



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationary Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.1

Application: 170424

Applicant: East of England Co-operative Society

Agent: Miss Paige Harris

Proposal: Change of use of the building with associated physical works to allow a mix of A1 retail units, A3 restaurant units, along with 24 residential apartments and ancillary storage and service/access areas.

Location: Colchester & East Essex Co-Op, Long Wyre Street, Colchester, CO1 1LH

Ward: Castle

Officer: Lucy Mondon

Recommendation: Approval subject to a legal agreement under s.106 of the Act.

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee for the following reasons:

- it is contrary to adopted Development Plan Policies DP6 (Colchester Town Centre Uses) and DP16 (Private Amenity Space and Open Space Provision for new Residential Development);
- it constitutes a major application and a Section 106 Agreement is required; and
- it constitutes a major application on which a material planning objection has been received and the Officer recommendation is to approve.

2.0 Synopsis

2.1 The key issues for consideration are:

- The principle of the changes of use;
- Design and heritage impacts (taking into account the Conservation Area and Locally Listed Building status as a Heritage Asset);
- Amenity;
- Archaeology; and
- Highway Matters (including parking).

2.2 Planning obligations are also considered, as well as matters of flood risk and biodiversity.

2.3 The report describes the site and its setting, the proposed development, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.

2.4 The application is subsequently recommended for approval, subject to a legal agreement and planning conditions.

3.0 Site Description and Context

3.1 The Co-Op building has been vacant for several years and occupies a large corner plot on the junction of Culver Street East and Long Wyre Street. The building fronts onto St Nicholas Square to the north and Long Wyre Street to the east (running for approximately half the street frontage). The building is located within a Conservation Area and is locally listed, being described as:

Co-Operative department store, 1925-6, by Goodey & Cressall. Three storeys, with Classical detailing. Steel-frame construction faced in granite (ground floor) and Portland stone (upper floors).

Built as an extension to the building of c. 1914 in Culver Street East (q.v.) by the same architects. A good example of a department store building of the 1920s. The plans in Essex Record Office (D/B 6 Pb3/4493, dated 1925), allow for a further extension along Long Wyre Street to the south. This is in the same style and must have been built soon afterwards.

- 3.2 The character of the area is a mix of smaller retail units, as well as services (estate agents and funeral parlour), leisure (pool hall and casino), and some takeaway food and café units. There are several vacant units, however, which gives an overall impression of economic decline. At an initial site visit on 7th March 2017, five vacant units were noted on Culver Street East and Long Wyre Street. A second site visit was carried out on 10th August 2017, whereby an additional ten vacancies were recorded, albeit including nearby Priory Walk; the vacancies recorded at the earlier site visit remained vacant. Of the 55 units on Culver Street East, Long Wyre Street, and Priory Walk, 15 of them (30%) were vacant as of 10th August 2017. One vacant unit (the former Jacks store) is currently undergoing conversion works to a café with flats over, while one other vacant unit on Culver Street East appears to be undergoing works, although it is unknown whether this is general repairs or works required for reuse.
- 3.3 In terms of built form, the area is characterised by later 19th and early-mid 20th century properties of varying style and construction, with some modern purpose built shops. The properties range between two to three storeys in height, the most notable exception being the Edwardian Queen Anne Revival styled building occupied by Three Wise Monkeys on the corner of St Nicholas Street and the High Street, which has some four storey elements.

4.0 Description of the Proposal

- 4.1 The proposal is for the change of use of an A1 (retail) building to a mix of A1 (retail), A3 (restaurants) and residential apartments, with ancillary storage and service/access areas. The ground floor would be subdivided to form two retail units and five restaurant units, one of which would be a small unit to allow access to a larger first-floor area. The remainder of the building (first and second floors) would be converted to residential apartments.
- 4.2 The proposed uses are as follows:

A1 (retail)	Two units	322.7m ²
A3 (restaurants)	Five units	2097.8 m ²
C3 (residential)	Twenty-Four flats	8 studio flats; 12 one-bed flats; 4 two-bed flats

- 4.3 Information submitted with the application includes:
- Site Location Plan
 - Existing and Proposed Floor Plans
 - Existing and Proposed Elevations
 - Existing and Proposed Roof Plan
 - Details of Juliette Balcony
 - Illustration of Proposed Replacement Windows
 - Design and Access Statement
 - Planning Statement
 - Archaeology Report
 - SUDs Checklist
 - Fenn Wright Viability Appraisal (confidential due to commercially sensitive information)
 - Marketing Brochure
 - Marketing Campaign Details (confidential due to commercially sensitive information)
- 4.4 A number of meetings were undertaken with the Applicant and their Agent in order to negotiate appropriate external treatment in respect of heritage matters which resulted in amended plans being submitted. The design aspect of the proposals is discussed in full in Section 15.0 of this report. The applicants were encouraged to consider a greater retail (A1) element but provide marketing evidence to substantiate their case.

