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**Item No: 7.1**

**Application:** 220526

**Applicant:** Arbora Homes

**Agent:** Nikki Dawney

**Proposal:** Application for approval of reserved matters following outline approval 191522 - erection of 27 dwellings and associated development.

**Location:** Land Adjacent To 67, Braiswick, Colchester, CO4 5BQ

**Ward:** Lexden & Braiswick

**Officer:** John Miles

**Recommendation:** Approval subject to conditions

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Sara Naylor for the following reason:

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

## **2.0 Synopsis**

- 2.1 The site forms part of a wider allocation for residential development under the adopted local plan. The principle of this development has been established through the outline planning approval (with all matters except access reserved) granted at appeal, following an appeal against the decision of the Council to refuse application 191522.
- 2.2 The key issues for consideration are appearance, landscaping, layout and scale, namely “the reserved matters” and how these relate to wider material planning considerations, including design, the character and appearance of the surrounding area and residential amenity.
- 2.3 It is considered that the scheme, as revised since the original submission, achieves an acceptable quality of design, on balance, and is for the reasons outlined in the main body of the report otherwise acceptable with regards to wider material planning considerations. On that basis the application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 Braiswick Road (B1508) runs in a north-west direction from the centre of Colchester leading to the village of West Bergholt and ultimately Sudbury. The application site lies to the north of Braiswick Road just before it crosses the A12. The site is located on the outskirts of Colchester City but inside the A12 which provides a firm border around the north of the City.
- 3.2 There is frontage development along Braiswick Road to the east of the application site, on both sides of the road. Further to the east there is recent development in the form of a residential estate along Keepers Green. There is also a bowling green. South of Braiswick Road, opposite the application site, is Westhouse Wood which has a public footpath along its western boundary alongside the A12. To the east of the woodland is development in depth behind the frontage housing. To the north of the application site is Colchester Golf Club.
- 3.3 The site itself is rough grassland sloping steeply down to the north and northwest into a wooded area lying alongside the A12 which is raised above the lowest land at this point. St. Botolph's Brook runs along the western boundary of the site adjoining the A12. Within the wooded area there is a commercial building with access leading down a steep track from Braiswick Road. This lower area is susceptible to localised flooding.

#### **4.0 Description of the Proposal**

- 4.1 The application seeks reserved matters approval for the erection of 27 dwellings and associated development: namely the matters of appearance, landscaping, layout and scale.

#### **5.0 Land Use Allocation**

- 5.1 The site is allocated for residential development.

#### **6.0 Relevant Planning History**

- 6.1 As identified the outline permission for the development was granted at appeal (Ref: APP/A1530/W/20/3245754), following the refusal of application 191522.
- 6.2 The appeal was allowed on 15th October 2020 and outline permission granted for up to 27 dwellings.

#### **7.0 Principal Policies**

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

##### **7.2 Local Plan 2017-2033 Section 1**

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

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

##### **7.3 Local Plan 2017-2033 Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:**

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- and Impact Mitigation
- SG8 Neighbourhood Plan
- ENV1 Environment
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements

- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM13 Domestic Development
- DM15 Design and Amenity
- DM16 Historic Environment
- DM17 Retention of Open Space
- DM18 Provision of Open Space and Recreation Facilities
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water Waste and Recycling

7.4 Some “allocated sites” also have specific policies applicable to them. In this case adopted local plan policy NC3 is of direct relevance to the decision making process:

*Policy NC3: North Colchester*

*Land at Braiswick*

*In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the area identified on the policies map, which must be comprehensively planned setting out how any proposal will provide:*

- (i) Up to 70 dwellings, and*
- (ii) Access from Braiswick (road), and*
- (iii) Contributions to highway improvements on the local road network, in particular at North station, and*
- (iv) The retention and enhancement of existing tree belts within the site in addition to a landscape appraisal to look at opportunities to further improve other landscape features within the site, and*
- (v) Effective noise mitigation measures, and*
- (vi) No residential development in the area of site within Flood Zone 3, and*
- (vii) Retention and improvements to the existing Public Right of Way which runs along the eastern boundary of the site.*

Paragraphs 14.41 and 14.42 set out some context to the policy also.

7.5 The Neighbourhood Plan for Myland and Braiswick is also relevant. This forms part of the Development Plan in this area of the City. The following NP policies are considered particularly relevant:

- HOU1
- ENV1
- SPL2
- DPR1

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

The Essex Design Guide  
 EPOA Vehicle Parking Standards  
 Backland and Infill  
 Affordable Housing  
 Community Facilities  
 Open Space, Sport and Recreation  
 Managing Archaeology in Development.  
 Myland Parish Plan and Myland Design Statement

## **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 Archaeological Advisor**

No objection.

### **8.3 Arboricultural Officer**

No objection raised.

### **8.4 Contaminated Land Officer**

No objection.

### **8.5 Environmental Protection**

No objections, subject to conditions, including conditions covering the provision of a construction method statement, limits to hours of work and internal noise levels.

### **8.6 Essex County Fire & Rescue Service**

No objection - Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. This development appears to meet the provisions detailed in ADB Vol 1 B5 for Fire Service Access. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

8.7 **Essex Place Services Ecology (4<sup>th</sup> July 2022)** (response on document specified below):

We have reviewed the Ecological Mitigation and Enhancement Strategy (ACJ Ecology, May 2022) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures. This meets the details of Condition 32 of the outline decision notice issued following being allowed at Appeal so would support partial discharge by design.

We are now satisfied that the revised documentation contains sufficient ecological information for the determination of this Reserved Matters application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Mitigation and Enhancement Strategy (ACJ Ecology, May 2022) should be implemented in full. This is necessary to conserve and enhance protected and Priority species particularly reptiles and bats.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures have been outlined with in Ecological Mitigation and Enhancement Strategy (ACJ Ecology, May 2022) and should be implemented in full. If the developer wishes to improve the biodiversity onsite further, we recommend the addition of flowering lawns, log pyramids and a wildlife pond.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of [the mitigation and enhancement measures outlined in the submitted Ecological Mitigation and Enhancement Strategy and a Reptile Receptor Agreement] should be a condition of any planning consent.

## **8.8 Essex Police**

No objection - would like to see the applicant seek to achieve a Secured by Design award in respect of this development and are willing to provide impartial service to the applicant to support them to achieve the requirements to gain the nationally acknowledged Secured by Design accreditation.

## **8.9 Essex SuDs**

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the reserved matters planning application, we do not object to the granting of planning permission:

We have no comments on this application, the drainage conditions will need to be discharged at the DOC stage.

#### **8.10 Highway Authority**

All housing 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 the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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

Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Colchester Road Braiswick shall be provided with 10m radius kerbs returned to an access road carriageway width of 5.5m and flanking footways 2m in width returned around the radius kerbs and extending 25m westwards and eastwards. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

All footways should be provided at no less than 2.0m in width.

All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Each internal estate road junction shall be provided with a clear to ground level visibility splays with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.

