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**Item No:** 7.1

**Application:** 211510

**Applicant:** Beyond The Box

**Agent:** Mr James Firth, Savills

**Proposal:** Full planning application for the demolition of existing buildings and construction of student accommodation blocks to provide student studio apartments, internal communal areas, staff offices and associated facilities, a substation, landscaping, works to river wall, changes to access and parking

**Location:** Colne Quay, Land to the east of Hythe Quay, Colchester

**Ward:** Old Heath & The Hythe

**Officer:** James Ryan

**Recommendation:** Approval

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

- 1.1 This scheme is before committee as it is a major application with objections, a legal agreement and has also been called-in by Councillor Lee Scordis for the following reasons:

1. Loss of light and overshadowing from large buildings
2. Loss of privacy for flats currently in place
3. Conservation of a wildlife area
4. Parking issues likely to arise

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact the scheme will have on the townscape and amenity of neighbours, the need for the development and the PRoW, alongside the planning benefits of the scheme.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site is located inside what is recognised in Colchester's adopted Proposals Maps as the settlement boundary of the town. The site is located in a former commercial harbour known as the Hythe area, which comprises a mix of industrial, commercial and residential buildings. The area has been subject to regeneration and redevelopment in recent years, notably the Maltings student accommodation scheme to the south and a series of residential apartments and student accommodation blocks located to the eastern side of the River Colne all of which are fairly tall buildings.
- 3.2 The site itself is mostly a vacant piece of brownfield scrub/grassland located between the A134 (Hythe Quay) to its western bank and the River Colne estuary to its east. The north of the site however, comprises low level commercial buildings, which a tyre business operates from. Two houseboats are moored alongside.
- 3.3 To the north of the site is a footbridge across the River Colne providing connectivity to the developed area to the east of the river. The eastern boundary of the site adjoins the River Colne which is supported by a piled river wall. The site is largely enclosed on its western boundary by a concrete wall, which is abutted by a narrow walkway along the eastern side of the A134. This walkway ends at the southern boundary of the site. This area has been left open and is not enclosed by walls. The space to the south of the site comprises an area grassland which occupies the space between the river side and the curb on the A134 until a new footpath starts at the Malting Roundabout and providing onward connection to Colne Causeway (another river crossing).
- 3.4 The Maltings development is located to the south on the opposite side of the roundabout. The western side of the A134 comprises commercial buildings, residential buildings and a pub (The Spinnaker Inn).

- 3.5 The site is located in a sustainable location within the Colchester. The town centre is located within 2km from the site where most of Colchester's central services and facilities can be accessed, including the High Street containing multiple retail outlets, convenience stores, pubs, eateries, leisure and entertainment facilities. Furthermore, there are a number of bus stops within walking distance of the site that provide regular services to Colchester Town Centre. The Hythe Train Station is also located with 500m of the site, which provides transit to Colchester Town Centre as well as services to other destinations within the region including onward travel to London.
- 3.6 The site itself is also located within close proximity to other local services all located in the Hythe Area. The site is just over 1km from the University of Essex main campus (approximately a 15-minute walk or 5-minute cycle ride).
- 3.7 The site is located in Flood Zone 3, but also belongs to an area benefiting from flood defences. An area located to the north of the site is designated as a conservation area but does not include the site itself. A locally listed building, The Spinnaker Inn is located close by on the western side of the A134.

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

- 4.1 The application proposes two student accommodation blocks (amended from three blocks as originally submitted) in a sustainable location in Colchester. The scheme has been amended from 300 rooms to 270 rooms within the application period. The proposals allow for the redevelopment of a mostly vacant strip of previously developed former industrial land between the A134 (Hythe Quay) and the western boundary of the Colne Estuary, comprising grass land and scrub. The site provides the opportunity to provide high quality buildings, public realm enhancements and footpath connectivity from the eastern side of the A134 to the south of the site to the Maltings and to a footbridge which crosses the river Colne to the north of the site. The site is located within a designated regeneration and growth area for Colchester.
- 4.2 It is important to note that the proposals also include the construction of a new river wall. There are sections of the existing river wall at the northern and southern extents of the site that are in good condition and do not need to be raised to protect the buildings from flooding. However, the remaining part of the wall is too low to protect the site and is not in a good condition. It is proposed to construct a new river wall by sheet piling on the river side of the existing wall. This element represents a significant investment.

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

- 5.1 The land is currently vacant, save from a small car tyre business on site.

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

- 6.1 There is no recent planning history.
- 6.2 COL/96/1251 – Outline application for residential development comprising 24 no. two bedroom flats – Former Gas Quay, The Hythe, Colchester was

approved on the 7th November 1996. This does not appear to have been implemented.

## **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 and is afforded full weight. 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
- SP5 Employment
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP10 Tourism, Leisure and Culture
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

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

- SA EC1 Residential development in East Colchester
- SA EC2 Development in East Colchester
- SA EC3 Area 1: Former Timber Dock
- SA EC7 University of Essex Expansion
- SA EC8 Transportation in East Colchester

- 7.6 The site is not in a Neighbourhood Plan area.

7.7 Submission Colchester Borough Local Plan 2017-2033:

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 can be afforded significant weight due to its advanced stage

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

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

The Emerging Local Plan is at an advanced stage and is therefore, considered to carry significant weight in the consideration of the application.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Cycling Delivery Strategy  
Sustainable Drainage Systems Design Guide  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
ECC's Development & Public Rights of Way  
Planning Out Crime  
Colne Harbour Masterplan  
Air Quality Management Guidance Note, Areas & Order

## 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 Anglian Water

No objection raised. The scheme should use a SuDS system and a number of informative have been requested.

The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows.

8.3 Arboriculture

No trees on site.

8.4 Archaeology

No objection, condition requested.

8.5 Cadent

We do not object to the proposal in principle.

Please note that there is a Low pressure gas main at the proposed entrance to the site, the main may need to be lowered to enable the access to be constructed. The developer is to contact Cadent Gas to discuss these works prior to commencing any construction on site.

8.6 Contaminated Land

No objection subject to conditions.

8.7 Colchester Civic Society

Detailed objection – please see website, however the representation notes scale, design, visual impact on context, lack of need, lack of parking, harm to neighbour amenity, lack of green space and impact on air quality.

8.8 Colchester Cycling Campaign

Object to the scheme as government advice states that cyclist dismount signs should not be used. The footbridge across the Colne should be redesignated as a cycle path.

8.9 Environment Agency

No objection.

8.10 Environmental Protection

No objection subject to conditions

8.11 Essex Police

Essex Police confirm a positive pre-application consultation took place, that matters of concern discussed at that meeting have been resolved, resulting in the comprehensive details as contained in the Design and Access Statement.

It is apparent that compliance for Secured By Design (SBD) accreditation is achievable should the applicant wish to pursue that route or should the planners stipulate SBD as a planning condition in ensure the aspiration of a location that is safe and accessible as outlined in Colchester - Policy DP1: Design and Amenity plan, i.v. 'Create a safe and secure environment' and NPPF, sec 12, paragraph 127, (f) 'Create places that are safe, inclusive ....., and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.

8.12 Highway Authority

No objection subject to conditions. This will be discussed in the report below.

8.13 Health and Safety Executive

Do not advise against (no objection).

8.14 Historic Buildings and Areas Officer

No objection – please see relevant section below

8.15 Historic England

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

8.16 Landscape Advisor

No objection subject to conditions.

8.17 Natural England

We have read the Council's Appropriate Assessment and are satisfied as long as a contribution to the Essex Coast RAMS is made the scheme is acceptable.



8.18 NHS

Require a financial contribution towards healthcare provision in the area.

8.19 Place Services Ecology

Following additional information, no objection subject to conditions.

8.20 Private Sector Housing

Object – see main body of report.

8.21 Ramblers

The Ramblers eagerly await the reinstatement of this section of Public Right of Way footpath 138 Colchester.

8.22 SuDS (LLFA)

No objection to the scheme.

8.23 Urban Designer

The scheme is acceptable architecturally but is not policy compliant due to its scale. More detail are set out in the relevant section below.

## **9.0 Parish Council Response**

9.1 The area is non-parished.

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below. As the scheme was amended during the application period two consultations were undertaken. A number of representations were received, with 62 were in objection and 53 were in support and 13 were general comments.

10.2 An objection was also received from Alderman Theresa Higgins. In summary this objected to the scheme as it is considered to be too tall, comprises overdevelopment, will dominate the area, will harm biodiversity and is harmful

to the historic area. The impact on the sewage system was also raised. The need for student accommodation was also questioned.

10.3 It is beyond the scope of this report to set them all out in full and they are all visible on the Council's Website but in summary they noted:

#### Objections

The scheme is ugly.

The scheme is too large/high/tall.

The scheme is overdevelopment.

The area should be a park.

The area is a haven for wildlife.

There is no need for this student accommodation.

Students do nothing for the area or the economy.

Students should be located at the University.

This will have a harmful impact on my residential amenity/overlooking/Loss of daylight and sunlight.

Where will they park?

Highway and traffic problems in the area will be exacerbated.