5.0 Land Use Allocation

- 5.1 The building is located within the Town Centre Inner Core where policies CE1, CE2a, and DP6(a) apply and are relevant to this proposal.

6.0 Relevant Planning History

- 6.1 There are a significant number of planning applications associated with the site, the majority of which relate to various forms of advertisements or cosmetic alterations. Applications of most relevance to the current proposal include:

- | | |
|--------|---|
| 1969 | Applications to clad over chamfered corner window approved. Refs: 69/0055; 69/0088; and 69/0524. |
| 1975-6 | Applications for complete redevelopment of the Co-Op store (involving demolition of existing store in its entirety). Refused and dismissed at appeal. Ref: COL/1151/75. |
| 1978 | Demolition of retail shops and rebuilding into single-store unit approved (this forms the current Long Wyre Street arrangement and appears to include the brick infill and shop windows on St Nicholas Square). Ref: 78/0026. |
| 1982 | Installation of new shop front (entrance on Long Wyre Street) approved. Ref: 82/0053. |
| 1997 | External alterations to shop front approved (minor in nature). Ref: 97/1091. |

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
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2a - Town Centre
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- 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
- DP6 Colchester Town Centre Uses
- DP11 Flat Conversions
- 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

- 7.4 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
Sustainable Construction
Shopfront Design Guide
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Planning Out Crime
Town Centre Public Realm Strategy

8.0 Consultations

- 8.1 The stakeholder consultation responses are summarised below. More information may be set out on our website.
- 8.2 Archaeology: Following confirmation from Colchester Archaeological Trust (CAT) that the entire footprint of the building was previously excavated (2-3 metres deep) and anything left over was destroyed, there is no requirement for pre-determination archaeological investigation and no need for any conditions, as there is no possibility of encountering any surviving archaeological deposits on this site.
- 8.3 Contaminated Land Officer: No objections.
- 8.4 Environmental Protection: Should planning permission be granted, recommend the following conditions:
- Construction Method Statement;
 - Limits to hours of demolition/construction;
 - Provision of refuse and recycling facilities;
 - Details of management company responsible for the maintenance of communal storage areas;
 - Hours of operation for A1 and A3 use (08:00-23:00);
 - Noise assessment prior to occupation to ensure noise emitted from site's plant, equipment, and machinery does not exceed 0dB(A) above background levels;
 - Sound insulation to be provided in accordance with scheme (note that this includes A1 and A3 use, as well as enhanced sound insulation for flats where bedrooms are adjacent a neighbouring property's living rooms);
 - Control measures for fumes and odours;

- Grease traps to be provided and maintained; and
- Noise survey required for the residential properties that are in the vicinity of the road.

8.5 Highway Authority: No objections, in terms of highway and transportation matters, subject to conditions for:

- Construction Method Statement; and
- Juliet balconies to be no lower than 2.7m at the lowest point above the footway, and projecting no more than 0.6m over the footway.

8.6 Historic Buildings and Areas Officer: Generally supportive of the revised scheme, although concerns regarding windows and shopfront proposals.

- Proposed window arrangement to replicate the originals is very welcome and will lift the quality of the building, although query ovolo glazing bar profile in comparison to the existing flat profile, as well as the wide meeting rail;
- Welcome reinstatement of openings similar to original, including stone pilasters;
- Reinstatement of original corner window welcomed;
- Individual units are welcomed as they will contribute the fine grained character of Colchester's historic centre;
- The balconies would have a neutral impact, although some concern regarding peeling and rusting;
- Dormer windows have neutral impact;
- Elevation adjacent Primark must match quality of St Nicholas Square elevation as it is the same building. A different treatment would undermine the quality of the locally listed building;
- Object to aluminium shopfronts;
 - Must be timber or high quality alternative.
 - The proposed aluminium shopfronts do not do justice to the locally listed building or the Conservation Area.
 - The new shopfronts are one of the two key elements (alongside windows) which impact on the character of the Conservation Area.
 - The submitted scheme is considered to be contrary to paragraph 64 of NPPF as it 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 existing shopfronts is classed as 'poor', and as such there is considerable room for improvement and the Local Planning Authority must take opportunities for enhancement. This site is identified as a key area and should as such meet the design and heritage aspirations of the Council given the historic character of the town centre is one of its principal attractions.
 - There are many shops of this era that now have traditional shopfronts or high quality innovatively designed shopfronts. These shopfronts have reinforced the character of the historic centre. The adjacent locally listed buildings have better designed shopfronts than those proposed. The proposed oversimplified

shopfronts with no character will have a severely detrimental impact on the street and I am strongly against any poor quality shop fronts being introduced. The opportunity should be taken to raise the quality from poor to good in line with p 64 of the NPPF, UR1, DP1, DP14 etc. The applicant should take guidance from the SPG especially with regard to visual support modelling and materials.

