

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 20 February 2020 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

Audio Recording, Mobile phones and other devices

The Council audio records public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 20 February 2020 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Lyn Barton	Deputy Chairman
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Simon Crow	Robert Davidson
Paul Dundas	John Elliott	Andrew Ellis	Adam Fox
Dave Harris	Theresa Higgins	Mike Hogg	Mike Lilley
Sue Lissimore	A. Luxford Vaughan	Sam McCarthy	Patricia Moore
Beverley Oxford	Gerard Oxford	Lee Scordis	Lesley Scott-Boutell
Lorcan Whitehead	Dennis Willetts	Julie Young	Tim Young

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 6 are normally dealt with briefly.

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

1 Welcome and Announcements

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

2 **Have Your Say! (Planning)**

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 **Substitutions**

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

4 **Urgent Items**

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

5 **Declarations of Interest**

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

6 **Planning Committee minutes 18 December 2019**

7 - 22

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 18 December 2019.

7 **Planning Applications**

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

7.1 **192136 Land at Brierley Paddocks, West Mersea**

23 - 68

See report by the Assistant Director Place and Client Services requesting the Committee members to formally determine planning application 192136, consideration of which had been deferred by the Committee in December 2019.

7.2 **192993 Colchester Hospital, Turner Road, Colchester**

69 - 98

Erection of single deck car park with vehicular access from Turner Road, associated lighting and other ancillary works.

7.3 **192137 Former Pharmacy, Abbey Field Medical Centre, Ypres Road, Colchester**

99 - 114

Change of use and minor remodelling works to accommodate Colchester Foodbank Centre.

7.4 **193009 83 Apprentice Drive, Colchester**

115 -
122

Electric roller garage door (and motor) fixed to applicant's property to the front of carport - in accordance with and as advised by

Crocodile. Sole purpose for the installation is to provide security for the family members (children) and to restrict access to the rear of the property.

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123 -
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8 Exclusion of the Public (not Scrutiny or Executive)

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

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

Planning Committee

Wednesday, 18 December 2019

Attendees: Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes

Substitutes: Councillor Roger Buston (for Councillor Brian Jarvis), Councillor Helen Chuah (for Councillor Andrea Luxford Vaughan), Councillor Gerard Oxford (for Councillor Philip Oxford)

Also Present:

764 Site Visits

Councillors Barton, Chuah, Hazell, Liddy, Loveland and J. Maclean attended the site visits.

765 Planning Committee minutes 14 November 2019

The minutes of the meeting held on 14 November 2019 were confirmed as a correct record.

766 192565 The Beehive Public House, 13 Bromley Road, Colchester

The Committee considered a planning application for change of use of the ground floor of a building - from A4 to D1, he proposed activities to vary, but would include social and educational purposes and place of worship with more details included in the supporting Planning Statement at the Beehive Public House, 13 Bromley Road, Colchester. The application had been referred to the Committee because of the level of public interest shown in the application with approximately two hundred comments from members of the public with a relatively even split between those supporting the application and those opposing it.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Benjy Firth, Planning Officer, presented the report and assisted the Committee in its deliberations. He explained that an application had been received by the Council from a

community group to have the site considered an Asset of Community Value. If the site were successfully placed on the statutory list then, should the site be marketed for sale in the future, the applicants would be given the opportunity to submit an offer to purchase the site although there was no requirement for such an offer to be accepted. He also referred to a previous application in relation to the former Lion public house at Langenhoe, the consideration of which had been deferred by the Committee so that community use of part of the site could be explored. He explained that this application would have resulted in the loss of the building as a community facility whereas the current application was seeking the continued use of the former pub as a community facility.

Alan Dickens addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained he and his family had been a local resident for 32 years and had regularly used the Beehive pub during this time. He sought the retention of the building as a pub on the grounds that it would benefit all residents in the area. He referred to a petition seeking its retention as an Asset of Community Value comprising over 1,000 signatures. He was of the view that the overwhelming majority of residents were opposed to the proposed change of use of the building and voiced concerns that the change of ownership had not been undertaken openly and he questioned the actions of one of the ward councillors in supporting the applicant's proposals and not representing the views of local residents. He referred to an alternative vision for the pub providing for its retention as a meeting place and community venue whilst considering the local communities' requirements were different to the ones proposed in the planning application. He considered there were no alternative venues for the local community within walking distance and was of the view that visitors to the Colchester Islamic Community Centre (CICC) would lead to increased traffic and a more suitable location should be sought.

Barry Cudby addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was of the view that the proposal was not policy compliant. He referred to the application and petition supporting the retention of the building as a community asset which had now included over 1,200 signatories and explained that the majority of local residents wished to see the current use of the building being retained. He was of the view that a number of documents had been submitted to the Council but these had not been published on the planning application pages of the Council's website and he listed the documents he considered to be missing. He confirmed that correspondence had been undertaken with the Council concerning the validity of the planning application and requesting that it be withdrawn but no responses had been received. He referred to various documents which would support the case for the building to be retained as a pub and he explained his concern relating to the circumstances around the sale of the building and an alleged associated confidentiality clause.

Sally Buchanan addressed the Committee pursuant to the provisions of Planning

Committee Procedure Rule 8 in opposition to the application. She was seeking the intervention of the Council to bring together the local residents and representatives of the CICC so that other options could be explored. She considered this to be a way to dissolve potential community tensions prior to the consideration of the application by this committee. She regretted that potential risks and opportunities had been overlooked to the detriment of all parties involved. She referred to confidentiality clauses in relation to the sale of the property and a lack of community engagement by the new owners and considered this to be the reason why large numbers of the local community had objected to the proposal. She referred to a meeting with the representatives from CICC and local residents, following the close of the consultation period and she acknowledged the wishes of the applicants to secure a venue where they are safe, welcomed and can contribute to the community. She referred to the shared respect and caring principles of the Christian, Muslim and other faiths and her wish to work with the members of the CICC in developing a planning application at a later date. She explained that she had subsequently worked to oppose the application but that this did not constitute opposition to the Islamic community or their charitable objectives. She acknowledged the common aim for both parties to secure a venue, she wished to welcome the members of the CICC and advocated seeking a solution which would be acceptable for all.

Sohail Choksy addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He submitted a petition in support of the application comprising 1,327 signatures. He explained that he was the Chairman and Trustee of the Colchester Islamic Community Centre (CICC) and explained that he had worked and resided in Colchester for over 13 years, where he had felt welcomed by the community. He had become involved with the CICC due to the need for a community centre for the diverse Islamic population, a space to meet, socialise, learn and take part in activities. Currently this was difficult using venues spread around the borough whilst a dedicated venue would allow a wider range of activities to take place. He referred to the marketing of the Beehive pub in 2019, the building's full compliance with the CICC's design brief and that the marketing had continued for six months after the CICC had submitted an offer to purchase. No interest had been forthcoming to continue running the building with its current use and pre-application advice was sought for change of use of the building which had prompted the CICC to start fund-raising to acquire the building. He welcomed the recommendation for approval contained in the report whilst empathising with the difficulties experienced by the local community as a consequence of the pub's failing trade. He referred to the multitude of drinking establishments in Colchester whilst there remained an absence of an Islamic Community Centre in the borough. He welcomed the creation of the venue as an example of exemplary community cohesion, respecting people of different faiths and bringing new life into the former Beehive pub.

Hiba Siddique addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that she was proud to have been brought up in Colchester. She explained the range of activities

proposed by CICC with the aim of bringing people together, including social and educational activities for women and children; charitable work, such as donations to Colchester Foodbank; sports for children and adults; educational lectures and conferences; support groups for new Muslims, the elderly and the bereaved; youth clubs and arts and crafts workshops. She explained that it was important to provide a space for children and teenagers where they could build a sense of identity and belonging and it was the aim of the CICC to acquire a multi-functional community centre from where the full range of activities could be hosted. The aim of the community centre was to bring Muslim and non-Muslim families together and to continue the outreach programme and charity work, to develop and to improve the community and the borough.

Kazeem Oleyede addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had moved to Colchester in 2007. He appreciated the concerns of the local community and considered CICC had workable solutions to address them. He considered CICC would ensure it was a good neighbour within the community with the planned use of the former pub ensuring that the building would be frequently occupied. He strongly supported a community facility in the area which would be a viable alternative to the development of the site. He explained that the green space on the site would be maintained. Detailed plans had been formulated to adequately manage parking on the site with a total of 27 designated spaces being provided and annually reviewed. He also confirmed that events would be staggered to minimise noise and disruption. He also gave an assurance that noise levels would be similar to those experienced from a pub quiz evening and there would be no external amplification. In addition, he explained that a code of conduct would be drawn up and centre users would be required to adhere to it. He was of the view that CICC had a reputation for conducting events in an orderly manner and this practice would be continued. He was hopeful that regular events would be held to foster engagement and he considered the CICC would be an asset to the community and would benefit many.

Councillor T. Young attended and, with the consent of the Chairman, addressed the Committee. He explained that he fully supported the application which would retain the former Beehive pub for community use. He referred to the report which had concluded there were no material grounds upon which the application would be refused permission and he welcomed the plans for the parking provision to be well controlled, particularly given the dangerous access and egress from the site. He also confirmed that the Highway Authority were satisfied with the access and parking arrangements. He regretted the loss of the pub to the community whilst highlighting the comments from the former landlords explaining that lack of use had prompted the sale and that 90% of their clientele had travelled to the pub by car. He disputed comments made regarding secret meetings with the CICC whilst confirming that he had referred the group to planning officers for advice on suitable potential locations. He was of the view that the proposal would become a welcome and popular community asset, open to the whole community

and would enhance community cohesion and understanding. He acknowledged that there had been tension within the community as a result of the proposal but he committed to working with all parties in order to make the community centre a thriving and successful addition to the community.

Councillor Chuah explained that the Beehive pub had previously been located within the St Anne's ward boundary and she had visited the pub on a number of occasions. She had been contacted about the application by residents but confirmed that she had not expressed any opinion about the application.

Members of the Committee regretted the loss of the building as a public house and the community division which was evident as a result of the application whilst confirming the Committee's responsibility to take into account only material planning considerations in the determination of the application. Comment was also made that the Beehive was in the ownership of CICC and that assurances had been provided in relation to the retention of the current car parking facilities.

Clarification was sought in relation to the application for an Asset of Community Value and why it had not been submitted earlier; the justification for the Beehive to successfully be retained as a pub; the impact of travel to the Beehive from elsewhere and the potential residential use of the upper floor of the building. Assurances were also sought that the building would be fully accessible and that the disabled parking provision layout would include hatched areas to the side and rear of each disabled space.

The Planning Officer explained that the Environmental Protection Team had recommended a condition to provide for the upper floor residential use to be ancillary to the use of the lower floor and that there were other conditions providing for car parking. He confirmed that any extensions to the building would need to be the subject of separate applications which would be determined on their own merit. He also explained that the application under consideration was for change of use only and did not include any physical changes to the building and, in this context, he was unable to provide an assurance regarding the accessibility of the building. He confirmed that an amendment to the parking condition could be made to provide for a hatched area to the sides of the disabled spaces.

RESOLVED (EIGHT voted FOR and ONE ABSTAINED) that the application be approved subject to the conditions set out in the report with the parking condition being revised to secure fully compliant disabled parking spaces with a hatched apron on two sides plus additional wording to confirm that the parking was required to be retained in perpetuity.

767 192136 Land at Brierley Paddocks, West Mersea

The Committee considered a planning application for the demolition of one dwelling (No.

43 Seaview Avenue) and the erection of up to 101 dwellings and up to 0.5ha of D1/B1 commercial use with associated parking, public open space, landscaping, sustainable urban drainage system (SUDs), vehicular access from East Road and pedestrian/cycle access from Seaview Avenue at land at Brierley Paddocks, West Mersea, Colchester. The application had been referred to the Committee the scheme was a departure from the Adopted Development Plan and approval had been recommended.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

James Ryan, Principal Planning Officer, presented the report and, together with Karen Syrett, Planning and Housing Manager assisted the Committee in its deliberations.

David Cooper addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered the application was contrary to the adopted Local Plan and he commented on the revised advice provided in the report concerning the significant weight which could be attributed to the emerging Local Plan. He explained that original objections to the application submitted by members of the Stop 350 group in August 2017 remained the same. He considered the application to be premature and, as such would undermine the legitimate planning process. He referred to the many objections made to Section 2 of the emerging Local Plan which still awaited consideration by the Planning Inspector; the confirmation by the NHS that the GP practice did not have sufficient capacity to accommodate the growth from the proposal and the impact of the Council's recent declaration of a Climate Emergency on Mersea Island given the single access road and future coastline erosion. He was of the view that a deferral of the application would allow the full planning process of the emerging Local Plan and the implications for Mersea Island to be adequately addressed.

John Akker, on behalf of 1,570 members of the Stop 350 Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was of the view that the application was premature and urged the Committee members to defer consideration of the application to enable the implications for West Mersea to be placed before the Planning Inspector. He referred to the need for consideration of submitted data on infrastructure, employment, tourism, the island position and transport; the views of local residents who did not agree with the conclusions contained in the planning officer's report; the strains imposed by increased numbers of visitors to the island and the prospect of developers seeking to deliver up to 500 houses. He also referred to legal advice received that the application should be refused on grounds of prematurity and he referred to the undermining of the plan making process. He sought refusal of the application or deferral pending the conclusion of the

plan making process.

Peter Banks, on behalf of West Mersea Neighbourhood Plan Steering Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the forming of the Steering Group in 2016, the difficulties of understanding the Neighbourhood Plan process and of having to deal with sites and housing numbers which had already been allocated. He explained that it had taken time to reach a consensus and to understand that the Plan was required to conform with site allocations and housing numbers. He explained that a planning consultant had been appointed and there was an expectation that the draft Neighbourhood Plan would be ready for public consultation early in the new year. He explained the allocation of the Brierley Paddocks site as mixed use to provide flexibility to respond to the content of the Neighbourhood Plan, including potential community facilities. He did not consider the application to be in conformity with the Local Plan as the community had yet to be consulted on what type of community facility would be preferred. He voiced concerns about the site's proximity to the Coastal Protection Belt and the prospects for the continuation of the Neighbourhood Plan work if the application was approved. He sought the opportunity for the Neighbourhood Plan work to come to fruition and asked for the Committee to not grant approval of the application.

Emma Ouseby addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She explained that the applicant was committed to delivering a high-quality scheme at Brierley Paddocks to include housing, 30% affordable housing, community facilities and open space and welcomed the planning officer's recommendation for approval. She acknowledged that the allocation of the site in the emerging Local Plan had generated much local interest whilst she recognised that Mersea was recognised as a sustainable location for growth. She considered the proposal to be in accordance with the emerging Local Plan and would assist in defending against speculative development in less desirable locations. The proposal site had been subject to thorough assessment and no technical objections to the scheme had been made. In addition confirmation had been received that the infrastructure could cope and that sufficient mitigation would be secure from financial contributions. The site also provided the opportunity to include an additional GP practice and concerns from local residents about the second access point had been responded to by the amendment of the application to exclude this entrance. Improvements to bus stops and ecological enhancements would be provided. She confirmed willingness to work with the Neighbourhood Plan Steering Group during the detailed design stages and considered that the development would be well-located in a sustainable location, complying with the emerging Local Plan, asking the Committee members to support the recommendation for approval.

Councillor Jowers attended and, with the consent of the Chairman, addressed the Committee. He questioned the consideration of the application for a site which had yet to receive the approval of the Planning Inspector, as such, he considered the application to

be premature. He referred to the need for security of the five-year land supply and questioned why other sites without significant local opposition had not been brought forward before this one. He speculated that any deferral of the application may be the subject of an Appeal by the applicant but considered this was not a matter for the Committee to take into account. He was firmly of the view that the site should not be allocated until the Inspector had issued his report. He acknowledged that the Neighbourhood Plan had yet to be adopted but significant work had been achieved to demonstrate the wishes of the community. He asked for confirmation to be given that the maximum number of houses for this site in the emerging Local Plan was 200 in total. He referred to the weight to be given to the emerging Local Plan by the Committee members but asked that they listen to the views expressed by the local community. He also referred to the over-provision of open space, the predominant means of access to the site being by car and for some of the site to be allocated for use by the Town Council, if needs be, for a new GP practice. He asked the Committee to defer the application pending the conclusion of the Local Plan examination.

Councillor Moore attended and, with the consent of the Chairman, addressed the Committee. She was of the view that the application was premature in the context of the emerging Local Plan and the Neighbourhood Plan. She considered approval of this application for 101 houses would set a precedent for the development of 100 houses in Dawes Lane whilst a successful Appeal for 200 houses at Brierley Paddocks could potentially lead to approval for 301 houses in total, well in excess of the allocation of 200 in the emerging Local Plan. She acknowledged that, if standing alone, there was much to commend the application but the timing of the determination was very important for the local community. She referred to the financial contributions towards mitigation of the development and was of the view that a greater proportion should be allocated towards healthcare which was of greater concern to the community than sports facilities. She hoped the Committee members would defer their consideration of the application until the outcome of the Local Plan examination was published and the Neighbourhood Plan adopted.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He stated his former chairmanship of the Local Plan Committee and his concern about planning applications being brought forward prematurely, citing other examples in West Bergholt and Chitts Hill. He considered the application did not comply with the Council's standard for 30% affordable housing and that a financial contribution for the provision of an outside gym had been rejected. He readily acknowledged the capacity issues at the GP practice in West Mersea, the difficulties experienced in servicing the existing community and the need for additional capacity to be provided before any future development would take place. He acknowledged the potential for an Appeal for 201 houses but he referred to the Council's record in successfully defending Appeals and he had no reason to consider there were not sufficient grounds to successfully defend such an Appeal. He referred to the complexity of the situation in relation to the allocation of sites at Dawes Lane and Brierley Paddocks and the view

held in the community for only one site to be allocated. He explained that the concerns of the local community had been listened to and the number of houses allocated had been reduced to 200. He considered the appropriate course of action for the Committee members was for the application to be deferred or refused to allow for the planning processes to take their course and for the outcome of the examination into the emerging Local Plan to be known.

The Principal Planning Officer explained that there was no reason why a Neighbourhood Plan could not advise on matters contained in a reserved matters application, including house types, parking, landscape, play areas and the community use. He explained that the 30% affordable housing standard was being complied with, other than in respect of negotiations which were ongoing in respect of the provision of one fully accessible home for wheelchair users. He confirmed that the provision of an adult gym had not been considered appropriate for the development by the applicants but acknowledged that a significant area of open space provision had been included. He referred to Coastal Protection Belt and ecological concerns, the detail of which had been addressed in the report. A request for additional provision for healthcare services was mentioned but he confirmed that the NHS had confirmed that it did not require additional provision over that already requested. He explained that the issue of prematurity was a balanced call for the Committee members to consider, he acknowledged the potential for an Appeal for 201 houses but that any deferral of the current application could also lead to an Appeal on grounds of non-determination.

The Planning and Housing Manager was of the view that it would be inadvisable to refuse the application on the grounds that the Neighbourhood Plan had not yet been published as this could lead to deliberate delays in the Neighbourhood Plan process in order to avoid the determination of planning applications. She explained that, as the application was in outline, the details remained to be set out and confirmed the ability of the Neighbourhood Plan to inform those details. She confirmed that the emerging Local Plan provided for 200 houses in total in Mersea.

One member of the Committee welcomed the confirmation of the 200-house allocation for Mersea as set out in the emerging Local Plan and referred to the traffic problems associated with the island and its single Causeway access and the potential implications as a consequence of future significant development. Concern was also expressed in relation to the Highway Authority view of the proposal, given the likelihood of the majority of people travelling to and from Mersea by car. Reference was also made to the work which had been undertaken to progress the Neighbourhood Plan and the merit in allowing this process to reach its conclusion. As such, support was given to the view that the application was premature and for the application to be deferred to allow for the publication of the Inspector's report on the emerging Local Plan.

Another member of the Committee welcomed the representations made by the residents of the community, acknowledged the significant opposition to the proposal and

considered these residents' views on their own community should be supported in the form of a deferral of the application.

A proposal was made to defer consideration of the application pending the publication of the Inspector's report on the emerging Local Plan which was contrary to the officer recommendation in the report and duly seconded. On being invited by the Chairman to indicate if there was any specific implications for the Council, the Planning and Housing Manager indicated any deferral should be for a shorter period of time in order to obtain clarity from the applicant regarding the intentions in relation to the previous application for 200 houses at Brierley Paddocks; healthcare service provision; the outdoor gym and the wheelchair accessible house. She advised against deferral pending the publication of the Inspector's report on the emerging Local Plan as the Section 1 examination was currently awaited, the outcome of which was unknown and, as such, the timescales for the examination of Section 2 of the Local Plan were not known. She went on to speculate that, with the examination sessions for Section 1 of the emerging Local Plan being due to conclude on 30 January 2020, whilst she could give no assurance, it may be possible that the Inspector's report would be published during March 2020.

The Principal Planning Officer explained that the applicants had a period of six months within which to Appeal against the refusal of the previous application for 200 houses at Brierley Paddocks, which took place on 19 August 2019.

Discussion took place about the appropriate period of time for a deferral of consideration of the application to take place and an amendment to the proposal was made and duly seconded to defer consideration of the application until the later of the publication of the Inspector's report on the emerging Local Plan or a period of six months.

The Chairman again invited the Planning and Housing Manager to indicate if there was any specific implications for the Council, in respect of the amended proposal and she indicated that it was likely that a second Appeal based on non-determination of the application by the Committee. She also clarified that the examination of Section 1 of the emerging Local Plan was predominantly concerned with total housing numbers and the Garden Community proposals and, as such, there would be no detail emerging in relation to specific sites, including those sites on Mersea Island, for some considerable time.