The scheme is harmful to the Conservation Area.

This scheme does not give any consideration to the PRow on site.

#### Support

This will be good for the area.

The buildings are well designed.

The new sea wall and riverside footpath will be a great benefit.

Beyond the Box provides great accommodation.

### **11.0 Parking Provision**

11.1 This is essentially a car free scheme, however drop off and servicing car parking is proposed as set out below.

## **12.0 Accessibility**

- 12.1 The scheme proposes two fully wheelchair accessible studios. There are also two non-wheelchair compliant studios of the same size that are very simple to convert if needed. Lifts serve all floors.

## **13.0 Open Space Provisions**

- 13.1 This is discussed in the main body of the report.

## **14.0 Air Quality**

- 14.1 As an essentially car free scheme, it is not held that this proposal will result in a significant impact on air quality. The Environmental Protection team have not raised any concerns in that regard.

## **15.0 Planning Obligations**

- 15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that would be agreed as part of any planning permission would be:

### **Community – £35,000**

Hythe Community Centre – Refurbishment works, increasing the capacity and service to local users.

### **Transport - £50,000**

1. £30,000 towards improving walking and cycling links from the development to university and/or town centre, which could be replacing the zig zag bridge or improvements to the PROW linking the development to Port Lane and the town centre.
2. £20,000 contribution towards setting up, expanding or supporting shared transport schemes in Colchester.
3. Provision of a car club parking space in an easy to access location on site with electric charge points for both a shared electric car club car and shared ebicycles.

### **Highways -**

- a) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
  - b) Improved crossing facilities in Hythe Quay (details shall be agreed with the Local Planning Authority prior to commencement of the development)
  - c) A Travel Plan and Residential Travel Information Packs both in accordance with Essex County Council guidance.
- Works conditioned and delivered either as part of the site or by a s278 agreement

### **Archaeology - £15,153.00**

£14,400 for museum quality display case, design and display material

£753 for enhancement of the Colchester HER

£348 will be required if no archaeological remains are affected by the development, to integrate the information from the archaeological

**NHS - 71,700.00**

For the provision of healthcare in the vicinity needed due to the increase in demand this scheme will generate.

## **16.0 Report**

The main issues in this case are:

### Policy Background

- 16.1 Policy SD1 of the adopted Core Strategy confirms that the Council will promote sustainable development throughout the Borough with growth being directed towards the most accessible and sustainable location in accordance with the Settlement Hierarchy. The Council will promote development in the Town Centre and in regeneration areas, primarily focussed in the following broad locations: Town Centre; North Growth Area; East Growth Area; South Growth Area; and the Stanway Growth Area.
- 16.2 Policy UR1 – Regeneration Areas confirms CBC are committed to regeneration in rundown areas, deprived communities and key centres. CBC will focus on the five areas of regeneration within the Borough which are: North Station; St Botolph's, East Colchester, North Colchester and The Garrison. New development in regeneration areas will be encouraged.
- 16.3 In respect of the Site Allocations document the site is located in an area of regeneration, by policy SA EC2 - Development in East Colchester. SA EC2 states that development within this growth area will be permitted subject to meeting key criteria which notably includes: providing a balanced and integrated mix of uses; provide flood risk management in areas of Flood Zone (2/3); and include uses which attract significant numbers of people which also enhances public accessibility for development on sites fronting the river.
- 16.4 Development in the East Colchester Regeneration and Growth Area is divided into four key areas aimed at making contributions to the area's future development. It will be noted that the site is not located within any of these site-specific site allocation policy areas (as it is located between the boundaries of Area 1: Former Timber Dock (SA EC3); Area 2: King Edward Quay (SA EC4); and Area 4: Hawkins Road (SA EC6). These areas are allocated to provide more specific requirements. The site is therefore not tied to specific allocation requirements; however, the Development Plan provides planning policy support for development in this location subject to proposals meeting the relevant criteria.

### Emerging LP

- 16.5 As set out above, the progression of the emerging Local Plan is at an very advanced stage and relevant policies can be afforded weight in accordance with paragraph 48 of the NPPF. The policies in Section 2 of the CB Local Plan is a material consideration that can be afforded significant weight.
- 16.6 In the Section 2 Local Plan, the site also forms part of the East Colchester Special Policy Area (Policy EC2), which is essentially a continuation of the policies contained in the currently adopted Development Plan that seek to grow and regenerate this area of Colchester. Like SA EC2, Policy EC2 supports and encourages development that helps to achieve the following key objectives. The proposals have therefore been assessed against the relevant objectives of Policy EC2 below, which also takes into account the key criteria of Policy SA EC2 stated at paragraph 5.3 above:
- i) Support regeneration of the area through appropriate densities, providing good public transport, a mix of uses including commercial community and residential as well as providing community and environmental enhancements*
- 16.7 It can be argued that the proposals will directly support the regeneration of the local area by providing development on a mostly vacant underutilised parcel of land that runs alongside the river Colne. Proposals will allow for a new footpath connection and footway along the river front, creating better connectivity along the eastern side of the A134 and opportunities for human interaction with the river front (in accordance with the aspirations for the Rowhedge Trail Route), providing significant benefit to the public and the local community. Opportunities for enhancement of the public realm; and environmental enhancement all exist as a result of the proposals. Student accommodation provides a type of residential development specific to the University. The Hythe is a suitable location for student accommodation given its proximity to the University of Essex site, which is also evidenced by the numerous examples of other student accommodation sites also situated in the local area (for example the Maltings, Hythe Mills, Hawkin Quays).
- ii) Maximise the potential benefits of the location adjacent to the University, enhanced by its expansion (Policy EC1)*
- 16.8 In accordance with this objective, the proposals will provide additional student accommodation primarily for students returning to university after their first year of study. Returning students are not guaranteed student accommodation by the University and there is demand to provide quality private student accommodation outside of the University to Campus to those individuals who are not guaranteed accommodation by the University. As confirmed in the University of Essex's University Strategy 2019–2025 they currently enrol 15,317 students across three campuses with ambitions to expand their student population to 20,000 students. The additional 270 student units proposed will provide a significant contribution to the university's targets, by providing

accommodation in accordance with their expansion. As noted above at paragraph 5.8 the application site is ideally located in an accessible location within walking distance of the university, in an area which has already proved to be a popular location for student accommodation. The need for accommodation is dealt with in more detail below.

*iii) Deliver significant public realm improvements to enhance public access, connectivity and sustainable movement*

- 16.9 As touched upon at paragraph 16.7 above, the proposals will provide significant public realm improvements, improving connectivity and sustainable movement's within the area, including the establishment of the river walk along the eastern side of the site. The proposals will also improve pedestrian safety, by moving pedestrian flow away from the current narrow footpath along Hythe Quay, to the more open areas through the site.

*iv) Ensure new developments are responsive to the distinctive historic character of the area and reinforce the significance of the Conversation Area*

- 16.10 The site is not located in a conservation area nor is it located nearby to any designated heritage assets. It is noted however, that a locally listed building is located opposite to the site on the western side of the A134 (The Spinnaker Pub) and is located south of the Hythe Conservation Area. The proposals have been designed to complement the local context and character of the area. In support of the proposals a Heritage Impact Assessment has been prepared by RPS. The findings of the proposals in relation to local heritage impact is assessed in this document and commented upon in the relevant section below.

*v) Contribute to the East Transit Corridor*

- 16.11 The proposals will establish a riverside footway improving pedestrian connections along the Hythe. The current footpath is narrow, close to the road and bounded by a wall with no access to the riverside. The proposals will result in significant public realm enhancements and improve connections within the East Transit Corridor particular when accessing the university from the town centre and vice-versa.

*vi) Enhance provision of Green Infrastructure to maximise potential opportunities for biodiversity and habitat creation*

- 16.12 The application site mostly comprises low value grassland and area of which isn't accessible to the public. As shown on the accompanying landscape drawings the proposals will introduce green infrastructure through soft landscaping to the site and provide opportunities for biodiversity enhancement and habitat creation including the provision of a biodiverse roof. This application is also accompanied by a Preliminary Ecological Appraisal, which is commented upon further below at paragraph 5.66.

*vii) Contribute towards flood risk solutions*

- 16.13 A Flood Risk Assessment and Drainage Strategy accompanies this planning application and is assessed later in this report. However, the proposals have been developed to mitigate any flood risks, including the rebuild of the river wall which is currently in need of repair. The proposals are considered acceptable in this regard.

*viii) Provide for a compatible mix of uses having regard to neighbouring amenity*

- 16.14 As established above student accommodation is seen as a wholly compatible with use within the area given its links to the University, which is confirmed by a number of other student accommodation developments also present in the vicinity of the application site. In respect of neighbouring amenity, assessments regarding the heights of the proposals and its suitability within the locality are assessed within the LVIA and the Daylight/sunlight assessments that accompany this planning application and assessed later in this report.

*ix) Situate development away from contaminated land*

- 16.15 A Phase 1 Contamination Survey accompanies this planning application. Land contamination is not anticipated to be an issue for the application site. However, if further investigations are required these can be dealt with by a suitably worded condition.

