

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 15 June 2023 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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Access

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Facilities

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

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e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 15 June 2023 at 18:00

The Planning Committee Members are:

Cllr Lilley
Cllr Barton
Cllr Davidson
Cllr Hogg
Cllr Mannion
Cllr MacLean
Cllr McCarthy
Cllr McLean
Cllr Tate
Cllr Warnes

Chair
Deputy Chair

The Planning Committee Substitute Members are:

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

Councillors:

Cllr Arnold
Cllr Buston
Cllr Goacher
Cllr Law
Cllr Naylor
Cllr Rippingale
Cllr Smalls
Cllr Willetts

Cllr Bickersteth
Cllr Cory
Cllr Hagon
Cllr Laws
Cllr Nissen
Cllr Rowe
Cllr Smith
Cllr J. Young

Cllr Bloomfield
Cllr Dundas
Cllr Harris
Cllr Lissimore
Cllr Pearson
Cllr Scordis
Cllr Sommers
Cllr T. Young

Cllr Burrows
Cllr Ellis
Cllr Kirkby-Taylor
Cllr Luxford-Vaughar
Cllr Powling
Cllr Scott-Boutell
Cllr Sunnucks

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

Please note that Agenda items 1 to 2 are normally dealt with briefly.

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

Live Broadcast

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say (Hybrid Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. These Have Your

Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of each planning application. Each representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee either in person or remotely need to register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date. In addition for those who wish to address the committee online we advise that a written copy of the representation be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each

6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 27 April 2023 and 24 May 2023 are a correct record.

2023-04-27 CCC Planning Committee Minutes 7 - 14

2023-05-24 CCC Planning Committee Minutes - Annual Meeting 15 - 16

7 Planning Applications

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

7.1 **220526 Land Adjacent to 67, Braiswick, Colchester, CO4 5BQ** 17 - 52

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

7.2 **223013 Bypass Nurseries, Dobbies Lane, Marks Tey, Essex, CO6 1EP** 53 - 74

Application for Change of use of land to B8 storage, retention of portable cabin for ancillary office, retention of earth bunds, proposed buildings for storage.

7.3 **222429 Myland Lodge 301a Mile End Road, Colchester, CO4 5EA** 75 - 94

Application for part demolition of former horticultural buildings, conversion of a barn to residential use and erection of 4 no. dwellings with garages and access.

7.4 **230380 Land adj to, 179B Shrub End Road, Colchester, Essex, CO3 4RG** 95 - 112

Application for a new 3 bedroom Art-deco influenced dwelling and separate garage. (Revised drawings).

- 7.5 **230777 Kroonstadt, 63 London Road, Copford, Colchester, CO6 1LG** 113 - 122

Proposal for a change of use of a section of residential garden into secure dog exercise field.

- 7.6 **230775 The Stanway School, Winstree Road, Stanway, Colchester** 123 - 134

Application for retrospective stationing of demountable structure to form a Clubhouse.

- 8 **Revised procedures for S106 Developer Contributions** 135 - 142

The Planning Committee are invited to approve the revised scheme of delegation in relation to the S106 Spend Release Protocol

- 9 **Exclusion of the Public (not Scrutiny or Executive)**

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

- Planning Committee Information Pages v2** 143 - 154

Part B

(not open to the public including the press)

PLANNING COMMITTEE

27 April 2023

<i>Present:-</i>	Councillors Lilley (Chair), Barton, Chapman, Chuah, Mannion, MacLean, McCarthy, Pearson, Tate and Warnes
<i>Substitute Member:-</i>	
<i>Also in Attendance:-</i>	Councillors Buston and Goacher

985. Site Visit

A site visit was conducted on the 27 April 2023 and was attended by Councillors Lilley and Chapman. Members of the Committee visited the following site:

- 230031 Land between 7 & 15 Marlowe Way, Colchester, CO3 4JP
-

986. Minutes

The Minutes of the meeting held on the 16 March and 30 March 2023 were confirmed as a true record.

987. 230031 Land between 7 & 15 Marlowe Way, Colchester, CO3 4JP

The Committee considered an application for the variation of condition 2 following grant of planning permission of application 212888 (daylight and sunlight report received). The application was referred to the Planning Committee as it had been called in by Councillor Buston who raised the following concerns:

1. Overdevelopment
2. Ignoring the planning conditions imposed on 212888 approved 21 April 2021
3. Development over a formerly publicly accessible Open Green space
4. The previous application for development on this site (210304) was dismissed on 10 September 21, citing, as reason for dismissal (inter alia): "1. The proposed three dwellings, by reason of their detailed design, form and scale (including being higher than the adjacent properties) would be out of keeping with and harmful to the character of the established street scene and surroundings." Thus that the current buildings have been erected on the site without reference to the plans approved in 212888, in particular the height of these buildings. Policies UR 2 and DP 1, and the (Borough) Council's adopted "Backland & Infill Development SPD, are in particular infringed.

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

Chris Harden, Senior Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the location of the site and the surrounding properties including the drawings of what had previously been approved on the site. The Committee heard that the application had been made to overcome the issue that plot 1 was 0.715m taller than the ridgeline of the neighbouring property, and that plot 3 was 0.587m taller than the adjacent neighbouring property. It was further noted that plot 1 had been built closer to the neighbouring property than approved and that the rear kitchens on all properties have been built 0.6-0.7m taller than the approved drawings. It was confirmed that the outlook from existing neighbours and the newly built dwellings would not conflict with the 45 degree angle test for the outlook from windows. The Committee were shown close up views of the differentiation in height, the submitted pictures and the approved elevations. The Senior Planning Officer detailed that there was concern raised over the elevations which were shown to be out of keeping and noted that the drawings for the proposal were approved in good faith. Furthermore, it was noted that comments had been received including: noise emanating from the area, that the system favoured the developer and that the development was overcrowding of the street scene. The Committee heard that the principle for development had been previously agreed and that it was for the Committee to decide whether the proposal before the Committee was acceptable. The Senior Planning Officer outlined that in officer's opinion the proposal was acceptable and that the daylight and sunlight report had concluded that there would not be a significant impact that would warrant refusal of the scheme and detailed that the amenity impact had been considered as acceptable. The Senior Officer concluded by outlining that the recommendation was for authority to approve the application subject to any further consultation responses received and that a new unilateral undertaking was not now required as this had been paid on the previous scheme.

Simon Sorrell addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that the first proposed scheme on this site had been refused in 2021 due to the height of the proposal and its impact on the street scene and loss of open space with members of the local community taking comfort from the material planning concern had been addressed through the conditions that detailed that the proposal needed to be built in accordance with the drawings however it is now obvious that the proposal is taller than agreed. The Committee heard that the Council's enforcement team showed that the applicant had misled the Council and a new planning application amendment had been required. It was noted that although they had admitted that it was wrong this did not alter the material consideration and their actions were reprehensible and their non-compliance with the conditions would make the Council look like fools. It was noted that this could set a precedent for future developments and asked the Committee to refuse the application and force the applicant to put it right.

Robert Pomery (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the intention from the original application had not been to mislead anyone and confirmed that the dwellings as built were taller than the street scene than shown on the indicative drawings and confirmed that there had been no intention to deceive. The Committee heard that the height of the dwellings had been re-assessed to conclude that there was no demonstrable harm and that there should be no reason why approval should not be granted. Members heard that the error was an unintended misrepresentation in the height, that the site was being supplied by local merchants, and that if not agreed there would be an appeal on the application. The speaker concluded by detailing that the homes would be left empty and could be susceptible to anti-social behaviour and that it would be disproportionately harsh not to agree this proposal and asked for the Committees support.

Councillor Roger Buston addressed the Committee as Ward Member for Prettygate addressed the Committee and referred back to the comments made by Simon Sorrell and the impact on local residents. The Ward Member detailed that the site had previously been on green public open space and that when the Committee had refused an application in Highfield Drive on grounds of cramped development this should be considered in conjunction with this case. The Committee heard about the principle of development on the site and precedent within planning and how planning law was inflexible detailing that as the dwellings had been built too tall that they would breach the conditions as agreed and noted that the application would have been refused if the buildings had been taller than proposed and closer to existing dwellings. Members heard that the OS maps were incorrect and queried why this was not pointed out at the outset to avoid this issue and detailed that the dwellings should be lowered in height to accord with the permission as agreed.

The Chair addressed the meeting and detailed their concern that the matter was before the Committee again and the precedent that it sets. They noted that a site visit had been conducted and that if the developer had done their job properly the application would not be before Members. The Chair added that Marlowe way was not an area that suffered from anti-social behaviour.

At the request of the Chair, the Senior Planning Officer responded to the points that had been raised by the speakers. The Committee heard that the dwellings when approved were considered to be acceptable and confirmed that the drawings had misled the Committee regarding the height in comparison to the neighbouring properties. They noted that over their 35 years of experience they were aware of this happening on other applications and that it was for the Committee to decide whether the difference in height was too far beyond what was approved. The Committee heard that there was no bias from officers regarding the application as it had been assessed on the evidence that had been submitted and had confirmed that they had reviewed the case in great depth. It was noted that the proposal was separate from the one on Highfield Drive that had been refused and that there were different material considerations with that application. The Senior Planning Officer concluded by detailing that the judgement for the Committee would be to decide on whether the additional height of the dwellings, the proximity of the dwelling (plot 1) and the height of the kitchens was acceptable and that demolishing the dwellings would be an excessive option.