Another member of the Committee referred to the need for the Committee to consider a planning application in relation to the material planning considerations relevant to it and the Committee's duty to look at planning application in a positive manner. As such, he considered the application to be well mitigated; the site allocation had been accepted by the Neighbourhood Plan Steering Group; the Neighbourhood Plan would be able to inform the detailed lay-out of the site and the affordable housing allocation had been confirmed as conforming to the Council's 30% standard. In addition, reference was made to the considerable time which had already elapsed in seeking a suitable site for

the location of an additional GP practice for the island. He also referred to the advice in the report that the Committee could give significant weight to the emerging Local Plan; the considerable period of time before the detailed site allocations in Section 2 of the emerging Local Plan would be considered by the Inspector; the potential for the Council's five year land supply to be challenged and the potential for speculative planning applications to be granted on Appeal. He was of the view that safeguards were in place in terms of the housing numbers allocated for Mersea Island and, as such, he considered that the recommendation contained in the report was reasonable and pragmatic. A second proposal to approve the recommendation contained in the report was duly made and seconded.

The Chairman accordingly invited the Committee to vote on the proposal to defer the application.

RESOLVED (FIVE voted FOR and FOUR voted AGAINST) that consideration of the application be deferred until the publication of the Inspector's report on Section 1 of the emerging Local Plan, or for a period of six months, whichever is the longer.

768 192249 Land at Brook Road, Great Tey

Councillor Liddy (by reason of his Trusteeship of Colchester Archaeological Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for fifteen dwellings, associated garages and formation of a new access at Brook Road, Great Tey, Colchester. The application had been referred to the Committee because it constituted a departure from the adopted Local Plan as the application site was located outside the current adopted settlement boundary of Great Tey, the proposal also represented major development, where objections had been received and the recommendation was for approval, subject to a Section 106 Agreement.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Simon Cairns, Development Manager, explained that additional conditions were required providing for the listing of the approved drawing numbers, a schedule of materials and the submission and approval of the large-scale architectural detailing.

RESOLVED (UNANIMOUSLY) that -

- (i) The Assistant Director Policy and Corporate be authorised to approve the

planning application subject to the conditions set out in the report, the delegation of authority to the Assistant Director Policy and Corporate to negotiate the details of additional conditions providing for the listing of the approved drawing numbers, a schedule of materials and the submission and approval of the large-scale architectural detailing and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Affordable Housing: four units, Plot 1, Plot 2 and Plot 3 being constructed to Building Regulations standard Part M4 Cat 3 2 a (all Affordable Rent) and Plot 4 (Shared Ownership);
- Open Space Sport and Recreation: a contribution of £81,260.89 which will be used to fund improvements to the children's play park and sports facilities including gym equipment at Great Tey Recreation Ground
- Communities: a contribution of £25,058 which will be used to fund improvements to Great Tey School Community Pool (a Community Use Agreement may be required to ensure the swimming pool is available for community use not just school use)
- Archaeology: a contribution of £3,153.00 (£2,400 for an interpretation panel, £753 for enhancement of Colchester HER)
- North Essex Recreational disturbance Avoidance Mitigation Strategy (RAMS): a contribution of £122.30 per unit towards mitigation under the Conservation of Habitats and Species Regulations 2017.

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.

769 192090 Western Knowledge Gateway Site, Capon Road and Annan Road, Colchester

The Committee considered a planning application for the construction of five buildings to provide 1204 new student bedrooms arranged as cluster flats and 58 studios, with social and administrative facilities, associated hard and soft landscaping, cycle parking, bin stores and vehicle access and turning at Western Knowledge Gateway Site, Capon Road and Annan Road, Colchester. The application had been referred to the Committee because it was a major application which required a Section 106 Agreement and an objection had been received.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Annabel Cooper, Planning Officer, presented the report and, together with Simon Cairns,

Development Manager, assisted the Committee in its deliberations.

Mr. Batchelor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was the owner of 57 Elmstead Road, Colchester which he considered had a park like setting with a degree of rear privacy which should be respected. He objected to the submission of late documentation by the applicant which also contained errors in relation to his property. He referred to a previous application for the site providing for three storey homes whilst the current proposal was for taller buildings, closer to the rear of his property. He considered the buildings would be over 17 metres above the land to the rear of his house at a distance of 26 metres. He also doubted the possibility of providing tree screening for due to the close proximity of the building to the site boundary. He considered the proposal to be over-bearing and of too great a density and as such would negatively impact on 57 Elmstead Road. He objected to the reference to the buildings in Block B being four-storey, considering them to be five--storey in many instances and he did not consider the proposal integrated with the residential built environment in terms of height, density, massing and form. He criticised the officer's report as its consideration was mainly in relation to integration with the campus and he considered that the proposal would overwhelm the rear aspect of the residential houses in Elmstead Road. He also referred to various materials which did not comply with the Essex Design Guide and he was of the view there would be considerable loss of amenity, noise, light and over-looking due the height and proximity of the buildings. He considered it did not enhance or respect the landscape setting and that the true impact on his property had not been acknowledged. He urged the Committee members to refuse the application.

Chris Oldham addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained the university's ambition to attract the best students and the need to therefore provide a transformative learning experience, including good quality and affordable accommodation. The scheme had been proposed following numerous meetings with planning officers as well as other parties. He welcomed the recommendation contained in the report and the information explaining the changes made to the scheme to address concerns expressed by the Urban Design officer but expressed concern that the comments were as a result of comparisons with private sector student accommodation being developed elsewhere in the urban parts of the town. He considered the campus was dominated by large pavilion buildings in spacious landscaped grounds. He considered the form, scale and height of the proposed buildings reflected others on the campus. The proposal also included four new public and semi-private squares, creating routes through the development. He considered the approach advocated by the Urban Designer would be out of place on the campus and he refuted the suggestion about unwillingness to invest in the scheme or that the standard of design was poor. He considered the design to be of high quality and welcomed its addition to the university campus. He confirmed that the site was allocated in the Local Plan for residential use, to include Halls of Residence and he explained that the previous planning consent was in relation to flats of three and four-storeys and

located in the same position as the currently proposed Block B which was also four-storeys and the nearest block to 57 Elmstead Road. He explained that the Block was nearly 60 metres away from 57 Elmstead Road and evidence had been submitted to demonstrate there would be no loss of light and no overshadowing of the house or garden at 57 Elmstead Road.

The Planning Officer confirmed that the applicant had submitted additional documentation but this had been considered to be a minor amendment and, as such, did not require additional consultation. She also confirmed that two consultations had taken place with four site notices being placed on display and phone conversations had taken place with the principal objector at 57 Elmstead Road. She considered all matters which had been identified in representations made had been addressed in the committee report and the amendment sheet. She confirmed that the closest point of proposed Block B was 56 metres away from 57 Elmstead Road which significantly exceeded the minimum 35 metre distance requirement. She confirmed that planning permission had been granted for a previous scheme which had now lapsed and had included three-storey buildings. She also confirmed that proposed Block B was the only building to include four-storey elements and, whilst she acknowledged that the Urban Designer did not support the scheme, she confirmed that the massing and density had been deemed acceptable. She also confirmed that the scheme was considered to be of high quality; that a noise assessment had been undertaken and it was not considered there would be any adverse impact and the landscape and visual impact assessments had been deemed to be fair by the Council's Landscape Officer.

Members of the Committee welcomed the aspiration of the university to provide high quality accommodation for its students on campus whilst referring to the design of the buildings being proposed and the impact on neighbouring residences with a suggestion that additional tree screening be considered as part of the recommended conditions. Reference was also made to the comments of the Urban Designer whilst the proposed design having been deemed acceptable by other planning officers.

Concern was expressed in relation to the use of composite materials for the buildings, and assurances were sought regarding the use of this material for the scheme and in relation to the height of the buildings and whether there were any associated fire safety concerns

Clarification was sought regarding the potential to use funding contributions towards local community facilities for young people in the neighbourhood of the campus. Reference was also made to the financial contributions towards a travel plan and clarification was sought regarding the timescale and arrangements for this element and whether cycles were permitted to be used on the zig-zag bridge. Further clarification was also sought regarding plans to provide for the enhancement of the Barrows.

The Development Manager explained that there was a requirement for a development to

mitigate its own impact and, as such, funds could not be used to mitigate existing deficiencies of provision for young people. He explained that the report included details of the financial contributions being sought from the development which had been identified to achieve direct mitigation. Whilst the provision of facilities for young people was to be welcomed the suggestion would not comply with the legal requirements in this instance.

The Planning Officer explained that the proposal already incorporated a Hub Building which included various facilities for students as well as measures to improve students' health and well-being. She explained that the Urban Designer was a statutory consultee on planning applications and that the reasons given for considering the scheme to be of high quality were set out in detail in the report, such as the use of stair wells as the focal point of the buildings; the moving of the plant rooms to the tops of the buildings; the range of materials; the gables and their relationship with the Barrows; the use of zinc and the very comprehensive design and access statement submitted with the application. She confirmed the tallest building was of six storeys which placed them outside certain fire safety legislation but a condition was included in the report to address issues around materials to be used on site and she confirmed that this condition was still subject to further negotiation.

She also explained that £200,000 had been included in the financial contributions provided from the development and that this sum was intended to be used for a variety of projects identified by the Sustainable Transport Team including university wayfinding; walking route to the town centre and the Hythe railway station and improvements to the zig-zag bridge and a travel plan for the university to use until 2025. She confirmed that cycles were not currently permitted to be used on the zig-zag bridge but that a feasibility study had been commissioned to identify the requirements necessary to provide for cycle use. She explained that the financial contributions from the development would also include funds for the provision of an interpretation board for the Barrows whilst part of the landscaping scheme would be used to enhance this area.

RESOLVED (UNANIMOUSLY) that -

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report together with an informative to require landscaping details to be submitted to make provision for tree planting to screen and filter the views of the development from 57 Elmstead Road and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Archaeology: £2,400;
- Transport and Sustainability: £200,000 and minimum of £200,000 to implement the initiatives of a new Travel Plan;
- North Essex Recreational disturbance Avoidance Mitigation Strategy (RAMS): a contribution of £122.30 per unit towards mitigation under the Conservation of Habitats

and Species Regulations 2017.

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.

Report of:	Assistant Director – Place and Client Services	Author	James Ryan
Title:	Planning Application 192136, Brierley Paddocks, West Mersea		
Wards affected:	Mersea and Pyefleet		

This report concerns a request for Members to formally determine planning application 192136 which was deferred in December 2019.

1.0 Decision Required

- 1.1 Members are requested provide a formal decision in relation to planning application 192136.
- 1.2 The site is known as Brierley Paddocks in West Mersea.
- 1.3 This application was for the demolition of 1 dwelling (No. 43 Seaview Avenue) and erection of up to 101 dwellings and up to 0.5ha of D1/B1 commercial use with associated parking, public open space, landscaping, sustainable urban drainage system (SUDs), vehicular access from East Road and pedestrian/cycle access from Seaview Avenue.

2.0 Reasons for Decision(s)

- 2.1 A decision is requested as the planning application 192136 (item 7.1) was deferred at Planning Committee on the 18/12/2019. The item was deferred until receipt of the Inspector's letter in relation to Section 1 of the Emerging Local Plan or for six months, whichever is the longer.
- 2.2 The applicants have now provided formal notification of their intention to appeal non-determination through the Public Inquiry Route. The Planning Inspectorate will now determine the application.
- 2.3 Members are therefore requested to formally determine the application. If the resolution is for refusal then these formal reasons for refusal will be defended at the Public Inquiry, likely to be held in late spring/summer of this year. In the event that the resolution is to approve, then this will obviate any need for an inquiry to be held in relation to this scheme.

3.0 Alternative Options

- 3.1 There are no alternative options as the Council must reach a decision on the application.

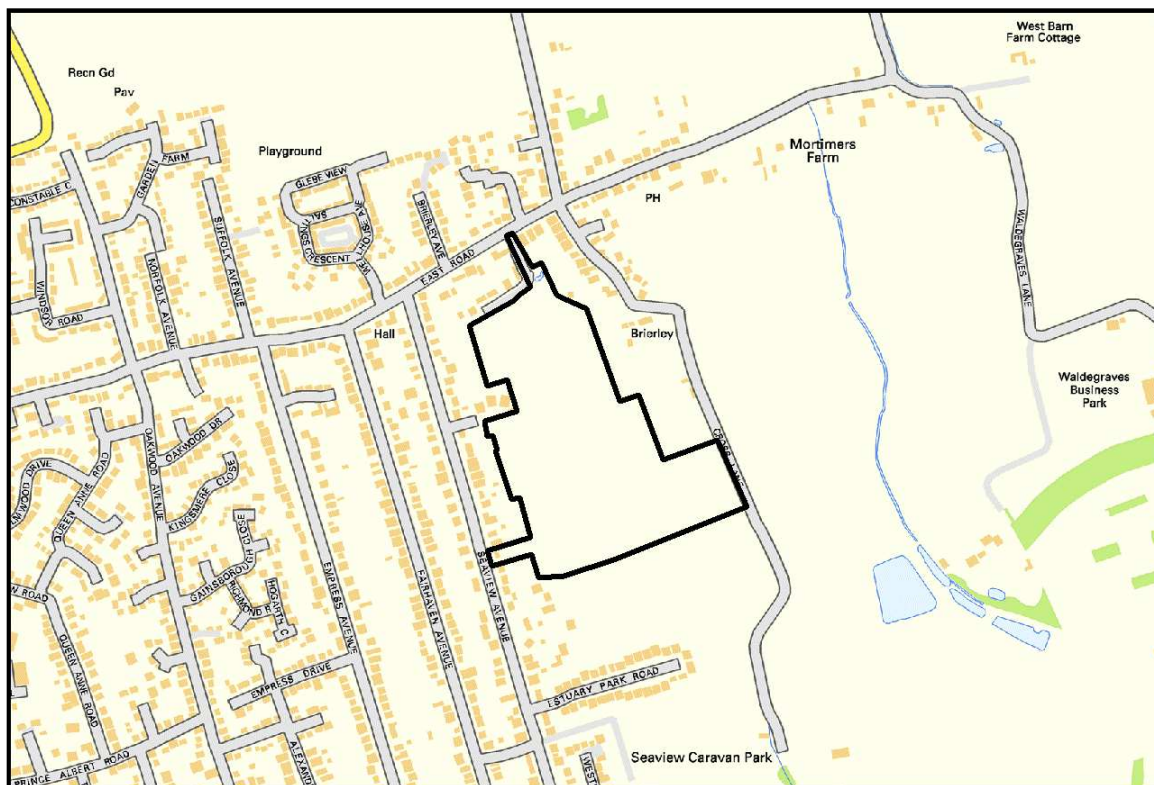
4.0 Supporting Information

- 4.1 The committee report of the 18/12/2019 sets out your Officer's consideration and conclusions on planning merits of the application and has all supporting information contained within. A copy of this report is provided for reference at Appendix 1 of this report. The minutes from the Planning Committee meeting held on 18/12/2019 can be seen in elsewhere in this agenda at page 7.
- 4.2 The committee's previous consideration of this application was focused around the matter of whether the application is *premature* in the context of allocation in the emerging Local Plan (2017-2033) and the emerging Neighbourhood Plan. Concerns were also expressed about infrastructure constraints. It was suggested that it is inappropriate to approve the application in advance of the Inspector's letter following the Local Plan examination and receiving confirmation that the plan is sound. The committee report (see Appendix 1. para. 16.9-16.28) provides detailed advice on this matter and the relevant tests governing the weight that should be applied to emerging plan policies (para.48 of the NPPF). These tests are reviewed having regard to the specific circumstances and facts of the current application. Members will note that your officers conclude that they do not consider the proposal to be premature or prejudicial to the proper plan making process. Members have previously accepted the validity of this approach in the case of recent applications for major residential development at Chitts Hill, Eight Ash Green and Great Tey. All of these now approved major applications were outside the adopted settlement boundary in the adopted local plan and subject to allocations in the emerging local plan; as is the case in the current application. It is also important to note that the Inspectors Report will only be in relation to section 1 of the Local Plan and not Section 2 which deals with allocations on Mersea.
- 4.3 Members will be aware that it is necessary to consider each application on its planning merits. Officer's advice in this case remains that the proposal is in conformity with the emerging local plan and significant weight can be afforded as the relevant tests at para.48 of the Framework are satisfied. No material harm is identified of sufficient magnitude to outweigh the public benefits identified, in order to justify and sustain refusal. Accordingly, your officers continue to recommend approval subject to prior completion of a s.106 agreement to secure contributions to infrastructure as set out in the previous report (Appendix 1.)

5. Strategic Plan References, Consultations, Publicity Considerations, Financial Implications, Equality, Diversity and Human Rights Implications, Community Safety Implications, Health and Safety Implications and Risk Management Implications

- 5.1 None directly arising from this report.

APPENDIX 1



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 Stationery 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: 192136

Applicant: City and Country

Agent: Mr Richard Clews, Strutt and Parker

Proposal: Demolition of 1 dwelling (No. 43 Seaview Avenue) and erection of up to 101 dwellings and up to 0.5ha of D1/B1 commercial use with associated parking, public open space, landscaping, sustainable urban drainage system (SUDs), vehicular access from East Road and pedestrian/cycle access from Seaview Avenue.

Location: Land at, Brierley Paddocks, West Mersea

Ward: Mersea & Pyefleet

Officer: James Ryan

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the scheme is a departure from the Adopted Development Plan and approval is recommended.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of development and the impact of the proposed access. Whilst this site is not allocated in the Adopted Development Plan, it is allocated for 100 dwellings in the Emerging Local Plan. As is discussed in detail in the report below, following careful consideration it is considered that it is appropriate to bring this site forward ahead of the Examination in Public (EiP).
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site is located at Brierley Paddocks, West Mersea. The site sits outside of, but adjacent to the defined settlement boundary of West Mersea in the adopted Colchester Local Plan Proposals Map. However, it is within the settlement boundary in the emerging Colchester Local Plan (elp) and is allocated for a residential-led mixed use development.
- 3.2 The site measures 9.2 hectares and is currently in agricultural use. The site also incorporates 43 Seaview Avenue which is located to the east of the site set within a residential avenue. There is some planting in the form of established hedgerows and trees at the boundaries of the site.
- 3.3 The site is bounded on three sides by residential dwellings with Seaview Holiday Park to the south, which comprises approximately 90 static holiday caravans. The surrounding area is predominately residential. The surrounding dwellings comprise a mixture of semi-detached and detached, one storey, two storey and two and a half storey dwellings. The majority of dwellings are of 20th Century construction.
- 3.4 The site can currently be accessed from Brierley Paddocks leading from East Road. The scheme also proposed an additional access from Seaview Avenue to serve the site from the west. Both accesses are explored in the report below but the East Road access is existing and the Seaview Avenue pedestrian/cycle access requires the removal of an existing dwelling on Seaview Ave (number 43).
- 3.5 The site is within Flood Zone 1. The site is at a low risk of fluvial or tidal flooding and in accordance with the Technical Guidance that accompanies the NPPF, it is consequently suitable for all types of development from a flood risk perspective.

- 3.6 The site is not within any areas designated for their ecological importance but is close to areas that are designated. The site is located some 400m north of The Essex Estuaries Special Area of Conservation (SAC), which surrounds the island of Mersea. The site is also located approximately 1.9km south of the Colne Estuary Special Protection Area (SPA), National Nature Reserve (NNR) and Site of Special Scientific Interest (SSSI).
- 3.7 The site is not within or adjacent to a Conservation Area. To the north of the site is Brierley Hall, a Grade II Listed House built around 1800. An early C19 red brick garden wall to the northeast of Brierley Hall is listed (Grade II). Two C17 timber framed barns to the south of Brierley Hall are also Listed (Grade II). These buildings are within the urban environment of Mersea and are viewed as part of the settlement.
- 3.8 The site is located within 1 mile of the settlement centre of West Mersea, which provides a number of local services and facilities, such as local shops, restaurants, a church and a community and sports centre.

4.0 Description of the Proposal

- 4.1 The scheme is an outline application with access included for consideration. It involves the demolition of a single dwelling (No. 43 Seaview Avenue) and erection of up to 101 dwellings and up to 0.5ha of D1/B1 commercial use with associated parking, public open space, landscaping, sustainable urban drainage system (SUDs), vehicular access from East Road and pedestrian/cycle access from Seaview Avenue.

5.0 Land Use Allocation

- 5.1 The site is not currently allocated in adopted Local Plan. It is allocated for development under policy SS12a of the emerging Local Plan (2017-2033).

6.0 Relevant Planning History

- 6.1 A similar Application for 201 dwellings (or ref: 190200) was refused earlier in the year on the basis of prematurity, scale, the impact of the Seaview Road access on neighboring amenity and the lack of legal agreement to secure the planning obligations required to mitigate the impact of the development.

7.0 Principal Policies

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

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

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

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP23 Coastal Areas

- 7.4 The West Mersea Neighborhood Plan is in the process of being drafted but is not at a point where a draft has been made public nor can be afforded weight.

- 7.5 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017) for examination. An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

7.6 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
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
Planning Out Crime

8.0 Consultations

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

8.2 Anglian Water

The local system has capacity to meet the needs of this development. No objections are raised.

8.3 Arboricultural Officer:

No objection to the scheme.

8.4 Archaeological Adviser

An adequate archaeological evaluation has been undertaken for this proposed development site. This investigation has defined extensive archaeological remains across the development site, and in particular concentrated in the southern half of the site (Archaeological Solutions Report 5858, revised 1 August 2019). Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist.

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

8.5 Cadent Gas

Pipelines in vicinity - Informative requested.

8.6 Contaminated Land Officer:

Re: Delta Simons, 'Preliminary Geo-Environmental Risk Assessment, Brierley Paddock, West Mersea, Issue 2, Final, Ref. 17-0806.01, dated 070519

The above report has been submitted in support of this application. This is a satisfactory report for Environmental Protection's purposes. I note that it has been concluded that there is a low risk that widespread contamination remediation will be required to protect proposed end users. Some recommendations have been made, including undertaking a limited environmental investigation to confirm the assumptions made.