#### Policy Conclusion

- 16.16 Subject to the proposal meeting other relevant policies contained within the Development Plan, the emerging Local Plan and national planning policy, the principle of student accommodation at the policies referenced above within the adopted and emerging Local Plan establish the principle of development at the application site and proposals should be supported.
- 16.17 It is also noted that CBC have supported the development of this site for residential development previously as noted in the planning history section above.

#### Amendments within the application period

- 16.18 The scheme was amended significantly during the application period in order to overcome issues raised by both neighbours and consultees.

The main amendments can be highlighted as follows:

- ☐ Reduction of built form
- ☐ Design updates to improve articulation and reduce building mass
- ☐ Enhanced public realm to provide direct access to River Colne
- ☐ Tidal terrace to enhance ecological benefits
- ☐ Improvements to residential amenity

- Removal of habitable rooms from areas of flood risk

#### Amount/Operation

- 16.19 As submitted the scheme comprised 300 units of student accommodation. During the application period in an attempt to overcome some of the objections the scheme was changed from three blocks to two and the number of bedspaces was reduced from 300 rooms to 270 rooms.
- 16.20 The scheme proposed 254 studios that are 13.5m<sup>2</sup>, 2 wheelchair compliant studios that are 26m<sup>2</sup>, 2 larger 26m<sup>2</sup> studios and 9 studios of 18m<sup>2</sup>.
- 16.21 On the ground floor there are a number of group study rooms, kitchens, laundry, plant room, bin area, bike stores, a reception area and a TV room. There is no residential accommodation on the ground floor. Both blocks have lifts, the taller southern block has two lifts. The entire building is covered by sprinklers for fire safety and the applicants have confirmed that the layout has been informed by a fire consultant.
- The studios are located on the floors above. This comprises first floor to fifth on northern block and first floor to ninth on southern block. Each floor also has a shared kitchen in each block.
- 16.22 Operationally, the applicants have confirmed that their staff are on site during normal business hours plus the key move in weekends. They also employ additional staff and students to help on the key move in weekend. They remotely manage the CCTV and other systems.

#### Design

- 16.23 The National Planning Policy Framework (2021) sets out the Government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, going on to state that 'good design is a key aspect of sustainable development'. The framework also states that 'development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'.
- 16.24 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.



- 16.25 At a local level these policies are carried through and adopted as part of the Colchester Borough Council Local Plan 2001-2021 and Colchester Borough Local Plan 2013-2033. Relevant policies include Core Strategy Policy UR2, Development Policy DP1 and North Essex Authorities' Shared Strategic Section 1 Plan Policy SP7, which seek to ensure development responds positively to local character and context to preserve and enhance the quality of existing places and their environs.

At a local level these policies are supported by more detailed guidance provided by supplementary planning documents such as the Essex Design Guide.

- 16.26 Section 2 of the Colchester Borough Local Plan 2013-2033, 'Local Plan for Colchester', is currently at the examination stage and as such is considered to be at an advanced stage and can thus be afforded weight within the determination of planning applications. Policy DM15 is of particular relevance with regard to setting design standards and amongst other requirements seeks to ensure proposed developments respect and enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.

#### Design Assessment

- 16.27 This scheme has stemmed from a significant amount of pre-application work with the Council's in-house Urban Design Officer and a full set of amended drawings have been supplied during the application period in order to attempt to overcome some of his concerns.
- 16.28 As submitted, the scheme comprised three blocks. A significant change to the proposals has been reconfiguration of the scheme into two blocks. This allows for a large area of public realm to be created in the centre of the development, whilst also providing the maintenance of direct views between the River Colne and The Spinnaker public house.
- 16.29 The re-siting of retained blocks has also allowed for improvements to the area of public realm at the northern edge of the site, as well as increased the distance between the new buildings with those existing and the edge of the River Colne. A substation originally proposed in this area of open space has also now been integrated into one of the buildings instead.
- 16.30 The improvements have enhanced the ability of the site to support natural desire lines and the wider public enjoyment of this unique riverside location.
- 16.31 Further improvements to the design of the blocks themselves through a review of material usage, glazing and fenestration and roof form supports a sense of reduced massing and scale.
- 16.32 The revisions to the scheme see the proposed built environment reduced from three structures, down to two, with the addition of a central area of public realm. As a result, the footprint of the proposed built environment has reduced and the quantum of public realm provided has increased. Consequently, the perceived

mass of the proposed built environment is improved, as is access and views along the waterfront.

- 16.33 Revisions to the composition and treatment of the facades of the proposed structures seek to mitigate their scale and ensure they appear as a coherent collection of various structural elements which share consistent features. The use of a variety of materials and detailing break down the massing of the structures effectively. As a result, the elevational treatments of the proposed structures achieve a consistent rhythm, appearing balanced and visually articulated. The approach to materiality is consistent with the vernacular of the wider area. A good degree of active frontage is delivered at ground floor, however it is not evenly distributed. As such, the ground floor elevations to the north of the site would benefit from enhanced detailing or landscaping. On balance, the proposed built environment is considered to achieve an acceptable standard of design in itself.

### **Design Policy Compliance**

- 16.34 As per the original submitted scheme, by virtue of its location and scale, the proposed built environment remains out of keeping with the site's immediate context and the prevailing transitional character of the area. However, the scheme does now achieve an acceptable standard of architecture and an enhanced provision of public realm. In light of this, there are positive and negative elements to the design of the proposed development. The in-house Urban Designer argues that, by virtue of the latter, the proposed development would still be discordant with the sites' established context and as such remains contrary to some elements of the above outlined national and local planning policies. This must be weighed up in the planning balance however.

### **Conclusions**

- 16.35 As highlighted above, elements of the design of the proposed development have been improved, whilst others remain contrary to elements of policy. The proposal brings a disused parcel of land back in to use, delivers public realm improvements, significantly enhances access to the waterfront and looks to respond to the existing historic fabric of the area. The Urban Designer argues that the proposed development has a poor connection with its immediate context by virtue of its scale. The negative elements of the design are generally a result of the density of the proposed development, which pertains to matters of principle. As such a balanced judgement is required as to whether the negative elements of the proposed design are considered acceptable in the context of the wider material planning considerations relevant to this application.
- 16.36 On balance, the amendments have significantly improved the overall design of the scheme, continuing to build on that developed along with officers through a detailed pre-application process, and ensure that the updated scheme better accords with Policy DP1 of the Development Plan and DM15 of the emerging Local Plan.

### Need

- 16.37 A number of representations have questioned the need for this accommodation. The latest update from the University (provided to the developer) in summary is as follows:

		Academic Year 2021/22	Academic Year 2022/23	Academic Year 2023/24	Academic Year 2024/25	Academic Year 2025/26	Academic Year 2026/27
Campus	Level	Total	Total	Total	Total	Total	Total
Colchester Campus	UG	10,945	11,003	11,031	11,719	12,111	12,331
	PGT	2,606	2,781	2,830	2,898	2,978	2,982
	PGR	585	692	778	781	804	817
	Total	14,136	14,476	14,639	15,398	15,892	16,129

- 16.38 This demonstrates that the University are projecting that they will increase full time student numbers in Colchester by 1993 by Academic Year 2026/27, which with only 15% of Essex University students living at home will result in an additional demand for accommodation of 1694 rooms. The University will continue to only provide accommodation for foundation and 1st year students, resulting in 685 students who require on-campus accommodation and 1008 that require 3rd party accommodation.

- 16.39 Additionally, there is currently an under supply of on-campus accommodation for foundation and 1<sup>st</sup> year students of around 350 beds which, when added to the above new demand, results in a total requirement for 1035 additional on-campus beds by academic year 2026/27. To address the on-campus demand, the University has commenced construction of the Meadows phase 2 which will provide approximately 1200 additional bed spaces, addressing the on-campus supply problem, but doing nothing to address the 1008 bed demand for off-campus accommodation. Add to this that 55% of current students are unable to access purpose built student accommodation and that the pipeline for private student accommodation projects in Colchester is virtually empty and you will see that continuing to develop sustainable, high quality schemes like this one is essential to both the continued growth and success of the university.

### Landscaping

- 16.40 The revisions made to the overall site layout have been directly influenced by a desire to improve the offering of public open space and realm on the site, and to ensure that these spaces relate specifically to the unique location of this site. The revised layout provides significantly more usable space of this nature and, as such, more flexibility to design them in a way which ensure they are beneficial for both the new and existing community, whilst also making a maximum contribution to biodiversity. The use of rain gardens allows these spaces to contribute positively to the flood and drainage strategy for the site in a dual purpose manner also. The

scheme will therefore comply with Core Strategy Policy ENV1 and Section 2 Policy ENV1.

- 16.41 It is noted that the Landscape Master Plan shows planting and planters with footpath between. Whilst this appears as very attractive, it will need to be rearranged to maintain the definitive alignment of the PRow that was previously amended to avoid the landing of the white footbridge. This will be achieved via condition.