Members of the Committee debated the application querying when the difference in height from the plans became significant and how this was judged and serious concern was raised that the planning conditions had not been adhered to. The Chair queried whether approving the proposal would set a precedent for the Council.

At the request of the Chair, Senior Planning Officer and Development Manager responded to the queries that had been raised. The Committee heard that the difference in height was not insignificant and that 0.3m was the de minimis measurement and that the difference above that should be considered as non-compliance. The Committee also heard that the Committee's decision would not set a precedent in the same way that other functions of the Council did as every application was considered on its own merits and any harm. The Development Manager detailed that no significant harm had been identified and that although it was different did not automatically warrant a refusal.

Members continued to debate the application and expressed their disappointment that of the situation with some members expressing the view that the proposal ruined the street scene and would have an impact on the existing building behind the proposal and that it was a significant amount of difference from the approved scheme with questions being raised how this could have happened.

At the request of the Chair the Senior Planning Officer responded to the points that had been raised. The Committee heard that the street scenes were not properly plotted and heights were not correctly measured in relation to existing properties. It was noted that the dwellings had been built to the correct height in the other approved plans but that the relationship between the existing dwellings had been misrepresented.

Members debated the proposal and commented whether building regulations officers had visited the site and raised significant concerns that one of the sole reasons that the application had been agreed upon had been flouted. Members noted the comments from the agent and asked questioned what grounds of demonstrable harm there were and what options to Committee had other than imposing the height restriction, and the significance of doing so.

At the request of the Chair the Development Manager responded to the points that had been raised. The Committee heard that the Committee could seek a deferral on whether it was possible for the applicant to return the design to that which had been approved. The Committee heard that the Council did not have the resources to check sites and relied upon neighbours and members of the community to bring the matters to the attention of the enforcement team. It was noted that there was not a requirement for the ridge height to be uniform along Marlowe Way.

Members debated the responses from Officers with some members disagreeing with the assessment of the impact of the roofline and the impact on the street scene with some members suggesting that amendments could be made to the roof to lower the height and that if not then it would make a mockery of the committee's decision-making ability. Members queried why the developer had not stopped building when it had become apparent that they were taller than the surrounding neighbours' properties. Some Members detailed that they believed that the buildings had been built in accordance with the correct measurements, with the plans for their relationship to neighbouring properties being incorrect and accepted that there was an error on the site but that it did not substantially alter the street scene.

At the request of the Chair the Development Manager responded to the points that had been raised. The Committee heard that officers understood Members' dissatisfaction with the proposal but confirmed that it was sadly extremely common for applications not to be developed strictly in accordance with permissions but that in this case the ridge height was given serious consideration by the Committee when the original application was determined. It was noted that Officers deemed the difference to be material hence why the application was required but that its acceptability related to consideration of the harm that the additional height and other changes made to the approved application.

Members discussed the application and noted that there were differing ridge heights in the area and expressed concern that the developer had continued to build the proposal from the wall plate to be higher than approved. Members discussed what the process would be for deferral and the options that would be available to them and what the consequences would be if the application was appealed.

The debate concluded with a resolution that was proposed and seconded as follows:

- That the application be deferred to enable officers to discuss options with the developer for lowering the roof ridge of all the constructed dwellings.

RESOLVED (UNANIMOUSLY) That the application be deferred to enable officers to discuss options with the developer for lowering the roof ridge of the constructed dwellings.

988. 223138 23 Ryegate House, Rent Officer, St Peters Street, Colchester, Essex, CO1 1HL

The Committee considered an application for a change of use from E (c) (ii) (probation services offices) to create managed HMO rooms. The application was referred to the Planning Committee as it had been called in by Councillor Goacher due to the significant concerns raised by residents about the density and quality of the proposed accommodation and lack of adequate parking provision.

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

Chris Harden, Senior Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee heard that parking on the right-hand side of the entrance had been negotiated and was not part of the proposal as it would be replaced with bin storage and a bike store with minor amendments to the fenestration. The Committee were shown the floor plans of the proposed design as well as the previously approved application for 14 flats in 2015. The Senior Planning Officer outlined that the proposal was within the City Limits and that it met the HMO standards as required but the applicant would be required to apply for an HMO license. It was noted that the site was within walking distance of the City centre and confirmed that the principal of residential use had been established with the previous 14 flats being approved. The Committee heard that prior to this the building had been used as an office which would have required more parking spaces, it was noted that there would not be any parking permits available for the future occupiers. The Senior Planning Officer detailed that the amenity space on site was small and there was no possibility for expansion but noted that castle park was within a hundred metres of the site which could mean residents had access to amenity space. The Committee heard that in officers' opinion the proposal would not cause detriment to the neighbourhood amenity and noted that anti-social behaviour was not something that the Committee could consider as there was no evidence that this was associated with the proposed use. The Senior Planning Officer concluded by detailing that the existing trees on site would not be affected by the proposal and detailed that subject to a unilateral undertaking and details on contamination including asbestos a condition or informative note could be added to ensure that it is removed satisfactorily.

Maxine Rose addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that 40 objections had been submitted to the Council about the application which included parking for the site which was unsuitable for the Dutch Quarter. The speaker detailed that the proposal would lead to vandalism and criminal activity and would have a negative impact on the area as the future residents would have no investment in the area and that the proposed management of the site was unacceptable via remote means. The speaker concluded by detailing that the proposal would be a harmful intensification of the use and asked that the Committee refuse the proposal.

Kenan Kataray (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that they were a local businessman who had lived in Colchester for thirty years and lived five minutes from the site outlining that they will run the site in a professional manner with their son. They

detailed that they had run shops in the night-time economy and said that they were a hard worker who had got onto the property ladder and owned a property on Queens street where they were always asked for rooms. The Committee heard that there was a demand for HMO's in Colchester and that the building had been unoccupied for 8 years and approving the proposal would clean up the building. The speaker concluded that parking would be bought from Stewart House nearby and would be run professionally whilst helping the local economy.

Councillor Mark Goacher addressed the Committee as Ward Member for Castle addressed the Committee and detailed that there were concerns that anti-social behaviour could be created from the proposal and questioned why other HMO's were not being used as well as how the proposal would be managed. The Visiting Member detailed that the proposal would be cramped with concern being raised over the quality of the accommodation that would lead to people being cramped in like sardines in an area that was struggling with parking issues. The speaker concluded by outlining that the if the proposal was not adequately managed and that if not this could create pressure for the Police and asked the Committee to refuse the application.

The Chair addressed the Committee and asked Members to be mindful that they should not pre-judge who would be living in HMO accommodation if the application was minded for approval.

At the request of the Chair the Senior Planning Officer outlined that a condition could be included regarding travel pack information and that the Council's Environmental Health team had not objected to the proposal but could take action if problems did arise. The Committee heard that an additional condition could be added that the management pack is sent to the Council for approval and noted that there had been no objection from Essex County Council's Highways Department.

At the request of the Chair the Development Manager suggested that a condition be added that the proposal and future occupiers are included in the membership of the Colchester Travel Plan Club and outlined that the proposal had been approved by the Council's Private Sector Housing Team as well as meeting Nationally Described Space Standards.

The Committee debated the proposal noting the additional conditions and welcoming the membership to the travel plan club, as well as discussing accessibility in the building with concern being raised regarding the contamination of asbestos. Members debated the parking on site and asked that one of the parking spaces be designated for disabled parking.

It was proposed and seconded that the application be approved as detailed in the officer recommendation and amendment sheet with the additional conditions/informatives as follows:

- Obligation to join Colchester Travel Plan Club to promote sustainable and active travel in perpetuity.
- A Management Strategy for the premises to be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of the development.
- The provision of a dedicated disabled parking space on site and thereafter so retained and kept available for use.
- A survey and programme for the safe removal of existing asbestos to be undertaken prior to the commencement of development.