- 8.7 Private Sector Housing: Request that the residential units have a satisfactory level of thermal efficiency. The insulation, ventilation, and heating should allow for the dwelling to maintain a healthy indoor temperature (21°C) when the outside temperature is -1°C. Officer comment: This is a matter covered by the Building Control process.
- 8.8 Spatial Policy: Comments with regards to Policy DP6 and related considerations only. As the site is situated within the area defined as the Inner Core of the Town Centre, DP6a is relevant. The proposed uses do not provide at least 85% A1 frontage or, together with A3 frontages, meet the 75% as described in the policy. The proposal therefore cannot be said to comply with this policy. However, it is considered that in the light of a number of factors, including the fact that the building has been vacant for some considerable time, the recent Retail Study-December 2016 (Evidence Base) and the principles of the pragmatic approach intended in the new emerging Local Plan, there are other material considerations which relate to the consideration of this proposal.
- The information submitted indicating the marketing undertaken over a number of years and the commentary in respect of interest and negotiations clearly illustrate that comprehensive efforts appear to have been undertaken to try to secure retail occupiers of the Co-Op property including offering the property in whole or in part. I would suggest that it must be a material consideration that the marketing undertaken has not led to successful take up for retail uses. With this in mind it brings us back to the pragmatic interpretation that active frontages incorporating a mix of town centre uses, albeit a significantly reduced amount of retail floor space, is better for the town centre than long term empty / vacant properties, with no clear / proven prospect of any market interest for take up. It is of course preferable to have this site occupied in town centre uses which provide active frontages, (albeit, providing a lesser proportion of A1 retail uses) than to continue to have a vacant store in this location.
 - The Retail Study reviews the policy context for the town centre and recommends that Long Wyre Street including the former Co-op, remains within the Primary shopping Area, but be defined as Secondary Shopping Frontages. It also recommends that the policy approach should be more flexible within the secondary frontages indicating: “we consider that the Council should afford greater flexibility for changes of use within Classes A1-A5, in order to maximise the number of occupied units and sustain a more diverse composition of uses. On this basis, we would support a policy seeking to maintain 50% A1 retail use within the secondary frontages.” Although it is recognised that the proposal does not achieve this 50%, the principle of the need to be more flexible is helpful. Unfortunately the Co-op building occupies more than 50% of the street,

so the impact in terms of applying the calculation is significant, unless the whole building were to continue to be retail frontage.

- The Local Plan, the Retail Study, and the Emerging Local Plan identify development opportunities including, Vineyard Gate, Priory Walk and St Botolph's Quarter, all of which are a focus for redevelopment with Town Centre (retail-led) uses. Active uses in this area in close proximity to such redevelopment areas is preferable to long term vacancy. It is acknowledged that the emerging Local Plan can be given very limited weight, the evidence which is informing the likely approach is relevant and can be considered as a material consideration.
- National Planning Policy Guidance underpins the over-riding principle to plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work. It is considered that the proposed uses would contribute to the achieving this principle.

Although the proposals for the former Co-op store at Long Wyre Street do not comply with the detailed requirements of Policy DP6a, nor do they meet the shop frontage proportions indicated in emerging policy, it is considered other material considerations are relevant given the long term vacancy of a significant town centre building, the benefits brought about by the proposals are considered to outweigh the harm of providing a reduced area of retail frontage. In addition, although the retail frontage is only a relatively small part of the proposal, it retains a contribution of A1 uses to the street frontage, and is supported by the preferred alternative of A3 uses. The proposed upper floor use as residential is supported by Policy and together the uses proposed by the composite proposal all constitute town centre uses. Overall Spatial Policy are minded to support the proposed conversion to 2 No. A1 units, 5 No. A3 units, and 24 residential flats.

- 8.9 Urban Designer: Supports a mixed use scheme which will increase the town centre's community presence, (arguably) making the best use of upper floor accommodation, and offering the potential for improving existing buildings. Further comments provided on detailed design (reinstate original features, traditional shopfronts, provide architectural interest etc), skyline and roofscape (introduce pitched roofs), private amenity space (provide roof garden), and residential layout (form larger residential units instead of bedsits).

9.0 Parish Council Response

9.1 N/A

10.0 Representations from Notified Parties

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

10.2 One General Observation from nearby business premises:

Building work to convert the former BHS into Primark caused a huge amount of noise. The noise of building works associated with the change of use of the Co-Op building will impact on client work.