However, based on the information provided, it would appear that the site could be made suitable for the proposed use, with potential contamination matters dealt with by way of condition.

Consequently, should this application be approved, we would recommend inclusion of the planning conditions.

8.7 Emergency Planner

CBC Emergency Planning have a plan which covers major emergencies for Colchester which would obviously cover West Mersea but nothing specifically in the eventuality of an unplanned occurrence at Bradwell.

8.8 Environment Agency

No objection on the basis that the applicant will be connecting to the main sewer system. (The applicant has confirmed this to be the case).

8.9 Environmental Protection:

No objections, conditions requested.

8.10 Essex County Fire and Rescue

No comment received.

8.11 Essex County Council Emergency Planning

We defer to your own in-house Emergency Planning Team.

8.12 Essex Police

Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development. From experience pre-planning consultation is always preferable in order that crime prevention through environmental design is incorporated into the proposed design to ensure that the security and lighting considerations are met for the benefit of the intended residents and those neighbouring the development.

8.13 Essex Wildlife Trust:

No comments received.

8.14 Highway Authority:

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

8.15 Historic Buildings and Areas

The application includes the same Heritage Impact Assessment that was submitted for application 190200. On the basis of that information, the comments and recommendation on the development of the site in principle remain the same.

It is noted that these comments form the basis of the 'Heritage Implications' section of the report below.

8.16 Historic England

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

8.17 Landscape Officer

No objection subject to conditions for full details of landscape works and landscape management plan.

8.18 Lead Local Flood Authority

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to conditions.

8.19 Natural England

No comments received.

8.20 NHS

See full letter dated 03/09/19 on system. No objection – financial mitigation requested as will be set out below.

8.21 Office for Nuclear Regulation

No comment to date.

8.22 Planning Policy

Detailed response provided setting out adopted policy and emerging policy position. The assessment of the planning policy position will be set out in the main body of this report in the 'Principle of Development' section.

8.23 Private Sector Housing

There does not appear to be any proposed plans for the dwellings, so no specific comments from PSH.

8.24 Ramblers Association

No comments received.

8.25 RSPB

No comments received

8.26 Urban Design

No objection to the scheme given the outline nature of the application, the site isn't particularly constrained (i.e. it's able to accommodate various layout approaches and options which can be explored through reserved matters) and the layout shown in the Illustrative Masterplan appears quite broad-brush and indicative at this stage.

9.0 Parish Council Response

- 9.1 West Mersea Town Council recommends that consent is NOT granted to this planning application for the following reasons:

Prematurity:

In the National Planning Policy Framework (NPPF) February 2019 paragraphs 59-60 (page 14) premature applications are specifically discussed.

The Colchester Borough Council (CBC) Emerging Local Plan is at an advanced stage, it has already been submitted, therefore the justification to refuse is clearly given in paragraph 49 as both sub terms a). "...to grant permission would undermine the planning process..." and b). "the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area" are fulfilled.

The West Mersea Neighbourhood Plan has now progressed to preparation of a Draft Plan and granting permission for this application would therefore "prejudice the outcome of the plan making process" – NPPF February 2019 paragraph 60 (page 15).

Lack of Conformity:

This application is in conformity with the CBC Emerging Local Plan. However, it is not in conformity with the developing West Mersea Neighbourhood Plan which is following the NPPF February 2019 paragraph 29 (page 10) and respective footnote (16).

Traffic impact:

West Mersea Town Council considers that the revisions would result in a detriment to the community with the amendment proposing just the single vehicular access point from East Road. This will have the effect of 'kettling' significant increases in traffic accessing the site via Dawes Lane and East Road.

10.0 Representations from Notified Parties

- 10.1 This scheme has generated significant public interests with 389 representations (some from the same address) made in objection or were general comments noting concern. Some were in the form of a standard letter. Representations were also received from the Local Plan Group and from 'Stop 350'. The representations can be read in full online however in summary they objected to the scheme for the following reasons:

- The Emerging Plan has not been Examined yet.
- This scheme is premature.
- The scheme undermines the Emerging Plan and Neighbourhood Plan.
- The Council should be confident in its five-year housing supply.

- The Council should wait for the garden communities.
- Mersea is at capacity.
- The road network can't cope.
- The other facilities on the island can't cope, for example schools/doctors/dentists.
- There is no Police presence on the island.
- The Fire Service is very limited.
- Colchester Hospital is 10 miles away.
- Mersea is an Island!
- Mersea is already overpopulated.
- The caravan parks cause a huge spike in seasonal population.
- There are many retired people on Mersea
- One hundred is too many dwellings.
- Scheme will be materially harmful to my amenity.
- The Council were previously concerned with the amenity of Seaview Road residents but the access onto East Road is far closer to the dwellings on Brierley paddocks.
- The Seaview access will bring a great deal of traffic down this sleepy seaside avenue for no reason.
- Harm to the caravan site to the south.
- Harm to amenity.
- Loss of good agricultural land.
- The consultation exercise has not changed anything.
- The water treatment plant cannot cope with 100 more houses.
- The Doctor's surgery can't cope and is highly oversubscribed.
- This will destroy wildlife.
- Harm to the Coastal Protection Belt.
- Mersea Homes want to build 100 dwellings at Dawes Lane.
- Approving this would set a dangerous precedent for other speculative proposals.
- Are we really doing this again?
- Why demolish 43 Seaview if there is only a pedestrian access there?
- The removal of the vehicular access will not stop people parking in Seaview Ave and will create issues with the East Road access.
- The access to the north (East Lane) cannot be delivered due to land ownership issues.
- The LPA need to consider the implications of Bradwell Power Station and a potential new Nuclear Power Station on the same site.

11.0 Parking Provision

- 11.1 The application is for outline permission only and the detailed proposals will be established at reserved matters stage. The reserved matters proposals would need to adhere to adopted parking standards. In this instance there is held to be more than sufficient space on site for complete compliance with the minimum standards for residential development including visitor parking and cycle parking.

12.0 Accessibility

- 12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposal does not give rise to any concerns regarding discrimination or accessibility at outline stage. Detailed proposals will be established at reserved matters stage and will need to be considered under the Equality Act.

13.0 Open Space Provisions

- 13.1 Indicative frameworks and landscape masterplans have been submitted with the application which indicate large amounts of open space - 2.8ha is suggested by the applicants. In policy terms least 10% open space would be required in accordance with both adopted and emerging local plan policies but the site has the potential to provide more.

14.0 Air Quality

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

15.0 Planning Obligations

- 15.1 This application classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team and it is considered that the following Planning Obligations should be sought from the Developer via Section 106 (s.106) of the Town and Country Planning Act 1990.

Archaeology: £18,150.00 for display case and display of finds.

Parks & Rec: this development generates an off-site contribution of £483,498.00- However it is estimated 2.8 of hectare of open space is being provided, and a NEAP standard playground. An adult gym should also be provided Subject to the provision of these onsite facilities there would be no offsite Contribution required. A maintenance sum would be required if CBC were to adopt and maintain the open space.

Community £168,652.00- West Mersea Town Council have identified the need for a multiuse community facility with changing rooms at the Glebe Sports Ground.

NHS-£59,027.00 The Mersea Island Practice does not have capacity to accommodate the additional growth resulting from the proposed development, additional improvement requirements to meet growth by way of refurbishment, reconfiguration, extension or other solutions of benefit to patients.

Affordable Housing:30% affordable housing is based on the requirement in the emerging local plan but the provision of “gifted” properties as part of the affordable housing provision is not supported, tenure mix would be expected to be no less than 80% affordable rent and no more than 20%

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intermediate shared ownership. 3 95% of the affordable homes should meet a minimum of Building Regulations 2015 Part M Category 2 and 5% of the homes to meet Building Regulations 2015 Part M Category 3 (2) (b). A minimum of one dwelling to be Part M4 Cat 3 (2) wheelchair standard.

Highways: Requirements conditioned and delivered either as part of site or by a S278 agreement. A. Upgrade to current Essex County Council specification the two bus stops which would serve the proposal site (details to be agreed by LPA) B. For the non-residential element of the proposal if there are 50 employees or more a Travel Plan in accordance with ECC guidance. C. For the residential element of the proposal Residential Travel Information Packs in accordance with ECC guidance. This can be dealt with via a condition.

Not part of the Development Team process but to be secured by legal agreement is the £12,250 **RAMS** contribution.

It must be noted that the developers have not yet agreed to all of the requests above. They do not agree to the provision of the adult gym nor do they accept the affordable housing provision relating to accessibility in excess of Building Control requirements. This is because following the clarity afforded to decision makers in the recent the Supreme Court decision in R (Wright) v Resilient Energy Severndale Ltd & Forest of Dean District Council (Supreme Court, 20 November 2019) compliance with the CIL regulations is more important than ever. In short, if any of the contributions above are not held to comply with the CIL regulations, a decision could be challenged in the courts and could potentially be quashed. This is true even if the developer has clearly agreed to the planning obligation.

On that basis it is requested that Members delegated the negotiation of the planning contributions to officers if they are minded to resolve to approve this scheme. This may involve taking it back to Development Team if need be.

16.0 Report

- 16.1 The main considerations in this case are: the principle of development and the highway safety and impact on the road network. This will also explore the impact on Trees, Flood Risk/Drainage/SUDs, impact on Heritage Assets, Ecology and the landscape amongst other issues as set out below.

Principle of Development

- 16.2 The Planning Policy Team have dealt with the Principle of the Development and therefore their response is set out in full below:

- 16.3 The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging Local Plan are relevant. The relationship of the proposal to each of those plans and the compliance with relevant adopted and emerging policies together with the 2019 NPPF are accordingly key variables in assessing the 'planning balance'. The Council considers that it has a 5-year housing land supply and therefore there is no need to apply the tilted balance principle.
- 16.4 It is considered that the fundamental principles of both the Adopted and Emerging Local Plans are compliant with the new NPPF. The analysis below will consider whether there are any relevant non-compliant elements of CBC policy with the NPPF that justify a reduction in the weight to be given to the policy in assessing the planning balance in this case. For the Emerging Local Plan, the following analysis reflects the NPPF criteria on the weight to be given to policies, which depends on the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies to the Framework (see paragraph 48). In terms of the first criteria, the ELP is in the examination stage so can be given some weight
- 16.5 West Mersea TC are also preparing a Neighbourhood Plan although in the early stages of preparation so can be afforded limited weight in the context of the Development Plan.

Adopted Local Plan

- 16.6 The NPPF continues to support the Policy approach in the Adopted Local Plan in principle, in respect of the key policies on settlement hierarchy relevant to this proposal, SD1 and ENV1. As the Council is able to demonstrate a 5 year housing land supply these policies are relevant to the decision making on this proposal. Policy SD1 accords with Paragraphs 10-12 of the 2019 NPPF which provide for a presumption in favour of sustainable development. Policy SD1 is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the LPA working proactively with applicants. It is noted, however, that the housing and jobs target provided in the policy no longer remain current. Whilst the supply figure itself may be out of date the principle of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded. SD1 includes West Mersea as a 'District Settlement' which lies below Colchester Town/Stanway and above Rural Communities in the spatial hierarchy. Development in the plan period was however, primarily focused on the top tier with only limited development directed to the District Settlements. Policy H1 provided for 280 units to be allocated in West Mersea in the 2001-21 plan period.

- 16.7 Since the proposal falls outside the settlement boundary for West Mersea, policy ENV1 covering the countryside outside settlement boundaries is relevant. The requirements of policy ENV1 for the conservation and enhancement of Colchester's natural and historic environment is in accordance with paragraph 170 which clearly recognises the intrinsic character and beauty of the countryside and demonstrates that planning policies should contribute to and enhance the natural local environment via protection, maintenance, and preventing unacceptable risk. It is considered that the criteria-based approach of ENV1 accords with the more flexible approach to countryside development adopted in the NPPF.
- 16.8 Based on the protection afforded to land outside Settlement Boundaries (SBs) and outside of the most sustainable locations in SD1 and ENV1, the proposal is not considered to be compliant with these policies. While Policy ENV2 on rural Communities covers rural exception sites, it is of no relevance to this specific proposal which is not based on the rural exception principle. Other policies are relevant to the proposal including those relating to affordable housing and design and layout, but no comment is made in respect of most of these in this response as it is focusing on the key policy principles.

Emerging Local Plan (ELP)

- 16.9 The NPPF also advocates consideration of other factors including emerging local plans which can be afforded weight when they reach an advanced stage of preparation. In this respect Paragraph 48 states that authorities may give weight to emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies (and the significance of these objections - the less significant the greater the weight that can be given) and the degree of consistency of the relevant policies to the NPPF (the closer the policies are to policies in the NPPF the greater the weight that may be given). Testing these criteria will inform the judgement about the weight which should be afforded to the emerging Local Plan in this case.
- 16.10 In terms of Paragraph 48(a) of the NPPF, the ELP is considered to be at an advanced stage having been submitted in 2017 with examination commenced in January 2018.
- 16.11 Amongst other matters, the ELP seeks to allocate additional land to meet the housing target up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1).
- 16.12 While the Adopted Local Plan included the 3 District Centres only in the second tier below the urban area of Colchester, the Emerging Plan provides for a wider scope of development in 17 Sustainable Settlements, including West Mersea. Policy SS12a proposes the allocation of land for 200 dwellings on 2 sites in West Mersea. Land at Dawes Lane is allocated to provide 100 dwellings and Land at Brierley Paddocks to also provide for 100 units as part of a mix of uses to be informed further by the Neighbourhood Plan.

- 16.13 The proposed allocation policy SS12a is of particular relevance providing a different policy context than the Adopted Local Plan. The relevant policy wording is set out below;

Policy SS12a: West Mersea

In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the areas identified on the policies map, which contributes towards expanding Mersea Island Primary School, provides suitable landscaping to screen the development to minimize any negative impact on the surrounding landscape and protect the open rural character of land within the Coastal Protection Belt, and meets the requirements for each site indicated below. Housing on both sites should address local needs which will be detailed in the Neighbourhood Plan but are likely to include starter homes and single storey dwellings.

Brierley Paddocks

Development will be supported which provides:

- (i) 100 new dwellings of a mix and type of housing to be compatible with surrounding development;*
- (ii) A satisfactory vehicular access;*
- (iii) New public open space; and*
- (iv) Community facilities if identified in the Neighbourhood Plan.*

This policy should be read in conjunction with the generic Neighbourhood Planning Policy SG8 and the West Mersea Neighbourhood Plan, once adopted.

- 16.14 The Spatial Strategy Policy SG1 and Policy SS12a are aligned with the NPPF as follows:

- Paragraphs 15 and 16 of the NPPF reinforce that development should be plan led and contribute to the achievement of sustainable development.
- Paragraphs 18 and 28 outline that Local Plans should include non-strategic policies which provide more detail for specific areas and types of development.
- Paragraph 59 of the Framework reiterates the Government objective of increasing the supply of homes.
- Policy SS12a is one of a number which allocates sites for residential dwellings within Sustainable Settlements as identified by the Spatial Strategy. While the site lays within the Coastal Protection Belt, a limited reduction in its extent at the edge of the urban area of West Mersea was considered justified following Sustainability Appraisal and site assessment work to deliver required development land.

- 16.15 The key policies in the emerging Local Plan relevant to this scheme are accordingly considered to be highly consistent with the NPPF and should therefore be afforded considerable weight.

- 16.16 The final issue to be considered when considering the weight to be afforded to the ELP is the level of unresolved objection to the relevant policies. Accordingly, further consideration of the issues raised in representations to Policy SS12a is necessary to guide the judgement of the weight which should be given to the emerging policy in this case. There were 85 representations received to Policy SS12a. Additionally, 1163 people signed a petition submitted by Stop 350 objecting to the housing allocations. The key issues raised are summarised below;

Development on Mersea Island Policy SS12a

- inadequate infrastructure and community facilities (highways, education, health and water) to support the development;
- additional pressure from the increased seasonal population at the caravan parks on Mersea Island (2200 caravans, some occupied permanently);
- plan proposal is not based on sound or accurate data; lack of proper consideration of Mersea's unique island status and the constraints this imposes on its ability to expand;
- breach of Coastal Protection Belt objectives;
- adverse environmental impacts (wildlife and heritage) and
- concerns about the safety of residents in the event of a nuclear emergency at Bradwell Nuclear Power Station.

- 16.17 The following Additional Comments specific to the Brierley Paddocks Site were also raised;

- Private access – access to site questioned;
- Impact on Listed Building (Brierley Hall).

- 16.18 While the site is allocated for development in line with the scale of development proposed for Sustainable Settlements and the level of development proposed for this site as per the allocation in the emerging local plan, the level of objection to this in response to the regulation 19 consultation was significant. While some of the objections could be addressed and therefore resolved, through mitigating measures and /or planning obligations, others are more about the principle of development and capacity of the Island's infrastructure to accommodate the growth planned through the ELP. Having regard to this, the representations which potentially remain unresolved are those relating to the principle of development and the capacity of the Island's infrastructure to accommodate this and other planned growth in the ELP. It is relevant to consider whether these matters alone are material to the weight to be afforded to the ELP. Paragraph 48 (b) is relevant stating; *"the extent to which there are unresolved objections to the relevant policies (the less significant the unresolved objections, the greater the weight may be given)"*. The objections relating to the principle of development (including capacity) at West Mersea also relate to the Spatial Strategy in Policy SG1. It is also relevant to consider whether the concerns raised by these objections, relating to the principle and level of development based on the capacity of the infrastructure to accommodate the proposed development,

can be addressed by provisions of the application and mitigation which may be secured as part of any permission. The need for thorough consideration of these issues is further enhanced by the local concerns expressed through the Local Plan representations and the planning application objections regarding the capacity of the infrastructure to accommodate the growth planned including, that proposed in the application.

Infrastructure capacity concerns

- 16.19 The key concerns regarding infrastructure capacity appear to relate to traffic; community facilities - particularly health and education; sewage and flooding. In addition, concerns are expressed about the ability of emergency services to reasonably respond to accidents / other emergencies due to the constraints especially when there is a high tide. The response from the relevant infrastructure providers is therefore an important consideration in weighing up the balance to be afforded to these issues. These are summarised below;

16.20 Infrastructure providers response to the planning application

Highways- The Highway Authority have not raised any concerns and have indicated that the access arrangements proposed are acceptable.

NHS / CCG – NEE CCG acknowledges that there are capacity issues currently and that mitigation would be required and request the land identified as D1/ B1 use to be gifted to support the provision of health facilities or for a financial contribution to be made. No comments regarding ambulance service.

Environment Agency- No objection has been made to the application

Anglian Water- Confirm they have the capacity to deal with the new dwellings.

Essex County Council – Lead Flood Authority- Do not object subject to implementation of the proposed SUDs strategy and standard conditions associated with this being secured to any consent

Essex County Council – Local Education Authority - No comment and no request for contributions received. This is confirmed by the relevant Development Team minute and a follow up e-mail.

Emergency Services – No response specifically to the application – West Mersea has an “on-call” fire station, and data in the website indicates that in 2017/18 a total of 49 incidents occurred including 17 false alarms and 17 special incidents (which includes road traffic collision, animal rescue and dealing with hazardous materials and flooding).

- 16.21 Although there have been no specific responses to the application from the emergency services they did help inform the Infrastructure Delivery Plan which was produced to support the Local Plan and includes input

from all infrastructure providers. Essex Police stated "the delivery of growth and planned new development in the borough would impose additional pressure on the Essex Police existing infrastructure bases, which are critical to the delivery of effective policing and securing safe and sustainable communities. Essex Police has confirmed that it does not require any site-specific new infrastructure to address the needs arising from growth. Rather, it requires the refurbishment of the existing police estate from which police staff can operate. The specific nature of any requirements will need to be assessed on a case-by-case basis." Essex Fire and Rescue Service stated "that it does not have any needs arising from growth". The East of England Ambulance Service NHS Trust operates ambulance services in Colchester Borough. They stated "that it has no specific infrastructure needs to support growth. Its services are funded from the North Essex Clinical Commissioning Group based on historic emergency call data. This data is reviewed annually and changes in provision are made accordingly."

- 16.22 The response of the Infrastructure providers to the planning application and the Local Plan is the best measure of the extent to which there is capacity for the planned growth. This also provides the context for considering whether any objections to the Local Plan proposals remain unresolved, since those relating to the principle of development, are intrinsically linked to the capacity of the infrastructure to accommodate the planned growth.
- 16.23 In principle community infrastructure including provision of public open space and capacity at the GP practice can be adequately addressed through mitigation and the proposed provisions of the application. Specifically, 0.5ha of land for D1/B1 use could provide the opportunity for relocation of GP facilities into a purpose-built building.
- 16.24 Given the significance of the need to address concerns regarding infrastructure capacity and ensure satisfactory mitigation is provided, this issue is considered below in more detail.
- 16.25 The application proposes a mix of uses which provides the opportunity for many of the community infrastructure requirements to be delivered. The Outline Application comprises the following proposals:
- Demolition of No.43 Seaview Avenue to provide cycle and pedestrian access to the site.
 - Development of 101 dwellings (a net increase of 100 dwellings).
 - Indicative housing mix of 2, 3 and 4 bedroom dwellings.
 - Potential to include bungalows and retirement flats.
 - Dwelling heights of 1-3 storey, with predominately 2/2.5 storeys.
 - Provision of approximately 2.8ha of public open space.
 - Provision of approximately 0.5ha of D1/B1 commercial/community use that is indicatively shown to the north east of the site.
 - Indicative provision of linear park and circular walk within the site.

- Provision of one point of access from an upgraded access from East Road/Brierley Paddocks
- Provision of buffer planting
- Provision of green space to protect the neighbouring heritage assets.