RESOLVED (UNANIMOUSLY) That the application be approved as detailed in the officer recommendation and amendment sheet with the additional conditions/informatives as follows:

- Obligation to join Colchester Travel Plan Club to promote sustainable and active travel in perpetuity.
- A Management Strategy for the premises to be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of the development.
- The provision of a dedicated disabled parking space on site and thereafter so retained and kept available for use.
- A survey and programme for the safe removal of existing asbestos to be undertaken prior to the commencement of development.(informative)

PLANNING COMMITTEE

24 May 2023

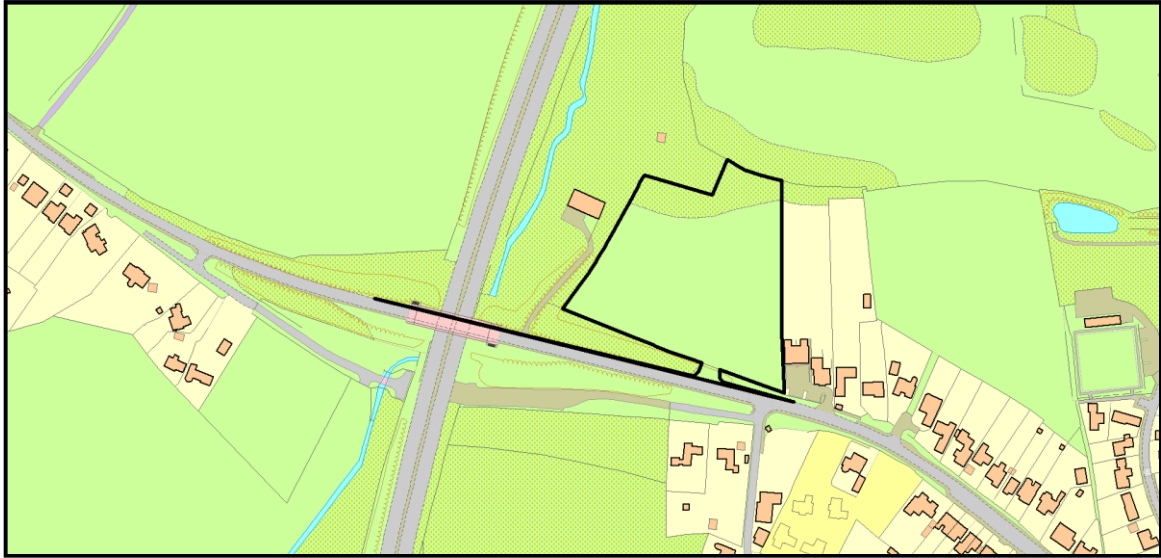
<i>Present:-</i>	Councillors Lilley (Chair), Barton, Chapman, Chuah, Mannion, MacLean, McCarthy, Pearson, Tate and Warnes
<i>Substitute Member:-</i>	
<i>Also in Attendance:-</i>	

989. Appointment of Chair

RESOLVED that Councillor Lilley be appointed Chair for the forthcoming Municipal Year.

990. Appointment of Deputy Chair

RESOLVED that Councillor Barton be appointed Deputy Chair for the forthcoming Municipal Year.



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Item No: 7.1

Application: 220526

Applicant: Arbora Homes

Agent: Nikki Dawney

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

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

Ward: Lexden & Braiswick

Officer: John Miles

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

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

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

2.0 Synopsis

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

3.0 Site Description and Context

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

4.0 Description of the Proposal

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

5.0 Land Use Allocation

- 5.1 The site is allocated for residential development.

6.0 Relevant Planning History

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

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

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

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

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

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

Policy NC3: North Colchester

Land at Braiswick

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

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

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

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

- HOU1
- ENV1
- SPL2
- DPR1

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

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

8.0 Consultations

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

8.2 Archaeological Advisor

No objection.

8.3 Arboricultural Officer

No objection raised.

8.4 Contaminated Land Officer

No objection.

8.5 Environmental Protection

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

8.6 Essex County Fire & Rescue Service

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

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

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

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

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

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

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

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

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

8.8 Essex Police

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

8.9 Essex SuDs

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

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

8.10 Highway Authority

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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

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

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

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

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

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

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

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

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

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

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

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

8.11 Landscape Advisor

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

3.10 Hard landscape/external works:

- Details (type & manufactures product reference or detail illustrative drawings) and location/line of all artefacts, enclosure and structures (railings, walls, fences, furniture, bollards, litter/dog/cigarette-end bins, other storage units, signage, lighting etc.) need to be clearly identified on the proposal drawing and included within its 'key'. These need to be compatible to the sensitivities of their location, robust (e.g., wooden bollards need to be specified as hardwood) and generally clearly illustrated as being set within complementary hard landscape to simplify future maintenance. – *Detail drawings or manufacturers ref for all enclosure and street furniture needs to be submitted, including for the bow-top fencing. – No landscape objection to applicants' suggestion this be addressed under bespoke condition provided this is achievable in planning terms.*
- All lighting positions (including those to be adopted by Highways) need to be identified on plan.
All lighting, where proposed, requires these notes against the lighting symbol(s) key confirming (verbatim) that:
'All lighting proposals comply with [Colchester Borough Council's External Artificial Lighting Guidance 2012](#)'; and
 - *'Where unacceptable light incursion into adjacent units is identified (particularly to bedroom windows) shuttering sufficient to minimise light incursion will be implemented.'*; - *include on drawing AH013_305_08.*

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

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

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

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

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

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

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

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

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

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

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

8.12 National Highways

No objection.

8.13 Natural England

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

8.14 Planning Policy

Colchester Local Plan

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

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

Policy NC3 states:

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

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

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

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

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

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

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

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

Policy DM19: Private Amenity Space

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

Policy DM23: Flood Risk and Water Management

Policy DM24 – Sustainable Urban Drainage Systems

Policy DM25: Renewable Energy, Water, Waste and Recycling

Myland and Braiswick Neighbourhood Plan

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

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

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

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

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

Review of the Myland and Braiswick Neighbourhood Plan

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

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

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

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

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

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

Planning Balance and Conclusion

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

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

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

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

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

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

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

8.15 Urban Design Officer

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

9.0 Parish Council Response

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

Myland Community Council:

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

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

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

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

West Bergholt Parish Council:

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

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties, and in respect of both the original and revised proposals. These consultation exercises resulted in 34 objections. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

Objections:

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

11.0 Parking Provision

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

12.0 Accessibility

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

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

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

13.0 Open Space Provisions

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

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

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

Principle

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

Design, layout and impact on the Character of the Area

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

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

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

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

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

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

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

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

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

Landscaping and Public Realm

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

Residential Amenity

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

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

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

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

Arboriculture and Tree Canopy Cover

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

Biodiversity Net Gain, Ecology and Climate Change

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

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

RAMS

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

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

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

Flood risk

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

Highways and Parking

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

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

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

Contamination

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

Other Matters

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

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

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

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

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

17.0 Planning Balance and Conclusion

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

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

- 17.2 In respect of the first of these, **the economic role**, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.
- 17.3 The **social role** of sustainable development is described as supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being
- 17.4 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in the north of Colchester, including balanced communities through the delivery of 30% affordable housing, is located within walking distance of a number of key local services and facilities required for day-to-day living and will make an important contribution to the Councils' housing land supply. Significant weight should be given to this in the planning balance.
- 17.5 In respect of the third dimension, the **environmental role**, the proposal will provide housing in a sustainable location so that future residents would not be wholly reliant on private car, being able to walk, cycle or use public transport to access necessary services and facilities, thereby minimising environmental impacts. Ecological enhancements and biodiversity net gain can also be secured by condition.
- 17.6 There is also sufficient evidence to be confident that overall, the development would not cause material harm to the amenity of nearby residents or have a severe impact upon the highway network. The scheme as amended is held to constitute acceptable design. Whilst the proposed development would have an impact on the existing character of the site (i.e., by introducing built development where there is none currently) through a general suburbanising effect on the wider setting, which carries some weight against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme as does the significant weight afforded to the supply of new homes in the Framework.
- 17.7 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts identified and the planning balance tips in favour of an approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. Reserved matters application time limit

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

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

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

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

AH013.300.27

AH013.301.11

AH013.302.10

AH013.303.10

AH013.304.14

AH013.310.05

AH013.311.05

AH013.312.05

AH013.313.05

AH013.314.05

AH013.315.05

AH013.316.05

AH013.317.05

AH013.318.05

AH013.319.05

AH013.320.05

AH013.321.05

AH013.322.05

AH013.323.06

AH013.324.05

AH013.325.05

AH013.326.05

AH013.340.05

AH013.341.05

AH013.342.05

JBA 21-311-03 REV J

JBA 21-311-04 REV J

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

3. Site levels

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

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

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

4. Material details

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

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

5. Architectural Detailing

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

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

6. Utilities

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

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

7. Boundary Treatments

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

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

8. Additional landscaping details

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

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

9. Landscaping (external lighting)

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

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

10. Landscaping revisions

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

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

11. Landscaping Implementation, monitoring and management

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

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

12. Obscure glazing

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

Reason: To protect residential amenity.

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

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

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

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

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

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

15. Garages retained for parking

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

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

16. Ecological Enhancements

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

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

17. Receptor Site Agreement

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

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

18. BNG and Tree Canopy Cover

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

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

19. Updated AIA

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

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

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

20. Tree and hedgerow protection

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

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

21. Limits to hours of work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

22. Noise levels

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

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

23. Estate roads

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

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

Reason: To protect highway efficiency of movement and safety.

24. Travel packs

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

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

25. Estate road junctions

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

Reason: To protect highway efficiency of movement and safety.

26. Village gateway feature

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

Reason: In the interests of highways safety.

19.1 Informatives

19.1 The following informatives are also recommended:

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

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

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

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

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

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

Highways Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

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



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Item No: 7.2

Application: 223013

Applicant: Mr Modani

Agent: Mr Ben Willis

Proposal: Change of use of land to B8 Storage, retention of portable cabin for ancillary office, retention of earth bunds, proposed buildings for storage.