10.3 One Objection:

- If Colchester Borough Council seeks to promote the retail importance of the Town Centre, it should not allow the loss of prime retail space in the Town Centre;
- Supporter of the principle of living accommodation being created above shops, but this is not a small-scale residential conversion;
- Is there any evidence that the East of England Co-operative Society has sought alternative retail uses for the building?
- The proposal is contrary to Council Policy.

11.0 Parking Provision

11.1 The proposal is for a mixed use development of A1 shops, A3 restaurant and cafes, and C3 residential. The Council's adopted Vehicle Parking document sets out required parking provision for different types of development. The proposal incorporates the following:

A1 (retail)	322.7m ²
A3 (restaurants)	2097.8 m ²
C3 (residential)	8 studio flats; 12 one-bed flats; 4 two-bed flats

This level of development would require the following maximum provision for A1/A3 uses by virtue of the parking standards:

Use		Vehicle (max)	Cycle (min)	PTW (min)	Disabled (min)
A1 (shops)		16	2	2	3
A3 (restaurant and cafes)		420	42	17	21
C3 (residential)	Residents	28	24	N/A	3
	Visitor	6	27	2	3
TOTALS		470	95	21	30

Note: Reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment.

12.0 Open Space Provisions

- 12.1 No public open space is provided on site. Please see Section 14.0 of the report in respect of the planning obligations for open space.

13.0 Air Quality

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

14.0 Planning Obligations

- 14.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. The proposals were considered by Development Team, both at pre-application and application stage, with £38,616 being requested to contribute towards public realm improvements (i.e. improvements to the adjacent St Nicholas Square) given that no open space is being provided. There was no affordable housing requirement as the proposals fall to be considered under the Vacant Building Credit scheme.
- 14.2 A viability report was submitted by Fenn Wright on behalf of the Applicant that concluded that the proposed development is not viable (with or without the requested planning contribution). The viability report was independently assessed by the District Valuer Service (DVS) who concluded a £245,986 deficit, advising that the scheme is not able to provide the S106 contribution requested.
- 14.3 The Applicant does not propose to comply with the open space contribution requested, but confirmed that the proposals would include two affordable units (two residential units of the Applicant’s choice to be let at no less than 60% of Market Rent on a head lease not exceeding 25 years via a Housing Provider) and that they would offer £20,000 towards public realm improvements.
- 14.4 The application was re-assessed at Development Team, taking into account the Applicant offer and the DVS conclusions, whereby it was resolved to accept the Applicant’s offer. A Section 106 is in the process of being drawn up with the agreed Heads of Terms as per the Applicant’s offer of two affordable housing units and £20,000 towards public realm improvements at St Nicholas Square.

15.0 Report

Principle of Development

- 15.1 Both the Colchester Borough Council adopted Local Plan (2001-2021) and the National Planning Policy Framework (NPPF) have a presumption in favour of sustainable development. Within the Local Plan, Core Strategy Policy SD1 seeks to focus growth towards the most accessible and sustainable locations in the Borough. The Strategy establishes a Settlement Hierarchy to guide development towards the most sustainable locations and the town centre is at the top of this hierarchy. Further, Core Strategy Policy CE2a specifically encourages development and regeneration in the town centre. Therefore, the

proposal, for development within an identified sustainable location, is considered to be acceptable in principle.

15.2 Turning to the specifics of the proposal, the application seeks planning permission for a change of use of the ground floor of the building from A1 (retail) to a mix of A1 (retail) and A3 (restaurant), with C3 (residential) on the upper floors, along with an A3 (restaurant) unit at first-floor. In considering the potential loss of retail premises, Development Policy DP6 deals specifically with Colchester town centre uses and states that a balance will be maintained between retail and non-retail uses in order to retain the town centre vitality and viability. With regards to the Inner Core, the policy seeks to maintain a high level of retail use with at least 85% A1 retail use on each street frontage. Alternative appropriate non-retail uses, particularly A3 uses, will also be supported provided that they contribute to the vitality of the town centre and would result in: no more than 15% of the street frontage being used for non-retail purposes; no more than two consecutive non-retail uses in the street frontage; and no loss of active street frontage.