16.26 The Planning Statement also indicates that 30% affordable housing would be delivered as well as contributions to cover mitigation for health provision and RAMs contribution to meet the requirements of the Habitats Regulations Assessments, secured by section 106.

16.27 Based on the proposals set out above, it appears that all of the infrastructure providers are satisfied that there is capacity to accommodate the development proposed or that mitigation can be secured to address the identified issues. The NEE CCG has commented that if this land is gifted it could be considered to provide Health services within a community facility in line with policy. This is an important element of infrastructure that is required on the island and this site provides the opportunity to deliver such facilities. A suitable site on the island has not been identified in more than a decade and this allocation represents an opportunity to address the need. The applicants would rather make the financial contribution than gift the land. This would not stop the provision of a health centre on the site if an agreement between the NHS and the applicants could be agreed in the future however.

16.28 It is therefore considered that in terms of Paragraph 48(b) of the NPPF the Emerging Local Plan can be afforded significant weight.

West Mersea Neighbourhood Plan (NHP)

16.29 A Neighbourhood Plan Area was designated in September 2016 responding to a request from the West Mersea Town Council as the Qualifying Body (QB). Considerable work, including evidence gathering and plan drafting has been undertaken by the QB and more recently a Consultant has been appointed to support the group on moving forward as expediently as possible. It is anticipated that a Draft Plan will be available for consultation early in the new year. Due to the timing and the content of the ELP, the scope of the NHP will not include the allocation of housing sites. The allocation policies in the ELP, do however, reflect that the NHP will have a role in influencing many aspects of development proposals including the application site in respect of housing mix and type, open space and community facilities. Whilst the stage of preparation of the NHP cannot be said to be advanced, good progress is being made and it is expected that this will continue moving forward to the stage of publishing a Draft Plan. It is understood that the Plan will look to provide a greater steer on the detail of housing types and the nature and location of community facilities which are required and appropriate for delivery through development on this site and the other allocation in the Local Plan. As this application is for outline permission with all matters other than access being the subject of a reserved matters application in the future, the NHP should have the opportunity to further influence these details assuming, sufficient progress on the NHP is

made. The extensive work of the QB and engagement with the local community is valued and it is appropriate that it may inform some of the detailed elements of planning for the site.

Planning Balance

- 16.30 The Adopted Local Plan did not include the application site as an allocation, so it is contrary to policies SD1 and ENV1 restricting development outside development boundaries. The Council maintain that both of these key policies remain up-to-date in so far as they are relevant to this application. The applicant references the West Bergholt appeal decision in which the decision concluded that these policies were not up-to-date despite acknowledging that some elements of the policies are generally consistent with the NPPF. The Council holds the view that those elements which are up-to-date are most relevant to this application and therefore contends that they key policies are not out-of-date. It is the council's view therefore that paragraph 11(d) is not engaged.
- 16.31 It is also the case that the Council is able to demonstrate it has a 5 year housing land supply. The updated Planning Statement supporting this application refers to the West Bergholt decision in which the Inspector concluded that the council was not able to demonstrate a 5 HLS. Whilst this correctly identifies the Inspector's conclusion, the Council does not accept this and has written to the Planning Inspectorate. A response is awaited. The Council considers that there was evidence available to justify inclusion of the sites the Inspector did not include, and the progress made on several of those sites in the interim proves this to be the case. Further evidence to support this has been presented to two subsequent planning appeals;
- Land at Barbrook Lane, Tiptree, the decision of which is awaited following its recovery by the Secretary of State.
 - Alumno scheme, Queen Street – appeal to be determined.
- 16.32 Furthermore, the most recent appeal decision for a site at Marks Tey confirms that the Council can demonstrate a 5 year Housing Land Supply (APP/A1530/W/19/3230908). As the Council is able to demonstrate a 5 year HLS paragraph 11(d) of the NPPF is not engaged.
- 16.33 It is also relevant to consider the extent to which the application is compliant with the ELP. Policy support for any proposal is unlikely to be afforded unless it is fully compliant with all of the relevant emerging policy requirements as indicated in the ELP. In the case of this site, the specific infrastructure requirements are set out in the allocation policy 12a (above) with other requirements including matters such as RAMs and safeguarding impacts on heritage assets included in other policies in the ELP. All matters other than access are subject to a reserved matters application, enabling details including the distribution of uses, safeguarding any impacts of the listed building and its setting and layout etc to be addressed and further considered at that time.

- 16.34 Although this is an outline application, with all matters reserved except for access, it includes a parameter plan illustrating the proposals. The proposed access is acceptable to the Highways Authority and therefore complies with this requirement in the ELP policy SS12a. Other provisions include open space, and an area of land reserved for D1/B1 use which could provide the opportunity for the Medical Centre to relocate. The policy points to the Neighbourhood Plan for more details in respect of community facilities, the content of which is still to be confirmed. However, the grant of outline permission will not prevent the Neighbourhood Plan from further informing detailed elements including the community facilities.
- 16.35 Having regard to the extent to which the objections specific to the site can be resolved through this planning application, the fact that there are no objections from any of the relevant infrastructure providers, it must be the case that objections relating to the principle of development and the capacity of West Mersea to accommodate the level of growth proposal cannot be considered as unresolved.
- Furthermore, appropriate mitigation can be provided with detailed issues to be addressed through reserved matters, it is therefore considered that the ELP can be afforded significant weight. Paragraph 49 (a) of the NPPF (which indicates where prematurity can reasonably justify a reason for refusal of planning permission) cannot therefore be said to apply it states *“the development proposal is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by pre-determining decisions about the scale, location and phasing of new development that are central to the emerging plan”*.
- 16.36 In respect of the NHP, the Council would not wish to frustrate the progress on this plan or undermine its role in influencing the details of the proposed development in the NHP. It cannot be said to be at an advanced stage of preparation and in any event, it is not intended that the NHP will be allocating any housing sites. It is however considered entirely appropriate for the NHP as it advances to inform key elements of a reserved matters application in accordance with the ELP policy and granting outline permission would not prevent this happening. The NHP has not progressed to a stage where it is considered it could be used to justify a recommendation of refusal on prematurity grounds.

Conclusion

- 16.37 The proposed development is contrary to the Adopted Local Plan in particular Policies SD1 and ENV1, both of which are considered to be up-to-date in so far as they are relevant to this application. In addition, the Council is able to demonstrate a 5 year HLS. Paragraph 11(d) of the NPPF is therefore not engaged.
- 16.38 The ELP is considered to be relevant to this decision since it changes the planning context for the application site through a proposed site allocation. It makes up one of two sites proposed to accommodate planned growth for West Mersea with the key requirements set out in Policy SS12a. In respect of Paragraph 48 of the NPPF, it is considered that the ELP can be given significant weight due to its stage of preparation, consistency with the NPPF and limited unresolved objections. This is supported by the responses to this application from the infrastructure providers which suggests that there is capacity for the development with mitigation where appropriate.
- 16.39 In addition, the Council are increasingly faced with applications for speculative development on sites which are not allocated in the Adopted or ELP, including a number of these going to Appeal. A number of speculative applications have been made in other Sustainable Settlements, including Tiptree and West Bergholt. It is anticipated that pressure from speculative development is only likely to increase until the Emerging Local Plan has been Adopted in locations throughout the Borough which could include West Mersea. Therefore, a pragmatic approach to proposed allocations is required. It is preferable to allow schemes on allocations in the Emerging Local Plan where they are policy compliant. The Emerging Local Plan allocations have been through a Sustainability Appraisal, public consultation and other rigorous assessment as part of the Local Plan process. Whereas speculative proposals are usually sited in locations which received less favourable Sustainability Appraisal / or other assessment or, have not been through such assessments as part of the Local Plan process. There are no objections from infrastructure providers subject to the scheme providing appropriate mitigation. It is proposed to provide 0.5ha of D1/B1 commercial use (which includes the opportunity to relocate the Medical centre), associated parking, public open space, landscaping, Sustainable urban Drainage systems and vehicular access from East Road at Brierley Paddocks. In addition, 30% affordable housing is proposed as well as mitigation contributions for health provision, and RAMs. The NHS capacity constraint is also of significant relevance and this is an important infrastructure element which was a key theme in the representations to the Emerging Local Plan. The NHS NEE CCG have requested the land identified as D1/ B1 use to be gifted to support the provision of health facilities or for a financial contribution to be made. The Planning Policy team support this approach as it provides the only opportunity to provide a site and facilities to address the additional requirements resulting from this development which cannot be absorbed within the existing surgery. The developers have confirmed that they do not intend to gift the site to the NHS

and therefore the financial contribution that the NHS have requested stands. This is held to be acceptable.

- 16.40 Although the NHP may be an important consideration in informing a future reserved matters application, it is currently not at an advanced stage of preparation as a Draft Plan has not yet been published so is unable to be a material consideration to this application.
- 16.41 Based on a thorough consideration of the issues it is considered that proposal is in principle compliant with the Emerging Local Plan Policies.

Highways/Access

- 16.42 Aside from the principle of development, the only matter for approval at this stage is the access. It is therefore also important to consider the impact on the highway network.
- 16.43 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 16.44 The scheme has been accompanied by a Transport Assessment that considered the East Road junction to be sufficient to accommodate the traffic flows this scheme will generate. It states that a simple priority junction at the East Road access will need to be provided and there is sufficient room to provide this. This Transport Assessment and the proposed access arrangement at East Road have been considered by Essex County Council (the Highway Authority). They have no objections to the scheme subject to conditions that are suggested at the end of this report.
- 16.45 A material difference between this scheme and the previously refused scheme (190200) is the fact the scheme has been amended within the application period to downgrade the Seaview Avenue vehicular access to that of a pedestrian and cycle link only. This is held to be the optimum situation as it allows permeability from the new development to the west on foot and by bike but removes motorized traffic that was held to be detrimental to the amenity of those living on Seaview Avenue.

- 16.46 The Highway Authority have considered this change and have no objection to the scheme. The East Road access will still be upgraded as per their requirements. It is therefore held to be sufficient to serve a development of 101 houses. It is further noted that the Highway Authority did not object to the access being used to serve 201 houses and the commercial land in the previous application 190200.
- 16.47 On that basis this scheme is held to be acceptable in highway safety terms.
- 16.48 It has been noted by some of the neighbours that they do not believe that the East Road access can be delivered due to ownership issues. The developers disagree with this. Land ownership is not a planning matter and therefore this is not a reason to refuse this scheme. If it was to transpire that this was the case however, the scheme would not be implementable in its current format.

The Impact on Trees

- 16.49 Two TPO's have been served, an initial TPO covering the trees on the boundary with the site and 45 Seaview and a more recent TPO covering those trees and a number of other trees on the boundary.
- 16.50 As noted above, amended drawings showing the access way downgraded to a pedestrian vehicular link at the 43 Seaview Avenue have been provided. The Arboricultural Officer is satisfied that there is sufficient space to provide this without harming the protected trees. The scheme is therefore acceptable in that regard.
- 16.51 The protected trees and the other trees that surround the site can be protected by condition and by the provision of an appropriate layout at reserved matters stage.

SuDS

- 16.52 A sustainable drainage assessment has been provided with this application. It is recommended that a detention basin is provided at the southern end of the site to work with the existing topography. This basin will be dry and will only contain water in storm events to manage run off rates. It is therefore designed to form part of the open space for local residents. This approach, alongside other supplementary SUDs features, will simultaneously provide a valuable landscape feature and will aid the natural management of surface water runoff.
- 16.53 The LLFA are satisfied with the scheme and have recommended conditions. At outline stage, this matter is held to be acceptable.

Flood Risk

- 16.54 The site is within Flood Zone 1. As such, it is at the lowest risk of fluvial or tidal flooding in accordance with the Technical Guidance that accompanies the NPPF and is suitable for residential development from a flood risk perspective.
- 16.55 The Emerging Local Plan (Paragraph 15.125) states that the overall aim of national policy and guidance on flood risk is to steer new development towards land on the lowest risk from flooding (Flood Zone 1).
- 16.56 As part of the proposals, the SUDs are proposed at the southern part of the site. These features are strategically located to work with the existing topography of the site in order to manage surface water runoff and to ensure the site manages surface water entirely within the site to reduce the risk of flooding elsewhere. The detail of this arrangement can be dealt with at reserved matters stage.
- 16.57 Further information on the flood risk and drainage proposed on site is included in the accompanying FRA which can be read on the system.
- 16.58 It is noted that the EA did not object to the scheme, nor did they object to the previously refused scheme for 201 dwellings.

Impact on Heritage Assets

- 16.59 Policy DM16 states that the historic environment should be conserved where possible through new development proposals. This includes preserving and enhancing Listed Buildings as per the statutory test.
- 16.60 A full Heritage Impact Assessment is provided with this application. Brierley Hall, which is located to the north of the site is Grade II Listed. Furthermore, the two barns at Brierley Hall are also Grade II Listed in addition to the garden wall east of Brierley Hall. The Council's in-house HB&AO has assessed this document in full and does not consider the scheme to be harmful in terms of the setting.
- 16.61 In order to further conserve and enhance the significance of these listed structures, it is proposed that a green buffer space is retained at the northern part of the site. The impact on the listed building and its value is assessed to be acceptable and the scheme is considered to conform to Policy DM16 and the statutory tests that require the setting of listed buildings to be preserved.

Ecology

- 16.62 Section 40 of the Natural Environment and rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Policy ENV1 of the emerging Local Plan states that the Local Planning Authority will conserve and enhance Colchester's natural and historic environment, countryside and coastline. Furthermore, proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas, protected species or result in the loss of irreplaceable habitats such as ancient woodland, important hedgerows and veteran trees will not be permitted.
- 16.63 A Preliminary Ecological Appraisal has been prepared by The Ecology Partnership. Land at Brierley Paddocks is not designated, however a number of local, national and international designated sites are within a 2km radius of the site. Given the national and international importance of these sites a Habitat Regulation Assessment has also been provided which has informed the Council's Appropriate assessment.
- 16.64 It has been recommended through the Preliminary Ecological Appraisal and the Arboricultural Impact Assessment, that the existing planting and vegetation on site is to be maintained. A number of mammal burrows have been identified along the eastern, southern and north west site boundaries, some of which were characteristic of badgers. As such, it has been recommended that where possible, these burrows be buffered from development by at least 15m. This will be considered when confirming the layout in the reserved matters stage of the application and further survey work will be expected at that time to fully investigate whether these holes are in use and then advise the layout accordingly.
- 16.65 On recommendation from the Phase 1 Ecological Survey, a Wintering Bird Survey has been provided. The Survey found that 22 bird species other than water birds were recorded, including some species of conservation concern. The report states that the majority of these birds feed within field boundary habitats that will be retained and enhanced as part of the proposed landscape plan. As such, the report argues that there will be little impact on those species. The potential impact of the development will be on those birds that purely feed on the arable land; namely Redwing, Meadow Pipit and Skylark. The survey confirms that the density of those species is at the lower end of the scale for this habitat. Furthermore, the habitat is locally widespread, thus it is held that the impact will be of no more than local significance.

- 16.66 On recommendation from the Phase 1 Ecological Survey, a Bat Survey of 43 Seaview was also carried out. It was found that the building supported historic evidence of brown long eared bats and is considered that the building is a roost, albeit one of low conservation significance. As such the building would require demolition under licence and ecological supervision.
- 16.67 Due to the time that has passed since the Preliminary Ecological Appraisal (2016) the Wintering Bird Survey (2017/2018) and Bat Survey Report May and Oct (2018) it is expected that these reports will be refreshed at reserved matters stage by a competent ecologist.
- 16.68 It is also suggested that an Ecological Enhancement and Management Plan condition be imposed to ensure the site is managed in an ecologically sensitive manner and to ensure that the suggestions of the ecological reports are built into a workable framework that can be delivered on site after approval of the reserved matters.

Habitats Regulations Assessment (HRA) /Appropriate Assessment (AA)

- 16.69 It is necessary to assess the application in accordance with the Habitats and Species Regulations 2017 (as amended). The whole of Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment was therefore required to assess recreational disturbance impacts as part of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS).
- 16.70 A shadow HRA was requested and was duly provided. The LPA then drafted an appropriate assessment (AA). The AA concluded that with the on-site measures set out in the shadow HRA and with a financial contribution to the Essex Coast RAMS as mitigation the scheme would be acceptable.
- 16.71 Following this Natural England were re-consulted but no comments were made.
- 16.72 The RAMS financial contribution will be secured via legal agreement.

Landscape Impacts

- 16.73 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting. The site also sits in the Coastal Protection Belt (as does the rest of Mersea Island) and therefore Policy DP23 is relevant.

16.74 The scheme has come with a Landscape Visual Impact Assessment (LVIA) carried out by Tyler Grange LLP. It found that:

“The site has a settlement edge character, with existing residential properties creating a harsh edge on the western and northern boundaries. Rear and side garden boundaries form many of the edges to the site, and these boundaries are irregular comprising close board fencing, evergreen hedging and scattered tree planting. Residential properties sit along the skyline along the western and northern boundaries and form a backdrop to the site;

- The site is well contained and has an enclosed character, with existing residential development enclosing the site to the north and west, and established vegetation forming the southern and eastern boundaries. This enclosed character separates the site from the wider more rural land to the west;
- There are no internal landscape features within the site, with the site used for open arable land. The low lying and flat nature of the site also contributes to its contained and enclosed nature, with no prominent landform present; and
- The existing landscape structure and boundary vegetation found on the southern and eastern boundaries consists of established tree, hedge and scrub planting. Evergreen hedge planting is present along the north eastern boundary and forms the edges to the larger gardens found to the north east of the site. The hedgerow and tree planting found along the eastern boundary, adjacent to PRoW 154-25 is gappy in places.”

16.75 After a very detailed assessment of the proposed the LVIA concludes:

Overall we conclude that the proposed redevelopment of Brierley Paddocks would provide a good contextual fit within the settlement edge and adjacent landscape context. The extent, scale, layout and design of the new development, combined with the retained and additional new tree, hedgerow, wildflower meadow, open space and SUDS proposals will assimilate development into the settlement edge of West Mersea, helping to reduce and mitigate the visual effects of the proposals. The visual effects of the proposed development upon public views and visual amenity will be largely neutral. The screening of the development by existing trees and hedgerows to the southern and eastern site boundaries, and within the local landscape means that the new residential development will be filtered and assimilated into the wider landscape and rural edge of West Mersea.

16.76 The findings of the LVIA have been considered by the Council’s in-house Landscape Advisor who accepts its findings. On that basis, the scheme is held to be acceptable in landscape terms and will not materially compromise the Coastal Protection Belt set out in Policy DP23.

Loss of Agricultural Land

- 16.77 Some representations have argued that the scheme will result in the loss of good quality agricultural land. The land is rated as on the edge of non-agricultural Urban G2 and Grade 3 'Good to Moderate' on the Agricultural Land Classification. The Council's Landscape Advisor considers that it is likely that the site strongly relates to the Urban G2 area and is divorced from the wider G3 area within which it is captured by Cross Lane. In short it is not considered that the loss of this land in favour of development is an issue that warrants a refusal of this scheme.

Health Impact Assessment

- 16.78 Policy DP2 requires all development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. Health Impact Assessments (HIA) are required for all residential development in excess of 50 units, with the purpose of the HIA being to identify the potential health consequences of a proposal on a given population, maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal's environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities. Where significant impacts are identified, planning obligations will be required to meet the health service impacts of the development.
- 16.79 The NHS have assessed the HIA and in this instance do not object to it. They have requested a financial contribution towards their services and the applicants have accepted this.

Contamination

- 16.80 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.
- 16.81 A Phase 1 Geo-Environmental Desk Study Report has been submitted with the application that investigates matters of contamination. The Council's Contaminated Land Officer has assessed the submitted report and confirms that it is acceptable for Environmental Protection purposes. Conditions for further work have been requested.
- 16.82 On this basis, the information submitted is considered to be acceptable and the site considered suitable for its proposed use in accordance with paragraph 178 of the National Planning Policy Framework.

Design and Layout

- 16.83 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.
- 16.84 As an outline application, details of design and layout would be put forward at reserved matters stage and would be assessed in accordance with

relevant planning policy to ensure that the proposals are acceptable. There is no further detail required at outline stage as it essentially determines the principle of development rather than the detail.

- 16.85 The Council's Urban Designer has confirmed that the proposed 101 dwellings can be accommodated on site without compromising policy principles.

Impact on Amenity

- 16.86 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 16.87 Application 190200 was refused in part due to the impact on the vehicular access point in Seaview Avenue. Whilst this was originally retained in this resubmission for 101 dwellings, it was removed within the application period.
- 16.88 The retention of a pedestrian/cycle way is considered to be essential in urban design terms. Downgrading the access to a pedestrian/cycle route will retain the permeability at this end of the site and will allow access on foot or bike to and from that corner of the development. It is not held to be materially harmful in terms of neighbouring amenity as pedestrian and cycle traffic is generally held to be less disruptive and noisy than vehicles. It will also allow for more planting either side due to the reduced width needed and this will facilitate a great buffer for the neighbours. The detail of this can be dealt with via the reserved matters submission.
- 16.89 It is accepted that this scheme will increase noise and disturbance to the existing neighbours located close to the East Road junction at Brierly Paddocks. This is an existing access point and is the only realistically deliverable vehicular access point to the site. In terms of built form, at reserved matter stage it will be possible to provide the existing residents with a buffer area at this end of the site so they do not feel encroached upon but there is no doubt that residents in this area will be subject to a significant increase in passing traffic. The impact on residents has been carefully considered but in this instance it is not held to be materially harmful to the neighbours to the point that warrants a refusal of this scheme.

- 16.90 Any housing design/layout uses would need to respect the privacy and amenity of the residents of these properties and adhere to policy DP1 in terms of impact, as well as the design and layout principles of the Essex Design Guide which prescribes back to back distances between properties in order to preserve a satisfactory level of amenity. These matters would need to be assessed on the submission of reserved matters which will provide the detailed layout for the scheme.