#### Impact on Townscape

- 16.42 Policy DP1 of adopted Development Plan requires proposals to respect its context and surroundings in terms of townscape and/or landscape setting, it also requires proposals to respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area. This is also carried forward in DM15 of the emerging Local Plan.
- 16.43 In respect these policies, a Landscape, Townscape and Visual Impact Assessment has been prepared by Guarda Landscape and accompanies this planning submission. The report sets out the baseline situation of the site and its surrounding context and has informed the design of the development of the application proposals and approach to mitigation as part of landscape led approach.
- 16.44 The report has been prepared in accordance with the relevant guidance with viewpoints also being agreed with CBC Officers before the assessment was undertaken. The defined study area is centred on the proposed site and is based on the area from which views of the development may be visible i.e. the visual envelope.
- 16.45 The report has undertaken two types of assessment landscape effect and visual effect. It considers the effect of the completed scheme on the surrounding landscape, townscape character and visual amenity from the surrounding roads and footpath network.
- 16.46 An initial baseline appraisal in Part 1 of the report confirms in landscape terms, with the exception of a small isolated reed bed, that the overall condition of the site is poor and it has a derelict and degraded character. The wall to the western boundary of the Site, visually separates the Site from the Hythe Quay forming a detracting feature within the Site's townscape context, and PRow FP 127\_138 does not currently exist on the ground. The site is considered to be of low landscape and townscape value. In terms of visual amenity, the site within its context was considered to offer medium to high visual amenity.
- 16.47 The assessment of landscape effects found that there would be a permanent change in land use which will alter the character of the site and the immediate surroundings. However, the development will bring significant riverside public realm enhancements, for example through landscape improvements and a biodiversity. In the context of the site's existing post-industrial brownfield character, these changes are beneficial.

- 16.48 The applicants argue that upon completion, the overall effect of the development would be predominantly beneficial. Although built form will increase, the new buildings (architecturally) reflect the Hythe's industrial past and the area with positive outcomes for the setting of the of the site and the Hythe Conservation Area.
- 16.49 The assessment of visual effect found that those in closest proximity to the site will experience the greatest changes in visual amenity, particularly pedestrian users. The effect on visual amenity to local residents was also assessed to be major adverse or major/moderate adverse impact during construction. The construction phase will be most disruptive however these effects are temporary. However, the proposed landscape mitigation, aims to reduce the effects of development and provide new public realm to the riverside. Given the narrowness of the site, most of the mitigation, in terms of tree planting, is to the north and south of the building and the plaza links between the buildings. The use of mature vegetation will provide immediate impact and provide positive change, immediately on the scheme.
- 16.50 The new buildings will be a visible element in the riverside view and from Hythe Quay which will be seen in conjunction with the existing built form which surrounds the site. The buildings have been designed to reflect the local context in terms of scale, layout and landscape. The effect of tree planting will be most effective at ground level in close proximity to the site. In middle distance views the effect of tree planting will provide a green setting to the buildings improving the areas townscape character and visual amenity. In longer distance views the proposed buildings are beyond the existing built form and the landscape proposals will not be visible and have no effect.
- 16.51 The proposal will alter the character of the site and its immediate surrounding, although there will be localised adverse visual and landscape effects, especially to receptors close the site, the change to high quality new development is seen as beneficial given the public realm enhancements, the reinstatement of the public footpath along the riverside and the interconnectivity of the site. This is an element of the scheme that must be assessed in the planning balance.
- 16.52 Given the extent of the changes and the impact they have on views in and out of the proposed development site, an Addendum to the LVIA previously submitted has therefore also been prepared to form part of this submission. This concludes that the proposed changes will be beneficial in terms of Townscape and Landscape visual impact considerations.

#### Impact on Setting of CA and non-designated HA's

- 16.53 Policy DP14 – Historic Environment Assets confirms development proposals that will adversely affect a listed building, conservation area, historic park or garden or important archaeological remains will be not be permitted. Section 16 of the NPPF is also concerned with impacts on heritage assets that in determining application local planning authorities should require applicants to describe the significance of any heritage assets affected.

16.54 In the light of the above a Built Heritage Statement has been prepared by RPS Consulting. This report identifies The Spinnaker Pub opposite the site as a locally listed heritage listed building and also acknowledges that the site is located approximately 50m south of the Hythe Conservation Area.

16.55 The Development Manager has assessed this scheme and the historic justification provided as follows:

Heritage Asset: Summary of Significance

16.56 Locally Listed (NDHA): The Spinnaker PH close by and Maponite Warehouses to north.

16.57 Designated HA: The Hythe CA and attendant assemblage of listed buildings especially those clustered at base of Hythe Hill. Note: these are indirect impacts on setting only the development is divorced from the conservation area boundary to the north. There are no designated HA within or adjacent to the application site. The LB's potentially affected include: 26b & 26c Hythe Hill, Church of St Leonard, and The former Sun Inn.

Scope Of Works: Summary

16.58 Development of student accommodation (sui generis) in linear format of two articulated blocks of up to 8/9 stories in height at the southern end cascading down to 4 stories at the northern end

Relevant Statutory Duties

16.59 s.66(1) PI (Lb & Ca) Act 1990

S72(1) PI (Lb & Ca) Act 1990

Analysis of Impact Upon Heritage

16.60 The Spinnaker PH (formerly the Anchor) is a very important survivor from the port related heritage of the Hythe. It is a typical early-mid C19 PH and has a key relationship with the adjacent quayside. The scheme has been revised in late 2021 to remove the intervening block (reducing unit nos from 300 to 270 units) with the reinstatement of direct intervisibility from the PH to the River Colne. The creation of an important area of landscaped space now further enhances the setting of this non-designated HA.

16.61 In terms of the wider impacts on the setting of the Hythe CA to the north, the principal effect will be experienced in terms of the long views along the river corridor out from and into the CA. The introduction of a significant built form will soften views of the Maltings Development (8 Storeys) through the use of a cascaded massing from a peak at the northern end (9 storey focal point on the southern junction) to a more typical 4 storeys at the northern end (addressing the CA). The increased mass and intensity of development will contrast with the former historic haphazard coal and lime kiln uses and will instead respond to the later C20 and C21 development on the opposed bank of the Colne in Hawkins Road. The scale will

contrast with that established in the later C20 e.g., to the west of Hesper Road where a modest 3 storey format dominates.

- 16.62 However, the built form now proposed will have only a peripheral impact on the character of the CA to the north and will simply reinforce more recent patterns of development of increased scale to the south. This reflects the transitional character of this part of the Hythe, in terms of the magnitude of effects, the impact will be at the lower end of less than substantial harm and offset by the public benefits of regenerating a derelict area of river frontage and providing new public realm and planting.
- 16.63 I do not perceive any material impact on the significance of listed buildings to the north as the development site does not make a material positive contribution, either now or historically, to their individual heritage values or significance. They are too remote in my opinion and lack a functional relationship to the application site.
- 16.64 The impact on the significance of the Spinnaker PH (NDHA) has been significantly mitigated by the revisions secured to the scheme. But nevertheless, it will suffer a change to its historic setting in terms of its established visual dominance and character. The 1840's Spinnaker PH will still be appreciated and understood in terms of its heritage values, but it will be subordinated in terms of townscape presence. I believe this modest harm is more than offset by the public benefits of the scheme, and in particular, the economic uplift to the local economy including potential customers of the PH which may secure its viability in the longer term.

#### Compliance With Relevant Policies

- 16.65 Adopted LDF: ENV1, UR2, DP14

CBLP 2017-2033 SP6 Place Shaping Principles in part, ENV1 Environment, EC2 Hythe Special Policy Area, DM16 Historic Environment.

- 16.66 The scheme complies with the NPPF and above policies except for the adopted ENV1 and DP14 which do not provide a 'balancing mechanism' to address situations of harm to significance and the consideration of wider public benefits. It is important that relevant plan policies are read in the context of the plan as a whole and not in isolation.

#### Conclusions & Recommended Actions

- 16.67 The scheme as revised (two blocks) contributes to the strategic aims of regenerating the Hythe albeit with a minor erosion of the wider historic setting of the CA, which is as explained above, convincingly outweighed by the public benefits of the scheme. The change to the setting of the Spinnaker PH (NDHA) will further evolve the relationship of this modest building to its environs (which have been in a state of transition as port related industry and activity has been displaced by homes) but again this loss is outweighed in my opinion in the ‘

planning balance' by the regeneration merits of the wider scheme.

#### Suggested Conditions

- Materials, architectural detailing
- Reuse of existing artwork on concrete boundary walling in accordance with scheme to be agreed.