Location: Bypass Nurseries, Dobbies Lane, Marks Tey, Essex, CO6 1EP

Ward: Marks Tey & Layer

Officer: Eleanor Moss

Recommendation: Approval subject to recommended conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Ellis has called-in the application for the following reasons:

The development proposed together with building layout, siting and scale is too industrial in nature/appearance, and will therefore have a detrimental impact on the area.

The proposal does not accord with the adopted Marks Tey Neighbourhood Plan.

Notwithstanding ECC Highways comments/requested conditions, Dobbies Lane is patently unsuitable for the type and quantity of vehicles the proposed use requires/generates, significantly compromising Highway safety for both cyclists and pedestrians. Photographic evidence can easily be supplied by the Parish Council. I would ask for a committee site visit so that they can fully appreciate the issues with this application. I could continue, but this should be sufficient reasons for 'call in' and we will expand on this at Committee.

2.0 Synopsis

- 2.1 The proposed development is for the change the use of the land outlined in red to B8 storage (retrospective), retention of portable cabin for ancillary office (retrospective), retention of earth bunds (retrospective) and two proposed buildings for storage.
- 2.2 The key issues for consideration are principle of development, highway matters, flood risk and drainage, heritage, ecology, impact on the character of the area, and impact on amenity.
- 2.3 The report describes the site and its setting, the proposal itself, and the consultation responses received including those from statutory consultees. The material planning considerations which are relevant to the proposal are detailed in the report. The report considers this submission documentation alongside the key material planning matters and comments set out in representations received. It is acknowledged that a number of third party representations are in relation to highway safety. The Essex County Council Highway Authority has been consulted on the proposal and their comments, included recommended conditions, are considered in the report.
- 2.4 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.
- 2.5 The application is subsequently recommended for approval subject to the recommended conditions.

3.0 Site Description and Context

- 3.1 The application site comprises of the existing Nustone site which is a well established paving stone site within Marks Tey. The on-site business operations comprises of storage of a range of different paving stones and types. The Nustone site (i.e. the brownfield area of the site) has an urbanising

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effect on the otherwise predominantly rural landscape. The site also includes an undeveloped grassland area which is adjacent to Old London Road. This existing grass buffer helps to maintain separation between the existing Nustone site and the public highway, softening its influence on the character and appearance of the area and creating a softer edge to the wider settlement.

- 3.2 The surrounding land uses are residential to the north, commercial employment to the east, and open countryside to the south and west. The A12 is in close proximity to the site, this is to the south. Vehicular access is already existing, this is provided via Dobbies Lane, which joins Old London Road, which then links to the A120 and then the A12.
- 3.3 The application site is located outside of the settlement limits, designated as white land (i.e. "no allocation") in the Local Plan albeit close to an employment zone. The site is noted as business use within the adopted Marks Tey Neighbourhood Plan.
- 3.4 The approach to the site from Marks Tey along Old London Road is lined by dwellings, which give way to the employment uses closer to the application site. Adjacent to Old London Road is the A12 dual carriageway with agricultural land, a small number of isolated houses and a petrol station beyond. To the south-west, beyond the wider field boundary and another small collection of houses, is further agricultural land. Despite some elements of urbanising development and the site's position on the edge of the built-up area, the surrounding area is therefore predominantly rural in character.

4.0 Description of the Proposal

- 4.1 Change of use of land to B8 storage (retrospective), retention of portable cabin for ancillary office (retrospective), retention of earth bunds (retrospective) and two proposed buildings for storage.

5.0 Land Use Allocation

- 5.1 The site is previously developed commercial uses but is located in the defined countryside in planning policy terms.

6.0 Relevant Planning History

- 6.1 151898 - Previous planning permission granted for the change of use of polytunnel and area of hard standing to B8 storage. Approved
- 6.2 211747 - Change of use of land from Garden Nursery (sui generis) to B8 Storage. Refused and dismissed at appeal. It is important to note that this application related to the greenfield part of the site and introduced a new access point. The refused application is considered materially different to this scheme before Planning Committee.

7.0 Principal Policies

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

Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP5 Employment
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

- SG1 Colchester's Spatial Strategy
- SG3 Economic Growth
- SG8 Neighbourhood Plans
- ENV1 Environment
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- OV1 Development in Other Villages
- OV2 Countryside
- DM6 Economic Development in Rural Areas and the Countryside
- DM15 Design and Amenity
- DM16 Historic Environment
- DM21 Sustainable Access to development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water Waste and Recycling

7.5 Some "allocated sites" also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:

- SS11 Marks Tey

7.6 The Neighbourhood Plan for Marks Tey. This forms part of the Development Plan in this area of the City.

7.7 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

- Sustainable Construction

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below:

Environmental Protection – No objection subject to conditions recommended at 17.1 of this report

Anglian Water – Unable to comment

Essex County Fire and Rescue Service – Recommends the scheme complies with Building Regulations

Essex County Council Highway Authority – No objections subject to conditions recommended at 17.1 of this report.

Historic England – No comments to make on this application

National Highways - This proposed application site is located north-western side of Old London Road, where there is existing vehicular access to the site via Dobbies Lane. The Old London Road runs parallel to the A12 and joins at the Marks Tey Road interchange, Junction 25 between A12 and A120. Currently, National Highways have a major road within the wider area. We have reviewed the details and information provided. The proposed development is unlikely to have any adverse impact on the Strategic Road Network. Therefore, National Highways offers no objection.

Essex Country Council SuDs – Holding objection

The information provided does not allow us to assess the flood risk development. Please provide information as required within the new ECC SUDS design guide: <https://www.essexdesignguide.co.uk/suds/what-we-expect/>

We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below:

<https://www.essex.gov.uk/protecting-environment>

Landscape Advisor –

In support and addition to the policy/policies and guidance, the following point(s) should be taken into consideration. This to avoid potential harm to the existing and future character/amenity of the site and its environs that might occur through agreement of the currently proposed scheme, as it is considered it may not adequately conserve/enhance/restore the landscape of the site for the betterment of its wider setting:

In order to allow the development to better reflect, conserve and enhance the landscape character of the Easthorpe Farmland Plateau within which the site sits, the following amendments should be considered:

1. Propose using an architectural design and materials to the proposed buildings that are demonstrably in keeping with modern farm buildings

within the Easthorpe Farmland Plateau, this to allow the development to conserve and complement the character of its wider landscape setting.

Contaminated Land Officer – no comments

Archaeological Advisor –

While the proposed buildings are relatively large, under these proposals they will have small pad foundations, with low archaeological impact. There are no known archaeological sites nearby, with the course of a Roman road circa 240m away. Therefore there are no archaeological requirements.

Heritage Officer –

The application site is situated to the south-east of Palmer's Farm house which is listed at Grade II (List UID 1224575). The listed building has a well-defined domestic curtilage but its wider setting is much altered by modern development, including the A12 Interchange Park to the north-east and the former facilities of the Bypass Nurseries to the south-east. The present application proposes retention of existing portable cabin for ancillary office, retention of earth bunds and two new buildings for storage.

The proposed buildings would be large warehouses of utilitarian/ industrial appearance but they would be located at the north-east corner of the site. I appreciate that this is less desirable in terms of landscape impact but it reduces their potential to intrude into the views of the listed building and affect its immediate, domestic curtilage (in combination with an appropriate landscape strategy).

However, harm to the listed building can also occur from the introduction of an unsuitable use in its vicinity (due to increased noise, traffic, light spillage etc). I note that some objectors raise the matter of traffic etc but these considerations are rather outside my remit. If there are wider concerns that the proposal would result in the intensification of the site's use and overdevelopment, then the harm to listed building could be added to those concerns. However, having in mind that the site was previously in use, I don't feel there are enough grounds for heritage objections unless there are wider planning issues for the proposal.

9.0 Parish Council Response

- 9.1 The Parish Council feel compromised by the redevelopment, change of use, extended use, and operation of this site by Nustone without them undertaking any of the statutory preparation that is required for such use, and without any consultation. Nustone, without any statutory permissions are operationally using almost twice the area of the former use that could be considered 'brown land' and almost 5.5 times more area than the legitimate existing B8 permission. The erected and proposed buildings are out of character with the former use and the size of vehicles servicing the site overwhelm narrow Dobbies Lane and the adjacent reduced width part of Old London Road and the junction. This vehicular use is a threat to pedestrians and cyclists from the Marks Tey estate using the rail bridge and attractive rural unlit and shared pedestrian/vehicle Dobbies Lane to access the rest of the village.