15.3 Although A3 (restaurant) uses are supported as an appropriate use within the Town Centre, and the proposal would not result in the loss of active street frontage, it would exceed the street frontage allowance of 15% and would result in more than two consecutive non-retail uses in the street frontage. The proposal is therefore in breach of Development Policy DP6. The following points are, however, considered to be important considerations:

- The proposal is only in breach of Development Plan Policy DP6 by virtue of one restaurant unit (corner unit 3C). The frontage of this unit results in the breach of 15% of the street frontage being non-retail and more than two consecutive non-retail uses in the street frontage. One A3 (restaurant) use, measuring 321m², is not considered to have such a significant impact on retail provision in the area to justify a refusal in this case, especially as it is located on the very edge of the Inner Core of the Town Centre, adjacent to the Outer Core which includes a much wider range of services and facilities other than retail.
- The Council's Spatial Policy team has also confirmed that, as part of the evidence base for the Emerging Local Plan, the recent Retail Study (December 2016) recommends that Long Wyre Street be defined as 'Secondary Shopping Frontages' and that 'the policy approach should be more flexible for changes of use within A1-A5 in order to maximise the number of occupied units and sustain a more diverse composition of uses'. Although the Emerging Plan can be afforded very limited weight, the Retail Study shows the direction that future planning policies relating to town centre uses will take.

- The proposals would not result in the loss of active frontage, in fact they would increase the level of active frontage by introducing entrances and separate units along both Culver Street East and Long Wyre Street.
- The property has been vacant for some time, with the submitted marketing information demonstrating very limited interest in the building as a single, or subdivided, retail unit. The property has been advertised via a number of online agents on a consistent basis over the last five years, as well as having advertising boards fixed to the property. Adverts have also been placed in the Estates Gazette Property Week. The proposals would provide an opportunity to bring the property back into use and revitalise an area where an increasing number of vacancies have been noted.

15.4 The Spatial Policy team have suggested a more pragmatic interpretation should be taken in respect of town centre uses in this location, concluding that it is preferable to have this site occupied in town centre uses which provide active frontages (albeit, providing a lesser proportion of A1 retail uses) than continue to have a vacant store in this location and it is agreed that this would be a sensible approach given the above considerations. It is also considered necessary to have regard to the recent Tollgate decision from the Secretary of State (Planning Reference 150239), which determined Core Strategy Policy CE2 to be out of date. Given that this policy is the 'parent' policy to DP6, it is considered that DP6 is also likely to be out of date and, therefore, less weight should be attributed to its content and attention directed to the provisions of the NPPF. The NPPF encourages Local Planning Authorities to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work. It is considered that the proposed uses would contribute to these aims.

15.5 It is ultimately concluded that the benefits of the proposal in bringing the building back into use, increasing active frontage, and increasing the vitality of the area accord with the aspirations of the NPPF and outweigh the harm of reducing the area of retail frontage.

15.6 In terms of the residential aspect of the proposal, Core Strategy Policy H1 expects housing delivery to contribute to the achievement of sustainable development that gives priority to new development in locations with good public transport accessibility and/or by means other than private car and previously developed land. Development Policy DP6 also states that, within the town centre, support will be given to bringing upper floors back into use, particularly for C3 residential purposes and B1 business uses. The proposal for residential flats on the upper floors of the building in a highly accessible site is therefore considered to be acceptable in principle, subject to other material planning considerations.

- 15.7 An objection has been received in respect of the loss of retail space contrary to planning policy, and querying whether alternative retail uses have been adequately explored; these matters have been discussed at length above. The objection also includes comment regarding the amount of residential proposed. There are no concerns regarding the principle of the residential development being proposed, given the sustainable and accessible nature of the site; any issues in terms of the scale of development would emerge in terms of consequential impacts which are discussed in the remainder of this report.

Design and Heritage

- 15.8 Core Strategy UR2 seeks to promote and secure high quality and inclusive design in all development to make better places for both residents and visitors, with Development Policy DP1 requiring all development to be designed to a high standard; respecting and enhancing the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape setting and detailed design features. In terms of wider impact, Core Strategy CE2a states that the town centre core contains important historic character which must be protected and enhanced by development, an objective echoed by Core Strategy policy UR2. Development policy DP14 states that development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural, or artistic interest. The policy goes on to state that, in all cases, there is an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available.
- 15.9 The Co-op building is a classically styled property, which is locally listed and therefore an undesignated heritage asset as defined by the NPPF. It is also located within a Conservation Area, which is itself a Designated Heritage Asset, and contributes to the overall historic significance and character of its surroundings. The external alterations proposed are therefore important in determining how the Locally Listed Building and its surrounding Conservation Area are perceived and understood.
- 15.10 The upper floors of the older part of the building (incorporating the corner of Long Wyre Street and Culver Street East, and facing St Nicholas Square) retain, for the most part, the proportions and architectural detailing of the original building design. The original windows are evident on the St Nicholas Square elevation, with some being in evidence on the corner building. The ground floor elements of the building, however, have been greatly altered; the most notable element being the St Nicholas Square elevation which has been eradicated and infilled with inappropriate brick and large undivided shop windows. Other modern alterations include cladding on the chamfered corner of the building (facing the former Jacks store), covering what was a two-storey window, and a large canopy on the entrance below, presumably to contain the mechanism for security shutters. The modern alterations are considered to be visually detrimental, both in terms of the building itself and the character of the surrounding conservation area, as they detract from and jar with the traditional proportions and detailing of the host building.