Environmental and Carbon Implications

- 16.91 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030.
- 16.92 The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 16.93 This report has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. This scheme has limited detail as it is an outline proposal however it would be possible to secure a significant amount of good quality tree planting on site as part of the landscape element which is a reserved matter. The landscape masterplan is only indicative but drawing 10618/P10e Rev A sets out areas of buffer planting and suggests a number of tree species. The Landscape Parameter plan 17003/OPA-004A also reflects this.
- 16.94 The scheme has also been amended during the application period to remove the unnecessary vehicular access onto Seaview Road and replace it with a pedestrian/cycle access so this will actively encourage residents to leave their cars and walk or cycle west towards the facilities of West Mersea. The fact the scheme is an emerging allocation demonstrates that is considered to be an accessible location where growth is sustainable and the strong footpath links to the West (and to the PRow to the east) adds to this.
- 16.95 In addition to this Environmental Protection have suggested EV charging points to be conditioned and the applicants have agreed to a condition requiring approval of a scheme for EV charging. This will help facilitate the uptake of ultra-low emission vehicles.
- 16.96 It is therefore considered that on balance the application is considered to represent sustainable development.

Bradwell Power Station

- 16.97 Representations have been received from neighbours that are concerned about Bradwell Power Station and the possible new Nuclear Power Station (NPS) that may be proposed next to the existing NPS.
- 16.98 Bradwell Power Station is in a very advanced stage of decommissioning and is in a 'Care and Maintenance State'. It is the first NPS in the country to enter this state of decommission.
- 16.99 Bradwell 'B' proposed by EDF Energy and China General Nuclear Power Group (CGN) is only at very early investigative stages. The Bradwell B project website notes it could be 7 years before construction. The website set out how they would need regulatory approval, planning permission including a nuclear site licence, a development consent order and various environmental permits. In officer's opinion it would not be reasonable to resist a new increase of 100 houses on the basis that Bradwell B is a possibility.

17.0 Conclusion and Planning Balance

- 17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the emerging Local Plan but is contrary to the adopted Local Plan as the site is outside the current settlement boundary of West Mersea. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy. The social role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.
- 17.2 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in West Mersea and is located within walking distance of a number of key local services and facilities required for day-to-day living. In respect of the third dimension (environmental), the proposal will provide housing in a sustainable location so that future residents would not be reliant on private car, being able to walk or use public transport to access necessary services and facilities, thereby minimising environmental impacts; ecological enhancements can also be secured as part of the development.
- 17.3 There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby

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residents or have a severe impact upon the highway network. Whilst the proposed development would have an impact on the existing character of the site (i.e. by introducing built development where there is none currently) through a general suburbanising effect on the wider setting, which weigh against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme and could reasonably be judged to clearly outweigh the shortcomings identified given the weight afforded to the supply of new homes in the Framework and the possible design that could be secured as part of any future reserved matters application.

- 17.4 In conclusion, it is considered that the benefits of the scheme convincingly outweigh any adverse impacts identified and the proposal is considered to be acceptable on this basis.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the negotiation of planning obligations as set out in the relevant section above and minor amendments to the conditions set out below and 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:

1. Time Limit for Outline Permissions Part 1 of 3

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

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

2. Time Limit for Outline Permissions Part 2 of 3

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

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

3. Time Limit for Outline Permissions Part 3 of 3

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

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

4. Approved Drawings

The drawings hereby approved as part of this application are:

Site Location Plan - 17003/OPA1-001

East Road Junction Plan – DR1 Rev A

Seaview Avenue Cycle/Pedestrian Walkway Plan – DR7

Reason: For the avoidance of doubt as to the scope of this permission.

5. D1/B1 Uses details

The D1/B1 uses hereby approved shall not operate apart from in complete accordance with a schedule of operation that shall be submitted to and approved in writing by the Local Planning Authority. This schedule shall include details of:

The specific D1 or B1 use proposed.

The hours of operation of the D1 and/or B1 use.

The hours and details of servicing of the D1 and/or B1 use.

The hours and details of deliveries to and from the D1 and/or B1 use.

The D1/B1 uses shall not operate apart from in complete accordance with the approved schedule unless otherwise agreed in writing with the Local Planning Authority.

Reason: This condition is necessary as this outline permission is approving 0.5ha of the site as D1/B1 uses but has no details of those D1/B1 uses at this stage. Therefore the Council needs this extra detail to ensure the proposed uses do not materially harm neighbouring amenity.

6. D1/B1 uses no permitted changes of use

The 0.5 ha of the site that is to be used for commercial purposes shall be used solely for B1 or D1 uses and for no other purpose.

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

7. Electric Charging Points

The development shall not commence above damp-proof course level until a scheme for the provision and implementation of electric vehicle (EV) charging points has been submitted to, and approved in writing by, the Local Planning Authority. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

8.Archaeology

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

9.SUDs

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

- The programme and methodology of site investigation and recording.
- The programme for post investigation assessment.
- Provision to be made for analysis of the site investigation and recording.
- Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- Provision to be made for archive deposition of the analysis and records of the site investigation.

- Nomination of a competent person or persons/organisation to undertake the works.

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

10.Scheme to Minimise Offsite Flooding during Construction

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

Reason: To ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution as construction may lead to excess water being discharged from the site.

11.SUDs Maintenance and Management

No occupation of the development shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

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 and to ensure that the SUDs are maintained for the lifetime of the development.

12.SUDs Monitoring

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.

13.Ecology

No works shall take place above damp-proof course level until an Ecological Enhancement and Mitigation Plan (EEMP) has been submitted to and approved by the Local Planning Authority. The EEMP shall follow the principles set out in the submitted ecological reports as a minimum. The development shall then be carried out and maintained in accordance with the approved EEMP.

Reason: In order to mitigate the impact of the development upon ecology and biodiversity and in the interest of ecological enhancement.

14.Tree Protection

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees and in particular the TPO'ed specimens that are of particular significance.

15.Used Water Sewerage Network

No works shall take place above damp-proof course level until a scheme for on-site foul water drainage works, including connection point and discharge rate, has been submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

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

16.Highway Works

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

- a. A priority junction off East Road to provide access to the proposal site as shown in principle on the planning application drawings
- b. A pedestrian/cycle access off Seaview Avenue as shown in principle on the planning application drawings
- c. For the non-residential element of the proposal, if there are 50 or more employees, a Travel Plan in accordance with Essex County Council guidance
- d. For the residential element of the proposal, Residential Travel Information Packs in accordance with Essex County Council guidance

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

17.Highway Works - Bus Stops

Prior to commencement of the development, a specification for upgrading the two bus stops which would best serve the proposal site, including a program of works for implementing the upgrades, must be submitted to, and agreed in writing by, the Local Planning Authority. The bus stops must be upgraded in accordance with the approved scheme in accordance with the agreed program.

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

18.Street Name Signs

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

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

19. 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 unless otherwise agreed in writing with the Local Planning Authority.

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

20.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 unless otherwise agreed in writing with the Local Planning Authority 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.

21.Limits to Hours of Construction Deliveries/Worker Traffic

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: **08:00-18:00**

Saturdays: **08:00-13:00**

Sundays and Bank Holidays: **No working**

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

22.Fires

No fires may be lit on site at any time.

Reason: In the interests of neighbouring amenity.

23.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 investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced and agreed in writing by 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.

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

If the Investigation and Risk Assessment submitted under Condition 22 identifies a need for remediation, 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.

25. Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

If the Investigation and Risk Assessment submitted under Condition 22 identifies a need for remediation, no works shall take place other than that required to carry out remediation, until the approved remediation scheme has been carried out in accordance with the details approved. 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

26. 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 22, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 23 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 26.

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. Validation Certificate

If the Investigation and Risk Assessment submitted under Condition 22 identifies a need for remediation, prior to the first OCCUPATION or 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 22.

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

19.0 Informatives

19.1 The following informatives are also recommended:

1.ZT0 – Advisory Note on Construction & Demolition

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

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

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

3.ZTB - Informative on Any Application With a Site Notice

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

4.INS - Notes from the Highway Authority:

- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only
- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 – Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

5.INS - Archeology

The Council's in-house specialist will, on request of the applicant, provide a brief for the archaeological investigation – **extensive archaeological excavation** - and it is recommended that this is procured at the earliest opportunity to establish the costs of the archaeological investigation and to establish the likely time scale (potentially considerable) of the archaeological fieldwork, in order to avoid any delays to the commencement of the development.

6.NS – Private Sector Housing

Private sector housing suggest the following:

Excess Cold

Please consider the thermal comfort of the new dwellings. They should be able to maintain a temperature of 21 degrees C when the outside temperature is -1 degree C. Consider adequate, efficient and affordable heating, insulation and ease of ventilation without excessive draughts.

Crowding & Space

The bedrooms should have adequate space for the number of people sleeping in them. Double rooms suitable space for 2 persons single bedroom for 1 person including furniture and space to circulate.

7. INS – Environmental Protection

Acoustic fencing

At reserved matters stage Environmental Protection suggest a 2m high acoustic fence would be required along the boundaries with existing residential properties at the site access points (to reduce disturbance from vehicles entering and leaving the site) as the size of the development will impact on their properties from increased traffic.

8. INS – Anglian Water

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry

Act 1991. Contact Development Services Team 0345 606 6087.

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

(3) INFORMATIVE

- Protection of existing assets

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

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

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



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Item No:	7.2
Application:	192993
Applicant:	ESNEFT
Proposal:	Erection of single deck car park with vehicular access from Turner Road, associated lighting and other ancillary works.
Location:	Colchester Hospital, Turner Road, Colchester, CO4 5JL
Ward:	Mile End
Officer:	Lucy Mondon
Recommendation:	Approval subject to resolving outstanding matters under delegated authority.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it constitutes major development on which a material planning objection has been received and the recommendation is for approval, albeit subject to further negotiation.

2.0 Synopsis

- 2.1 The key issues for consideration are:
- Principle of Development
 - Highway Matters (including sustainable transport)
 - Amenity (including air quality)
 - Design and impact on surrounding area (principally landscape, trees, and setting of non-designated heritage assets)
- 2.2 The report sets out the assessment of the proposal, considering planning policy in light of material planning matters. The comments from consultees and local representations are also considered. Having considered all material planning matters in the overall planning balance, it is considered that there are some outstanding matters that require resolution, including matters that the applicant wishes to address pre-determination; rather than under condition. In order to secure necessary funding for the scheme the applicant requires a planning committee resolution regarding the principle of the development. This has resulted in the Case Officer requesting a resolution to allow delegated authority in order to resolve the outstanding matters with the aim of the application being approved subject to conditions.

3.0 Site Description and Context

- 3.1 The application site is currently an open surface car park, used for staff car parking (182 car parking spaces), as part of the wider Colchester General Hospital site. The existing car park forms part of a larger car park referred to as Car Park K. The proposal provides for an additional 153 spaces.
- 3.2 The hospital site is well established and has been developed and expanded over a number of years so that there is now a complex of buildings on site, although these are not overly visible from wider public vantage points along the Via Urbis Romanae (to the west) and Turner Road (to the east) given changes in levels, landscaping, and boundary treatments.
- 3.3 The car park is located to the south-western side of the hospital site in a less densely built environment, albeit still seen in the context of a number of hospital buildings: there are open surface car parks immediately east and west of the site; Queen Boudica Primary School (including playing field/sports pitch) to the south; and the hospital 'Villas' (a crescent of 8 no. detached two-storey buildings) to the north. All bar one of the Villas (Villa 7, which has been replaced by a modern building) are locally listed.

The Local List records the Villas as follows:

Former 2 storey ward blocks for patients of Turner Village hospital. The crescent originally comprised 8 villas however 1 has been unsympathetically replaced. The crescent of villas were built as part of the larger Turner village which is historically/culturally important in north Colchester/Mile End. Turner village was built as part of the Essex Hospital (The Royal Eastern Counties Institution) which closed in 1985. Work commenced on Turner village in 1932. The Crescent was built in the Neo Georgian style and the design was intended to reflect the forward-thinking approach of those involved in the project at the time. Turner Village was built at a cost of £146,359. It was officially opened by the Duke of Kent in 1935 and officially closed in April 2001.

- 3.4 Vehicle access to the site is through the hospital grounds from Turner Road (to the east). The access road to the site runs along its northern edge. The road is single lane and has double yellow lines along its entirety to prevent car parking. There is no pavement provision along the stretch of road running north of the site, but there are pavements leading to/from the main body of the hospital site which can be accessed by users of the existing car park. The site is at a lower level to the road and there is currently planting and trees along its boundary edges.
- 3.5 To north of the Villas is Public Right of Way (PROW) 61, which is recorded as a Green Link in the Local Plan; this runs through the hospital site from Via Urbis Romanae (west) to Turner Road (east).
- 3.6 The hospital site is located within the Colchester Northern Growth Area. It is not allocated for development within the current Colchester Borough Council Local Plan but is identified as being a 'large job generator' within the growth area.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of a single deck car park with vehicular access from Turner Road, associated lighting and other ancillary works. The decked car park would be over an existing surface car park.
- 4.2 By way of background, the submitted Planning Statement explains that:

Colchester Hospital is managed by East Suffolk and North Essex NHS Foundation Trust (ESNEFT). On 1st July 2018, the Trust was formed through the merger of Ipswich Hospital NHS Trust with Colchester Hospital University NHS Trust. The Trust provides hospital and community healthcare services for Ipswich, Colchester and local areas and is the largest NHS organisation in the region.

As a result of the merger and formation of ESNEFT, the Trust is undergoing a Sustainability Transformation Plan (STP) to determine how acute hospital and community healthcare provision will be provided across its healthcare estate. As part of this process, significant investment in healthcare facilities and services is and will be taking place to provide an efficient and cost-effective healthcare service which improves care and experiences for the existing and future catchment population in Essex and Suffolk.

For Colchester Hospital, the current phase of investment which has been self-funded by the Trust, includes a new main entrance and retail units, whilst the Emergency Department (ED) incorporates provision of an Urgent Treatment Centre (UTC). These works are concerned with providing qualitative improvements to the Hospital by consolidating the UTC onto the main hospital site and improving its emergency care pathway in order to further improve standards and deliver increased operational and clinical efficiencies. The works also accommodate the Walk-in Centre which was previously located in the North Colchester Health Primary Care Centre (PCC) (now called Turner Road Surgery) adjacent to the main hospital site to the south.

4.3 The Planning Statement goes on to explain the justification for the proposal:

To accommodate additional visitor parking on the main hospital site arising from the transfer of the Walk in Centre from the adjoining Primary Care Centre, Staff Car Park A (adjacent to the Helipad) was recently reassigned to a visitor car park providing an additional 128 parking spaces. This car park is in relatively close proximity to the new Hospital entrance and included the reallocation of parking spaces to provide 6 blue badge spaces for staff or public use.

To re-provide the displaced staff car parking from Car Park A, the Trust is seeking to obtain planning permission for a single deck car park comprising 152 spaces on the western part of staff Car Park K (at the southern end of the site) and would provide for 153 net additional car parking spaces overall. This re-provision is considered to be necessary as the site does not have capacity to accommodate the transfer without replacement provision, as evidenced by the Trust's parking survey undertaken earlier this year.

Following the transfer of the Walk in Centre to the main Hospital, the vacated parking spaces located at the PCC will be utilised by staff and patients linked with the existing Turner Road Surgery. The Walk in Centre transfer and new decked car park will consequently provide for a small but useful amount of additional parking capacity. This along with the Trust's associated Travel Plan measures, will help with the management of activity and transport provision on the Hospital site.

4.4 The decked car park would extend over the existing surface car park (which would be retained as car parking). The decked car park would be 7.88 metres high at its highest point on the south-western corner and 2.33 metres high at its lowest point on the north-eastern boundary towards the Villas. When viewed from the main access road, the decked car park would range from 2.82 metres high at its eastern end to 4.4 metres high at its western end. The height

differences are due to ground level changes as the land slopes down from east to west and north to south. The upper deck of the car park would provide 152 car parking spaces and would be accessed via a vehicular and pedestrian ramp from an existing surface car park to the east (the remainder of Car Park K). An existing access on the northern boundary of the site would be blocked off. Existing car parking would be retained at ground level, although two car parking spaces from Car Park K would be lost in order to accommodate the access ramp for the decked car park. The proposal would result in 338 car parking spaces on the site.

- 4.5 The decked car park would have necessary steel vehicle barriers around the outer edge, as well as steel barriers to the ramp, but would also be 'clad' with treated softwood timber slats.
- 4.6 The application is supported by the following documents:
- Application Form
 - Air Quality Assessment
 - Archaeological Desk-Based Assessment
 - Construction Method Statement
 - Contamination Reports
 - Drainage Strategy
 - Ecological Appraisal
 - External Lighting Scheme
 - Heritage Asset Setting Assessment
 - Landscape Management Plan
 - Noise Survey
 - Parking Study
 - Planning Statement (including Design and Access Statement)
 - Transport Statement
 - Travel Plan
 - Tree Survey and Arboricultural Impact Assessment
 - Utilities Assessment
- 4.7 Drawings include:
- Existing Block Plan
 - Existing Site Sectional Elevations
 - Detailed Hard and Soft Landscape Scheme
 - Proposed Block Plan for Ground Floor with Deck Over (including Roof Plan)
 - Proposed Elevations – Streetview
 - Proposed Lighting Layout
 - Proposed Sectional Elevations - Facades
 - Proposed Sections, Floor Levels and Floor Plan
 - Site Location Plan

5.0 Land Use Allocation

- 5.1 Not allocated. The site is currently a surface car park within the wider General Hospital site.

6.0 Relevant Planning History

- 6.1 Given the growth and evolution of the General Hospital, there is a great deal of planning history. The hospital has expanded in a piecemeal fashion over the years and there have been many planning permissions to reconfigure certain elements of the hospital.

- 6.2 The application site was granted planning permission as a car park (along with the adjacent car park to the east) in 2007 (reference: F/COL/06/1871). The permission granted surface car parking for 344 spaces on land that was previously open space.

- 6.3 Additional planning history in the immediate vicinity of the application site includes:

The replacement building on the site of Villa 7 (to be used for health related, education, training and research) was granted planning permission in 2009 (reference: 090800).

The erection of a building for decontamination and sterilisation of hospital equipment (immediately west of the application site) was granted planning permission in 2010 (reference: 091193).

- 6.4 Recent planning permissions for the wider hospital site include:

Wellness Centre adjacent the main visitor car park (reference: 190779);

Emergency Department and Main Entrance Frontage Extension/Works (reference: 182480);

Cancer Day Care Unit (reference: 182361); and

Aseptic Unit to the south-east of the main hospital building (reference 181699).

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 considered in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA NGA1 Appropriate Uses within the North Growth Area

- 7.5 The Neighbourhood Plan for Myland and Braiswick (2016-2032) is also relevant. This forms part of the Development Plan in this area of the Borough.

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

- Essex Design Guide
- North Colchester Growth Area
- Sustainable Construction
- Sustainable Drainage Systems Design Guide
- Vehicle Parking Standards

7.7 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF in this case.

8.0 Consultations

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

8.2 Arboricultural Officer – recommends refusal subject to revision/additional information being provided.

In agreement with the submitted Tree Survey. The report advises that the proposed development will require the removal of numerous trees within the site. The trees in question are predominantly of low to moderate value with one being a high value tree. The loss of moderate and high value trees is not acceptable unless mitigated and does not comply with the requirements of local plan policy DP1.

The report provided does not provide any commentary on the loss except for it being 'to accommodate development'. A full justification of the losses should be provided with a description of why this is acceptable.

The above considerations need to be addressed before a full assessment of the proposed developments effect on the local landscape can be made or suitability of design confirmed.

8.3 Archaeological Adviser – recommended condition to secure a programme of archaeological work.

An adequate archaeological desk-based assessment has been submitted with the application (Cotswold Archaeology Report: SU0085_1, December 2019). There is, however, some potential for encountering early occupation remains at this location and groundworks will cause ground disturbance that has potential to damage any archaeological deposits that exist.

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

8.4 Colchester Civic Society – no comments received.

8.5 Contaminated Land Officer – recommended condition to secure investigation should any unexpected contamination be encountered.

A Phase 2 Geotechnical and Geoenvironmental Ground Investigation has been undertaken following recommendations of an earlier Phase 1 Desk Study. The report is acceptable for Environmental Protection purposes (note: the geotechnical sections have not been assessed). Based on the information provided, no unacceptable risks to the proposed development have been found and no further information will be required in respect of contamination matters unless any unexpected contamination is found at any time during the development.

8.6 Environmental Protection – recommended conditions for construction method statement; hours of work; hours of deliveries; and the provision of electric vehicle charging points.

8.7 Essex Bridleways Association – No comments received.

8.8 Highway Authority – No objection subject to conditions to secure parking for bicycles and motorbikes; and an updated travel plan.

8.9 Historic Buildings Officer – No objections in principle on heritage grounds, but a suitable landscape strategy needs to be secured in order to mitigate the impact of the new car park on the setting of the locally listed Crescent before the proposals can be fully supported.

8.10 Landscape Officer – The proposal cannot currently be supported on landscape grounds. Main points:

- 1 Detailed landscape proposals have been submitted with the application. This level of detail is normally addressed post-decision via conditions so as not to unduly protract the planning application process as finalising landscape detail can take some time. The full landscape details submitted need to comply with Colchester Council Landscape Guidance Notes C (LIS/C).
- 2 Any revised proposal should look to retain and reinforce the linear feature of juvenile evergreen oaks alongside the access road where agreed as A or B category, unless agreed for removal by the Arboricultural Officer. This to help ensure that as originally envisaged the developing evergreen oak avenue is preserved and enhanced as a distinct landscape feature that complements the historic character of the crescent.