Prior to the occupation of the proposed development the applicant/developer shall provide a village gateway feature at or in the vicinity of the existing speed restriction signage west of the proposed development site erected on both sides of the carriageway of Colchester Road, Braiswick to alert drivers and highlight the change in speed limit from derestricted to 30mph, incorporating appropriate signage and any associated measures of a design that shall be approved in writing by the Local Planning Authority.

Prior to the occupation of the proposed development the applicant/developer shall provide:

A) One new bus stop in the vicinity of the proposed vehicular access to the site eastbound

including 1x new shelter, raised kerbs, timetables, post and flag

B) The provision of 1x bus stop west bound opposite and adjacent the vehicular access including level entry kerbing, new post, flag and timetable and pedestrian waiting hardstanding. Both new bus stops will require pram crossings to connect to each other and should be included.

## 8.11 Landscape Advisor

In order to accord with the Council's Landscape strategy for development sites the landscape deposit needs to fully comply with the Council's Landscape Guidance Notes LIS/C (this available on this CBC landscape · Colchester Borough Council under Landscape Consultancy by clicking the 'read our guidance' link), in particular the following clauses of LIS/C (*with additional site specific comments added in blue*) need to be addressed:

### 3.10 Hard landscape/external works:

- Details (type & manufactures product reference or detail illustrative drawings) and location/line of all artefacts, enclosure and structures (railings, walls, fences, furniture, bollards, litter/dog/cigarette-end bins, other storage units, signage, lighting etc.) need to be clearly identified on the proposal drawing and included within its 'key'. These need to be compatible to the sensitivities of their location, robust (e.g., wooden bollards need to be specified as hardwood) and generally clearly illustrated as being set within complementary hard landscape to simplify future maintenance. – *Detail drawings or manufacturers ref for all enclosure and street furniture needs to be submitted, including for the bow-top fencing. – No landscape objection to applicants' suggestion this be addressed under bespoke condition provided this is achievable in planning terms.*
- All lighting positions (including those to be adopted by Highways) need to be identified on plan.  
All lighting, where proposed, requires these notes against the lighting symbol(s) key confirming (verbatim) that:  
*'All lighting proposals comply with Colchester Borough Council's External Artificial Lighting Guidance 2012'; and*
  - *'Where unacceptable light incursion into adjacent units is identified (particularly to bedroom windows) shuttering sufficient to minimise light incursion will be implemented.'*; - *include on drawing AH013\_305\_08.*



Lighting columns need to be clearly set outside the mature crown spreads of any existing and/or proposed trees.

*– No landscape objection to applicants' suggestion the above lighting detail/positions/specifications be addressed under bespoke condition provided this is achievable in planning terms.*

- It needs to be confirmed with a (verbatim) note on plan that:  
*'All over-ground or underground service routes (including those for lighting) have been designed to not conflict with and lie outside the Root Protection Areas of any retained trees/hedges and the mature crown spreads of retained or proposed trees/hedges on or adjacent to the site'*

Where this is not the case this needs to be clarified and any conflicting service run areas will then need to be supported through an Arboricultural Impact Assessment submitted for agreement, this in accordance with BS 5837 Recommendations. *– this standard clause needs to be included on drawings JBA.21/311-03.H & 04.H unless agreed otherwise by the Arboricultural Officer.*

- 3.18** Clear proposals need to be made when specifying specific items, ambiguous terms such as 'or similar' (in the drawings key, specifications, etc.) will not be permitted. This as revisions to specific items within the landscape proposals post condition discharge can only be made with the LPA's agreement so as to help prevent unauthorised value engineering that might be detrimental to the landscape. *– consider revising any 'or similar' note to "or similar with LPA consent" – Planning Officer to take a view on the validity of the applicants' planning justification for not complying with this standard CCC requirement.*

- 4.1** An Implementation and Monitoring Programme (IMP) needs to be submitted and agreed, either on the drawing(s) or as a separate specific document (generally a simple A4 sheet).

*– No landscape objection to applicants' suggestion this be addressed under bespoke condition provided this is achievable in planning terms.*

- 5.1** A landscape management plan needs to be submitted and agreed,  
*– No landscape objection to applicants' suggestion this be addressed under bespoke condition provided this is achievable in planning terms.*

- 1.3** In addition to the above generic requirement(s) the following site-specific requirement(s) need(s) to be applied to any revised proposals in order to allow reserved matters to be agreed:

1. As recommended at application stage, the trees to the POS bounding the western access road will need to form a comprehensive linear feature of large broad crowned native trees all along that western boundary, the number and spacing of proposed *Car bet* will need to be increased to fulfil this requirement. This in order to help protect, conserve and enhance views into the site from the west by, at maturity, filter screening the development whilst complementing the sites wooded ridge setting.

Planning Officer response: The changes, additional information and clarification requested have either been carried out and/or or provided or are to be controlled through suitably worded conditions.

## 8.12 National Highways

No objection.

## 8.13 Natural England

A Habitats Regulations Assessment (HRA) is required to secure any necessary mitigation.

## 8.14 Planning Policy

### **Colchester Local Plan**

Section 1 of the Colchester Local Plan provides a shared strategic policy context and addresses cross boundary matters for North Essex together with Braintree and Tendring Councils. This was adopted by Colchester Borough Council on 2 February 2021. Section 2 of the Colchester Local Plan 2017-2033 provides the policy framework, site allocations and development management policies for the Borough up to 2033. This was adopted by Colchester Borough Council on 4 July 2022.

Section 2 of the Local Plan allocates land to meet the housing targets up to 2033 in accordance with the Spatial Strategy set out in Policy SG1. The site subject to this application forms part of an allocation in the Local Plan as outlined in Policy NC3 North Colchester. Policy NC3 supports development on Land at Braiswick within the area identified on the policies map for up to 70 dwellings. The outline permission for the site prescribes the site area, the point of vehicular access and the maximum number of units (up to 27 units).

Policy NC3 states:

In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the area identified on the policies map, which must be comprehensively planned setting out how any proposal will provide:

- (i) Up to 70 dwellings; and
- (ii) Access from Braiswick (road); and
- (iii) Contributions to highway improvements on the local road network, in particular at North Station; and
- (iv) The retention and enhancement of existing tree belts within the site in addition to a landscape appraisal to look at opportunities to further improve other landscape features within the site; and
- (v) Effective noise mitigation measures; and
- (vi) No residential development in the area of site within Flood Zone 3; and
- (vii) Retention and improvements to the existing Public Right of Way which runs along the eastern boundary of the site.

In addition to Policy NC3, other Colchester Local Plan Development Management Policies are relevant including (but not limited to):

Policy DM8: Affordable Housing – which requires 30% of new dwellings on housing developments of 10 or more dwellings (major developments) in urban areas should be provided as affordable housing (normally on site).

Policy DM9: Development Density – this policy requires all residential development to be at an appropriate density and massing, having regard to a number of factors including the character of the site and its immediate surroundings, as well as the wider locality and the existing landscaping, trees and hedgerows on the site and the need for further landscaping.

Policy DM12: Housing Standards – supports residential development where high standards of design and layout are promoted. The policy sets out a number of criteria that the LPA will have regard to in considering proposals for new residential development.