- 15.11 The main body of the building along Long Wyre Street dates from the late 1970s and has also undergone alterations at ground-floor level in terms of simplified shop windows. This part of the building is not considered to positively enhance the setting of the original building, but it is respectful in terms of its height and more simplified detailing, as well as representing a phase in the store's history.
- 15.12 The proposal includes some notable improvements to the building, which in turn improves the overall character of the area. Such improvements include reinstating the two-storey window on the chamfered corner of the original building and removing unattractive later additions, such as the large canopies on the Culver Street East and St Nicholas Square entrances. The subdivision of the building into smaller units is also seen as a positive step as this will contribute to the fine grained character of the historic Town Centre. The reintroduction of stone pilasters on the ground floor of the St Nicholas Square elevation is also seen as a positive alteration, not only as stone is a predominant decorative feature of the building, but also as it would better reflect the proportions of this part of the building and reinstate some architectural integrity to the building by having it visually connecting to the ground.
- 15.13 The Council's Historic Buildings and Areas Officer has objected to the proposal with regards to two elements: the use of timber pilasters on the elevation adjacent Primark; and the design of the shopfronts.
- 15.14 In terms of the elevation adjacent Primark, the proposed shopfront is slightly alien, particularly because of the use of timber, as opposed to stone, pilasters, but this elevation is seen in isolation to the remainder of the building facing St Nicholas Square so the use of timber is not considered to be a material reason for refusal in this case, provided it is appropriately detailed which can be secured via condition.
- 15.15 The shopfronts proposed do not adhere to the Council's adopted Shopfront Design Guide, which seeks that the materials used have an affinity with the host building and traditional design (i.e. stall risers, pilasters, fanlights, and fascias). It is not considered possible, however, to fully assess the detailed design of the shopfronts at this stage, due to insufficient detail on the submitted drawings, but this could be submitted as part of a condition. It is recommended that the condition include a requirement for the traditional details required by the Council's Historic Buildings and Areas Officer. It is important to note that Development Policy DP1 requires all development to be designed to a high standard and that DP14 has an expectation for any new development to enhance the historic environment in the first instance. Paragraph 64 of the NPPF 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 recommended condition is therefore considered to be necessary in order to secure a satisfactorily designed scheme. Attempts have been made to word the condition in such a way that does not preclude the remainder of the development to be carried out and this has been discussed with the Agent.

Amenity

- 15.16 Development Policies DP1 and DP12 state that development proposals must protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. With regards to private amenity space and open space provision for new residential development, Development Policy DP16 requires all new residential development to provide private amenity space to a usable and high standard, designed to avoid overlooking. The policy goes on to set out garden size standards, with flats requiring a minimum of 25 square metres per flat provided communally.
- 15.17 Balconies are provided to serve seven apartments. The proposal does not, however, include any private, or communal, outdoor space for the remaining 17 apartments. The lack of amenity space is considered to be typical in a town centre location. Given the close proximity to Castle Park and other leisure facilities within the town centre, future residents would have ready access to places for outdoor leisure time. Taking this into account, the lack of private garden space is not considered significant so as to recommend refusal of the application; especially as the application includes a contribution towards the improvement of St Nicholas Square which would allow for greater communal use of this area.
- 15.18 There are not considered to be any issues regarding lack of privacy or overlooking, as windows serving habitable rooms do not look into each other. There are also not considered to be any issues regarding lack of daylight or sunlight to living accommodation, as windows are provided to all main living areas. Only two apartments have single-aspect north facing living areas, but in these instances the living areas have floor-to-ceiling windows across the entirety of the exterior wall so would not feel oppressive. Due to the deep-plan of the building, the majority of bedrooms would have clerestory glazing, to allow for 'borrowed' daylight to enter these rooms from the main living areas. With fresh air provided by mechanical ventilation. The lack of exterior windows to serve bedrooms is not considered to be a sufficient reason for refusal as adequate ventilation would be provided and the main living areas are sufficiently served by exterior windows.
- 15.19 The Council's Environmental Protection team have recommended a number of conditions with regards to noise, fumes, and odours in order to mitigate potential impacts arising from the proposed restaurant uses and between residential apartments (potential for noise from living areas to bedrooms). A nearby business has commented that the works to the adjacent Primark store were particularly noisy and caused disruption. It is not considered reasonable to refuse the application on the basis that the development may cause some disruption during the construction period as the construction works would be a necessity. Hours of demolition and construction would be limited by condition in order to preserve residential amenity.