- 3 The existing perimeter planting beds alongside the access road, originally designed to filter screen ground level parking zones, will need to be revised in order to also filter/screen the proposed decking. This can be achieved through reinforcing/replacing the existing low evergreen shrub layer and including within the planting mix tall/spreading evergreen shrubs set back against the structure. Proposals should also include sufficient preventative measures to help avoid the existing vehicular overrun onto and multiple pedestrian desire lines through the beds (e.g. knee-rail alongside the crescent's access road).

8.11 Natural England – No comment.

8.12 The Ramblers Association – No comments received.

8.13 SUDs (Essex County Council) – Following the receipt of further information, no objections subject to conditions to secure a details surface water drainage scheme; a surface water drainage maintenance and management scheme; and that the existing pipes within the site that are used to convey surface water, are cleared of any blockage and restored to fully working conditions before development commences.

8.14 Sustainability and Transport Policy – mixed comments.

It is agreed that the proposal will not generate additional trips, as previously existing trips to the Walk In Centre will be redirected to the hospital, but it is considered that more trips will be generated overall in the area as different customers access the new services replacing the Walk In Centre in the Primary Care Centre (PCC) building.

In light of the Climate Emergency declared by the Council in July 2020, and the hospital being a major generator of traffic and contributing significantly to local traffic congestion, the reduction in staff car parking could have been looked at as a travel behaviour change opportunity. The Trust could fully commit to, and implement, its Travel Plan and gain substantial travel behaviour change rather than accommodate demand and take on the huge expense of building a multideck car park.

The hospital has had a Travel Plan in place to encourage sustainable travel including good incentives for staff for many years. Car park management has been strengthened in the past couple of years with the introduction of ANPR and a more robust parking permit points system to help control access and manage demand for parking.

However, the success of the Travel Plan has been hampered by the ongoing lack of a dedicated Travel Plan Coordinator that is needed for a consistent approach to develop and implement a programme of activities to promote sustainable Travel Plan initiatives and support and encourage staff to take up the incentives offered. This is reflected in the lack of take up of initiatives illustrated in the draft Travel Plan and the high drive to work alone rate of 83% identified in the 2016 survey.

Our view is that there is still huge scope for behaviour change amongst both staff and visitors and that ESNEFT have not given their Travel Plan a full opportunity to succeed through insufficient dedicated resources being devoted to marketing and coordination. If a dedicated Travel Plan Coordinator had been in place the need for additional car parking may not be required.

The Sustainability and Transport team would therefore support an alternative approach whereby the hospital delay the building of a multideck car park and seek permission to continue to use Turner Road and Mill Road car park on a temporary basis. This would allow time for a Travel Plan coordinator to be recruited and the Travel Plan to be fully implemented, including a significant promotion of the Park and Ride and exploration of a specific service between the Park and Ride and onto the hospital site.

Previous post code mapping work with the Trust and the current version of the Travel Plan (although based on a very low response rate) demonstrates that a significant proportion of staff live within 2 to 4 miles of the site, a realistic and manageable distance for sustainable travel options.

If after 2 years there is still considerable pressure on the car park, a multi deck car park could be considered.

Without prejudice to the concerns raised, if the application were approved, the following commitments from the hospital are sought in order to mitigate the impact of the development, improve access for sustainable travellers, and avoid any future applications for additional car parking:

- Updated and acceptable Travel Plan with a robust action plan on promotions, future car park management strategy and modal shift goals (feedback and expectations provided against application 192684)
- Five year commitment to provide a dedicated Travel Plan Coordinator with immediate recruitment of full time officer;
- Commitment for ongoing membership of the Colchester Travel Plan Club
- Contribution/funding towards wayfinding project between station and the hospital to encourage hospital visitors as well as staff to consider travelling by train and walking the route to the hospital
- Implementation and enforcement of a no-idling zone across the hospital site
- Improvements to the walking route from the new car park to the main hospital via Admin block south
- Add cycling roundels on road footway from hospital junction with Northern Approach, and from its junction with Turner Road and the PCC (and link to hospital via Admin block south, to the secure cycle parking
- Improvements to the PCC centre vehicular entrance/junction and pavements to improve safety and accessibility for walkers and cyclists to the hospital and Queen Boudica school
- Wayfinding improvements between PCC centre vehicular entrance and the main hospital, Queen Boudica school and cycle parking on the site
- 'Statement' Secure, lockable cycle compound(s) for staff located in a prominent position

9.0 Parish Council Response

9.1 Myland Community Council have stated that they have no objections to the proposals.

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. However, a summary of the material considerations is given below.

10.2 Three representations of objection

- Increase in traffic, resulting in delays to road users and bus services;
- Air pollution (with reference made in one objection to the Royal College of Physicians and the Royal College of Paediatrics and Child Health Report of 2016 - Every breath we take: the lifelong impact of air pollution);
- Increased air pollution to the school;
- The Park and Ride is not sufficient as the stop is 'psychologically remote' from the hospital so will not be readily used;
- The creation of additional onsite car parking would:
 - Reduce the potential revenue viability and usage of a hospital park and ride service.
 - Dis-incentivise the hospital and staff to seek alternative ways of travel.
 - Allow people to take no exercise at all during their daily activities (increasing likelihood of obesity, osteoarthritis, poor levels of fitness and resilience);
- Are there any examples of where extra parking at hospitals has relived pressure on spaces in the short term? It is understood that extra parking spaces were created at Frimley Park Hospital and the parking issues are as bad as ever;
- Cars are contributing to the climate crisis;
- This will lead to further decked car parks;
- By permitting the decked car park, the Council will send out the wrong signal to how it would like to see transport in Colchester develop over the coming years. Car use inevitably means that public transport becomes less profitable and increasingly delayed due to congestion; and
- More car parking is not necessary. Plenty of workers can use the park and ride or the train. The Essex County Hospital functioned for many years with extremely limited parking (for both staff and visitors).

[Case Officer Note: These matters are assessed within the main body of this report at section 17]

10.3 Three representations of support

- Staff at the hospital should be able to travel and part at their place of work, especially during unsociable hours when buses and public transport are not available.
- Support the increase of car parking spaces for staff only; will hopefully take some pressure off local streets.
- There is a clear demand for parking and this will grow with increased services and population growth.
- The investment in parking is welcomed, although the Trust must also be pressed to make it less expensive and easier for their staff and visitors to travel to and from the hospital by public transport, discounted use of the park and ride, by foot, or cycle.

11.0 Parking Provision

11.1 The proposal seeks to provide a decked car park over an existing surface car park in order to provide 152 car parking spaces on the upper level.

11.2 Current parking provision at the hospital is recorded in the submitted Parking Study as follows:

Table 2.1 On-Site Staff Parking Provision

Car Park No.	Location	Total Spaces	Disabled Spaces (Included within total)
1	Car Park A	139	(0)
2	Car Park B	113	(0)
3	Car Park C	142	(0)
4	Car Park D	18	(0)
5	Blue Badge Car Park 'D'	14	(14)
6	Car Parks E, J and K	753	(0)
7	Car Park F	76	(0)
8	Car Park G	60	(0)
Total		1,315	(0)

Table 2.2 On-Site Visitor Parking Provision

Car Park No.	Location	Total Spaces	Disabled Spaces (Included within total)
9	Main Visitor Car Park	482	(21)
10	Radiotherapy Centre	32	(4)

11.3 It should be noted that Car Park A is now being used as visitor parking, hence the need to supplement the lost staff car parking elsewhere.

11.4 It is noted from the Car Parking Plan submitted with the Travel Plan that disabled car parking spaces are provided at multiple locations throughout the hospital site (in addition to those cited in the Parking Study records above). The Plan shows 96 disabled parking spaces in total, 31 of which appear to be for staff.

11.5 The Travel Plan also shows a number of parking areas for cycle parking and motorcycle parking throughout the hospital site, providing 174 cycle spaces and 11 motorcycle spaces in total.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposal for car parking is not considered to discriminate end-users as access is not restricted (other than the car parking being for staff only). Whilst the proposal does not include any additional disabled car parking spaces, this is not considered to be a discriminatory factor given the amount of disabled parking provided in the immediate vicinity which are sited in more convenient locations in terms of accessing places of work and facilities (i.e. outside the entrances to hospital buildings).

12.2 The Agent has provided a statement in respect of accessibility as follows:

The proposed re-provided staff car parking will allow further flexibility for ESNEFT to deliver improved accessible car parking across the Hospital as a whole. Linked to this proposal, ESNEFT has allocated a further 6 Blue Badge spaces within Visitor Car Park 2 near to the main Hospital entrance. In summary, Blue Badge parking will continue to be provided in convenient locations close to key hospital entrances for patients, visitors and staff. Further Blue badge parking will also continue to be located close to administrative and non-public clinical areas for staff. The number and location of Blue Badge spaces is shown on the car parking layout plan included within the Travel Plan. This policy of dispersal allows for optimum accessibility over the entire health campus. There are currently 96 dedicated Blue Badge spaces located across the Hospital for visitor/patient and staff use, representing just over 5% of the number of spaces overall. As part of its internal car park management system, ESNEFT continually monitors the situation and will provide further Blue Badge parking at suitable locations through the re-allocation of existing or provision of new spaces if the need arises.

The proposed decked car park is essentially an extension to Car Park K, a dedicated staff car park, which due to the distance from the main public entrances relative to other car parks is not allocated for public use for patients or visitors. Also, due to the relative remoteness of this location, no Blue Badge spaces are provided here for staff use either. If there was a need to provide such parking within this area following the construction of the parking deck, Blue Badge parking could be made within the covered ground floor area, which represents the most suitable and accessible location within this particular car park. A Building Regulations compliant staircase is also being provided to the upper deck area. The associated Travel Plan submitted with the planning application also makes provision for other accessible transport modes and

initiatives, such as improvements to the Hospital approach paths, as part of a complementary approach to the planning for sustainable and accessible travel.

In summary, ESNEFT is continuing to plan and provide for inclusive access within the Hospital including through the provision of the proposed development in compliance with the provisions of the Equality Act, which requires that due regard is given to the need to advance equality of opportunity between persons who share a relevant protected characteristic (i.e. persons with disabilities) and persons who do not.

13.0 Open Space Provisions

- 13.1 Open space provisions are not relevant for this proposal. Local Plan Policies require new residential development to provide open space. No contributions towards strategic open space have been sought from the Council's Parks and Recreations team.

14.0 Environmental and Carbon Implications

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030.
- 14.2 The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework (the Framework). Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 14.3 This report/consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. As part of this, the Agent has submitted a Climate Change Statement for consideration as per the below:

Background

ESNEFT is committed to working towards delivering carbon reduction objectives included in the Climate Change Act 2008 complemented by other related NHS requirements, including the recent publication 'For a Greener NHS' (January 2020). A Sustainable Development Management Plan (SDMP) 2019-2022 is also in operation, which is due to be updated later this year. The primary purpose of the SDMP is to drive reductions in ESNEFT's annual carbon emissions in line with statutory targets. In addition to staff travel, the SDMP covers a wide range of sustainability matters including; energy conservation, organisational and workforce development, procurement and supply chain, water, waste and built environment design considerations. ESNEFT's Annual Report, Annual Accounts and Quality Report (2019) explained that through various schemes implemented to date ESNEFT has achieved the 2020 carbon reduction target ahead of schedule and is now planning to achieve the 2025 target.

With this background in mind, ESNEFT recognises that the short and longer term impacts on the environment need to be managed to protect the health of individuals and communities. In this regard, and in line with its sustainability responsibilities, a range of measures are being brought forward through its SDMP aimed at reducing use of natural resources and reducing carbon emissions and waste as referred to above.

Colchester Hospital function and Catchment Area

For Colchester Hospital, ESNEFT has a statutory responsibility to provide acute health care services for the sub-regional catchment area covering a population of 350,000 people. As the effects of climate change have implications for public health, ESNEFT is geared up to respond to and deal with consequential impacts of the Council's recently declared climate emergency across the wider catchment area. In addition, set against a backdrop of increased clinical demand and healthcare need, ESNEFT is committed to working with partner organisations to reduce the effects of climate change and its own carbon footprint, delivered in part through its SDMP referred to above. This has to be undertaken in a realistic way that does not hinder the efficient operation of the acute Hospital itself, including the related transportation requirements of its staff, patients and visitors.

Proposed Car Parking & Travel Plan Measures

The proposed development comprises a decked car park for replacement staff parking along with a range of complementary measures brought forward from ESNEFT's latest Travel Plan (2020). The parking area essentially replaces a 139 space car park, displaced by visitor parking following re-allocation after the Urgent Treatment Centre was moved from the nearby Primary Care Centre (PCC). This occurred as part of the Emergency Department reconfiguration in October 2019. An additional 13 spaces are also being provided, to help regularise unauthorised and double bank parking, which has taken place on the site due to capacity issues and caused logistical issues.

Other than the provision of limited replacement lighting, the deck structure itself will not draw on the Hospital's energy supply, and the level of parking represents the minimum needed to ensure the acute Hospital can function effectively. ESNEFT employs approximately 4,500 staff at Colchester Hospital, although on-site staff parking provision is limited to around 1,300 spaces even with the replacement parking in place. The number of staff parking permits has also been significantly reduced and will be reviewed further on an annual basis. However, the Hospital cannot function with this intended level of reduced staff parking alone and necessarily relies on a range of complementary sustainable transport measures and initiatives being in place and promoted through its latest Travel Plan.

Consequently, as part of the current proposal, the following complementary travel and transport measures are being put in place within an overall package of measures to be delivered over the next 12 months:

- Appointment of a Travel Plan Coordinator to assist the current Energy and Sustainability Manager and Team*

- *Additional way finding for pedestrians between the Hospital and Railway Station*
- *Provision of cycling roundels between Turner Road and the Northern Approach pedestrian/cycle accesses*
- *Additional covered cycle and power two wheeler shelters within secure compounds*
- *Wayfinding improvements between the PCC and Hospital for pedestrians and cyclists*
- *Improvements to the pedestrian route between the new deck car park and main Hospital area*
- *Improvements to the shared PCC Turner Road entrance for pedestrians and cyclists*
- *Further measures to help disseminate information concerning the availability of pedestrian routes to the Hospital*
- *Implementation and enforcement of a no idling zone to enable improved dropping off areas*
- *Provision of additional electric vehicle charging points*

These measures are additional to a wide range of further initiatives including staff park and ride fare subsidies and improved on site bus stops and related real time information provision.

14.4 The proposals above demonstrate that actions will be taken to reduce the hospital's carbon footprint. The proposals in the hospital Travel Plan will be developed further as part of the Case Officer's request for delegated authority in order to achieve actions at the earliest opportunity (in consultation with the Council's Sustainability and Transport team). On this basis, it is considered that measures can be secured that would contribute to achieving sustainable development.

15.0 Air Quality

15.1 The site is outside of any Air Quality Management Area. The impact of the proposal upon air quality has been assessed and this assessment is detailed in the main body of this report at section 17.

16.0 Planning Obligations

16.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. In consideration of the nature of the proposal, it was determined that no planning obligations or contributions are necessary in order to mitigate the impact of the proposal.

17.0 Report

17.1 The main issues in this case are:

- Principle of Development
- Highway Matters (including sustainable transport)
- Amenity (including air quality)

- Design and impact on surrounding area (principally landscape, trees, and setting of undesignated heritage assets)

Principle of Development

- 17.2 The application site is part of established hospital grounds, located within the settlement boundary of Colchester and an identified growth area. Core Strategy Policy SD1 seeks to focus development in a number of areas within Colchester Town, including the North Growth Area and the expansion of Colchester General Hospital is identified in Core Strategy Policy SD3 as a key community facility with which to support the Sustainable Community Strategy and to develop Colchester as a prestigious regional centre.
- 17.3 Core Strategy Policy TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester. A key aspect of this is the improvement of accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Developments that are car-dependant or promote unsustainable travel behaviour will not be supported.
- 17.4 The proposal is for a car park so is clearly car-dependant. The application is, however, supported by a Travel Plan that proposes various measures and initiatives aimed at reducing the number of car journeys to and from the hospital in general. The Council's Sustainability and Transport team has requested some further amendments to the Travel Plan that would advance the deliverability of the measures and initiatives being put forward. On this basis, sustainable travel behaviour would be actively promoted by the hospital and the application would not be considered to be contrary to Core Strategy Policy TA1.
- 17.5 Given this context, there is no objection to the proposal in terms of the principle of development, subject to material planning considerations including sustainable travel initiatives as part of the associated Travel Plan.

Highway Matters (including sustainable transport)

- 17.6 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 17.7 A Transport Statement and Parking Survey has been submitted with the application, as well as a Travel Plan that sets out measures and initiatives to promote sustainable modes of transport. These include bus travel, cycling, walking, car parking management, and alternative ways of working and communicating as part of an overall sustainable transport strategy.

- 17.8 The application states that the proposed decked car park would provide staff car parking to replace that lost at Car Park A (to the north of the hospital site) which has been turned over to visitor car parking to service the relocation of the Walk in Centre to the General Hospital site. The Parking Survey demonstrates that staff car parks are at capacity at peak times. The Transport Statement acknowledges that, although the hospital itself will experience further activity due to the relocation of the Walk in Centre from the adjacent Primary Care Centre, the wider health campus as a whole together with the local road network is unlikely to experience any significant increase in related traffic generation overall. In this context, the Transport Statement concludes that the re-provided parking is unlikely to result in any significant additional traffic generation.
- 17.9 There are over 70 proposals within the submitted Travel Plan. Initiatives and measures include, but are not limited to, the following:
- Fund and appoint a Travel Plan Coordinator;
 - Liaison with Essex County Council and Colchester Travel Plan Club to provide additional wayfinding between the train station and the hospital for pedestrians;
 - Dedicated travel centre to be built on the hospital site in the future for publicising public transport information to patients, visitors, and staff;
 - Continue to promote/develop incentives via fare subsidy scheme for use of buses and trains by staff;
 - Provide cycling roundels on road footway from hospital junction with Norther Approach and entrances from Turner Road;
 - Provide 'statement' secure cycle compound(s) for staff located in safe and convenient locations;
 - Provide wayfinding improvements between Turner Road Surgery and the hospital for pedestrians and cyclists;
 - Provide improvements to the pedestrian walking route from the proposed single deck car park at Staff Car Park K to the main hospital site via Admin Block South;
 - Provide improvements to the Turner Road Surgery shared entrance junction with the hospital to improve safety and accessibility for walkers and cyclists;
 - Information regarding pedestrian network routes to be made available through newsletters, the intranet and patient literature;
 - Implementation and enforcement of a 'no idling zone' within drop off areas across the hospital site; and
 - Provide 12 electric vehicle charging spaces (6 staff and 6 visitor) within the hospital site.
- 17.10 Public representations express concern regarding traffic generation and the lack of interest in existing opportunities for sustainable modes of transport (particularly the Park and Ride). There has also been queries as to whether the proposed parking would ultimately relieve parking issues or whether the issues will continue.

- 17.11 In clarifying the traffic issue, it is important to note that the proposed car parking is a re-provision of displaced staff parking. There would be an increase in parking spaces at the hospital due to the transfer of services from the Primary Care Centre (PCC) to the new/reconfigured Urgent Treatment Centre, but that of course frees up car parking and traffic movements from the PCC (essentially a status quo).
- 17.12 The Park and Ride service is one of many options for travel to and from the hospital site. With regards to how the Park and Ride is used by hospital staff, the Agent has commented as follows:

The current park and ride service serves the Hospital from the stops on the Northern Approach Route which lie within 400m (i.e. a reasonable walking distance) of the majority of the Hospital site area. The Trust will continue to promote and subsidise use of the park and ride facility for staff through the Travel Plan with a view to increasing patronage further. The Travel Plan also encourages use of the park and ride by visitors (and patients) where possible. Additional use of the park and ride facility could also be pursued as a further initiative too. However, as explained above, these measures need to be complementary to the overall parking and transport facilities and arrangements provided by the Trust and could not realistically represent an alternative to the urgently needed replacement staff parking required on site on a 24 hour basis.

- 17.13 In order to address public representations that query whether the proposed parking will address parking issues, the Agent has provided a case study from Ipswich Hospital:

Concerning parking management beyond the short term, the Trust's recent experience at Ipswich Hospital is a good example of this working practice in operation. In 2016 visitor and staff car parking at Ipswich Hospital were operating close to capacity, which was creating logistical problems compounded by the growth in health care needs and demands. The Trust subsequently acquired an adjacent site and secured planning permission for a 200 space car park (and new helipad) creating much needed capacity. This occurred concurrently with the provision and implementation of a range of sustainable travel initiatives contained within the Travel Plan. The new car park was allocated to staff use and freed up capacity for further visitor/patient use on other designated car parks and the latest parking and travel surveys undertaken in 2019, indicate continued on-site parking capacity in both visitor and staff car parks, together with an impressive staff travel to work modal split (55% single car occupancy versus 45% other forms/modes). The parking surveys also highlighted that parking on nearby residential streets had been reduced. Ipswich Hospital is continuing to function efficiently and the patient/visitor experience and staff working conditions have been improved partly as a consequence of this development. The Trust intends to build on this success and extend the general approach across all ESNEFT sites including Colchester Hospital.