Policy DM15: Design and Amenity – requires all development be designed to a high standard, positively respond to its context, achieve good standards of amenity and demonstrate social, economic and environmental sustainability. Criteria is included to help achieve high quality design.

DM18: Provision of Public Open Space – all new residential development will be expected to provide new public areas of accessibility open space.

Policy DM19: Private Amenity Space

Policy DM21: Sustainable Access to Development – all new developments should seek to enhance accessibility for sustainable modes of transport.

Policy DM23: Flood Risk and Water Management

Policy DM24 – Sustainable Urban Drainage Systems

Policy DM25: Renewable Energy, Water, Waste and Recycling

### **Myland and Braiswick Neighbourhood Plan**

The Myland and Braiswick Neighbourhood Plan is also relevant to this application. The Myland and Braiswick NP was adopted in December 2016 and covers the plan period 2016-2032. The Myland and Braiswick NP forms part of the Development Plan and therefore the proposal should be in accordance with all relevant policies in the adopted Colchester Local Plan and the Myland and Braiswick Neighbourhood Plan. A number of Myland and Braiswick NP policies are relevant to this proposal including (but not limited to):

*HOU1 – ‘Housing in Myland and Braiswick will have a variety of choices, design and living styles that meet the needs of residents, including the elderly, and respect the scale and character of the existing street scenes and environment. Developers should achieve the highest quality of design commensurate with current national and local design guidance.’*

ENV1 – Environment policy that includes criteria that attention should be given to in order to maximise opportunities for the creation, restoration, enhancement, expansion and connectivity of Green Infrastructure within and between development sites.

SPL2 - *‘As amenities that facilitate both sustainable transport and bringing benefit to health and well-being, Myland and Braiswick footpaths and public rights of way will be maintained and protected (if necessary by authorised diversion) and new rights of way, including bridleways, encouraged commensurate with the Essex Public Rights of Way Improvement Plan. This will include Public Rights of Way suitable for vulnerable users.’*

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

### **Review of the Myland and Braiswick Neighbourhood Plan**

A Review of the Myland and Braiswick Neighbourhood Plan has commenced, and a Regulation 16 consultation was held between 27 March 2023 and 15 May 2023. As the Myland and Braiswick Neighbourhood Plan Review is not sufficiently advanced in its progress, limited weight can be given to the Review Neighbourhood Plan at this stage. This will increase once an Examiner has issued a Final Report on the Review Plan and either confirmed that the modifications are appropriate and not so substantive that they change the intent of the Plan, or it can proceed to a referendum if one is required.

Although at the present the Draft Review NHP is a relevant material consideration which can only be afforded limited weight it is helpful to refer to following policies (or extracts) which are relevant to this application:

Draft Policy HOU1 sets out some specific considerations identified as being locally important. The supporting text in the draft plan refers to the relevance of these policy considerations in relation to a matters including development on the site allocated in the Local Plan at Braiswick (including this site).

**HOU1** – *Housing in Myland and Braiswick will have a variety of choices, design and living styles that meet the needs of residents, including forms of sheltered housing for the elderly. There will be respect for the scale and character of the existing street scenes and environment by matching the predominant use of brick and tile construction such that they blend with the existing design and skyline. This includes the use of predominantly pitched roofs, sufficient off-street parking, and housing extensions that are also sympathetic to the surrounding street scene and design materials. Developers should achieve the highest quality of design commensurate with current national and local design guidance. This to address the challenge of climate change and improving sustainability by, for example, electric charging points and alternative fuel sources such as air-source heat pumps that do not impact on existing neighbouring residents.....*

Policy HOU3 of the draft Myland and Braiswick Neighbourhood Plan Review is more specifically related to the site allocation under policy NC3 of the CLP. states:

*‘Sites for housing proposals in Braiswick should be comprehensively planned as set in Colchester Local Plan Policy NC3 to respect the scale and character of the existing street scenes and environment and should protect existing public open spaces and bowling green.’*

## Planning Balance and Conclusion

The proposal site, which has outline planning permission for up to 27 dwellings, forms part of an allocation in the adopted Colchester Local Plan and Policy NC3 provides the policy requirements for the site. The principle of development on this site at this scale has already been established through the outline planning permission already granted.

Policy NC3 applies to the whole site area subject to the allocation for up to 70 houses overall. Whilst the intention of the policy and preferred approach would be to consider proposals for the site as a whole comprehensively, it has to be acknowledged that the opportunity to follow such an approach for the whole site is limited as a result of the appeal decision resulting in the outline consent (191522).

To be afforded support from Policy NC3 the proposal needs to ensure it meets the listed criteria where it is relevant including; Access from Braiswick (road) (already established as part of the outline consent); Contributions to highway improvements on the local road network, in particular at North Station; The retention and enhancement of existing tree belts within the site in addition to a landscape appraisal to look at opportunities to further improve other landscape features within the site; Effective noise mitigation measures; No residential development in the area of site within Flood Zone 3; and Retention and improvements to the existing Public Right of Way which runs along the eastern boundary of the site. It is also important that the layout of the development does not preclude development coming forward on the remaining part of the allocated site. It is not appropriate to make any judgement about the density which may be suitable on the remaining allocation and the capacity for the site to deliver up to the total anticipated 70 dwellings as part of this application. This will be for future applications to address and the suitability to be tested against evidence and policies prevailing at that time.

The other policies in the CLP listed above provide the test for the suitability of the proposed development in respect of detail. The consideration of issues related to density, design and layout and high-quality design are particularly important and the views of Specialists in respect of this to inform the consideration of any adverse impacts are central to a decision.

The adopted Neighbourhood Plan and the emerging Review NHP both contain policies which are relevant. In respect of the adopted Plan, in order for support to be afforded, it is necessary for the proposal to demonstrate that it will *achieve the highest quality of design commensurate with current national and local design guidance, respect the scale and character of the existing street scenes and environment and deliver enhancements to the environment and green infrastructure as well as deliver opportunities that facilitate both sustainable transport and bringing benefit to health and well-being.*

The emerging Review NHP is more specific in respect of this site and the need to not only achieve high quality design and to respect the scale and character of the existing street scenes and environment and also to protect existing open spaces and bowling green.

Consideration of these matters is a relevant consideration although only limited weight can be afforded to the relevant policies at this time due to the stage of progression of the Review NHP.

### **8.15 Urban Design Officer**

Due to the homogeneity of the proposed layout and built environment the proposal lacks several significant features that contribute positively to placemaking. However, proposed built form broadly complies with policy requirements in terms of form and materiality, but fails to achieve a high degree of visual interest or distinctive character and identity across the wider scheme. Nevertheless, the permeability of the proposal has been increased and improvements have been made to the proposed built environment, increasing its consistency. Additionally, the accessibility and functionality of the POS has been enhanced, and an appropriate level of amenity appears deliverable. Notwithstanding issues regarding levels, it is therefore considered the proposal could establish an adequate sense of place.

## **9.0 Parish Council Response**

- 9.1 Response have been received from both Myland Community Council and West Bergholt Parish Council.

### **Myland Community Council:**

This application falls within the Myland and Braiswick Neighbourhood Plan Area and the following comments are made on that basis.