- 15.20 The Environmental Protection team's original recommended opening hours for the commercial premises has been revised slightly to midnight on Fridays and Saturdays (recommended closing was 11pm originally). This is in line with the recent Jack's decision close by (ref: 161296) and corresponds with premises licensing.
- 15.21 The Council's Contaminated Land Officer has been consulted as part of the application and has no objection or comments to make in respect of risk of contamination.
- 15.22 The proposals are considered to be acceptable in terms of amenity subject to the conditions recommended by the Environmental Protection team.

Highway Safety and Parking Provision (including Cycling)

- 15.23 The Highway Authority has confirmed that they have no objections to the proposals subject to a condition for a construction method statement. A similar condition has also been requested by the Environmental Protection team and a combined version is recommended at section 17.1 of this report.
- 15.24 The Highway Authority has also requested a condition stipulating the height above ground level of the proposed Juliette balconies on Long Wyre Street, as well as their projection. It is not considered necessary to include this condition as the position of the balconies is shown on the elevation drawings submitted and these would be conditioned as approved drawings. The projection of the balconies can be established via condition.
- 15.25 The proposals do not include any car parking or cycle parking, although this is considered to be policy compliant as the adopted Vehicle Parking Standards SPD accepts reductions in the parking standard as appropriate where the development is sustainably located within an urban area (including town centre locations) that has good links to sustainable transport, which is the case here.

Archaeology

- 15.26 The proposal includes lowering the ground floor level and, given the location of the building within the historic settlement core of Colchester, it would ordinarily be likely that heritage assets of archaeological interest (i.e. below-ground archaeological remains) would be found. Following confirmation from Colchester Archaeological Trust (CAT), however, that the entire footprint of the building was previously excavated (2-3 metres deep) and anything left over was destroyed there is no possibility of encountering any surviving archaeological deposits on this site. There is no requirement, therefore, for further archaeological investigations as part of this application.

Flood Risk

- 15.27 The NPPF sets strict tests to protect people and property from flooding which all local planning authorities are expected to follow. Where these tests are not met, national policy is clear that new development should not be allowed. When determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere, which is considered to be the case here. The site is located within a flood zone 1 which is unlikely to be susceptible to flooding and the development, which does not create any additional hardstanding or floorspace, would not increase the likelihood of surface water flooding elsewhere. As such, the proposal is considered to be acceptable in terms of flood risk and mitigation is unnecessary.

Biodiversity

- 15.28 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. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. The NPPF is clear that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.
- 15.29 In this case, the application site is within a built up area that is not considered to be a suitable habitat for protected species, given the high levels of light and noise disturbance and lack of natural features (e.g. trees and vegetation). The proposal is not, therefore, considered to have an impact on biodiversity. It is also considered unnecessary and unreasonable for the proposal to include biodiversity enhancements given the nature of the site and its surroundings as any measures are unlikely to be successful.

16.0 Conclusion

- 16.1 The proposal is considered to be acceptable in principle subject to planning conditions and the negotiated legal agreement relating to securing affordable housing and a contribution towards public realm improvements. The proposal represents sustainable development, providing residential accommodation in a highly accessible location and introducing a more diverse composition of uses in the town centre which would increase vitality and generate local employment. The proposals would also result in a locally listed building being brought back into use, with external alterations that generally enhance the appearance of the building (subject to detailing being required by condition).

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a 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:

18.0 Conditions

1. Time Limit

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

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

2. Development to Accord with Approved Drawings

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

Location Plan 6239-1101

Existing Basement Floor Plan 6239-1201

Existing Ground Floor Plan 6239-1202

Existing First Floor Plan 6239-1204

Existing Second Floor Plan 6239-1206

Existing Roof Plan 6239-1208

Ground Floor Proposed Plan 6239-1203-Rev H

First Floor Proposed Plan 6239-1205- Rev G

Second Floor Proposed Plan 6239-1207-Rev G

Proposed Roof Plan 6239-1209-Rev D

Existing and proposed Long Wyre Street Elevation 6239/1301 Rev G

Existing and Proposed Elevations 2, 3 and 4 6239/1302 Rev J

Except where details are expressly excluded in the conditions below.

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

3. Construction Method Statement

No works shall take place, including any ground works or 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 and under-body washing facilities;
- HGV routing plan;
- the means or method of protecting the travelling public within the highway whilst working from height above and adjacent to the highway;
- 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, as well as to ensure that on-street parking of vehicles in the adjoining streets does not occur in the interests of highway safety.

4. Additional Details on Windows

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, including details of the reveals/projections, materials to be used, and external colour, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in the interests of the character and appearance of the locally listed building and its conservation area setting.