- 9.2 The planning application is simplistic, internal facing only, lacks any specifics or projected use data, and does not address nor meet the adopted Marks Tey Neighbourhood Plan which is now a statutory planning document (it only refers to a supporting document). The situation also creates a significant precedent for similar approaches to development across Colchester City.
- 9.3 For these reasons the Parish Council would prefer the Application to be refused and enforcement action to be taken against Nustone. However, the Parish Council recognise the difficulty the situation creates, that part of the area is 'brown land' formerly used for employment, with a small area with existing B8 permission. Thus if the Planning Authority feel that the current use is acceptable including the effect on Dobbies Lane and Old London Road then we would ask that the following restrictions be imposed:
- The site use is reduced to the original Bypass Nurseries 'blown field area, the earth bund repositioned, and the green field area made good.
 - That no industrial/storage use is made of the green field part of the site.
 - That the proposed buildings be required to be more small scale and less industrial in nature.
 - That the site be considered a sensitive boundary site bordering an urban area and turning to a rural one.
 - Thus any new building be located away from the rural boundary i.e. closer to Dobbies Lane and suitably landscape screened.
 - Suitable tree and hedge landscaping be effected and reinforced to all boundaries around the development.
 - Any transport statement and operation ensures that there will be only one business vehicle use of Dobbies Lane at any one time and that there be no vehicular waiting allowed in Dobbies Lane nor Old London Road.
 - That no articulated vehicles be allowed in Dobbies Lane.
 - Vehicle movement warning signage be applied to the Dobbies Lane/Old London Road junction with warning markings on the junction road surface.
 - Direct vehicular access to the detrunked A12 be created (and Dobbies Lane disused) should detrunking result from the proposed A12 development.
- 9.4 A more detailed analysis of the Application and the Planning Statement has been prepared for the Parish Council and is being sent to the Planning Officer and our City Councillors as background information. Two photographs are included below to indicate the effect of Nustone vehicle movements on Dobbies Lane.
- 9.5 *Officer comment:* Please note the two photographs provided by Marks Tey Parish Council could not be reproduced for this Committee Report, however they are available to view on the Council's website.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. Following the consultation exercise, ten letters of objection have been submitted and eighteen letters of support have been received. The letters of support can be viewed in full on file via the Council's website. The received objections are summarised below:

- Unauthorised development has already taken place on site, further development should not be allowed
- Dobbies Lane is not suitable for larger vehicles including HGV's and therefore causes highway safety implications
- Dobbies Lane is not wide enough to accommodate the traffic access/existing the Nustone site
- The proposal will increase congestion within the locality
- The site has remained in operation despite enforcement complaints
- The proposal will be a noisy intrusion to neighbouring amenity, causing harm to neighbouring amenity
- Concerns that letters of support are not from neighbouring residents

11.0 Parking Provision

11.1 There is no change to the existing vehicle car parking provision on site. There are an existing 12 car parking spaces and 6 HGV parking spaces on site. The scheme is considered to provide adequate parking on site and complies with the adopted Vehicle Parking Standards SPD.

12.0 Open Space Provisions

12.1 Not applicable

13.0 Air Quality

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

14.0 Planning Obligations

14.1 As a "Major" application in size, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should not be sought in this instance since residential development is not proposed.

15.0 Report

Principle

15.1 The Local Plan supports rural communities and sets out a flexible approach that maintains a balance between environmental considerations and appropriate business growth. Economic development proposals in the countryside, within a designated Local Economic Area or on a rural site serving a similar function, must contribute to the local rural economy and help sustain rural communities. The proposed use is likely to be small scale and not harm the rural character of the local area either by the nature and level of activity (including the amount of additional traffic generation on rural roads) or any other detrimental effects such as noise, fumes and pollution.

15.2 Employment in the countryside is supported in the NPPF, in particular paragraphs 83 and 84. Paragraph 84 states:

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

- 15.3 In this instance, the application site comprises part of the wider grounds of the former ByPass Nurseries Ltd. This previously took the form of a substantial collection of buildings all of permanent structures. The majority were demolished.
- 15.4 Policy DM6 of the Local Plan Section 2 seeks to maintain a balance between environmental considerations and appropriate business growth. In the cases of expansion of an existing business however, any new development will be expected to have adequate landscape mitigation to compensate for any additional impact upon the surrounding countryside.
- 15.5 In response to DM6, there are no further appropriate buildings on site which would be suitable for conversion to storage purposes. While there is further land in the wider City, this application site is already a long established commercial site and thus would be inappropriate to request the applicant to seek a brand new commercial site and there is no such guarantee that an alternative site would be suitable for the required operations of Nustone. The applicant has confirmed that if it is not possible to secure planning permission, operations would need to be moved to another site which is outside of the City, in Warwick. This would therefore result in a loss of employment opportunities for locals. A specific business need has been addressed and two new buildings are proposed to provide covered storage for particular products. It will also provide refuge for operational works during adverse weather.
- 15.6 Marks Tey Neighbourhood Plan is also of relevance. Policy MT15 states; *“the adjacent former By-Pass Nurseries site shown on Map 6.10 is safeguarded for employment use subject to those uses being consistent with the existing edge of settlement rural location. All schemes must maintain or enhance residential amenity and landscape character.”*
- 15.7 Drawing the above together, the site is not considered to be physically isolated and is related to the existing settlement and nearby commercial sites. The site relates to a well established business in Marks Tey which provides for local employment opportunities and is considered to be previously developed land. It is acknowledged the scheme proposes two new buildings, however DM6 provides support for new buildings in the exceptional circumstances. It is considered the criteria is met in these instances. Overall, the proposal is considered to be in compliance with the requirements of local plan policy, including the Marks Tey Neighbourhood Plan, and the NPPF.

15.8 It is acknowledged the application site has seen an intensification of an employment use in a rural area over the years. However, given the existing long historic use of the site for B8 (storage) and garden nursery (now Class E) at the site, on balance it is considered that this intensification is not significant enough to warrant recommending a reason for refusal, subject to the detailed planning consideration below.

Character, Appearance and Design

15.9 Policy ENV1 of the Local Plan Section 2 states that development will only be permitted where it would not adversely affect the intrinsic character and beauty of the countryside. This policy seeks to control development outside of settlements to protect open stretches of countryside around and between exiting settlements to prevent coalescence and retain settlement identity. Any development outside of settlement boundaries must be compatible with local landscape character and setting. Policies SP7 and DM15 are also relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Policy SP7 states in particular that all new development must meet high standards of urban and architectural design. The aspiration for high quality design and well-designed places is also reflected in the Framework and Marks Tey Neighbourhood Plan.

15.10 The existing Nustone site features numerous stacked pallets stored externally and several parked trailers, amongst other structures and chattels. These have an urbanising effect on the otherwise predominantly rural landscape. The proposal seeks planning permission to change the use of the land outlined in red to B8 storage (retrospective), retention of portable cabin for ancillary office (retrospective), retention of earth bunds (retrospective) and two proposed buildings for storage.

15.11 The development proposal remains fully contained within previously developed land. It is contained by an earth bund to the east and west, already constructed.. It is considered that the current proposal has lesser of a visual impact upon the wider setting than that of the existing. Around the entire site exists soft landscaping.

15.12 Further to the above, the scheme has been amended to enhance the planting and landscape setting as required by Section 2 policy DM6 and the Marks Tey Neighbourhood Plan. The existing brownfield area of the site has clearly been defined and the proposed new development is entirely contained within the brownfield site. The undeveloped areas of the site are proposed to be enhanced with additional planting features, these are considered to mitigate the proposal.

15.13 The mitigation includes a new 10m planting belt located adjacent to Old London Road, creating additional screening to the access road and the wider A12. The existing undeveloped grassland area is to be retained and enhanced with a new native wildflower meadow mixture sown on top of the existing bund (both of which are to be reduced to 1m), this will help to screen the bund and the Nustone storage site within the wider landscape setting. A new 5-8m deep woodland belt is to be planted along the south west of the site, spanning the entirety of this

site boundary. The proposed native woodland tree planting belt is considered to mitigate views from the wider countryside to the west.

- 15.14 The details submitted include the construction of two storage buildings located centrally in the plot, and closer to Dobbies Lane. Regarding the scale in terms of the previous nursery use and associated buildings on site, the proposed storage building would be smaller in scale when compared to the previous structures on site. The proposed layout of the site is considered to enhance the appearance of the area by ensuring adequate storage is provided on site, allowing external paving stones to be stored away from view. Overall, in terms of the layout of the new buildings, these would be appropriately positioned within the site and yard area, positioned away from any neighbouring properties and would be well accommodated within the large site.
- 15.15 It is noted the Landscape Advisor has suggested the buildings appear as modern farm buildings. However it is important to note the existing site is not a farm and therefore a farmstead appearance would be somewhat out of context with the commercial storage use, that is existing on site. The proposed buildings are fairly simple and utilitarian in appearance, however they are an honest design expression of their functionality. The design is not considered to be harmful, despite their fairly simplistic appearance. Subject to conditions to secure the materials, the functional appearance of the storage buildings is not considered to be harmful in this location. It is not considered that a design refusal could be sustained given the buildings are located on the urbanised area of the site and would comfortably fit with this context.

Heritage

- 15.16 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting. The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design. These requirements are echoed within Section 2 Local Plan Policy DM16.
- 15.17 The application site is situated to the south-east of Palmer's Farm house which is listed at Grade II (List UID 1224575). The listed building has a well-defined domestic curtilage but its wider setting is much altered by modern development, including the A12 Interchange Park to the north-east and the former facilities of the Bypass Nurseries to the south-east

- 15.18 It is considered that the proposed new development will affect (change) the setting of the nearby listed building to a small extent. The proposal is considered to be sufficiently distanced from the nearby listed building to ensure any impact is neutral on the significance of the asset. As can be seen from the Heritage Officer comments, the scheme is not considered to be harmful enough to sustain a refusal on heritage grounds. The proposal also represents an enhancement to the area, by providing additional soft landscaping to screen the application site from wider environs. The proposal would also ensure the retention of employment on site. These public benefits are considered to weigh positively in favour of approval.
- 15.19 In this instance, the public benefits weigh in favour of the scheme. These public benefits constitute the social, economic and environmental benefits that stem from creating employment in the area. Given this, the proposed development is considered to be consistent with the aforementioned relevant adopted local plan policies and national planning policy guidance in relation to the historic environment.