- 17.14 The Highway Authority has considered the submitted information and has confirmed that they have no objection to the proposal on highway and transportation grounds, subject to conditions to secure cycle and motorbike parking and an updated Travel Plan.
- 17.15 The Council's Sustainability and Transport team have concerns that the proposal for additional car parking is premature ahead of the Travel Plan being fully implemented and have suggested an alternative approach whereby the proposal for the decked car park is delayed for two years to allow the Travel Plan to be implemented and to assess its effectiveness; if after this time there is still considerable pressure on the car park, a decked car park could be pursued. The Sustainability and Transport comments are set out in detail at section 8.1 of this report.
- 17.16 The Sustainability and Transport team position has been given careful consideration. In highway impact terms, the National Planning Policy Framework (the Framework) states at paragraph 109 that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.' No severe highway impacts have been identified so a refusal on highway grounds is not considered to be justified.
- 17.17 In terms of sustainability, the proposal is for a car-dependant development, although this has been supplemented by the Travel Plan which sets out a considerable number of proposals to improve sustainable modes of transport to and from the hospital for both staff and visitors. In terms of how staff car parking operates at the hospital, approximately 4,500 staff are employed at the Hospital of which approximately 3,000 currently have parking permits and the Hospital only provides approximately 1,300 on-site parking spaces for staff. The submitted Parking Survey has demonstrated that there is a significant capacity issue for staff car parking on weekdays. The hospital has confirmed that reliance on travel modes and measures other than on car use and on-site parking will therefore continue to be an important element of the Trust's overall transport strategy. On balance, whilst the proposal itself is car-dependent, the need has been justified and the supplementary measures to encourage sustainable modes of transport are considered to mitigate the car-dependant nature of the proposal.

Amenity (including air quality):

- 17.18 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution, and daylight and sunlight.
- 17.19 The proposed decked car park is located amongst existing hospital development and north of an existing school sports pitch/playing field (Queen Boudica Primary School). With the proposed development being north of the school, it would not have a detrimental impact in terms of sunlight which would rise and fall east-south-west. The height of the car park would not be

excessive, measuring 5.62 metres on its southern elevation alongside the boundary with the school. The height of the car park is not considered to result in any harmful impacts to the detriment of amenity, such as loss of light. There are no concerns regarding overlooking as the timber slat cladding is proposed to extend above head height along the southern elevation of the car park where it faces the school grounds.

17.20 An Air Quality Assessment has been submitted with the application. The Assessment included dispersion modelling to assess the air quality impact of the development on sensitive receptors, including the adjacent Primary School, and concluded that impacts would be negligible in accordance with the Institute of Air Quality Management (IAQM). The Air Quality Assessment submitted with the application has been assessed by the Council's Environmental Protection team who have not expressed any concerns regarding air quality on the basis that the proposal presents the opportunity to promote sustainable travel, especially with the provision of Electric Vehicle (EV) charging points. The Travel Plan proposed the provision of EV charging points, as well as a commitment to undertaking an annual review of the demand for EV charging. Both active and passive charging points are recommended in order to promote sustainable travel for the site and to future proof the development.

17.21 It is noted that public representations are concerned with air pollution, but given the evidence submitted in the Air Quality Assessment as well as the Environmental Protection acceptance of the information submitted, there are not considered to be any issues that would justify refusal in this respect.

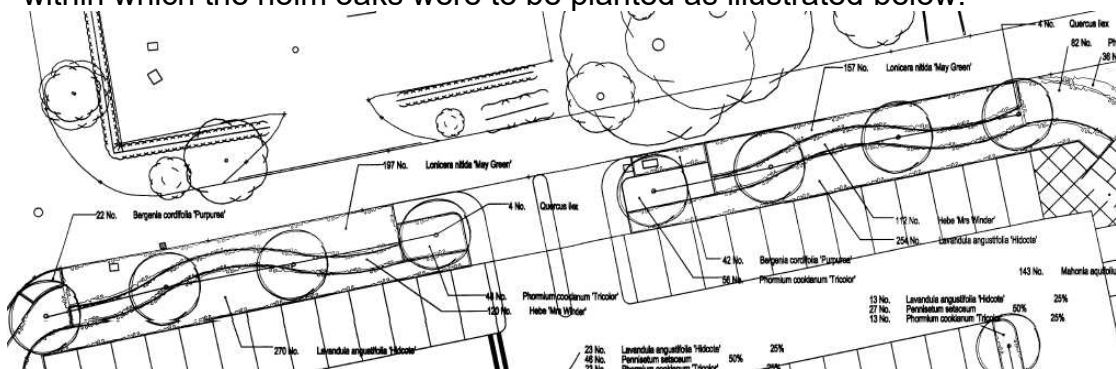
Design, Layout, and Impact on Surrounding Area (principally landscape, trees, and heritage setting):

17.22 As set out in section 8.1 of this report, objections and concerns have been raised by the Council's Arboricultural Officer, Landscape Officer, and Historic Buildings and Areas Officer (HBAO) in terms of the impact of the proposal on existing landscape features and how this, in turn, effects the character and appearance of the area; in particular, the setting of the locally listed Villa buildings which are undesignated heritage assets.

17.23 The relevant policy considerations are as follows: Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting. Development Plan Policy DP14 also seeks to conserve and enhance Colchester's historic Environment. In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. In respect of the Locally Listed villas, the Framework makes it clear, at paragraph 197, that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly

affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'

- 17.24 Currently the proposal would involve the loss of a number of trees, including the oaks along its northern boundary, which are categorized as B category trees. These trees (a linear feature of juvenile oaks) form part of the landscape scheme agreed as part of the planning permission for Car Park K. The agreed landscaping formed part of compensatory measures to mitigate the loss of the recreation grounds to the villas. It was envisaged that these juvenile oaks, together with the existing holm oaks on the opposite side of the access road, would in time form an avenue of holm oaks that at maturity would act as the principal landscape feature to this part of the hospital and that, due to its scale and softening impact on the built form, would have a correspondingly significant amenity value. The landscape scheme agreed allowed for a 6m bed within which the holm oaks were to be planted as illustrated below:



- 17.25 As Category B trees, the trees are regarded as being moderate to high value and a clear justification is required for their removal. The justification submitted, being that the trees are relatively young and their removal is required to accommodate the development, is not sufficient as the proposal is essentially 'designing in' the conflict with the trees when it should respond to the trees as a constraint and be designed accordingly so as to allow for their retention. It is considered that the scheme could be redesigned to allow for the retention of the oaks and the case officer recommendation provides for delegated authority to negotiate with the applicant in order to agree an acceptable solution.
- 17.26 In conclusion, the juvenile oaks should be retained as important landscape feature with long term amenity and value as a carbon store and that the proposed development should be revised to allow for a layout that allows these trees to establish unimpeded through to maturity.

Other Matters:

Archaeology

- 17.27 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment and development will not be permitted where it adversely affects important archaeological remains.

- 17.28 An Archaeological Desk-Based Assessment has been submitted with the application which the Council's Archaeological Adviser considers to be acceptable. Given that there are records of Romano-British activity in the vicinity of the site, there is archaeological potential and the groundworks necessary for the development would cause ground disturbance that would have the potential to damage any archaeological deposits that exist. In order to address this, the Archaeological Adviser has recommended a condition to secure a programme of archaeological work. The work would be required before any works commence on site and the applicant is keen to address the requirement during the current application rather than via condition. The Case Officer recommendation for delegated authority would allow for this to be addressed pre-determination of the application and conditioned accordingly.

Contamination

- 17.29 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.
- 17.30 A Phase 1 Contaminated Land Desk Study Report and follow on Phase 2 Geotechnical and Geoenvironmental Ground Investigation report have been submitted with the application. The reports have been considered to be acceptable by the Council's Contaminated Land Officer who has confirmed that the testing carried out has not identified any evidence of significant contamination and potential pathways to end users/controlled waters are considered of negligible risk. Recommendations have been made in the report(s) to protect groundworkers and offsite receptors during the development. Phytotoxic contaminants were also recorded, which were considered to pose a risk to vegetation (copper/zinc). A remediation method statement, watching brief and verification plan has been provided at section 7 of the Phase 2 report, to ensure that site works do not impact on site receptors and imported materials are chemically compliant for use in the development.
- 17.31 In consideration of the above, it can be concluded that there would be no unacceptable risks to the proposed development and no further information is required in respect of contamination. It is however prudent and necessary to ensure that appropriate investigation and remediation is undertaken in the event that any unexpected contamination is encountered during the development; hence, a condition is recommended to secure appropriate measures.

Ecology

- 17.32 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise

opportunities for the restoration, enhancement and connection of natural habitats.

- 17.33 A Preliminary Ecological Appraisal and Impact Assessment Report has been submitted with the application. The Report concludes that no further surveys are necessary and that the site has very limited habitat, although a walkover survey is recommendation prior to the start of construction in order to establish whether there has been any badger activity in the intervening period from initial assessment and construction. A summary of the likely impacts, mitigation and enhancement measures have been set out in Table 6 of the Report, as shown below:

Table 6: Summary of Likely Impacts, Mitigation and Enhancement Measures and Residual Impacts.

Feature	Likely Impacts	Further Surveys	Likely Mitigation and Enhancement Measures	Likely Residual Effect
European Designated Sites	No likely impacts	N/A	No mitigation/enhancement required	Negligible
SSSI/LWS	No likely impacts	N/A	No mitigation/enhancement required	Negligible
Country Park	No likely impacts	N/A	No mitigation/enhancement required	Negligible
Habitats	Loss of introduced shrub	N/A	Retention and enhancement of boundary habitat	Positive
Badger	Potential injury/death during construction	Walkover survey should be undertaken prior to the start of construction	Precautionary construction techniques Retention and enhancement of boundary habitat	Neutral
Bats	No likely impacts	N/A	Retention and enhancement of boundary habitat and trees with low bat roosting potential	Neutral
Birds	Loss or of nesting habitat in the form of scrub and hedgerows	N/A	Works to be undertaken outside of breeding bird season or after an ecologist has confirmed no active nests Retention and enhancement of boundary habitat	Neutral
Other notable species	Loss of habitat. Injury/ and or death to European Hedgehog	N/A	Sensitive habitat removal Retention and enhancement of boundary habitat	Neutral
Reptiles	No likely impacts	N/A	Retention and enhancement of boundary habitat	Neutral

- 17.34 Given the low habitat quality of the site, the recommendations and mitigation measures included in the Report are generally best practice and precautionary. These measures are as follows:

- Boundary habitats are retained and enhanced where possible with native species planting (detailed recommendations included in the report);
- Precautionary measures to mitigate in the event that badgers access the site (foraging/dispersing);
- Recommendation that the ash tree within the north-eastern section of the boundary is retained or, if it is to be removed, it is soft felled to reduce the residual risk of killing or injury to bats;
- Any clearing of habitat should be outside the hedgehog hibernating season (generally November to February inclusive), noting that September/October

would be the optimum time to remove vegetation as this avoids both the nesting bird season and hedgehog hibernation season.

- 17.35 In response to these recommendations it is considered that the boundary habitat can be retained and enhanced via the landscape revisions and agreed proposals (to be negotiated under delegated authority as per the case officer recommendation). It is noted that the ash tree recommended for retention is shown as being retained on the submitted tree survey and impact assessment which is a positive both in terms of landscape and ecology reasons. The recommendations for vegetation clearance and precautionary measures for badgers (the site walkover and procedures during construction) can be suitably controlled/secured via condition or informative as necessary.
- 17.36 It is therefore considered that the proposal would not have a harmful impact on ecology subject to conditions.

Flood Risk and Drainage

- 17.37 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 17.38 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.
- 17.39 A drainage strategy (Haydn Evans Consulting Drainage Strategy Rev B (January 2020)) has been submitted which acknowledges that the proposed deck would result in a net increase in impermeable area of 200sqm and proposes that the upper deck of the car park will drain to a series of channel drains and hence via downpipes to a new 150sqm attenuation tank with additional surface storage of 46sqm to contain the 1 in 100+ 20% event on the site. The discharge from the new upper deck would be restricted to 4.5litres/second giving a 50% betterment for the existing car park. The drainage will also pass through an existing oil interceptor and a new Aqua Swirl vortex separator to improve water quality discharging from the site.
- 17.40 Essex County Council SUDs, as Lead Local Flood Authority, have assessed the submitted strategy and have no objection to the proposal subject to further information being submitted and agreed. A surface water drainage maintenance and management plan is also required, as is the requirement for existing pipework to be cleared of any blockages prior to commencement of the development. The further information has been requested as conditions, although the applicant is keen to address this ahead of the application being determined. This matter can be dealt with as part of the Case Officer recommendation for delegated authority and then conditioned as appropriate.

Health Impact Assessment:

- 17.41 Development Plan Policy DP2 states that Health Impact Assessments (HIA) will be required for all residential development in excess of 50 units and non-residential development in excess of 1,000 square metres. The purpose of the HIA will be to identify the potential health consequences of a proposal on a given population, maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal's environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities.
- 17.42 In response to the provisions of Development Plan Policy DP2, an HIA has been submitted. As the proposed development is for ancillary infrastructure as part of the wider hospital, and no additional departments are proposed, the scope of the HIA has been limited to a brief desktop review only. This approach is accepted by the Case Officer.
- 17.43 The submitted HIA states that there are two main parts of the HIA being a) the requirement for the parking facility to support the function of the Hospital and its impact on local health service provision, and b) the public health consequences of re-providing the staff car parking including complementary Travel Plan measures submitted alongside the planning application.
- 17.44 Overall Hospital healthcare strategy, parking and travel plan provision, and environmental impacts (traffic generation, air quality and pollution, light pollution, noise impact, landscape and amenity). Ultimately, the HIA concludes that the proposed parking will support and enhance the provision and function of vital accessible healthcare facilities, with no consequential significant adverse effects on local public health, equality and wellbeing being experienced.
- 17.45 The Myland and Braiswick Neighbourhood Plan 2016-2032 has been considered as part of the assessment of this application. The Plan does not make a great deal of reference to development proposals at the hospital, although it does comment that 'Residents generally considered that public transport should be affordable, have cheaper fares and family tickets, more regular/frequent buses - especially in the mornings and evenings, direct local destinations e.g. General Hospital and PCT Centre, better display of bus times and more information and that the buses should be 'friendlier and cleaner'.' The submitted Travel Plan demonstrates that the hospital does provide various incentives for public transport. The Travel Plan will need to be secured as part of the proposed scheme; in which case, there is not considered to be any conflict with the statement made in the Myland and Braiswick Neighbourhood Plan. In addition, Myland Community Council have commented on the application and have not raised any objections to the proposal.

17.0 Conclusion

17.1 In conclusion, the proposal is considered to be acceptable in principle given mitigation measures including sustainable modes of transport (subject to some tighter timescales being secured in respect of the implementation of the measures proposed in the submitted Travel Plan). There are outstanding issues in respect of trees, landscape, and heritage impact, although this is considered to be capable of resolution subject to amendments to the scheme.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL in terms of the principle of development, with DELEGATED AUTHORITY to negotiate amendments to the proposals in order to address matters pertaining to trees, landscape, and the setting of non-designated heritage assets, as well as the necessary requirements for conditions. Matters considered necessary to secure via condition would include the following:

- **Time Limit for Full Permissions**
- **Development to Accord with Approved Plans**
- **Construction Method Statement**
- **Limits to Hours of Work and Deliveries (unless included in the Construction Method Statement)**
- **Tree Retention (and replacement as necessary)**
- **Tree Protection**
- **Archaeology**
- **Landscaping**
- **Landscape Management Plan**
- **Surface Water Drainage Scheme**
- **Surface Water Drainage Works**
- **Surface Water Drainage Maintenance and Management**
- **Bicycle and Motorcycle Parking**
- **Travel Plan**
- **Reporting of Unexpected Contamination**
- **Ecology**

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

3.ZTB - Informative on Any Application With a Site Notice

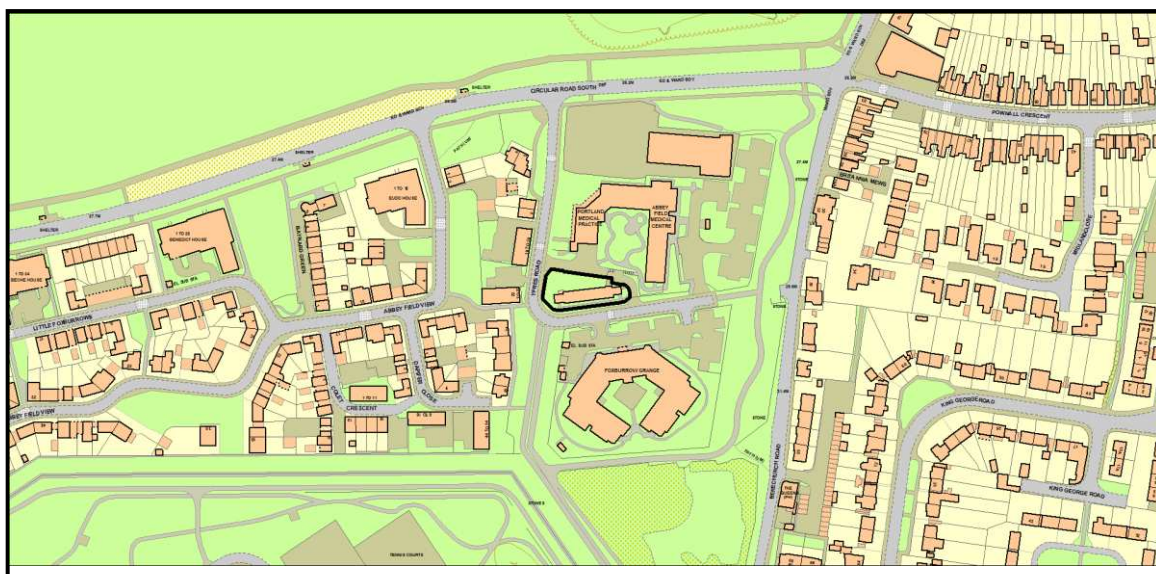
PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

4. Highway Authority 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



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Item No: 7.3

Application: 192137

Applicant: Mr Beckett, Colchester Foodbank

Agent: Ms Richmond, Duncan Clark & Beckett Ltd

Proposal: Change of Use and Minor remodelling works to accommodate Colchester Foodbank centre

Location: Former Pharmacy, Abbey Field Medical Centre, Ypres Road, Colchester, CO2 7UW

Ward: Shrub End

Officer: Alistair Day

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as Cllr Hazell has called the application in on the following grounds:

Ypres Road is narrow and suffers from heavy traffic congestion. The medical centre car park is always overflowing, cars park on every piece of green or pavement on both side of the road from Circular Road South. It is often quite hazardous to find a way through in the narrow space available. Car spaces at the application site will be inadequate for the running of the project.

- 1.2 Cllr Hazell has been advised that the application has been amended so that applicant is now seeking a temporary two-year permission to use the Medical Reception Store as a Foodbank. Cllr Hazell does not believe that this amendment affects the problems highlighted in regard to the congestion the whole length of Ypres Road and in nearby roads.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, the potential impact on the local highway network (notably Ypres Road), parking provision, the impact that the development would have on residential amenity and on the character and appearance of the area.

- 2.2 The application is recommended for condition approval.

3.0 Site Description and Context

- 3.1 The former military Medical Reception Stores (MRS) sits on the southern boundary of the wider Abbey Field Medical Centre, itself bounded by Ypres Road. The MRS is currently vacant and has not been actively used since the military vacated the site.

- 3.2 The MRS is a single storey detached pavilion building composed of one principal volume with subsidiary extended volumes at either end. It is brick-built with a pitched roof of double Roman interlocking roof tiles. The building's principal elevation faces Ypres Road; the north elevation into the site is almost windowless. Windows are timber sliding sash, with security bars fitted externally. The building is served by a separate vehicular access from Ypres Road (gated), with a setting down area and two parking spaces.

- 3.3 Residential development and the Fox Burrow Care Homes are located to the west and south of Ypres Road. To the east and north of the site is the Abbey Field Medical Centre. Beyond the Abbey Field Medical Centre to the east is a landscaped corridor (the Garrison Eastern Greenlink). To the north of the Medical Centre car park is the former Garrison Gym which is currently used as a theatre rehearsal space and for community-based lettings. A Locally Equipped Play Area (LEAP) is proposed on the site of the former garrison swimming pool (to the west of the gym).

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the change of use of the MRS to a foodbank.
- 4.2 The application as originally submitted proposed a permanent change of use; the application has however been amended and now seeks a temporary planning permission (two years from the date of opening).

5.0 Land Use Allocation

- 5.1 Garrison Regeneration Area

6.0 Relevant Planning History

- 6.1 O/COL/01/0-0009 – Garrison Urban Village Development comprising residential development (up to 2,600 dwellings) mixed uses (including retail, leisure and employment), public open space, community facilities, landscaping and highway and transportation
- 6.2 120254 - Change of use to D1 primary health care facility, internal alterations and adaptations, 2no. minor extensions, formation of car park and perimeter 2.4m security fencing and gates. Erection of site signage, installation lighting to car park.
- 6.3 173319 - Change of Use of the former MoD Medical Reception Store to provide ancillary accommodation for the Abbey Field Medical Centre.
- 6.4 182757 - Refurbishment of current redundant building into an Administration Hub; together with internal alterations to Medical Practice to provide 3 Consultation/Examination rooms along with provision of overspill car parking for 20 cars.

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 (the Framework) is a material consideration. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
 - SD2 - Delivering Facilities and Infrastructure
 - SD3 - Community Facilities
 - UR1 - Regeneration Areas

- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

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
- DP4 Community Facilities
- DP14 Historic Environment Assets
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP25 Renewable Energy

7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA GAR1 Development in the Garrison Area

7.5 The Council is developing a new Local Plan (Submission Colchester Borough Local Plan 2017-2033). The whole of the emerging Local Plan was submitted to the Secretary of State in October 2017; however, the examination of the sections is taking place separately. The Section 1 examination hearing sessions were held in January and in May 2018. The Inspector had concerns with the plan’s evidence base and the examination process paused to allow additional work to be undertaken that would make the plan sound. Further hearing sessions have taken place in January 2020 and the Inspectors initial findings are expected in late spring. The examination of Section 2 of the emerging Local Plan is estimated to go ahead in late 2020 .

7.6 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
- The Garrison Master Plan
- Goojerat and Sobraon Barracks Development Brief

8.0 Consultations

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

Archaeological Advisor

8.2 No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

Environmental Protection

8.3 No comments

Contaminated Land Officer

8.4 No comments

Highway Authority

8.5 The Highway Authority initially raised an objection to this application on the grounds of parking and the lack of evidence to demonstrate the potential impact of the traffic movements on the local highway network.