1. It is noted that Essex Highways have no objection to the development but it is unclear how cyclists are specifically catered for. This is confusing because the Design and Access Statement Part 1 page 18 states "Vehicle access is achieved by a single main access point from Bury Road. However, pedestrians and cyclists have the option to use a designated pathway providing safe and direct access onto the Village Green". This appears to be an extract from another development and does not therefore provide any clarity on how cyclists in particular will be catered for at St Botolphs Farm.?
2. It is noted that Fire and Rescue comments raise concerns that plots 07 and 08 are outside the 45m requirement, there is an inadequate turning point and additional fire hydrants will be required.
3. Whilst the design of individual properties may be in-keeping with the locality, the density of the development is less so and bearing in mind the point at 2 above, a reduction in house numbers should be considered. It should also be noted that the appeal decision on this application suggested a reduction in housing density. This could also be an important factor on vehicle numbers accessing Bergholt Road if other potential development sites in Braiswick are activated. This application fragments Colchester Borough Council's original desire to see all 'call for sites' submissions in Braiswick dealt with as a single development plan. Dealing with individual sites in close proximity to each other is an ineffective way of ensuring developments are compatible with their surroundings.
4. The attention to climate change considerations is welcomed, e.g., electric charging points, heat pumps high performance insulation etc.
5. The mitigation measures for affected animals, i.e., bats and common lizards are welcomed.

6. The Design and Access Statement Part 1 page 12 refers to an area adjacent to the development site where there are opportunities for creation of new footpath links, wildlife corridors, mitigation and biodiversity gain. The Neighbourhood Plan Steering Group remains in place and would be pleased to engage on these opportunities.

Officer response: As outlined in the section above, further consultation comments have been received from both the Highway Authority and Essex Fire and Rescue, since the consultation comment from Myland Community Council. Both consultees have confirmed they have no objections, with the Essex Fire and Rescue confirming the scheme, as revised, makes suitable access provisions from their perspective.

**West Bergholt Parish Council:**

This proposed development lies outside of the parish of West Bergholt, but the Parish Council would recommend that Colchester Borough Council listens to any concerns raised by Myland Community Council.

**10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties, and in respect of both the original and revised proposals. These consultation exercises resulted in 34 objections. 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.

**Objections:**

- Noise from the A12
- Loss of privacy for neighbours
- Noise and disturbance being caused to neighbours
- Vehicles often speed along Braiswick Road
- The scheme is too dense
- Building on open space
- The proposal is not "Arcadian" in style
- Impacts on wildlife, including the 'wildlife corridor'
- Landscape impacts
- Street lighting has not been addressed, potential issues with light pollution.
- How will access by emergency vehicles be ensured?
- Increased pressure on local facilities (doctors, schools etc.)
- Lack of infrastructure
- Loss of view
- Urbanising impacts
- Impacts on the road network (congestion)
- Highway safety concerns (proposed access)
- Lack of parking
- Internal roads too narrow
- Poor design
- Need for surface water drainage and sewage infrastructure
- Lack of green spaces
- Need for affordable housing met elsewhere

## **11.0 Parking Provision**

11.1 The scheme is held to meet the adopted standards in terms of on-plot and visitor parking.

## **12.0 Accessibility**

12.1 In considering the application due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration. The proposal does not give rise to any other concerns from an accessibility or equality perspective more widely.

12.2 All of the proposed affordable housing will meet Part M4 (2) Building Regulations and so will 2 of the market houses.

12.3 While the site has some challenging topography, efforts have been made to minimise gradients and avoid stepped access where possible. Car parking is also considered to be conveniently located in relation to the home it serves.

## **13.0 Open Space Provisions**

13.1 The proposed development is considered to provide open space provisions in accord with the minimum 10% requirement.

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

15.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. Contributions are already secured under the Section 106 agreement completed pursuant to the outline permission and Development Team have confirmed that no further contributions are required, beyond those already secured. Contributions secured by the Section 106 agreement already in place includes 30% affordable housing.

## **16.0 Report**

16.1 The main issues in this case are:

- The Principle of Development
- Design, layout and impact on the Character of the Area
- Landscaping and Public Realm
- Residential Amenity
- Arboriculture and Canopy Cover
- Biodiversity Net Gain, Ecology and Climate Change
- RAMS
- Flood risk
- Highways and Parking
- Other Matters



## Principle

- 16.2 Policy SP3 of the Section 1 Plan sets out the Spatial Strategy for Colchester which retains the urban area of Colchester as a focus for growth. Policy SG1 of the Section 2 Plan sets out the Council's strategy for delivering housing ensuring that developments are directed towards accessible locations and also to ensure the character and vitality of villages is sustained. Policy SG2 sets out how this will be delivered with the majority of new housing development located in Colchester with a smaller proportion within the villages.
- 16.3 Notwithstanding that the application site is within the settlement boundary of Colchester, in a highly sustainable location, close to both public transport links, shops and other facilities, as already noted, the proposal site already has outline planning permission for up to 27 dwellings. This extant outline planning permission and the site's allocation for residential development under Policy NC3 of the adopted Colchester Local Plan establishes the principle of development.
- 16.4 The proposed development is therefore considered acceptable in principle, subject to further consideration in respect of wider material planning considerations, as outlined below.

## Design, layout and impact on the Character of the Area

- 16.5 Government guidance on design is provided by the National Design Guide and National Model Design Code, both of which form part of the governments Planning Practice Guidance. The National Design Guide seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice. Whilst the National Model Design Code sets out clear design parameters to help establish what good quality design looks like and provides a common overarching framework for design. These documents are intended to help create beautiful and distinctive places, with a consistent and high quality standard of design. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance recognise the importance of good design, with specifically paragraph 130 of the NPPF requiring planning decisions to ensure development is visually attractive as a result of good architecture. Paragraph 126 states that the creation of high quality and beautiful buildings and places are both fundamental to what the planning and development process should achieve.
- 16.6 At a local level, Section 1 Policy SP7 states that all new development should respond positively to local character, provide buildings that exhibit individual architectural quality, and enhance the quality of existing places, while Section 2 Policy DM15 sets similar requirements for high quality design.
- 16.7 Myland and Braiswick Neighbourhood Plan [MBNP] Policy HOU1 also requires housing in Myland and Braiswick to respect the scale and character of the existing street scenes and environment and achieve the highest quality of design commensurate with current national and local design guidance. MBNP Policy DPR1 states developments will aim to attain the highest quality and design

standards and where appropriate encourage the use of relevant national standards by developers in order to achieve the highest possible levels of overall sustainability in the design and layout of new developments.