#### Living Conditions

16.68 The Council's in house Private Sector Housing team have made the following comments:

*The accommodation is creating 'micro-flats' rather than shared HMO accommodation, as each bedroom area has its own en-suite shower room and kitchen sink/cooking facilities provided. Each unit can therefore be considered a self-contained flat. The majority of studio flats are 13.5m<sup>2</sup> and therefore do not meet the attached DCLG space standards for minimum internal floor area for each unit. For 1 bedroom this is 37m<sup>2</sup>.*

*I have serious concerns of up to 26 studios/persons sharing one kitchen/living room area on each level. This is an inappropriate number to be using one communal room. The layout of the double kitchens also shows sinks and cooking facilities side by side, rather than 2 distinct kitchen areas for safe use.*

*My suggestion would be to either make each unit meet the DCLG space standards for a 1 bed flat, or to remove all kitchen and cooking facilities from each room and provide a sensible level of kitchen/living room space based on the number of occupants for each floor of accommodation. I would suggest that no more than 10 persons should be allocated a designed kitchen/living area (meeting all space and kitchen facilities requirements for 10 persons) and therefore at least 2 separate kitchen/living rooms would need to be provided per floor of accommodation.*

16.69 In response, this application is for bespoke, *sui generis* student accommodation. It is not for 'normal' C3 residential accommodation. The operators/applicants specialise in such facilities and are well known for their high-quality accommodation. It is the success of their recent development in Avon Way, Greenstead that has driven their desire to bring this scheme forward. It is not reasonable to assess this scheme as a set of self-contained flats when they are plainly for students who will want to spend a great deal of time in the communal areas on the ground floor and also on campus. Reworking the scheme in line with the comments above would fundamentally change the applicant's product and is not held to be a reasonable requirement.

16.70 This has been carefully considered but it is held that a refusal on the basis of the comment above would not be reasonable for the use that is proposed. A condition is suggested to ensure the accommodation proposed is retained as student accommodation in perpetuity.



### Archaeology

- 16.71 In support of this planning application an Archaeological Desk Based Assessment has been prepared by RPS Consulting. The report confirms that the proposed development will not impact on any designated archaeological assets.
- 16.72 The report recommends that the first stage of investigation should comprise archaeological and geo-archaeological monitoring of the proposed site ground investigation, with subsequent sub-surface topographical modelling. The results of which will be used to inform appropriate timing of subsequent trial trenching, which has been agreed with CBC's Archaeological Officer ahead of this submission to be undertaken post-determination and secured by conditions if planning permission is granted.
- 16.73 Since the original submission, ground investigations on the site have now been completed with trial-pits, window sampler boreholes and ground investigation boreholes having been observed by Colchester Archaeological Trust. This programme of work was also agreed in advance.
- 16.74 A brick structure which may have been associated with a series of lime kilns which stood here in the 19th century was observed, along with substantial make-up and demolition layers associated with the prior use of the site as an industrial area, activity which likely destroyed any earlier archaeological deposits which might have existed here.

### Impact on Amenity

- 16.75 Paragraph iii) of Policy DP1 requires development proposals to protect existing residential amenity.
- 16.76 It is first important to note that planning does not seek to protect views. Some residents of the flats located south of the development site will lose their current river view, but that is not a material consideration.
- 16.77 In respect of this, the proposals impact upon the daylight/sunlight enjoyed by neighbouring properties is relevant. An Assessment has therefore been produced by Point 2 and accompanies this planning application.
- 16.78 The applicants argue that the site is located in an area which has seen substantial redevelopment and regeneration into a primarily residential urban sector. They state that as most of the surrounding properties are already tall at (4 to 9 floors) in the existing scenario, a degree of flexibility from the default BRE guidelines is necessary if the development site is to be fully utilised and the building is to match the height and proportions of existing buildings.
- 16.79 The applicants therefore argue that in order to meet housing targets, a degree of pragmatism with regards to the BRE guidelines will be necessary in accepting a handful of derogations.

## Background

- 16.80 It should be noted that in order to assess daylight and sunlight it is usual to assess impacts in relation to the guidelines set out in the 2011 Building Research Establishment (BRE) Report 'Site layout planning for daylight and sunlight - A guide to good practice' by Paul Littlefair. This document is most widely accepted by planning authorities as the means by which to judge the acceptability of a scheme. As a result, all of the analysis that the applicants provide is fundamentally based upon this guidance.
- 16.81 It should be noted that the BRE guidelines does not consider pass or fail as a criteria (principally as the BRE provides nationwide guidelines), it primarily looks at whether daylight reductions will be noticeable. Thus if reductions mean that windows are left with greater than 0.8 times their former value (relative alterations of less than 20%), the alterations are not noticeable. Where the relative alterations leave a window with less than 0.8 times their former value of daylight (a relative reduction of greater than 20%), this is considered a noticeable alteration. It should be emphasized that it has been held on appeal that a noticeable alteration of daylight does not necessarily mean the reduction of daylight is unacceptable. Buildings with an unusually high level of existing daylight (perhaps due to an unusually underdeveloped neighbouring plot) may experience noticeable alterations due to additional massing. Of critical importance therefore is whether the windows/room are left with sufficient daylight.
- 16.82 As a result a degree of flexibility on understanding the acceptability of a scheme is required. One of the key aspects for example may be the context of a scheme, such as whether it is located in an urban, sub-urban or rural setting. Other criteria include reference to the NPPF where it highlights the requirement to maximise the efficient use of land, or aspirations of the local authority to develop land in accordance with the local plan – the creation of a sufficient number of homes alongside the expansion of the university. As a result of this position, the BRE therefore highlights what degree of additional obstruction may be considered noticeable or not. The acceptability of the degree of obstruction therefore rest on numerous factors. Indeed the BRE at para 1.6 explicitly provides that in special circumstances the developer or planning authority may wish to use different target values. For example in a historic city centre or in an area with modern high rise buildings a higher degree of obstruction may be unavoidable.
- 16.83 The consultants have provided some guidance within their report as to existing light levels in the locale, this seeks to provide what is commensurate with the locale and therefore what is considered acceptable for this proposal. Thus where alterations of daylight are noticeable they have provided guidance, using existing prevailing daylight levels, of what amount of retained/residual daylight is considered acceptable.
- 16.84 VSC is 'Vertical Sky Component'. The VSC method measures the general amount of light available on the outside plane of the window as a ratio (%) of the amount of total unobstructed sky viewable following introduction of visible barriers such as buildings.

- 16.85 Taking into consideration the flexibility of the default BRE Guidance according to Appendix F as encouraged by the NPPF, a target retained VSC target in the 'mid teens' is considered appropriate in relation to the Application Site.
- 16.86 Retained VSC values of 9% to 'low teens' have already been considered acceptable in planning terms within the immediate local context as this level of residual daylight already exists. Furthermore the consultants note that it was held at appeal (Goldsworth Road, Woking December 2021 para 34-39) that retaining a VSC level of 27% in neighbouring properties is unrealistic; as has been recognised in many appeal decisions and other documents.
- 16.87 Even retaining 20% VSC is considered, generally, to be reasonably good, and in urban areas retaining around mid-teen % VSC is considered to be acceptable.
- 16.88 Indeed the appeal that the consultants cite noted that with one living room retaining a VSC of only 9% was acceptable. Thus the consultants have highlighted in the report where daylight alterations will be noticeable and provided guidance as to what is an acceptable degree of retained daylight where this is the case.
- 16.89 Of the noticeable alterations of daylight, 31 window retain between 15% and 26% residual daylight. Of the 5 that are left with less than this, 4 are between 14.3% and 14.9% and 1 is 8%. It should be noted however that this latter window serves a room with 2 windows and this is the smaller window. The primary light giving window experiences no noticeable alterations of daylight and thus on balance this is considered acceptable.
- 16.90 The properties (33-43 Meachen Road, 1-52 Keel Point & Sail House) experience alterations of daylight which fully accord with BRE guidance and will therefore be unnoticeable. The alterations which are unnoticeable demonstrate no noticeable change to the occupant(s).
- 16.91 The properties (1-29 Maria Court and 58-102 Caelum Drive) experience very minor breaches of BRE guidance to 1 or 2 windows or rooms, but the overall effects are not material. One window experiences a technically noticeable minor alteration of daylight (within 58-102 Caelum Drive only), thus only one apartment within one property will be impacted. The overall effects are not material as the room is served by 2 windows and only the considerably smaller secondary window is noticeably impacted. The remaining primary light giving window serving the room is not noticeably impacted.
- 16.92 Dwellings which experience reductions which are technically noticeable but are considered minor in part due to their retained VSC are The Spinnaker PH and 1-31 Meachen Road. Any noticeable alterations of daylight are ameliorated by adequate retained daylight levels which range from the mid-teens up to 26%, which is appropriate for the locale.
- 16.93 45-79 Meachen Road experiences noticeable alterations of daylight to around a third of the receptors. The receptors are a specific reference to the windows, not the apartments, thus it is a third of tested windows. It should be noted that not all windows within the block face the development site thus these will not be material for assessment. In this instance all windows retain VSC levels of at least the 'mid-

teens'. This relates to the residual/retained levels of VSC, or the amount of daylight these windows will receive after the development is completed. This means that the windows with noticeable alterations retain an amount of residual daylight which is considered commensurate with the locale or better.

- 16.94 These are within the bounds of the current prevailing daylight levels of the locale, thus are commensurate to the general conditions and can be considered acceptable in planning terms. The consultants have considered the prevailing daylight levels within the locale and compared these with the impacts to the surrounding residential properties. Their assessment finds that any windows which experience noticeable alterations of daylight will still retain adequate amounts of daylight which are similar to or better than some of the existing prevailing daylight levels in the area.