8.6 The Highway Authority has withdrawn its previous recommendation of refusal and has confirmed that they are content to accept a temporary approval for a period of not less than two years. A condition securing concise monitoring and recording of traffic movements generated by the sites activities is recommended. In addition, the Highway Authority suggests that the applicants submit a Travel Plan that is approved in writing by the Local Planning Authority, to be effective from the first date of operation of the proposed development.

9.0 Parish Council Response

9.1 Not Parished.

10.0 Representations from Notified Parties

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

- Increase traffic
- Lack of parking facilities
- Ypres Road is a narrow road and is already congested with parked cars
- The area is used as parking for people that walk into town
- Getting to and from the site is not easy; one bus an hour or quite a walk into town
- A town centre location would be more accessible
- Children playing locally and at the proposed play area at the bottom of this road will be exposed to additional traffic and pollution

11.0 Parking Provision

11.1 Two car parking will be maintained to serve this development

12.0 Accessibility

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

13.0 Open Space Provisions

13.1 Not applicable

14.0 Air Quality

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

15.0 Environmental and Carbon Implications

15.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. Consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. It is considered that on balance the application represents sustainable development.

16.0 Planning Obligations

- 16.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

17.0 Report

Background and Principle of the Development

- 17.1 Outline planning permission was granted in 2003 for Garrison Urban Village Development which comprised residential development (up to 2,600 dwellings) mixed uses (including retail, leisure and employment) public open space, community facilities, landscaping and highway and transportation improvements. The current application site falls within the Garrison Urban Village site boundaries.
- 17.2 The former gym and the Medical Reception Centre (but not the MRS building) were identified in the garrison legal agreement for transfer to the Council and are to be used for community and health uses. The former gym and the Medical Reception Centre were transferred into Council ownership in 2010. The MRS was acquired by the medical centre from Taylor Wimpey as a part of a private sale agreement.
- 17.3 Planning Policy SA GAR1 of the Site Allocations Plan states that the garrison area will be predominantly residential but can include leisure, community and health uses. The adopted Goojerat and Sobraon Barracks Development Brief identifies this part of the application site as being suitable for providing primary health care facilities and/or other local community uses.
- 17.4 In 2013 an application was approved for the conversion of the Medical Reception Centre and the MRS to D1 Primary Health Care use (now operated / known as the Abbey Field Medical Centre).
- 17.5 In 2017 a planning application was submitted for change of use and conversion of the MRS to a new primary healthcare centre (Class D1 (Primary Health Care)) to be used by Beacon House, a homeless charity. This application was subsequently amended to a change of use of the MRS for ancillary purposes to the medical centre. The amended application in effect removed the restriction that the MRS had used for the purposes of a doctor’s surgery only but still required the building to be used for the purposes of the medical centre. This permission remains extant.
- 17.6 In 2018 a further application was submitted for the refurbishment and conversion of the MRS into an Administration Hub (linked to the medical centre); together with internal alterations to Medical Practice and the conversion of the central landscape courtyard into an overspill parking area. This permission remains extant.
- 17.7 The current application seeks permission for the re-use of the MRS as Foodbank. Planning Policy SA GAR1 accepts the principle of community

and health uses within the Garrison Urban Village development and these uses accord with the guidance set out in the Council's adopted development brief. In view of this, and the recent planning history associated with MRS, there is not considered an objection in principle to the change of use of this building to a foodbank.

Character and Appearance

- 17.8 The MRS is a single-storey building, composed of one principal volume with subsidiary extended volumes at either end. It is brick-built with a tiled roof. The building's principal elevation is to Ypres Road; the north elevation, facing into the site, is almost windowless. Windows are timber sliding sash, with security bars fitted externally. The building is considered to be of historic interest as it reflects the later stages of the historic development of the Garrison in Colchester and, as such, can be considered as a non-designated heritage asset.
- 17.9 The proposal to convert the MRS to a new use is welcomed both from a sustainability and heritage perspective. The Design and Access Statement explains that design principle underpinning the submitted scheme is to keep interventions to the minimum and to restore and retain the building's positive qualities. It is proposed to keep the service deliveries and client accesses separate for safety and operational reasons. The existing rear access will be used for deliveries, and a new 'client' entrance will be created by modifying an existing window opening. This is the only proposed alteration to the external appearance of the building. Internally some remodelling will take place to create a 'meet & greet' reception area and 1 no. WC and 1 no. accessible WC, with baby changing facilities.
- 17.10 The proposed conversion and refurbishment of the MRS will serve to improve the character and appearance of this area. The existing boundary fencing (a remnant from when the MRS was used by the military) is not in-keeping with residential development that now characterises the area. It is therefore recommended that a condition is attached requiring the removal of the chain link fence as a part of this application. (This is consistent with conditions attached to previous permissions).

Residential Amenity

- 17.11 The nearest residential properties to the MRS are located in Ypres Road and Foxburrow Grange. There are also residential properties in Berechurch Hall.
- 17.12 It is proposed that the Foodbank will be open to visitors from 10am to 2pm Monday to Saturday. The conversion of the MRS building to a Foodbank is not considered to result in significant adverse impact (in terms of noise and disturbance) to neighbouring property and is not materially different to the uses previously approved in this respect. Environmental Protection has not raised an objection to the use of the MRS as a Foodbank.
- 17.13 Objection has been raised on the grounds that the proposal will result in increased car trips which will result in an adverse impact on air quality.

Whilst these concerns are appreciated, the anticipated number of trips to the foodbank are (based on the available information) likely to be relatively modest and are not considered to significantly affect the air quality in this part of the town. Environmental Protection have not raised any concerns regarding this development's potential impact on air quality.

- 17.14 The conversion works could potentially cause temporary noise and disturbance. To safeguard the amenity of nearby residents, it is also recommended that a construction management plan (to include the hours of work) is submitted for approval.
- 17.15 Subject to the above safeguards, it is considered that the proposed development would not have a significant adverse effect on the living conditions of the neighbouring residential properties. The proposed development is not therefore considered to conflict with DPD Policy DP1 or the Framework insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

Trees and Landscape

- 17.16 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. The change of use of this building will not result in a material change to the existing townscape. No trees are directly affected by this proposal. A condition is proposed requiring the removal of the existing fence prior to the occupation of the building and a general landscape condition. These should potentially lead to enhancement of the existing site.
- 17.17 Given the above, the current planning application is considered to accord with relevant CS Policy ENV1, DPD Policies DP1 and DP21 which requires planning applications to conserve or enhance landscape features.

Transport, Accessibility and Parking

- 17.18 Both the CS and DPP contain policies to safeguard highway safety and promote accessible developments. The site is located approximately 1.5km to the south of Colchester town centre. Circular Road South and Berechurch Road are located to the north and east of the site respectively. Buses travel along both of these roads. Ypres Road wraps around the west and south of the site. The vehicular access to the site is from Ypres Road (south side). In terms of pedestrian and cycle connectivity, there are combined pedestrian / cycleways to the north and east of the site. A Toucan crossing connects these routes to the pedestrian cycle link that crosses Abbey Field and continues beyond. There are 2m wide footways to the south and west of the site. There is a controlled pedestrian crossing at the junction of Circular Road South and Berechurch Road. The site is thus well connected in terms of pedestrian and cycle links.
- 17.19 Concern has been expressed that the proposed change of use of the MRS to a Foodbank will increase car activity in the area and that this will create highway safety and capacity issues in Ypres Road (where access can be

restricted due to on-street parking). Concerns have also been raised that parking provision in the area is already inadequate and if more people are encouraged to this site, they would be displaced into the road and further impede the movement of vehicles in Ypres Road. The Highway Authority shares the concerns about the level of parking and the implications that this may have for the free flow of traffic in Ypres Road.

- 17.20 The Design and Access Statement explains that the site (as a whole) provides 46 spaces + 6 accessible spaces on the Abbey Field Medical Centre side; a further 3 + 1 accessible spaces adjacent to the Portland Practice entrance; and two outside the MRS. Each parking area is separately accessed, and no parking area can be reached via the other.
- 17.21 The MRS is allocated two parking spaces. The proposed use (foodbank) does not fall neatly into any of the categories / uses in the Council's adopted parking standards; however, a B8 use (Storage and Distribution use with an element of retail) would seem reasonably compatible. This use requires 1 space per 150 sqm +1 space per 20 sqm retail area for customer parking; these standards would result in a requirement for 4 parking spaces. As Members will be aware, the Council's adopted parking standards for commercial development are maximum standards and therefore the proposal to provide two parking spaces is not in conflict with the adopted standards.
- 17.22 Notwithstanding the above, given the concerns expressed in respect of parking, the agent has sought to clarify how the Foodbank will operate. They have explained that site is located approximately midway between Monkwick and central Colchester (which will be the primary areas that this Food bank will serve) and where reliance on the Foodbank is higher. It is stated many of the existing users do not own a car and that it is expected that these users will continue to travel to the foodbank on cycle, foot, &/or bus. The applicant states that approximately 50% of their existing users travel to the foodbank by car and that the typical time spent visiting the foodbank is 15-20 minutes. It is further explained that the foodbank will be open for four hours and will typically have 10 visits a day, of which 5 to 6 are made by car. The 6 visits will be divided between the three foodbank centres (Abbeyfields, Greenstead, North Station Road); which means that each centre will be visited by 2 cars, on average, each day. Given this, it is opined that the two parking spaces at the MRS will be sufficient to accommodate the level of visitor traffic associated with the proposed Abbeyfields foodbank. With regard to staff parking, it is stated 2 staff will be on duty at any time. It is proposed that one of the two allocated parking spaces will be used by staff. It is stated that deliveries are made by car rather than van and will take place when the centre is not open to the public (and will therefore be able to park in the visitor parking space).

- 17.23 Notwithstanding the above and the submission of a travel plan, the Highway Authority has continued to express concern over the lack of provision of on-site parking and the implications that potential overspill parking may have on the flow of traffic in Ypres Road. In negotiation with the applicant it has been agreed to amend their application to a temporary permission (two years from the date of the operation coming into use). This will allow the applicant to gather site specific information on travel patterns and therefore support a potential future application for a permanent use. The temporary permission also gives the Highway Authority the safeguards that they require should the travel patterns be significantly different to those anticipated by the applicant – i.e. the Highway Authority will be able to seek mitigation measures to address increased traffic flows or recommend that application for permanent permission is refused if mitigations works are not considered possible. Highway Authority has confirmed that they have no objection to a temporary use. Their recommendation for monitoring and recording of traffic movements is proposed as an informative rather than a condition and a condition is attached requiring the submission of a travel plan.
- 17.24 For the reasons given above the proposal is considered acceptable in terms of potential highway impacts and in terms of the proposed level of parking provision. The temporary nature of the permission sought allows for the operation of the venture to be reviewed should any problems arise.

Contamination

- 17.25 DPD Policy DP1 requires all development to avoid or mitigate unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land. The Council's Contamination Land Officer has not raised an objection to this application. Given that the site was formerly garrison land there is potential for unknown contamination and a condition is proposed to cover this eventuality, together with the informative recommended by the Contamination Land Officer

18.0 Conclusion

- 18.1 The Framework has at its heart the promotion of sustainable development. The proposal has significant sustainability credentials. The conversion of the MRS to a foodbank will secure the future of the building, a non-designated heritage asset. The proposal is not considered to not have detrimental impact on air quality, residential amenity and/or the character and appearance of the area. The highway impact of the proposals is unproven; however it is considered that a temporary use will enable the traffic implications to be monitored basis and traffic impacts to be addressed should an application be submitted in the future for permanent permission. It is considered that the scheme would acceptably fulfil the environmental dimension of sustainable development. The development will also have economic benefits in terms possible creation / retention of jobs. The re-use the MRS as foodbank is considered to fulfil social dimension of the Framework and would deliver an important public benefit to vulnerable members of the community. Having given careful consideration to

application, the submitted representations and local and national planning policy and guidance it is considered, on balance, that the current application should be approved subject to conditions

19.0 Recommendation to the Committee

19.1 The Officer recommendation to the Committee is for **APPROVAL** of planning permission subject to the following conditions:

1 - ZAA - Time Limit for Full Permissions

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

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

2 - ZAM - *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 JP CFB PA-10 and JP-CFB PA LOC A.

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

3 - Temporary Permission

The development hereby permitted shall expire after a period of two years from the date of that the foodbank first opens to the public. The applicant shall submit notice to the Council of the opening date of the foodbank a minimum of 14 days prior to the use hereby permitted coming into operation. Within 28 days from the date at which this permission expires any material, equipment or hard landscaping resulting from, or used in connection with, the use hereby permitted shall be removed from the site in its entirety and in accordance with a scheme that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and to enable the traffic trips generated by the Foodbank to be properly assessed / monitored.

4 - Building Recording

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

Reason: To ensure the proper and timely investigation, recording, reporting and presentation of heritage assets affected by this development.

5 - 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
- measure to prevent dirt and debris going onto the highway

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.

6 - Lighting

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity)

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

7 - Control over Opening Hours

The use hereby permitted shall operate between the hours of:

- 09:00 and 18:00 on Mondays to Fridays
- 09:00 and 18:00 on Saturdays; and
- at no time on Sundays, Bank or Public Holidays

And the building shall not be open to customers except between the hours of:

- 10:00 and 14:00 on Mondays to Fridays
- 10:00 and 14:00 on Saturdays; and
- No time on Sundays, Bank or Public Holidays

Reason: To ensure that the use hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise and for the avoidance of doubt as to the scope of this permission.

8 - Removal of existing fencing

Notwithstanding the details shown on the submitted drawings, the existing perimeter chain link fence and concrete posts shall be removed and an alternative boundary treatment, which shall previously been agreed in writing with the Local Planning Authority, shall be implemented prior to the Foodbank coming into operation.

Reason: The former MoD boundary treatment (chain link fence and concrete posts) is considered inappropriate in terms of its design and detracts from the quality of this residential area.

9 - Travel Plan Amendments

Notwithstanding the details set out in the Travel Plan, the Travel Plan shall be amended to include details of the following:

- Travel Plan objectives
- Travel Plan Coordinator
- Monitoring and recording methods to travel to the centre

- Targets

- Action Plan

- Sustainable travel options
- Car Park management
- Promotion and Marketing
- Monitoring and Review

The amended Travel Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the proposed Foodbank and the development shall be operated in accordance with the agreed Travel Plan.

Reason: To ensure that a development takes place which exploits opportunities for the use of sustainable transport modes for the movement of goods and people

10 - Unforeseen contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such time as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with 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'. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

Reason: The site lies on or in the vicinity of former MoD land where there is the possibility of contamination

11 – New doors

Prior to installation of the new door drawings at a scale of between 1:10 and 1:50 as appropriate shall be submitted and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved

drawings. The existing windows shall be retained and repaired unless otherwise approved in writing by the Local Planning Authority.

Reason To ensure that the architectural and historic integrity of the building is retained and enhanced.

1. Informatives

2. 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.

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 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. ZTB - Informative on Any Application with a Site Notice

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

5. Informative Asbestos

The applicant's attention is drawn to the need for asbestos surveys to be undertaken, in accordance with the obligations under the Control of Asbestos Regulations 2012.

6. Informative Highways

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



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Item No: 7.4

Application: 193009

Applicant: Mr Marc Carter

Proposal: Electric roller garage door (and motor) fixed to applicant's property to the front of carport - in accordance with and as advised by Crocodile. Sole purpose for the installation is to provide security for the family members (children) and to restrict access to the rear of the property.

Location: 83 Apprentice Drive, Colchester, CO4 5SE

Ward: Mile End

Officer: Simon Grady

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the Applicant lives at the Application Site with a member of Colchester Council staff.

2.0 Synopsis

- 2.1 This is a retrospective application for the installation of a roller garage door serving a car port at a dwellinghouse. The key issues for consideration are its impact on parking provision, neighbour amenity and its visual impact on the street scene.
- 2.2 These matters have been considered alongside planning policy requirements and other material matters, leading to the application being subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 Apprentice Drive is located on the major development on the former Flakt Woods site off Bergholt Road in North Colchester, which was given planning permission in 2004. The property is a semi-detached dwelling built around 2010/2011 and located within the Myland Community Council area. The house is set close to the pavement with parking to the side with a fence to the rear of the parking to screen the back garden.

4.0 Description of the Proposal

- 4.1 The application is for a roller garage door that was fixed to the front of the applicant's car port in June 2019 as an additional security measure.

5.0 Land Use Allocation

- 5.1 Residential within the Central Colchester Settlement Area.

6.0 Relevant Planning History

- 6.1 The original planning permission for the development was granted in 2004 (ref O/COL/03/1019) for the demolition of two dwellings and redevelopment of existing factory premises for mixed-uses comprising up to 750 dwellings (including a small number of 'live-work' units) with a minimum floorspace of 650,000 sq.ft. net gross internal area, 'local' shopping facilities, doctors surgery, creche, business incubator units, community facility, public open space together with a modified access onto Bergholt Road and footpath/cycleway to Three Crowns Road.
- 6.2 This permission included the removal of Permitted Development Rights.
- 6.3 In 2016 an Application (ref 160290) was made to reduce the size of the parking area to allow for a larger rear garden. The Application was approved.

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
UR2 - Built Design and Character

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
DP12 Dwelling Standards
DP19 Parking Standards

7.4 There are no relevant policies within the adopted Borough Site Allocations Policies (adopted 2010, amended 2014).

7.5 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

7.6 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh

the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

- The Essex Design Guide
- EPOA Vehicle Parking Standards
- Myland Neighbourhood Plan

8.0 Consultations

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

8.2 The Highway Authority has no objection to this Application.

9.0 Parish Council Response

9.1 Myland Community Council has objected to the garage door due to concerns that it is “out of keeping with the street character”. The Community Council also notes the loss of light to the side window of the neighbouring property.

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. However, a summary of the material considerations is given below.

10.2 An objection has been received from the father of the neighbour who expressed concerns that in the future the addition of another door to enclose the rear of the car port would mean the toilet window would not receive any natural light.

11.0 Parking Provision

11.1 The off-street parking provided to the side of the house is approximately 10.5 metres long. This is slightly below the current parking standards (updated in 2007). The proposal will not affect existing parking arrangements, which is assessed at paragraphs 17.6 and 17.7.

12.0 Accessibility

12.1 The addition of the garage door does not give rise to any concerns regarding discrimination or accessibility.

13.0 Open Space Provisions

13.1 This Application does not affect Open Space provision.

14.0 Environmental and Sustainability Implications

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030.
- 14.2 The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 14.3 The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that the application represents sustainable development.

15.0 Air Quality

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

16.0 Planning Obligations

- 16.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

17.0 Report

The Principle of Development

- 17.1 There are no concerns with the principle of introducing a garage door to a car port in this location. The door is slightly set back from the road and does not obstruct any important views, for example into the countryside.

Impact on the Surrounding Area

- 17.2 Local Plan Policy UR2: Built Design and Character, promotes the importance of high quality and inclusive design in all developments to make better places and says that developments that fail to enhance the character, quality and function of an area will not be supported. It is considered that the design of the garage door does not have a negative impact on the character of the surrounding area. The Community Council has objected to this application based on the garage being out of character in the area. However, there are other garage doors of the same appearance close to the application site, which suggests that this garage door is not out of character for the area.

Impacts on Neighbouring Properties

- 17.3 Local Development Plan Policy DP1: Design and Amenity, says that development proposals will protect existing residential amenity, particularly with regard to daylight and sunlight (amongst other things) and Local Development Plan Policy DP12 Dwelling Standards, says that new residential development will have regard to acceptable levels of daylight to all habitable rooms and both these policies are relevant to this application.
- 17.4 It is acknowledged that the garage door will have reduced the amount of natural light entering the neighbour's downstairs toilet, as commented in the 2 representations received. Natural light from the rear of the car port will still serve the toilet and as the room is not seen as a 'habitable room' it is not felt that this issue warrants refusing permission. The neighbour expressed concerns about the future addition of a door to the rear of the car port, which would form an enclosure, removing all natural light to the neighbour's downstairs toilet. This concern is noted, however, the Outline application did not remove permitted development rights for *the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure* (as set out in Schedule 2, Part 2, Class A of the The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore, such a wall may be constructed without the need for express planning permission (subject to compliance with the afore-mentioned Order). As stated above, the window serves a downstairs toilet and this currently borrows light from the application site. Under these circumstances, it would be unreasonable to refuse permission due to the limited impact the garage door would have on the neighbouring window. In any case, this application has to be assessed on its merits and speculation regarding any potential future development on the site cannot be taken into consideration. Consequently, it is considered that the proposal is acceptable in this instance.
- 17.5 There are no other windows on the side elevation of the neighbour's dwelling and so the garage door does not affect daylight into any other rooms. It also does not over-shadow the neighbour's private amenity area.

Parking Provision

- 17.6 The dwelling was built in accordance with the parking standards in place at the time. The subsequent approval in 2016 for a new fence reduced the size of the parking area to below adopted standards. As such, the property currently only benefits from one policy compliant parking space.
- 17.7 As the addition of the garage door has not reduced the size of the parking area, it is felt that there is no net loss of parking provision and the addition of the garage door is therefore acceptable. The Highway is not subject to parking restrictions and on-street parking is prevalent in this area.

Myland and Braiswick Neighbourhood Plan

17.8 There is nothing in the Myland and Braiswick Neighbourhood Plan that contradicts the above assessment of this Application.

18.0 Conclusion

18.1 To summarise, this retrospective application for planning permission for a new garage door does not materially affect neighbour amenity, the character of the area or current parking provision and is therefore an acceptable addition to the property.

19.0 Recommendation to the Committee

19.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be retained in its approved form as shown on the submitted plans and photograph.

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.

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