- 16.8 The scheme has evolved since first submitted following negotiations and in response to comments from Council Officers, including the Council's Urban Design Officer.
- 16.9 One significant change to the scheme since originally submitted is changes in the layout to the south of the site, including orientating dwellings to face Braiswick Road. As well as improving permeability through establishing pedestrian access around the periphery of the site, these changes establish a clear frontage to Braiswick road. As part of this new built frontage, the revised proposal also now includes a 'gateway pair' of dwelling's either side of the access road, forming a legible entrance to the site.
- 16.10 Notwithstanding the screening of the site from Braiswick/Colchester Road which will be provided by existing retained trees to the site's southern boundary, the revised scheme is considered to establish an appropriate frontage to Braiswick/Colchester Road, with the proposed dwellings on the site's southern boundary considered to adopt appropriate scales, forms and materiality, such that they relate satisfactorily to surrounding existing development and the established character of the area.
- 16.11 Across the site as a whole, as well as wider revisions to form and layout, the revised proposed dwellings also include a number of pleasant, detailed design features to improve visual interest and help contribute to site identity, including, but not limited to, additional brickwork features, rafter and eaves detailing and feature bay windows and chimneys. The main proposed external materials include red clay tiles, facing brick and timber cladding.
- 16.12 It is recognised the Council's Urban Design Officer considers the scheme could potentially go further in terms of visual interest and achieving a distinctive character. However, taken as a whole it is considered the proposed dwellings through their use of positive modelling and additive design features, coupled with both the dwellings' general form and materiality, will achieve an acceptable quality of design, site identity and ultimately will relate satisfactorily to the character and appearance of the surrounding area, on balance.
- 16.13 The proposed scheme is also considered to provide acceptable public and private amenity provisions and a good standard of public realm, which incorporates appropriate landscaping. These issues are considered further in the sections below.
- 16.14 While it is considered it has been generally demonstrated that the dwellings proposed, their associated amenity spaces and public spaces can be set at appropriate levels within the site and achieve acceptable relationships with one another and the surrounding landscape, with the site to include some significant changes in levels, with associated and observed practical challenges, it is therefore recommended a condition is imposed requiring

additional information on existing and proposed levels and how the transition between levels will be achieved. This will ensure that any changes in levels can only be taken forward where they do not undermine the quality of the public realm, or are otherwise to the detriment of amenity, including residential amenity and the visual amenity of the wider area. It is considered the challenges with regards to levels is symptomatic of the challenging topography of the site and not specifically as a result of the density.

- 16.15 In this regard it is noted that concerns have been raised in representations received about the proposed density. The issue of density was one of the main subjects of discussion under the appeal proceedings for the outline scheme and the below text is an extract from the Inspector's report, under which the appeal was ultimately allowed and outline permission granted:

*Whilst Policy ENV1 seeks to protect the countryside, the Council does not have an objection to the proposed scheme on landscape grounds in line with the policy. Despite the Council's requirement for a landscape led approach to deliver an 'Arcadian' style of development, in line with the Essex Design Guide with densities of around 8 dwellings per hectare (dph) it has suggested that a density of between 10-15dph would be appropriate for this site resulting in up to 20 dwellings. It is my understanding that an Arcadian design would be predicated on the dispersal of dwellings through natural features. However, this site does not immediately lend itself to this form of development as the central part of the site is open with tree coverage confined to its 3 boundaries.*

*I heard contrasting evidence on density calculations based on the site's constraints and its net developable area. However, when all matters on this issue are taken into account the difference between the parties is around 7 dwellings. I do not think that this difference is excessive given the site area and its location. I acknowledge, however, that making the most effective use of land in line with paragraph 123 of the Framework is not just about increasing densities but also seeking an appropriate form of design which reflects local context. However, even with the site's constraints the proposed scheme could be provided to an acceptable design and would not appear out of place subject to careful consideration of outstanding of reserved matters.*

- 16.16 Therefore, while the wording of the original consent specifies 'up to' 27 dwellings, the fact that the maximum number of dwellings permitted under the outline permission has now been proposed is not in and of itself a reasons for refusal. Furthermore, it is important to note that the density of the site up to 27 dwellings was accepted by the Inspector, albeit subject to a detailed scheme of an acceptable design and that would not appear "out of place".
- 16.17 While the quality of the design is ultimately a matter of planning judgement, taking into account the proposed built form, existing natural features and the proposed landscaping (considered further below) it is not considered the proposed development will appear "out of place" or will otherwise harmful to the character and appearance of the wider area.

- 16.18 In conclusion, following careful consideration by officers, when taken as a whole and for the reasons outlined above the scheme, as revised, is considered to be acceptable in design terms, on balance.

#### Landscaping and Public Realm

- 16.19 Policy SP7 requires development to respond positively to local character and protect and enhance assets of natural value, while Policy DM15 requires development to positively integrate with landscape assets. Paragraph 130 of the National Planning Policy Framework [NPPF] requires planning decisions to ensure development is sympathetic to local character, including landscape setting.
- 16.20 The submitted landscaping plans include new tree planting and hedgerow planting and, as well as the more strategic areas of POS, smaller incidental grassed areas, some of which are proposed to be finished with wildflower seeding. With the exception of the establishment of a more significant tree belt to the site's western boundary, the proposed scheme of planting and soft landscaping appears acceptable, with the necessary changes and final details to be controlled by condition.
- 16.21 Plans submitted detail brick boundary walls to the most sensitive public facing boundaries and a mix of estate rail facing and timber bollards to areas of open space - both incidental and the more strategic formal public open space areas. A majority of hard surfaces are proposed to be finished in block paving (with the exception of the main access road), to limit the use of tarmac, recognising the contribution the form of hard surfacing can make to site identity and improving the quality of the public realm.
- 16.22 Exact details on the above aspects of the scheme and in recognition that some details require further consideration (including in areas where there are more significant changes in ground levels) are recommended to be secured by condition.
- 16.23 Overall, the proposal is considered to either provide appropriate landscaping in terms of the details submitted or, where required, additional details can be secured by way of condition, to ensure any final detailed scheme suitably address any outstanding comments from the Council's Landscape Advisor, and that the proposed development ultimately successfully integrates with the surrounding landscape and achieves a high quality public realm.

#### Residential Amenity

- 16.24 Paragraph 130 of the NPPF (2021) requires, amongst other things, planning decisions to ensure development promotes health and well-being and provides a high standard of amenity for existing and future users.
- 16.25 Section 2 Policy DM12 states residential development will be supported where high standards of design, construction and layout are promoted, and

sets general amenity standards for new dwellings, while Policy DM19 sets specific private amenity space standards. Section 2 Local Plan Policy DM12 and DM15 also require all development to protect the amenity of existing and future residents, including with regards to loss of light, overbearing impacts and overlooking.