### Sunlight

- 16.95 As regards sunlight, most receptors are fully BRE compliant. Where neighbours will experience reductions of less than the recommendations, these derogations are considered minor and overall, the sunlight levels are considered acceptable. The impacts relate to 45-79 Meachin Road where some rooms experience alterations of Annual Probable Sunlight Hours which leave them below the recommendations of the BRE. That said, in an urban environment alterations of direct sunlight are inevitable, not least when developing on a clear site such as this. The consultants therefore consider that the overall levels of retained daylight are commensurate with the locale.

### Overlooking

- 16.96 This scheme will provide habitable student accommodation rooms that face the existing flats opposite (i.e. on the other side of Colne Quay/the A134). This is a reality of developing an urban site such as this. It is not considered that the scheme will cause materially harmful overlooking to these dwelling or their private amenity areas. Front to front overlooking such as this is generally accepted in situations such as this and blank flanks would not be architecturally appropriate as the south facing elevation is a publicly prominent as the riverside facing elevation.
- 16.97 In conclusion, Officers have carefully considered the findings of the daylight and sunlight report and also considered the implications of potential overlooking to the neighbours to the west. It is accepted that this scheme will have adverse impacts on the neighbours and it is very important to acknowledge that. In many respects that is inevitable if a constrained site in an urban location such as this is to come forward. On balance, it is not considered that this scheme will cause materially harmful impacts to neighbours that are sufficient to warrant a refusal of a scheme that has the significant public benefits such as this one.

## Employment

- 16.98 The proposals will result in the replacement of low level commercial buildings to the north of the site, which is currently occupied by a tyre business. It is however, noted that the application site does not comprise allocated employment land. The supporting paragraph to Policy SA EC1 – Residential development in East Colchester states that the Hythe area has long been the location for traditional industries, many associated with the former port operations. These industries however are unlikely to attract the necessary economic and environmental benefits required for the regeneration initiative. The tyre business is currently responsible for employing a relatively small number of people, whilst the development proposals will employ at least 5 permanent staff members. Furthermore, there will also be wider economic benefits to the Hythe and the wider Colchester area through the housing of circa 270 students, the proposals are considered to be acceptable in this regard.

## Highways, Parking and the Public Right of Way

- 16.99 Policy DP17 – Accessibility and Access requires all new development proposals to be accompanied by an appropriate Transport Assessment to determine the impacts on access, traffic generation and assess that appropriate provision for pedestrians, cyclist and links to foot and cycle networks have been accounted for. Additionally, Core Strategy TA1 and TA2 are concerned with changing travel behaviours i.e. promoting walking and cycling. Likewise, Policies DM20, DM21, DM22 set out similar criteria.
- 16.100 The scheme is ‘car free’ so there is no designated parking for students during term time with the exception of a dedicated loading bay and two drop-off areas located along the roadside of the A134. This includes roadside access to the substation at the northern end of the scheme.
- 16.101 As a ‘car free’ site, the proposals prioritise pedestrian movements and encourage other modes of transport. Due to the location, the site is already well placed to take advantage of existing walking and cycling infrastructure. The site is also located with good access to local public transport. As a ‘car free’ development, the proposals only provide a total of 7 temporary spaces along the side of Hythe Quay. These will be managed by the operator.
- 16.102 Policy DP19 confirms that CBC will refer to the adopted parking standards. The adopted parking standards document for CBC is the Parking Standards Design and Good Practice September 2009 (Essex County Council). The Essex Parking Standards do not provide an exact standard for private student accommodation schemes, however standards for residential establishments for further education provide the closest guide. Under these standards the proposals would need to provide 1 space per 5 students and 1 space per full time students. However, Policy DP19 also states that the level of parking provision required will depend on the location, type and intensity of use. Lower standards may be acceptable or required where it can be clearly demonstrated that there is high level of access to services,

such as town centre locations. Cycle parking will also be required for all developments.

- 16.103 The parking spaces that are provided will be reserved for loading/deliveries/services and to accommodate disabled people. Cycle parking is proposed in accordance with the parking standards 1 space per every 3 students.

#### The PRoW

- 16.104 The site is not currently useable as public space, and although a public right of way (PROW 127\_128) runs through the site currently, it does not actually appear as useable on site.
- 16.105 The definitive map has been checked and the alignment of the PRoW is maintained (save for some landscaping that will be amended via condition as set out in the landscaping section). Whilst it is not usable currently, the applicants will need a temporary diversion during the construction phase and they are aware of this.
- 16.106 One of the key public benefits of this scheme is that the proposals will connect the site to the surrounding area and re-establish this footpath and thus revitalise this as an attractive riverside walk. The proposals will also provide an improved landing area from the footway across the river where a new controlled zebra crossing will provide safe passage across the road.
- 16.107 Colchester Cycling Campaign would like to see the new river walk (i.e. the existing PRoW) dedicated as cycleway. The applicants and the Highway Authority are keen for this to be a footpath only. The Highway Authority have requested conditions to prevent the PRoW being used for cycling.
- 16.108 To 'design out' the need for students to wheel their bikes along the PRoW to the cycle store, the applicants are looking to move the cycle store down to the south of the site (in effect swapping it for the room that is current used for laundry). This will mean that students will be able to cycle from the university and straight to the cycle store without having to wheel their bikes along the footway as the cycle store is at the end of the site nearest to the university. This will be addressed via a condition.

#### Contaminated Land

- 16.109 Policy DP1 confirms development proposals must undertake appropriate remediation of contaminated Land. Policy ENV5 – Pollution and Contaminated Land of the emerging Local Plan confirms on proposals on contaminated or suspected contaminated land must include and assessment of the extent of contamination risk. Paragraph 178 of the NPPF states that a site should ensure it is suitable for its proposed use, taking account any arising risk from contamination.
- 16.110 Following the concluding advice of the Phase 1 Geoenvironmental Assessment submitted with the original application which was rather out of date, additional ground investigations have now taken place and an associated report now forms part of this updated submission. This report makes a number of recommendations

in terms of the management of potential risk to both construction workers and future habitants of the site. It's findings have been assessed and agreed with the Council's Environmental Protection Team.

### Ecology

- 16.111 Policy ENV1 states that development proposals should seek to protect habitats and species and conserve and enhance the biodiversity of the borough and provide for any necessary mitigating or compensatory measures. Policy ENV1 of the emerging Local Plan also states the planning applications should be supported by the appropriate ecological surveys.
- 16.112 In respect of the above a Preliminary Ecological Survey has been prepared by Carol Reid. The appraisal concludes that the site consists of poor, semi-improved grassland – with a wide reed bed extending along half of its length. Compensation for the loss of the reed bed will need to be provided. A Marine license is also required to replace the Sea Wall.
- 16.113 The Landscape Masterplan details how green infrastructure and biodiversity enhancement features such as the biodiverse roof can aid in the provision of biodiversity enhancements.
- 16.114 The scheme was assessed by the Council's consultant ecologists at Place Services. They requested additional detail was provided pre-determination. The applicants agreed to this and commissioned the work.
- 16.115 The amended submission also now includes a Further Botanical Survey and a Reptile Survey and Assessment which were recommended within the Preliminary Ecological Appraisal Report. The Further Botanical Survey has provided further recommendations to inform the landscaping and ecology strategies for the proposed development, and no reptiles were identified on the site.
- 16.116 The additional surveys and assessment continue to comply with Policy ENV1 of the adopted and emerging Local Plan by ensuring that habitats will be protected where needed and have informed the enhancement and mitigation of such features as part of the proposals.

### Biodiversity Net Gain

- 16.117 Due to the progress of the Section 2 Local Plan and the inspectors suggested modifications, the applicants were asked to demonstrate 10% Biodiversity Net Gain (BNG).
- 16.118 Full biodiversity net gain calculations have now been undertaken in respect of NPPF updates and emerging local policies. This assesses the biodiversity gains as a result of the proposal using the DEFRA metric and in this regard predicts a biodiversity net gain of 61.8%.
- 16.119 This is a very significant gain and should be given considerable weight in the assessment of the proposals. The ecological gain is achieved through the provision of high quality new and replacement habitats including a new artificial saltmarsh

on the riverbanks, and a biodiverse roof. These unique features allow an opportunity for the provision of the highest quality habitats and maximising their value given that they are in part publicly accessible spaces that also have to provide functionality therefore.

16.120 To provide this level of BNG, the applicants are also looking to work alongside SeaNet a local organisation who are currently working to clear the Colne River of rubbish and detritus. This is a significant public benefit as well as a very useful way of delivering BNG in the immediate vicinity.

16.121 It is noted that the applicants would like to attractively landscape the highway verge that sites to the south of the site close to the roundabout. They would also be prepared to maintain this highway land. The Highway Authority have not agreed to this at this stage are concerned about the potential for this verge/embankment to become destabilised. This will not be secured via condition as it is not yet clear if the applicants' aspirations are deliverable, however if it can be achieved the applicants would be happy to deal with that via the highways agreement.

