authority.'*

*Reason: To protect the amenity of the locality.'*

### **Amenity Provisions**

- 15.11 Due to the nature of the development there is no provision of private amenity as such. The key public element that would be secured as part of the proposal would be the extensive area of open space located at the centre of the proposed development. As part of the overall development concept the open space would define the character of space between built forms. The treatment of this space is therefore of fundamental importance as it has to have attractiveness as a facility, in which visitors would want to spend time.

- 15.12 The proposed open space consists of a variety of soft and hard landscape treatments that would include waterbodies, sculptures and street furniture that would also make an aesthetic contribution. The following extracts are taken from the Landscape Strategy that forms part of the application submission:

‘...Soft landscaping will dominate the space, consisting of grassed landscape mounds and hollows, forming informal play areas and serving as a water storage area at times of heavy rainfall. Structure planting will provide a sense of scale to the space and form a microclimate. Seasonal variation in the planting will provide year round interest...The tree planting strategy is divided into five categories: avenue trees, street trees, waterside trees, buffer trees and ornamental trees...The aim is to plant 169 new trees that will complement the retained tree structure, proposed development, hierarchy of spaces and individual character...the furniture strategy seeks to reinforce the unique image of Colchester Northern Gateway and be robust, monolithic and fun in character. The furniture will articulate the brick, timber, metal palette of the buildings and hard landscape and create a contemporary look for the scheme...Public art strategy will form a large part of the public realm, providing a series of interactive pieces that encourage the public to linger, sharing the space with others and increasing a sense of community. Other pieces will provide links through the site to aid pedestrian legibility and orientation. The emerging art strategy aims to include opportunities for an open call to all artists to create artworks inspired by Colchester’s past, present and future for the site. Elements will include interactive art pieces and water fountains, playful benches enabling small children to play on. The landscape will also accommodate some of the internal activities externally, for example adventure golf or bouldering could spill outside...’

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

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

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

## Highway Issues

- 15.15 The impact of traffic arising from the proposed development was a factor considered at the time of the outline planning application. That said, the information that supported the outline application (including the Environmental Statement) was produced over a decade ago and therefore it is the case that it required updating as appropriate in order to reflect the current situation, not least to enable the Council to base any decision on a robust information base.
- 15.16 In the case of the impacts of the development on the highway network, this has been considered through the provision of a revised Traffic Assessment, which also factors in the range of developments that are proposed under the full application that has also been submitted to the Council. Members are advised that following the submission of the application the detail of the traffic assessment report was reconsidered and an amended report produced. This amended report has been considered by the Highway Authority and it has been confirmed that the reserved matters proposal would not create adverse highway impact issues.

## 16.0 Conclusion

- 16.1 This reserved matters application submission seeks the Council's approval for details of development for which the principle was established under outline planning application approval ref. O/COL/01/1622. Through the approval of this application the Council has formally accepted that a community stadium, health and fitness centre, hotel, pub/restaurant, A3 units, two storey business unit, employment use, associated parking, transport interchange facilities and landscaping can be provided on the area of land that is covered by the outline planning permission. Members will also be aware that some of the elements identified in the outline planning permission have already been constructed such as the Weston Homes Community Stadium and the David Lloyd Club. In addition, the relevant, extant site specific policy that relates to the Cuckoo Farm site (of which the current application site forms part) contains a specific reference to the range of uses that are deemed acceptable in this location, and which are established by the outline planning permission granted under O/COL/01/1622.
- 16.2 On this basis it is considered that this reserved matters proposal would be fully compliant with the terms of development that were established at the outline stage – both in the range of uses that are proposed and also the *floorspace* amount that is sought, which is specifically controlled by a condition imposed at the outline stage.
- 16.3 Following on from the acceptability of the principle of development that is sought, it is considered that the form and appearance of development that is proposed would be appropriate to this important 'gateway' location in the town. Policy SA NGA1 – Appropriate Uses within the North Growth Area states inter alia that '...All new development should seek to draw on the character of the existing landscape, within and adjacent to individual sites. Proposals should seek a comprehensive integration of identified existing and new green links and desire lines which link both public and private open spaces. All new development will be expected to provide on-site infrastructure as well as provide or contribute towards off site infrastructure improvements to ensure the North Growth Area objectives are achieved.'

16.4 It is considered that the proposed development submitted under this application for reserved matters accords with the policies that are applicable (as highlighted in this report) and also the terms of the outline planning permission granted under O/COL/01/1622.