Residential Amenity

- 15.20 Paragraph 130 of the National Planning Policy Framework (2021) requires planning decisions to ensure development creates places with a high standard of amenity for existing and future users, while Paragraph 185 further requires planning policies and decisions to ensure that new development is appropriate for its location taking into account likely effects and potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 15.21 Section 2 Policy DM15 states that all development must be designed to a high standard and protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Section 1 Policy SP7 echoes these sentiments, requiring all development to protect the amenity of existing and future residents, including with regard to noise and vibration.
- 15.22 There are residential properties adjacent to the site to the east and south, with a wider residential estate located further to the north. It is acknowledged the application site is situated between Marks Tey Railway Station and the A12. Both of these are considered to be noise generating uses in the vicinity. It is considered that the site is adequately screened, subject to recommended conditions, to ensure that the proposal would not adversely impact on the residential amenity of the neighbouring properties. Further to this, the scheme is recommended to be open during the following periods:
Weekdays: 07:00-19:00
Saturdays: 08:00-13:00
Sundays and Public Holidays: No operation

- 15.23 Given the restricted hours of opening, landscaping and existing noise causing uses in the locality, it is not considered that the proposal would have an unacceptable impact on the residential amenity of neighbours.

Highway safety

- 15.24 Section 2 Policy DM21 requires all new developments to seek to enhance accessibility for sustainable modes of transport. Policy DM22 states that parking standards for non-residential development should be agreed through joint discussions with the local Highway Authority and the Local Planning Authority in accordance with the most recent local Parking Standards, with a more flexible approach to the parking standards only considered if supported by a parking survey and accumulation data.
- 15.25 It is noted that many of the objections that have been received in relation to the proposed development have identified the perceived inadequacy of the local highway network and the problems experienced by pedestrians and cyclists at present, especially when met with a HGV along Dobbies Lane. A number of objections have highlighted concerns in relation to the width of Dobbies Lane and the in lack of space for two HGV's to pass each other. These concerns contribute to the perceived inadequacy of the local highway network. The concern is that the proposed development would exacerbate current problems and also create highway safety issues. These views are fully acknowledged and appreciated.
- 15.26 Essex County Council Highways have been consulted on the acceptability of the use and proposed development in this location on highway safety. Notwithstanding these concerns, the Highway Authority has advised in its consultation response (available to view on file) that the existing highway infrastructure provision would be sufficient to cater for both the existing traffic and that likely to be generated by the development. The Authority's recommendation includes a condition that would, inter alia, limit HGV and LGV traffic attending the site to two vehicles only being on site together. The recommendation also includes measures to prevent HGV and LGV traffic from waiting, parking or lay overs on Dobbies Lane which shall be kept clear of all vehicles associated with the sites activities.
- 15.27 If the recommended Highway Authority conditions are placed on any consent granted then it is considered the development would be acceptable on highway safety grounds and with such a restrictions in place, it is not considered that a refusal on the grounds of impact on local road infrastructure could be justified.

Flood Risk

- 15.28 Section 2 Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Policy DM23 includes the provision that, where proposals include driveways, hard standing or paving, the use of permeable materials and landscaping will be sought to minimise the cumulative impacts of flooding from such developments

- 15.29 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%), with no recording of flooding on site. The development itself is, therefore, unlikely to be susceptible to flooding. In terms of the development leading to flooding elsewhere, the proposal consolidates the previous hard standing and structures on site. The extended area of hard standing will be formed of crushed gravel, thus retaining permeability and so surface water run-off would be limited. The previous drainage on site went into soakaways to the front field. This will remain the case with the development proposal.
- 15.30 While a holding objection has been issued from the Lead Local Flood Authority (LLFA), holding objections of this nature for major development are not uncommon. Further clarification is being sought with the LLFA given the circumstances of the case and the submission of further information. Given the nature of the proposal, it is reasonable to consider that this matter can be resolved. As such, it is requested that delegated authority be given to pursue the matter further to a satisfactory conclusion, subject to any conditions that the LLFA may advise.

Ecology

- 15.31 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment.
- 15.32 Various Section 2 Local Plan Policies seek opportunities to safeguard and enhance biodiversity throughout the Borough. In particular, policy ENV1 requires development proposals to be supported by appropriate ecological surveys where necessary; conserve or enhance the biodiversity value of greenfield and brownfield sites (minimising fragmentation of habitats); maximise opportunities for preservation, restoration, enhancement, and connection of natural habitats; and incorporate biodiversity net gain (BNG) of at least 10% in line with principles outlined in the Natural England Biodiversity Metric.
- 15.33 The site has been assessed in line with Natural England's Standing Advice, which provides guidance on when an ecological survey should be submitted. In this instance, the urbanised area of the site (and where the proposed development is located) is made up of various structures, areas of storage, unmade ground, containers and hard standing and parking areas. This part of the site is also the parking and turning area for cars, HGV's and LGV's. Given these characteristics of the site, it is not considered the site would be a suitable area for protected species. Development is not proposed within the grassed area to the south of the site, adjacent to the A12, and therefore it is not considered the scheme would impact upon protected species. A condition is recommended for a scheme of ecological enhancement measures, which secure a 10% BNG, are provided prior to the construction of the storage buildings. On balance, the development area of the site is not suitable habitat for protected species, however an enhancement of the ecological value of the site can be secured via a planning condition.

Trees

- 15.34 Section 2 Local Plan seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline. Policy CC1 seeks, where appropriate, to increase the level of canopy cover on site by a minimum of 10%.
- 15.35 A row of willow trees, subject to a Tree Preservation Order (TPO), lie on the north west and south west boundaries of the site. While a detailed tree survey (including canopy assessment) has not been provided, this is due to the circumstances of the proposal. The previous nursery site contained a number of structures and hardstanding against the boundary with the trees. Given the hardstanding has been in place for a number of years, it is not considered the scheme would result in additional impacts upon the existing trees. The scheme actually reinforces the trees and proposes to plant a significant woodland buffer along the site boundaries. The scheme also seeks to place buildings further away from the tree lined boundaries. The distance is considered to be significant enough to ensure the proposed storage buildings would not be in close proximity of the trees (and associated root protection areas). As described in this report, a significant amount of tree planting is proposed, the amount is considered to be in excess of the 10% required by policy CC1. On balance, the scheme demonstrates that the proposed development of land could take place without causing harm to the retained trees or without having a negative impact on the local tree population.

16.0 Planning Balance and Conclusion

16.1 In terms of the **social role**, the proposal would comply with the policies in terms of principle of the employment uses within the countryside and it is considered the scheme results in general conformity with the spatial strategy. The proposal provides very convincing benefits in terms of providing employment opportunities within the City.

16.2 In terms of the **economic** role, in construction employment, albeit this is temporary and there is no guarantee that these jobs would be provided for residents of Colchester. Although the proposal would result in longer term employment opportunities on site and as a business, this can provide wider contracting opportunities.

16.3 In terms of the planning balance and the **environmental** role of sustainability, the scheme is considered to improve the landscape setting of the site. The proposal is considered to be mitigated with landscaping with the addition of suitable soft and hard landscaping (controlled via planning condition).

16.4 Summarising the above, it is officers' opinion that the planning balance tips in favour of an approval given the positive weight attracted to the wider public benefits of the employment generating use.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

To grant Delegated Authority to address the Lead Local Flood Authority holding objection (in relation to Sustainable Urban Drainage) and apply or modify any conditions as necessary. Subject to drainage matters being resolved, APPROVAL of planning permission subject to the following conditions:

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:

22-032-PL-03 (BUILDING 1 AND 2 - LAYOUTS AND ELEVATIONS)

22-032-PL-02A (PROPOSED SITE PLAN & SITE SECTION)

P2530-SLS01 V2 (Soft Landscaping Plan)

22-032-PL-01 (EXISTING SITE PLAN, SITE SECTION & LOCATION PLAN)

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

3. Materials To Be Agreed

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

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

(Environmental Protection recommended conditions)

4. 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.

5. Restriction of Hours of Operation

The outside yard activity hereby permitted shall not OPERATE and the premises be open to customers outside of the following times:

Weekdays: 07:00-19:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No operation.

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

6. Restricted Hours of Delivery

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 07:00-19:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries.

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

7. Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E2 RURAL (low district brightness – sparsely inhabited rural areas, village or relatively dark outer suburban locations).