- 16.26 In terms on neighbouring amenity, the nearest neighbouring properties are the flats to the east of the site. Taking into account the position, scale and orientation of proposed built form the proposed development is not expected to result in material harm to neighbouring amenity through a loss of light, outlook, or through affording unsatisfactory angles of overlooking, with due regards to the relevant tests for assessing these issues, as set out in the Essex Design Guide SPD.
- 16.27 In terms of future occupier amenity it is important to note that the site is located close to the A12. The provision of detailed acoustic information and appropriate acoustic mitigation measures (where found to be required) are however covered by conditions of the outline permission and a further noise levels condition is also recommended to be included to ensure there is appropriate mitigation in place to avoid materially adverse impacts to future occupier amenity from noise. Taking into account these measures and the consultation responses received by Environmental Protection, who have raised no objection to the application, it is not considered residents will be exposed to excessive noise and it is considered suitable levels of amenity will be afforded in this regard.
- 16.28 All the proposed dwellings have internal floor areas that meet or are in excess of Nationally Described Space Standards and while there are some notable changes in levels across the site, it is considered all dwellings can be afforded acceptable levels of light and outlook to all habitable rooms.
- 16.29 The proposed scheme includes private amenity space provisions for each dwelling in accord with minimum size requirements. While the topography of the site also presents challenges in terms of differences in levels between gardens and a subsequent need for retaining walls in addition to standard boundary treatments, conditions are recommended covering both finished levels and further details on proposed boundary treatments to ensure appropriate relationships between gardens are demonstrated and the differences in levels do not unacceptably undermine the quality or functionality of any of the proposed amenity spaces.
- 16.30 Taking into account the size, orientation and shape of the amenity spaces proposed it considered that, subject to the aforementioned conditions covering final site levels and boundary treatments, it can be ensured the scheme delivers private amenity space provisions of an acceptable quality and which are afforded an acceptable degree of privacy, on balance.
- 16.31 The proposal includes areas of POS and is considered to meet the policy requirement for a 10% minimum of the site area to be POS. The main POS area while located on the site's periphery is considered to remain accessible and will otherwise provide a functional amenity space for residents, while

also benefiting from natural surveillance from the proposed properties to the east. The proposed main POS also includes a Local Equipment Area for Play [LEAP].

#### Arboriculture and Tree Canopy Cover

- 16.32 Section 2 Policy ENV1 requires development to conserve and enhance Colchester's natural environment. Policy DM15 requires development to respect and enhance the landscape and other assets that contribute positively to the site and the surrounding area. Section 1 Policy SP7 requires development to protect and enhance assets of historical or natural value. Central Government guidance on conserving the natural environment is set out in the NPPF. MBNP Policy ENV1 requires the protection of mature trees, shrubs and historical hedgerows and important features that define the local landscape character.
- 16.33 The submitted Arboricultural Impact Assessment details the removal of some of the existing trees within the site, however the Council's Arboricultural Officer has not objected, with the trees proposed to be removed of a relatively low quality, predominantly Class C (low quality) and Class U (unsuitable for retention). The highest quality Class A trees are detailed to be retained, as is the main tree belt to the south of the site. The protection of the existing trees to be retained can be ensured through the implementation of appropriate construction and tree protection methods to be controlled by condition.
- 16.34 While the proposal does include new planting, including a number of new street trees and trees to areas of POS, the tree canopy cover assessment submitted confirms that on site, the application falls short of meeting the 10% increase in Tree Canopy Cover required by Policy ENV1. This policy does however make provision for the uplift to be delivered off-site, where it cannot be accommodated on site. This approach has been accepted by officers and securing the necessary tree planting can be controlled through recommended condition 18 which requires the submission, implementation and subsequent management of a detailed scheme for achieving the necessary uplift.

#### Biodiversity Net Gain, Ecology and Climate Change

- 16.35 Section 40 of the Natural Environment and rural Communities Act 2006 [NERC] places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Paragraph 174 of the NPPF specifically, states development should contribute to and enhance the natural and local environment and minimise impacts on biodiversity, with appropriate ecological surveys required when there is reason to suspect the presence of protected species.

- 16.36 Policy ENV1 seeks to conserve or enhance biodiversity of the Borough and sets a requirement for development to achieve a 10% Biodiversity Net Gain [BNG], where appropriate.
- 16.37 While the proposed development will undoubtedly affect an area which has a biodiversity and habitat value, the change in the main function of the site has been accepted both through the site's allocation and the outline permission.
- 16.38 It is however still important that any proposal suitably protects existing wildlife and takes appropriate opportunities for biodiversity enhancement and mitigation, in order for the scheme to accord with the above policy and statutory requirements.
- 16.39 In this respect the application is supported by an Ecological Mitigation and Enhancement Strategy. This document has been reviewed by Essex Place Services Ecology who confirm they are satisfied that the document contains sufficient ecological information for the determination of the application and with the mitigation measures secured by condition, it can be ensured the development will acceptably mitigate impacts on designated sites, protected and Priority species & habitats.
- 16.40 While it is understood that in this instance it has not been possible to demonstrate measurable biodiversity net gain of at least 10% on site, it is proposed by the applicant's that biodiversity net gain is achieved through a combination of on and off-site provisions. While there is a presumption that measurable net gain in biodiversity is made onsite wherever possible, there are provisions for off-site compensation to be used in both policy and emerging legislation. Taking into account the circumstances of the case the use of off-site provisions is accepted by officers. Subject to a pre-commencement condition to secure exact details of such and the provision of an appropriate legal agreement to provide certainty and security around proposed off-site provisions and their long term management and maintenance, the proposal is considered acceptable from a biodiversity net gain perspective, and is in accordance with Policy ENV1 in this regard.
- 16.41 In terms of supporting the transition to a low carbon future and mitigating and adapting to climate change, all dwellings are to be served by dedicated EV charging points and air source heat pumps, while the provision of a detailed SuDS scheme is covered by condition under the outline permission.

#### RAMS

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

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

- 16.44 A proportionate contribution towards the Essex Coast RAMS is included as part of the existing Section 106 agreement and the proposed development is therefore considered to be in accordance with Policy SP2, ENV1 and is acceptable in respect of its impact upon habitat sites, with appropriate mitigation secured, in accordance with the conclusions of the Habitats Regulation Assessment [HRA] undertaken.

#### Flood risk

- 16.45 Policy DM23 states the Local Planning Authority will seek to direct development away from land at risk of flooding in accordance with the National Planning Policy Framework and the Planning Practice Guidance. Development will only be supported where it can be demonstrated that the proposal meets flood management requirements in the NPPF, the PPG and Policy DM23.
- 16.46 The application site is located within Flood Zone 1 which has a very low risk of flooding from rivers or the sea (less than 0.1%) according to Environment Agency Long Term Flood Risk Information. The site is also outside any areas at risk of flooding from reservoirs. The site is not, therefore, considered to be particularly susceptible to flooding.
- 16.47 With no residential development proposed in either Flood Zone 2 or 3 the development accords with Policy NC3 in this regard, as well as wider policy requirements in respect of directing development towards areas at a lower risk of flooding.
- 16.48 In terms of surface water flooding, the scheme would result in an overall increase in structures and hard surfacing (the new build and associated pathways/driveways). The provision of an appropriate detailed SuDS scheme is however secured through the conditions of the outline consent and there are therefore no concerns with regards to surface water flooding, or that the proposal will unacceptably increase flood risk elsewhere.

#### Highways and Parking

- 16.49 Paragraph 111 of the NPPF provides that development may be refused on highways grounds if there would be unacceptable impact on highway safety. Paragraph 112 of the NPPF states that, within this context, applications for



development should create places that are safe, secure... [and] minimise the scope for conflict between pedestrians, cyclists and vehicles.