#### Canopy Cover

16.122 The Section 2 Local Plan also seeks to achieve an on-site canopy cover increase. There are no significant trees on site currently. The landscaping scheme will include tree planting where possible, mindful of the constraints of this long narrow site. It is therefore considered that the scheme will provide a useful uplift in tree canopy cover.

#### RAMS

16.123 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site. Student accommodation has an impact and therefore this scheme must be assessed on that basis.

16.124 Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In Colchester we have the Colne Estuary Special Protection Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.

16.125 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the governments advisor on the natural environment, and other LPAs in Essex, Colchester Borough



Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £127.31, which applies to all residential development within the Zone of Influence (Zoi). The whole of Colchester Borough is within the Zoi. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected, and the proposal complies with the Habitat Regulations.

- 16.126 Proposals for 100 dwellings or more will also require a shadow appropriate assessment to be submitted with the application, which assesses likely significant effects alone. This should clearly show how necessary avoidance measures are incorporated into the proposal however that is not reasonably possible in this instance due to the constrained nature of the site. Payment of the RAMS tariff will address in-combination effects. It is agreed that as student accommodation is assessed on a case-by-case basis as are not full independent dwellings as with a normal block of flats. The applicants have agreed with this approach and the financial proportionate contribution in line with calculation in paragraph A2.7 of the SPD (£6874.20) will be secured in the legal agreement.

#### Flooding

- 16.127 A Flood Risk Assessment and Drainage Strategy has been prepared by Walsh in support of this planning submission.
- 16.128 The adopted local and national planning policy places significance on the protection of development from flooding. Policy DP20 of the adopted Development Plan confirms development will only be supported where proposals meet the requirements in PPS25, recommendations in Colchester's Strategic Flood Risk Assessment, and include satisfactory flood defence measures including mitigation measures such as SUDs. The Planning Policy Statements have since been replaced by the NPPF, meaning the NPPF and the relevant National Planning Practice Guidance are the most relevant policy documents to following in relation development and flood risk management. Policy DM23 of the emerging Local Plan also recognises this policy change.
- 16.129 Paragraphs 155 to 169 of the NPPF establishes policy relating to flood risk management. The main focus of these policies is to direct development towards areas of the lowest possible flood risk without increasing flood risk elsewhere. The NPPF advises that the sequential test should be used to steer new development to areas with the lowest risk of flooding and if it is not possible for development to be located in zones of lower flood risk the exception test may have to be applied. This is a requirement for development located in either Flood Zone 2 or 3.
- 16.130 The report prepared by Walsh confirms that the site is located in Flood Zone 3A. Based on the flood risk vulnerability classification table (Table 2 of the NPPG), the development overall can be characterised as 'more vulnerable' as it consists of residential units above ground floor level. Based on the above vulnerability and

after having applied the Sequential Test (Diagram 2 of the National Planning Practice Guidance) the development is subjected to the exception test. In accordance with paragraph 160 of the NPPF, the exception test requires applicants to demonstrate:

- ☐ The development would provide wider sustainability benefits to the community that outweigh the flood risk;
- ☐ The development will be safe for its lifetime taking account of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

- 16.131 The EA originally objected to the scheme. Following this objection, An updated Flood Risk Assessment and Drainage Strategy has been prepared by Walsh Engineering to address the comments received from the Environment Agency. The strategy proposes number of mitigation measures, such as ensuring that all habitable finished floor levels are at least 300mm above the tidal 0.5% AEP undefended level at or above 4.9mAOD, with other ground floor finished floor levels being at least 300mm above the tidal 0.5% AEP undefended level at or above 3.6mAOD.
- 16.132 Section 7 of the amended FRA specifically deals with comments received from statutory consultees to date. This section has therefore further influenced finished floor levels and seen the inclusion of a non-return valve in the outfall pipe into the River Colne to ensure that tidal volumes do not enter the drainage system and attenuation facilities for the site. The drainage strategy has been updated accordingly.
- 16.133 The updated report concludes that the recommendations made will ensure that the proposed development will not put the occupants at undue risk of flooding nor increase flood risk in the surrounding areas as a result. The scheme will comply with Policy DP20 of the adopted Development Plan, emerging Policy DM23 and latest guidance provided within the 2021 NPPF also.
- 16.134 Additional information is also now provided in the form of a “Design Statement & Philosophy for River Wall Repair & Replacement Works” to detail the works that are proposed to the existing river wall.
- 16.135 Following revisions to the scheme and the FRA, the EA were reconsulted and they now have no objection to the scheme. The proposal is therefore acceptable in that regard.

### Public Art

- 16.136 The long wall that currently form the road boundary to the site have a number of pieces of public art in and on it. The applicants have agreed to remove these and re-display them in a public place on site. The detail of this will be agreed via condition.

### Houseboats

- 16.137 The houseboats will be moved during the construction phase and then reinstated in their current positions. New power and water supplies will be provided as part of the development.

### Climate Crisis and Sustainability Measures

- 16.138 The site is located in a sustainable location which will encourage sustainable transportation methods to both the University and the town. As an essentially 'car free' scheme car ownership will be actively discouraged. Cycle parking will be provided as previously noted, as will a cycle maintenance area.
- 16.139 In addition the applicants have noted they expect to have insulation that is 32% more effective than the current building regs, low energy lighting throughout, low energy electric heating, natural ventilation rather than mechanical, water saving sanitaryware, PV's on the roof for energy generation, a bio-diverse brown roof and new planting as set out previously. There will also be an EV charging bay within the minimal on-site parking that will be used for a car club car. Storage for electric scooters is also proposed.

## **17.0 Conclusion and Planning Balance**

- 17.1 The proposals are compliant with Policies SD1, UR1 and SA EC2 of the adopted Development Plan, which all advocate development within sustainable location within the settlement boundaries of Colchester, with a particular focus on utilising previously developed land and the regeneration of the East Colchester area. The objective of regenerating this area in which the application site sits is also continued within the emerging Section 2 Local Plan, which establishes the principle of development at the site.
- 17.2 The proposals will provide significant benefits in respect of public realm improvement, pedestrian connectivity and pedestrian road safety. It will provide a new section of river wall which is a very significant investment (around £700,000) and this will create a new section of riverside walk that will connect the existing footway to the east with the southern end of the existing Hythe footbridge. This will be publicly accessible. The scheme is therefore beneficial in terms of the wider public realm and has the potential to genuinely create a new publicly accessible piece of the Hythe for the benefit of both the new students and the existing residents. It will transform this rather unkempt piece of land into a section of space that will be inviting to walk along. Whilst it is acknowledged there is a Public Right of Way in place on site already, it can be seen from the condition on site that it is not well used as it is blocked; this scheme will ensure it is surfaced and allow it to be used

to its full potential as an important linkage. It is a shame that the scheme will not provide a cycleway but the upgrade to the PRow is a benefit nonetheless.

- 17.3 The scheme also proposed an innovative 'tidal terrace' between the two proposed blocks. This break in built form will open up views from the Spinnaker Pub opposite and will provide a biodiverse space that the tide can rise up into, with a bridge over to ensure connectivity, and space for sitting out in and relaxing/socialising.
- 17.4 Furthermore, this scheme will also make a significant contribution to CBC's housing supply targets. It will result in an equivalent of circa 108 houses to the Council's five-year land supply. This is a very important benefit of the scheme and in effect results in brownfield development that protects unallocated greenfield sites elsewhere in the Borough from speculative development. The proposal will also aid in the expansion of the University which is major employer in the area and provides wider economic benefits to Colchester.
- 17.5 Set against the significant public benefit is the impact the scheme will have on the neighbouring dwellings in terms of daylight and sunlight. These have been carefully assessed and it is not considered the impacts, whilst acknowledged, will be of a level that warrant the refusal of this scheme.
- 17.6 When located on brownfield sites in urban locations, schemes of this type and scale will inevitably have impacts, be they on neighbouring amenity or on townscape for example. Regeneration focuses on brownfield sites and that is a clear intention of the Development Plan and the NPPF 2021.
- 17.7 The Planning Balance assessment is exactly that, a balancing exercise of the benefits of the scheme weighed against the adverse impacts. This scheme has significant public benefits and has the potential to transform this part of the Hythe, acting as a catalyst for further high-quality development and opening up important pedestrian linkages for the benefit of all residents. Overall, the proposals are considered to provide sustainable development in accordance with the adopted Development Plan and after very careful consideration of the adverse impacts, the Planning Balance is held to tip in favour of an approval.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

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

### **1.Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **2.Development to Accord With Approved Plans**

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

Site Location Plan PL900 P02  
Existing Site Plan PL901 P03  
Proposed Block Plan PL902 PL05  
Ground Floor Masterplan PL903 P06  
Proposed First Floor Masterplan PL904 P06  
Proposed Second-Fourth Floor Masterplan PL905 P06  
Proposed Fifth Floor Masterplan PL911  
P05 Proposed Sixth Floor Masterplan PL906 P06  
Proposed Seventh Floor Masterplan PL912 P03  
Proposed Eighth to Ninth Floor Masterplan PL907 P06  
Proposed Roof Masterplan PL908 P06  
Proposed site Sections PL909 P05  
Proposed Site Elevations PL910 P06