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

(End of Environmental Protection recommended conditions)

(Highway Authority recommended conditions)

8. Highways

Prior to the first beneficial use of the proposed development the existing historic access in the south-eastern corner of the site shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating a suitable boundary treatment, the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety

9. Traffic and highway management

Within 2 months from the date of this decision, the applicant shall provide a written scheme of traffic and highway management which includes the following:

- i) An appointment system which limits the HGV and LGV traffic attending the site to two vehicles only being on site together,

- ii) Measures to prevent HGV and LGV traffic from waiting, parking or lay overs on Dobbies Lane which shall be kept clear of all vehicles associated with the sites activities, and
- iii) Measures to prevent mud and deposit from the site being brought onto Dobbie Lane

The proposed management scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented immediately and adhered to thereafter.

Reason: To ensure that the adjoining highway is not obstructed by servicing activity, in the interests of highway safety. In addition, to preserve and protect the integrity and fabric of the highway, in the interests of highway safety.

10. Highways – vehicular turning

Prior to construction of the storage buildings, a vehicular turning facility for delivery vehicles with dimensions commensurate with the largest vehicle attracted to or generated by the site's activities and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety

(End of recommended Highway Authority conditions)

11. Landscape Management Plan

Prior to the construction of the storage buildings, a landscape management plan detailing long term design objectives and management responsibilities 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.

12. Landscape Works

No works shall take place above ground floor slab level 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 be in full compliance with the Councils Landscape Guidance Note LIS/C and include:

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.

- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- 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.

13. External Storage Limited in Height

No goods, materials or equipment shall be stored, stacked or deposited externally on the site to a height exceeding 3 meters as measured from any immediately adjacent ground level.

Reason: The external storage of goods in excess of this height would be visible and would have a harmful visual impact on the surrounding areas.

14. External storage

Prior to the construction of the storage buildings, a plan scaled shall be provided which indicates any land which will require external storage post construction of the storage buildings. Any areas of external storage shall be within the previously developed area of the site and shall not exceed more than 3m.

Reason: To protect the visual amenity of the site, wider countryside area, residential amenity and landscape setting.

15. No external storage on greenfield areas

No goods, materials or equipment's shall be stored, stacked or deposited on land described as the following:

New 5-8m deep woodland belt

Native wildflower meadow... sown atop bund,

Existing grassland

New 10m deep woodland belt

As shown on the approved Drawing Number P2530-SLS01 V2 (soft landscaping scheme).

Reason: This is the basis indicated within the submitted application and upon which the proposal has been considered and any further external storage would need further consideration at such a time as it were to be proposed as it could cause visual harm to the surrounding areas.

16. Removal of PD Industrial/Warehouse Extensions

Notwithstanding the provisions of Classes A and B of Part 8 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no building shall be extended or altered and no further plant or machinery shall be installed outside any building on the site unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and the amenities of the surrounding area.

17. No Floodlighting

No floodlighting shall be constructed, installed or illuminated at any time.

Reason: To ensure that there are no undesirable effects of light pollution

18. Tree and Hedgerow Protection: General

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

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

18.0 Informatives

18.1 The following informatives are also recommended:

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.

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

DC0901MWeV9.3

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.

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Highways

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

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

Landscape

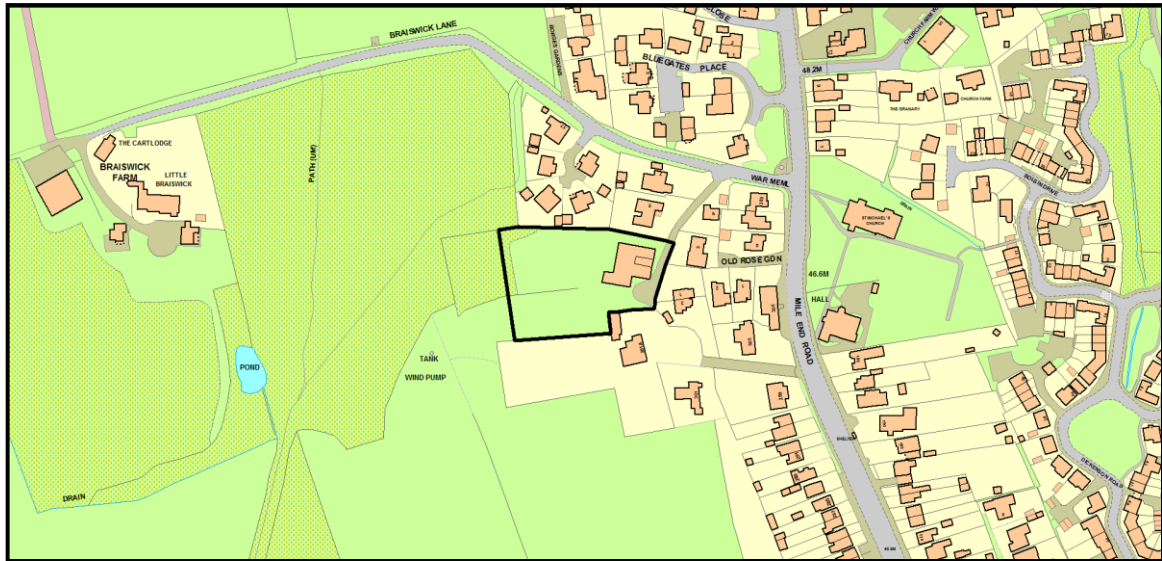
'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape webpage: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the 'read our guidance' link').

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 City Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

18.0 Positivity Statement

18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



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Item No: 7.3

Application: 222429

Applicant: Mrs Rosemary Gates

Agent: Mr Robert Pomery

Proposal: Part demolition of former horticultural buildings, conversion of a Barn to Residential Use and the erection of 4 no. Dwellings with Garages and Access.

Location: Myland Lodge, 301a Mile End Road, Colchester, CO4 5EA

Ward: Mile End

Officer: Hayleigh Parker Haines

Recommendation: Approval subject to conditions and the completion of a Unilateral Undertaking

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee due to a Member call-in from Councillor Goss for the following reasons:

1. Access to the site is off Braiswick Lane and not in the outline of Mile End Road so the access is down terrible lane by 1, 3 and 5 Braiswick which is unmade road and a tight bend as well as tight road. The access isn't suitable for this amount of housing.
2. Dustcarts struggle to get down this lane, so access for building materials will be impossible.
3. Over development of the site.
4. Human rights - this will affect the existing residents and affect their quality of life.
5. Overlooking houses down Braiswick Lane - the Mersea Homes enclave is affected by both overlooking and access issue.

2.0 Synopsis

2.1 The key issues for consideration are the scale, form and layout of the proposal, alongside the impact on neighbouring amenity and highway safety.

2.2 It is considered that the proposed development would reflect the pattern of development within the area and is of an appropriate design and scale. Additionally, it is not considered that the proposal would represent an unneighbourly form of development. Furthermore, Essex County Council, subject to the inclusion of conditions, have not identified any harm in terms of the proposed access to the dwellings. These matters are discussed further, in the below report.

2.3 The application is subsequently recommended for approval, subject to a number of conditions.

3.0 Site Description and Context

3.1 The application site relates to a 0.45 hectare parcel of land which sits to and is accessed from the southern side of Braiswick Lane. The site is within the settlement of North Colchester and the Colchester Orbital and benefits from hedges to its western side, a fence to the boundary of Myland Lodge on its southern side and the access track and the gardens to the second row of houses on Mile End Road on its eastern side. To the north is a new close boarded fence separating it from a cul-de-sac of five recently constructed houses. The site is currently occupied by a number of barns

4.0 Description of the Proposal

4.1 Planning permission is sought for the partial demolition of the existing barns (brick built single storey barns to the east of the cluster) and the construction of four dwellings with associated garaging on site and the conversion of the remainder to provide a five bedroom dwelling. The access will be provided off of the main access on Braiswick Lane.

5.0 Land Use Allocation

5.1 Horticultural – former rose gardens

6.0 Relevant Planning History

071242 - Alterations and Change of Use of existing farm buildings to form Business Units (Class B1) - **Refused**

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy
SG8 Neighbourhood Plan
ENV1 Environment
ENV5 Pollution and Contaminated Land
CC1 Climate Change
PP1 Generic Infrastructure and Mitigation Requirements
DM7 Agricultural Development and Diversification
DM9 Development Density
DM12 Housing Standards
DM13 Domestic Development
DM15 Design and Amenity
DM18 Provision of Open Space and Recreation Facilities
DM19 Private Amenity Space

DM20 Promoting Sustainable Transport and Changing Travel Behaviour
DM21 Sustainable Access to development
DM22 Parking
DM23 Flood Risk and Water Management
DM25 Renewable Energy, Water Waste and Recycling

- 7.5 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the City.
- 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
Backland and Infill
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Managing Archaeology in Development.
Developing a Landscape for the Future
Myland Parish Plan AND Myland Design Statement

8.0 Consultations

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

The **Landscape Officer** has raised no objection to the proposal subject to the inclusion of a landscaping condition to secure appropriate details.

The **Contaminated Land Officer** has raised no objection subject to the inclusion of a condition to ensure that unexpected contamination is reported.

Environmental Protection have raised no objection subject to the inclusion of a condition limiting the hours of work on site during the construction phase.

Essex County Council Highways have raised no objection to the proposal subject to the inclusion of a number of conditions

Essex County Place Services (Ecology) have raised no objection subject to a condition securing the appropriate mitigation as advised within the ecological appraisal.