- 16.50 Section 2 Local Plan Policy DM22 relates to parking standards in association with the Vehicle Parking Standards SPD. Section 1 Policy SG1 states that development that reduces the need to travel will be encouraged. Policies DM15, DM20 and DM21 have similar requirements with particular emphasis on enhancing accessibility for sustainable modes of transport.
- 16.51 The scheme provides dedicated parking for each dwelling and visitor parking spaces across the wider site, with the level of both in accord with adopted standards. It is therefore considered that the scheme has sufficient parking to serve the development and will not cause materially harmful on-street parking, either within this site or elsewhere.
- 16.52 The Highway Authority has confirmed that they have no objections to the proposal on highway safety grounds subject to conditions covering the site access, estate roads and footway details, parking, provision of travel packs, bus stop improvements and a new village gateway feature to alert drivers and highlight the change in speed limit from derestricted to 30mph. With the exception of the proposed access junction condition and bus stop condition which are already imposed on the outline permission, all conditions requested by the Highway Authority are included in the list of recommended conditions. It is also important to note that the site's access onto the B1508 has been established under the outlined permission.
- 16.53 Taking into account the above there are no concerns from a parking, highway safety or highway capacity perspective.

#### Contamination

- 16.54 Section 2 Policy ENV5 states Proposals will be supported that will not result in an unacceptable risk to public health or safety, the environment, general amenity, or existing uses due to the potential of air pollution, noise nuisance, surface / ground water sources or land pollution. Development proposals on contaminated land, or where there is reason to suspect contamination, must include an assessment of the extent of contamination and any possible risks.
- 16.55 Potential contamination risks are addressed under conditions of the original outline permission (7, 8, 9, 10, 11 and 12) and sufficient information has already been submitted pursuant to the discharge of these conditions, as confirmed by the Council's Contaminated Land Officer and there are therefore no concerns in this regard, with no further contamination work, required at this time. Condition 11 of the original outline consent (reporting of unexpected contamination) provides further security in respect of contaminated land matters, moving forward.

## Other Matters

- 16.56 It is noted that comments have been received in respect of the application's bearing on the remainder of the allocation and in particular the possibility for the development to preclude development to the remainder of the allocation. In this respect it should be noted that the outline permission is subject to a Unilateral Undertaking which imposes, amongst other things, covenants on the landowner in respect of the main road within the site which runs south to north-east, and which is referred to within the legal agreement as 'the Access Road', with the area between the Access Road and the remainder of the allocation the 'Easement Corridor'. The covenants imposed by this legal agreement include the following:

*Not to Occupy or permit the Occupation of any Dwelling until the Access Road has been constructed and is Practically Complete to an Adoptable Standard.*

*To use its reasonable endeavours to procure the adoption of the Access Road by the highway authority pursuant to the Requisite Consents.*

*Following construction of the Access Road and upon the request by the Adjoining Land Owner and the payment of a reasonable consideration (to be agreed between the parties acting reasonably) by the Adjoining Land Owner to enter into a deed of easement to permit the Adjoining Land Owner and all persons authorised by that Adjoining Land Owner (including but not limited to its employees, consultants and all visitors to the Adjoining Land) a right to use the Access Road and the Easement Corridor for the purposes of access and egress between Braiswick and the Adjoining Land for all purposes (by vehicle and on foot) and at all times (subject to appropriate obligations to contribute towards the maintenance of the Access Road) until such time as the Access Road has been formally adopted by the relevant highway authority and for the purposes of connecting into any connections for Services located in the Access Road and the Easement Corridor (subject to capacity) for the purpose of providing Services to the Adjoining Land.*

- 16.57 Simply put, the agreement provides a legal mechanism to ensure that the development does preclude development on the remaining part of the allocated site.
- 16.58 Finally, in terms of other material planning considerations including, but not necessarily limited to, archaeology and heritage impacts, these matters are either suitably addressed under the conditions of the outline permission or there are otherwise no concerns in these regards.

## **17.0 Planning Balance and Conclusion**

- 17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord adopted local plan. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and

identifies three dimensions to sustainable development: economic, social and environmental.

- 17.2 In respect of the first of these, **the economic role**, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.
- 17.3 The **social role** of sustainable development is described as supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being
- 17.4 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in the north of Colchester, including balanced communities through the delivery of 30% affordable housing, is located within walking distance of a number of key local services and facilities required for day-to-day living and will make an important contribution to the Councils' housing land supply. Significant weight should be given to this in the planning balance.
- 17.5 In respect of the third dimension, the **environmental role**, the proposal will provide housing in a sustainable location so that future residents would not be wholly reliant on private car, being able to walk, cycle or use public transport to access necessary services and facilities, thereby minimising environmental impacts. Ecological enhancements and biodiversity net gain can also be secured by condition.
- 17.6 There is also sufficient evidence to be confident that overall, the development would not cause material harm to the amenity of nearby residents or have a severe impact upon the highway network. The scheme as amended is held to constitute acceptable design. 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 carries some weight against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme as does the significant weight afforded to the supply of new homes in the Framework.
- 17.7 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts identified and the planning balance tips in favour of an approval.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

### **1. Reserved matters application time limit**

The reserved matters planning permission hereby granted is given in accordance with the terms of the outline planning permission reference 191522 (APP/A1530/W/20/3245754) relating to this site and the conditions attached thereto remain in force.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

### **2. Development to accord with approved plans (subject to other conditions)**

Notwithstanding the provisions of any other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the details shown on the submitted drawing numbers:

AH013.300.27

AH013.301.11

AH013.302.10

AH013.303.10

AH013.304.14

AH013.310.05

AH013.311.05

AH013.312.05

AH013.313.05

AH013.314.05

AH013.315.05

AH013.316.05

AH013.317.05

AH013.318.05

AH013.319.05

AH013.320.05

AH013.321.05

AH013.322.05

AH013.323.06

AH013.324.05

AH013.325.05

AH013.326.05

AH013.340.05

AH013.341.05

AH013.342.05

JBA 21-311-03 REV J

JBA 21-311-04 REV J

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

### **3. Site levels**

Prior to the commencement of any development detailed drawings illustrating the existing and proposed levels across the site, by way of appropriate spot heights and finished floor levels, shall be submitted to and approved, in writing, by the Local Planning Authority. Where levels are proposed to be altered adjacent to site boundaries, the details should evidence levels on the adjacent land beyond the site

boundary. In instances where the details illustrate substantial variances in the proposed levels, details shall be submitted that demonstrate how the transition between the levels will be facilitated. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact on placemaking, public amenity or residential amenity.

#### **4. Material details**

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

Reason: In order to ensure that suitable materials are used on the development in the interests of good design and visual amenity as there are insufficient details within the submitted planning application.

#### **5. Architectural Detailing**

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the depth of reveal and any dormer features); roof lanterns; doors, cills, lintels, eaves, verges, ridge, brickwork /stone work detailing (including brick bond and mortar profile), chimneys; porches, bay windows and any rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The development shall thereafter be implemented in accordance with the approved additional drawings.

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

#### **6. Utilities**

No works shall commence (above ground floor slab level) until details (including position) of all new plant, extract ducts, vents, grilles and meter housings have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity.