## **17.0 Recommendation**

17.1 APPROVE subject to the following conditions

## **18.0 Conditions**

### **1 - \*Reserved Matters Applications**

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference O/COL/01/1622 relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of 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 as follows:

- C133 P104 pl1 - Site Plan
- C133 P105 pl1 - Detailed Site Plan
- C133 P114 pl1 - Leisure Curve Ground Floor
- C133 P115 pl1 - Leisure Curve First Floor Plan
- C133 P116 pl1 - Leisure Curve - Sections AA and BB
- C133 P117 pl1 - Leisure Curve - West and South Elevations
- C133 P118 pl1 - Leisure Curve - East and North Elevations
- C133 P119 pl1 - Hotel Ground Floor Plan
- C133 P120 pl1 - Hotel - First and Second Floor Plans
- C133 P121 pl1 - Hotel - Third Floor Plan
- C133 P122 pl1 - Hotel - Fourth Floor Plan
- C133 P123 pl1 - Hotel - East and South Elevation
- C133 P124 pl1 - Hotel West and North Elevation
- C133 P125 pl1 - Leisure Curve and Hotel - Roof Plan
- C133 P126 pl1 - Site Sections 1 and 2
- C133 P127 pl1 - Site Sections 3 and 4
- C133 P132 pl1 - Detailed Part Elevations - Leisure Curve West Elevation 1
- C133 P133 pl1 - Detailed Part Elevations - Leisure Curve West Elevation 2
- C133 P134 pl1 - Detailed Part Elevations - Hotel West Elevation (entrance)
- C133 P135 pl1 - Detailed Part Elevations - Hotel South and East Elevations
- C133 P137 - South and North Elevations (roof overhang cutback)
- 595\_PL\_001 Rev P02 - General Arrangement Plan
- 595\_PL\_002 Rev P02 - Rendered Landscape Plan
- 595\_PL\_004 Rev P02 - Site Wide Rendered Plan
- 595\_PL\_005 Rev P02 - Cycle Expansion Plan

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

### 3 - \*Access for Disabled Persons

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

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

### 4 - Materials to be Agreed

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

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

### 5 - Surfacing Material to be Agreed

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

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

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

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

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

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

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

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

### 8 - Refuse and Recycling As Shown

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

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

## 9 - Communal Storage Areas

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

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

## 10 - Litter

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

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

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

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

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

## 12 - Non-Standard Condition/Reason – Detailed Surface Water Drainage Scheme

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

Reason:

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

## 13 - Non-Standard Condition/Reason – Minimisation of offsite flooding risk

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

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be

discharged. Furthermore the removal of top-soils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

#### 14 - Non-Standard Condition/Reason – Surface Water System Maintenance Plan

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

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

#### 15 - Non-Standard Condition/Reason – Maintenance Plan Logs

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

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

#### 16 - Non-Standard Condition/Reason – Restrictions on Changes of Use

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

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

#### 17 - Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

## 18 - Site Boundary Noise Levels

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

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

## 19 - Food Premises (Control of Fumes and Odours)

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

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

## 20 - Grease Traps Required

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

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

## 21 - \*Light Pollution for Major Development

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

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

## 22 - Details of Floodlighting

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

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



### 23 - Illuminated Signs

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

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

### 24 - Non-Standard Condition/Reason – Restriction on hours of illumination

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

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

### 25 - Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

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

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

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

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site

will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

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

#### 28 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 25, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 26, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 27.

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

#### 29 - \*Validation Certificate

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 23.

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

### 30 - Oil Interceptor Required

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

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

### 31 - \*Full Landscape Proposals TBA

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

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

### 32 - 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.

### 33 - Earthworks

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

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

### 34 - Tree and Natural Feature Protection: Protected Areas

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

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

### 35 - Tree and Natural Feature Protection: Entire Site

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

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

### 36 - Tree Canopy Hand Excavation

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

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

### 37 - Public Art

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

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

## 19.0 Informatives

### (1) **ZT0 – Advisory Note on Construction & Demolition**

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

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

### (3) **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](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

(4) An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence. Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

(5) It should be noted that discharge rates are higher than current best practice advises. Rates are based on a previous agreement with the environment agency. It is recommended that wherever possible further reductions in discharge rates should be sought.

(6) 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](mailto: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.

(7) 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 @ Guidance Notes LIS/C

(8) 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.

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

(10) PLEASE NOTE that the outline planning permission reference number O/COL/01/1622 together with this approval constitute the planning permission for this development. All of the conditions imposed on both the outline permission and this approval must be complied with.

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

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

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.

(ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

(iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

## **20.0 Positivity Statement**

20.1 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.