5. Architectural Detailing

Notwithstanding the information submitted, no works shall take place (except for site clearance and underground enabling works) until additional drawings (at a scale between 1:5 and 1:50 as appropriate) of the architectural features have been submitted to and approved in writing by the Local Planning Authority. These drawings shall include details of the new stone surrounds on Long Wyre Street and the new stone pilasters to Units 3C, 4A and 4B. The development shall be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure that the character and appearance of the area is not compromised by poor quality architectural detailing.

6. Shopfront Details

Notwithstanding the submitted drawings, no works shall take place to each of the ground floor frontages of the following buildings

Building 1 (incorporating Units 1-2)

Building 2 (incorporating Units 3A-3B inclusive)

Building 3 (incorporating Units 4A-4B)

until full details of the associated shopfronts and entrances to residential accommodation, by sections and elevation at scale 1:20 and 1:5 (as

appropriate) and to include details of the materials to be used and external colour, have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include stall risers/plinth, pilasters, fanlights, and fascias with cornicing. The development shall then be implemented in accordance with the approved details and be retained as such.

Reason: Insufficient details have been submitted with the application to ensure that the ground floor frontages are detailed in such a way to reflect the character of the host building and the predominant character of the surrounding Conservation Area. Details are required in the interests of the external character and appearance of the locally listed building and the character of the surrounding Conservation Area in accordance with the requirements of the National Planning Policy Framework, Development Plan Policies DP1 and DP14, and the Colchester Borough Council Shopfront Design Guide Supplementary Planning Document.

7. Details of Chimneys, Flues, Extract Ducts, Vents etc

Prior to the commencement of any works, details of all new or replacement external chimneys, flues, extract ducts, vents, grilles and meter housings shall have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the locally listed building and its conservation area setting as Heritage Assets.

8. Materials to be Agreed

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

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

9. External Noise

No works shall take place until a noise survey for proposed residential properties that are in the vicinity of the road shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAm_{ax})
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAm_{ax})

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be

implemented prior to occupation of ANY/SPECIFY building on the site and shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

10. Sound Insulation on Any Building

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

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

11. Site Bounday 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.

12. Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

13. 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.

14. Food Premises (Control of Fumes and Odours)

Prior to the first use of the A1 and A3 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 efficient 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.

15. Grease Traps Required

Prior to the first use of the A1 and A3 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.

16. Minor Additions and New Services

Prior to any new services being installed or any existing services being relocated (in each case including communications and telecommunications services) details thereof (including any related fixtures, associated visible ducts or other means of concealment) shall have been submitted to and approved, in writing, by the Local Planning Authority and the works shall be carried out in complete accordance with the approved specification.

Reason: In the interests of preserving the character and appearance of the locally listed building and its conservation area setting as Heritage Assets.

17. No New Minor Fixtures

No new grilles, security alarms, lighting, cameras or other appurtenances shall be fixed on the external faces of the building other than those shown on the drawings hereby approved unless otherwise first agreed, in writing, by the Local Planning Authority.

Reason: In the interests of preserving the character and appearance of the locally listed building and its conservation area setting as Heritage Assets.

18. Restriction of Hours of Operation

The A1 and A3 uses hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Monday to Thursday: 0800-2300

Fridays and Saturdays: 0800-0000

Sundays and Public Holidays: 0800-2300

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

19. Limits to Hours of Work

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

Weekdays: 0800-1800

Saturdays: 0800-1300

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.

20. Removal of Permitted Development Rights (External Painting)

Notwithstanding the provisions of Schedule 2, Part 2, Class C of the Town and Country Planning General Permitted Development) Order 2015 as amended (or the equivalent provisions of any Order revoking and re-enacting that Order), no exterior painting of the building fronting Long Wyre Street or Culver Street East/St Nicholas Square shall be undertaken unless otherwise approved by the Local Planning Authority by virtue of planning permission.

Reason: In the interests of the character and appearance of the locally listed building as an Undesignated Heritage Asset and in order to preserve its contribution to the surrounding Conservation Area.

18.1 Informatives

18.1 The following informatives are also recommended:

1. 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. Informative on Conditions Stating Prior to Commencement/Occupation

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

3. Informative on Any Application With a Site Notice

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

4. Shopfront Informative

For the avoidance of doubt, the reference to 'shopfronts' in condition 6 refers to the building frontages in their entirety for each part of the building (i.e. Building 1, Building 2, and Building 3 as set out in the condition).

5. Sound Insulation Informative

In respect of Condition 10, please be advised that the proposed layout has bedrooms adjacent to neighbouring properties living rooms and studio style accommodation. Approved Document E of the Building Regulations 2010 is a minimum standard and for this development Environmental Protection requires an enhanced scheme of sound insulation which shall have been submitted to and agreed in writing the local planning.

6. Highways Informative

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

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

7. S106 Informative

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