#### **7. Boundary Treatments**

Notwithstanding the approved plans, prior to their construction precise details of the position and composition of all boundary treatments shall have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity.

### **8. Additional landscaping details**

Prior to commencement of any development detailed drawings or manufacturers specification illustrating all enclosure, street furniture and hard surfaces (railings, walls, fences to include bow- top fencing, furniture, bollards, litter/dog/cigarette-end bins, other storage units, signage, driveways, pavements, roads and shared surfaces) shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In order to ensure that suitable materials are used on the development in the interests of good design and visual amenity as there are insufficient details within the submitted planning application.

### **9. Landscaping (external lighting)**

Prior to commencement of any development detailed drawings illustrating the position of all proposed external lighting and manufacturers specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details. Where unacceptable light incursion into adjacent units is identified (particularly to bedroom windows) shuttering sufficient to minimise light incursion will be implemented. The submitted scheme shall also demonstrate proposed lighting columns are set outside the mature crown spreads of any existing and/or proposed trees.

Reason: As there is insufficient information submitted with this application and in the interests of visual and residential amenity.

### **10. Landscaping revisions**

Notwithstanding the provisions of any other conditions attached to this permission, prior to the commencement of development a revised landscaping plan which is broadly inline with drawings JBA 21-311-03 REV J and JBA 21-311-04 REV J, but which includes a linear tree belt to the western boundary of the site, while retaining the functionality of the proposed public open space and avoiding conflict with means of enclosure and street furniture, shall have been submitted to and approved, in writing, by the Local Planning Authority. The trees to the POS bounding the western access road shall form a comprehensive linear feature of large broader crowned native trees all along that western boundary. The approved revised landscaping plan(s) shall subsequently be implemented as approved and otherwise in compliance with the provisions of other conditions attached to this permission.

Reason: To ensure appropriate tree planting is implemented in this location to help protect, conserve and enhance views into the site from the west by, at maturity, filter screening the development whilst complementing the sites wooded ridge setting.

### **11. Landscaping Implementation, monitoring and management**

No works shall take place above slab level until an Implementation and Monitoring Programme (IMP) and a Landscape Management Plan for agreed landscaping works and any landscaping works subsequent agreed pursuant to the discharge of Conditions 7, 8, 9 and 10 of this permission have been submitted to and approved, in writing, by the Local Planning Authority. The landscape works shall thereafter be implemented and managed in accordance with the details approved and in perpetuity.

Reason: To ensure the implementation of a suitable scheme of landscaping and to safeguard the continuity of amenity afforded by the approved landscape scheme.

### **12. Obscure glazing**

Prior to occupation of each dwelling hereby approved, the side facing windows to each dwelling at first floor and above shall be glazed in obscure glass to a minimum of level four on the Pilkington scale and shall be restricted in opening to no more than 200mm. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: To protect residential amenity.

### **13. Removal of PD - extensions, alterations, outbuildings and raised platforms**

Notwithstanding the provisions of Classes A, B, C, and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, improvement or other alteration to any dwelling shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority. With the exception of the dwellings identified on the approved plans as Plots 14 and 15, notwithstanding the provisions of Class A, E and F of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order) no provision of buildings, enclosures, swimming or other pool, or raised external platforms of any height shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity, to ensure the development avoids an overdeveloped or cluttered appearance and in the interests of neighbouring amenity, particularly when taking into account the topography of the site.

### **14. Removal of pd – means of enclosure between elevations and highway**

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than those approved in writing by the Local Planning Authority, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to characteristics of the site, in the interest of place making.

### **15. Garages retained for parking**

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

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

## **16. Ecological Enhancements**

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Mitigation and Enhancement Strategy (ACJ Ecology, May 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

## **17. Receptor Site Agreement**

A copy of the signed agreement between the landowner and the developer shall be submitted to and approved by the local planning authority to ensure the receptor site is funded, managed and monitored for the conservation of reptiles. This shall include provision of offsite mitigation to compensate the loss of any reptile territories.

Reason: To allow the LPA to discharge its duties under the NERC Act 2006 (Priority habitats & species).

## **18. BNG and Tree Canopy Cover**

Prior to the commencement of development schemes to deliver 10% uplift in biodiversity (calculated in line with the latest Natural England Biodiversity Metric) and a 10% uplift in tree canopy cover through on and/or off-site provisions shall have been submitted to and approved, in writing, by the Local Planning Authority. Such schemes shall in the first instance include on-site provisions, wherever possible. The submitted schemes shall also include a long-term management plan and be supported by an appropriate legal agreement to secure the off-site habitat creation/enhancement/management and/or tree planting and its future management. The approved schemes shall thereafter be delivered during the first planting season, or in accordance with an alternative timeframe which has previously been agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the impact of the development on the natural environment is mitigated having regard to policies ENV1 and CC1 of the Section 2 Local Plan 2017-2033 and Section 40 of the Natural Environment and Rural Communities Act 2006.

## **19. Updated AIA**

No works shall take place until an updated Arboricultural Impact Assessment which reflects the changes made to site layout post submission of the current AIA (Arboricultural Planning Statement Land at Colchester Road, Braiswick, Dated January 2023, Version H), but is broadly inline with current submitted AIA, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter take place in accordance with the approved updated



AIA, unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows which are to be retained.

## **20. Tree and hedgerow protection**

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

## **21. Limits to hours of work**

No demolition 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. Noise levels**

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) enhanced ventilation will be required.

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

## **23. Estate roads**

Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing. All footways should be provided at no

less than 2.0m in width. All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site.

Reason: To protect highway efficiency of movement and safety.

#### **24. Travel packs**

Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Reason: In the interests of the environment and promoting sustainable transport options.

#### **25. Estate road junctions**

Each internal estate road junction shall be provided with a clear to ground level visibility splays with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To protect highway efficiency of movement and safety.

#### **26. Village gateway feature**

Prior to the occupation of the proposed development the applicant/developer shall provide a village gateway feature at or in the vicinity of the existing speed restriction signage west of the proposed development site erected on both sides of the carriageway of Colchester Road, Braiswick to alert drivers and highlight the change in speed limit from derestricted to 30mph, incorporating appropriate signage and any associated measures of a design that shall be approved in writing by the Local Planning Authority.

Reason: In the interests of highways safety.

### **19.1 Informatives**

19.1 The following informatives are also recommended:

PLEASE NOTE that the outline planning permission reference number 191522 together with this approval constitute the planning permission for this development. All of the conditions imposed on both the outline permission and this approval must be complied with.

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.

PLEASE NOTE: It is likely that a protected species may be present at

the site, which are fully protected by the Wildlife and Countryside Act (1981). Further advice on surveys and compliance with the legislation can be obtained from Natural England, Eastbrook, Shaftesbury Road, Cambridge CB2 8DR, Tel. 0300 060 3787.

Essex County Fire & Rescue Service Informative: There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.

Highways Informative 1: The applicant should open dialogue with Essex Highways via the link below and submit drawings for Technical Approval (TA) for the Approval of details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage).

Highways Informative 2: 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](mailto:development.management@essexhighways.org).

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