North Block  
B0-00-DR-A-PL100 P09  
B0-01-DR-APL101 P09  
B0-02-DR-APL102 P09  
B0-05-DR-APL103 P03  
B0-RF-DR-APL107 P07

South Block  
C0-00-DR-A-PL100 P09  
C0-01-DR-A-PL101 P08  
C0-03-DR-A-PL103 P03  
C0-06-DR-A-PL106 P04  
C0-06-DR-A-PL107 P09  
C0-08-DR-A-PL108 P08

C0-RF-DR-A-PL109 P08

#### Elevations

B0-ZZ-DR-A-PL200 P06  
B0-ZZ-DR-A-PL201 P06  
B0-ZZ-DR-A-PL202 P06  
C0-ZZ-DR-A-PL200 P07  
C0-ZZ-DR-A-PL201 P07  
C0-ZZ-DR-A-PL202 P0

#### Sections

B0-ZZ-DR-A-PL300 P07  
B0-ZZ-DR-A-PL301 P07  
B0-ZZ-DR-A-PL302 P07  
C0-ZZ-DR-A-PL300 P07  
C0-ZZ-DR-A-PL301 P06  
C0-ZZ-DR-A-PL302 P07  
C0-ZZ-DR-A-PL303 P07

Refuse and Parking  
PL913 P04

Highways (From TA addendum)  
ZA861 PL SK 200 F  
ZA861 PL SK 201 F  
ZA861 PL SK 202 F  
ZA861 PL SK 203 F

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

### **3. Elements Not Approved**

Notwithstanding the landscape masterplan drawings submitted, no hard landscaping or planters are hereby approved. The position of any hard landscaping must be submitted to, and approved in writing by the Local Planning Authority prior to the occupation of the development. The scheme shall be completed in accordance with Landscape Management Plan that is subject to a separate condition.

Reason: The on site hard and soft landscaping is very important to the public benefit of the scheme however to the north of the site the indicative hard landscaping will need to be changed to fully accommodate the definitive alignment of the PRoW.

### **4. Student Accommodation Only**

The development hereby approved shall not be used for any other purpose than *sui generis* student accommodation.

Reason: This is the basis on which the application has been made and the basis on which it has been assessed. The scheme would not comply with adopted plan policy

if it was for C3 residential accommodation and therefore this condition is needed to ensure it stays as student accommodation in perpetuity.

## **5. Cycle Store Relocation**

Prior to commencement, and updated ground floor drawing showing the revised location of the cycle store shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall then be built in precise accordance with this approved drawing.

Reason: To locate the cycle store in a position that reduces the need for students to wheel their bikes through the site and/or along the PRow.

## **6. Relocation of Public Art**

Prior to occupation, a scheme to demonstrate the relocation of the existing public art that is set into and on the existing boundary wall shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in complete accordance with the approved drawings.

Reason: To ensure the public art is retained and is displayed in a publicly visible position.

## **7. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS**

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Report (Carol Reid, April 2021), Reptile Survey and Assessment (ACJ ecology, October 2021), Invertebrate Surveys and Assessment report (Hopkins Ecology, November 2021) and Biodiversity Impact Assessment (ACJ ecology, November 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will 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).

## **8. PRIOR TO COMMENCEMENT OF ANY WORKS WITHIN THE MARINE ENVIRONMENT: SUBMISSION OF A COPY OF THE MARINE LICENCE**

Any works within the marine environment shall not in any circumstances commence unless the local planning authority has been provided with a licence issued by Marine Management Organisation pursuant to the Marine and Coastal Access Act 2009 authorizing the specified

Reason: To conserve the Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone.

## **9. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY**

Prior to commencement an CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY shall be approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of Biodiversity Protection Zones
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To 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) as updated by the Environment Act 2021

## **10. PRIOR TO COMMENCEMENT: FURTHER BOTANICAL SURVEY**

A further supplementary botanical survey for nationally and regionally important plant species shall be undertaken to inform the preparation and implementation of ecological mitigation measures required through Condition(s). The supplementary surveys shall be of an appropriate type for the above species and survey methods shall follow national good

Reason: To 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) as updated by the Environment Act 2021

## **11. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN**

A Landscape and Ecological Management Plan shall be submitted to and approved in writing by, the local planning authority prior to the occupation of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.



- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures for habitats retained and created.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved det

Reason: To 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) as updated by the Environment Act 2021

## **12. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME**

A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To 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) as updated by the Environment Act 2021.

## **13. Highways No Cycling on PROW**

Prior to commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority to show how cyclists would be prevented from riding their bikes along any part of Public Footpath 138 Colchester. The development shall be carried out in accordance with the approved details.

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

## **14. Highways off site works**

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

- a) The vehicular and pedestrian access arrangements as shown in principle on the planning application drawings

- b) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) Improved crossing facilities in Hythe Quay (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) Existing footway/cycleway located immediately to the south of the proposal site extended north to a suitable termination point (details shall be agreed with the Local Planning Authority prior to commencement of development)
- e) A Travel Plan and Residential Travel Information Packs both in accordance with Essex County Council guidance

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

### **15. Noise Mitigation**

Prior to construction of the development above ground level, a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces shall be submitted to and approved, in writing, by the Local Planning Authority. 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) any reliance upon building envelope insulation with closed windows should be justified in supporting documents that cross reference the mitigation measures used. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime. The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

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

### **16. Limits to Hours of Work**

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

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

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

Sundays and Bank Holidays: **No working**

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

### **17. Construction Method Statement**

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;  
loading and unloading of plant and materials;  
storage of plant and materials used in constructing the development;  
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;  
wheel washing facilities;  
measures to control the emission of dust and dirt during construction; and  
a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

#### **18. Limits to Hours of Construction Deliveries/Worker Traffic**

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

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

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

Sundays and Bank Holidays: **No working**

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

#### **19. External Light Fixtures TBA**

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

**Reason:** To reduce the risks of any undesirable effects of light pollution

#### **20. Refuse and Recycling As Shown**

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

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

#### **21. Site Boundary Noise Levels**

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

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

application. The impact on existing residential plus those proposed above the substation.

## **22. Sound Insulation/enclosure of substation Building**

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

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

## **23. Landscaping**

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

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Planting plans.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

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

## **24. Landscape Management Plan**

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

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

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

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

adjoining land,

groundwaters and surface waters,

ecological systems,

archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as

contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

## **27. Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

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

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

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

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

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

## **29. Validation Certificate**

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 28.

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

## **30. Materials**

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

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

## **31. Detailing**

Prior to the installation of the relevant architectural features, additional drawings that show details of all architectural features to be used including, but not limited to, windows, doors, rusticated brickwork, reveals, brick bonding, rainwater goods, parapet, rooftop railings, cladding pattern jointing, cills, soffits, and transition joints between different materials. Appropriate material shall be submitted to and approved, in writing, by the Local Planning Authority. As appropriate, this may include drawings at a scale between 1:20 and 1:1, product information and samples. The development shall thereafter be implemented in accordance with the approved details.

Reason: There is insufficient detail with regard to these features which are essential elements of the design.

## **32. Drainage/FRA**

No development shall take place except in complete accordance with the submitted Flood Risk Assessment (5297-WAL-ZZ-XX-RP-C-6700, Walsh April 2021) and drainage strategy contained within that document.

Reason: To ensure the scheme is safe for the lifetime of the development and to ensure the scheme does not cause materially harmful off-site runoff.

### 33. Flood Plan

Prior to occupation and updated flood evacuation plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be run in any manner other than in complete accordance with the Flood Evacuation Plan.

Reason: To ensure that the flood risk to occupants of the development are minimised to acceptable levels.

### 34. Archaeology

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

- a. The programme and methodology of site investigation and recording
  - b. The programme for post investigation assessment
  - c. Provision to be made for analysis of the site investigation and recording
  - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - e. Provision to be made for archive deposition of the analysis and records of the site investigation
  - f. Nomination of a competent person or persons/organisation to undertake the works
- The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

### 19.1 Informatives

19.1 The following informatives are also recommended:

#### 1. ZT0 – Advisory Note on Construction & Demolition

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

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

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development.** This is of critical



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

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

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

### **4.Anglian Water Informative**

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

(2) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts

Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

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

(4) INFORMATIVE - The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Design and Construction Guidance for foul and surface water sewers offered for adoption under the Code for adoption agreements for water and sewerage companies operating wholly or mainly in England ("the Code"), as supplemented by Anglian Water's requirements.

## **5.Cadent Informative**

Cadent Gas own and operate the gas infrastructure within the area of your development. Please note that there is a Low pressure gas main at the proposed entrance to the site, the main may need to be lowered to enable the access to be constructed. The developer is to contact Cadent Gas to discuss these works prior to commencing any construction on site.

## **6.Highways Informative**

Proposed parking and loading bays – the applicant should be aware their application to remove highway rights may not be successful which could mean they would be unable to implement their planning permission or may need to apply to vary it. If instead all or part of the bays were dedicated as highway under a S278 agreement, the applicant should be aware their use would not be for the exclusive use of those visiting the proposal site

- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org)