9.0 Parish Council Response

- 9.1 The Parish Council have objected to the proposal. Full comments are available on the Council's website. However, a summary is provided below:
- Planning statement does not reference the Myland and Braiswick Neighbourhood Plan policy
 - No reference to the footpath

- No indication that the access route is suitable
- Concerns regarding management of construction traffic

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.

- Condition of Road will deteriorate further
- Suitability of private drive to serve additional dwellings and larger vehicles
- Pedestrian Safety
- Increased volume of traffic
- Mile End is over-developed
- Drainage concerns
- Wildlife
- Impact on neighbouring amenity during construction
- No reference to Neighbourhood Plan
- Neighbouring Amenity – Privacy, noise and over-shadowing
- Insufficient parking
- Inaccuracies within the planning statement
- Overdevelopment
- Traffic report redundant and not comparable to the site

11.0 Parking Provision

11.1 Each dwelling is considered to provide sufficient parking provision in line with the policy requirement, this will be discussed further below

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of potential direct or indirect discrimination.

13.0 Open Space Provisions

13.1 The proposed development includes appropriate provision of private amenity space and does not include the provision of any public open space, however given the relatively small scale of the proposal it is not considered that public open space (proportionate to the size of the site and scale of development) would be beneficial in terms of residential amenity; the parks and recreation team have not made any requests in this respect. Furthermore, appropriate landscape details will be secured via condition should the application be approved and this would enhance the public amenity of the site.

14.0 Air Quality

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

15.0 Planning Obligations

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

15.2 Notwithstanding the above, should the application be approved a unilateral undertaking would be required to secure contributions for Community Facilities/RAMS as per our adopted SPD. An update will be provided in respect of Parks and Recreation.

16.0 Report

16.1 The main issues in this case are:

- Principle of Development
- Design and Layout
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Highway Safety and Parking Provisions (including Cycling)

5 Year Housing Land Supply

Section 1 of the Colchester Local Plan 2017-2033 was adopted by the Council on the 1 February 2021, with Section 2 being adopted in July 2022. The complete Local Plan carries full statutory weight as the development plan.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

The Tendring Colchester Borders Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery

Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings (5 x 920 + 5%).

The Council's latest published Housing Land Supply Annual Position Statement (July 2022) demonstrates a housing supply of 5,074 dwellings which equates to 5.25 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2022/2023 through to 2026/27.

8. Five Year Supply Calculation

- 8.1** The table below illustrates the 5-year supply calculation for the district during the period between 2022/2023 through to 2026/2027.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing allocations and windfall allowance	5074
Total number of years' worth of housing supply including emerging allocations	
Supply against OAN with permissioned sites, existing allocations and windfall	5.25

- 8.2** The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.25 years is deliverable within this period.

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Whilst the Council can demonstrate a five year housing land supply, the proposed development would of course contribute to the housing land supply.

Principle

The proposal would result in five residential properties at the site; Policies SP1, SG2 and DM15 state that development within the City is directed to sites within existing settlement development boundaries, with an emphasis within policy SP1 for a favour is presumption of sustainable development. The application lies within the defined development boundary for Colchester (North) and given its location within a built up environment, with easy access to public and sustainable modes of transport, via established footpaths with lighting, alongside the facilities offered within the vicinity of the site, it is considered that the principle of providing residential accommodation in this location is acceptable

Design and Impact on Character and Appearance of the Site and Surrounding Area

Policies SP7 and DM15 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Policy SP7 states in particular that all new development must meet high standards of urban and architectural design. In addition, the additional dwelling within the rear garden would be classed as Backland and infill and therefore the Backland and Infill SPD is relevant.

The Council's Adopted Supplementary Planning Document (SPD) 'Backland and Infill' states that proposed building plots should be of similar dimensions in size and shape to the existing plots in the immediate locality. Proposals that would lead to overdevelopment of a site or the appearance of cramming will be resisted. Furthermore, the SPD sets out that the layout should create a sense of place and integrate well with the existing development.

The proposed layout of the site is considered to reflect that of the new development to the northwest of the site granted under the terms of application 132149 and would broadly integrate with that as shown on the indicative layout plan for the Chesterwell development provided under the terms of application 161537. It is noted that the main bulk of built form is to the north western corner of the site due to the proposed layout and associated garages to serve these plots, however again this is similar to the built form directly to the north and therefore, it is considered that the proposed layout of the site would be acceptable.

The design of each proposed dwelling is broadly traditional and is considered to be acceptable, this would reflect the site's former historic use whilst still providing an element of architectural/visual interest to each dwelling. The three different designed dwellings are considered to be cohesive and again add some form of interest to the proposed development which is not achievable from uniformed design; this also reflects the mixed design of residential development found within the surrounding area.

The garages are of a simplistic, single storey design and would be subservient to the host dwellings and therefore, would not result in an overly car dominant scheme.

The Myland and Braiswick Neighbourhood Plan Policy HOU1 requires housing to have a variety of choices, design and living styles that meet the needs of residents, and respect the scale and character of the existing streetscenes and environment. Taking into account the above assessment, it is not considered the proposal would conflict with the requirements of this policy

Impact on Neighbouring residential amenity

Policy DM15 requires all development to be designed to a high standard that protects and promotes both public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

The application site is bordered by seven neighbouring properties; to the north are No 5, 11 and 13 Braiswick Road, to the east are 3 Old Rose Garden, No 1 and 3 Braiswick Lane, to the south is 301A Mile End Road. As advised above a mixed use development is proposed to the west of the site.

In respect of the neighbouring properties to the north; plots 2, 3 and 4 would sit the closest to the shared boundary. The proposed garages to serve plots 2 and 3 would sit close to the shared boundary however, due to the single storey nature it is not considered that these would represent an unneighbourly form of development.

Furthermore, given that the built form for plot 4 remains largely unchanged, it is not considered that this aspect of the proposal would represent an unneighbourly form of development. It is noted that a first floor window to the northern elevation is proposed which would serve an ensuite, this would provide some views of the neighbouring amenity space and therefore, a condition will be included to ensure this window is obscure glazed.

In respect of Plot 3 and the impact on No.11 Braiswick Lane, the proposed dwelling would sit 15 metres from the shared boundary with this neighbouring property and approximately 26 metres from the dwelling. Due to this degree of separation it is not considered that this aspect would represent an unneighbourly form of development in terms of loss of light or that it would have an overbearing impact on the neighbouring amenity space. It is noted that two first floor windows are proposed to the rear elevation of the proposed dwelling, however, the proposed garage would largely block any views of the neighbouring amenity space. Furthermore, given the degree of separation and that a minor level of overlooking is resultant in many estates of this density and nature, and is accepted; it is considered that the proposed first floor rear windows will not result in significant and unacceptable angles of outlook into private amenity spaces of this neighbouring occupier, to the detriment of their amenity

In respect of plot 2, the proposed dwelling would sit 5 metres from the shared boundary with 13 Braiswick Lane and 15 metres from the dwelling. Due to this degree of separation it is not considered that this aspect would represent an unneighbourly form of development in terms of loss of light or that it would have an overbearing impact on the neighbouring amenity space. Furthermore, no first floor windows are proposed to the northern side elevation of this property, and therefore, there are no concerns in respect of loss of privacy to this neighbouring occupier.

In respect of plot one, due to its central location and degree of separation from the existing neighbouring properties, it is not considered that this aspect of the proposal would represent an unneighbourly form of development in relation to any of the neighbouring occupiers. It is noted that there is a first floor window proposed to the southern side elevation of this dwelling serving a bathroom which would provide some views of Plot 5's amenity space and therefore, a condition will be included ensuring this window is obscure glazed.

Plot 5 would sit 3 metres from the shared boundary with 301A Mile End Road and 30 metres from the neighbouring property. Due to this degree of separation and the single storey nature of this proposed dwelling it is not considered that this aspect of the proposal would represent an unneighbourly form of development.

Plot 4 would sit 16 metres from the closest neighbouring property to the east, however, given that the built form for plot 4 remains largely unchanged, it is not considered that this aspect of the proposal would represent an unneighbourly form of development. It is noted that two roof lights are proposed to the front roofslope however, any views provided would be of the public frontage of the neighbouring sites and therefore, would not result in a material loss of privacy to these neighbouring properties. Plot 4 also includes 2 roof lights to the rear roofslope which would face the amenity space afforded to plot 3 – however a section drawing has been provided to show that these would sit 1.7 metres from floor level and therefore, it is not considered that these would result in a material loss of privacy to the occupants of plot number 3.

It is considered reasonable and necessary, in order to protect neighbouring amenity between plots, to remove permitted development rights for the construction of dormer roof alterations and the installation of roof lights, a condition will be included to this effect.

Private Amenity Space and Landscaping

Policy DM19 requires all new residential development to provide private amenity space to a high standard, where the siting, orientation, size and layout make for a secure and usable space. For houses of one or two bedrooms a minimum of 50m² of useable amenity space is required, for houses with three bedrooms a minimum of 60m² is required and for dwelling with four or more bedrooms a minimum of 100m² will be required.

Plots 1, 2 and 3 are four bedroom properties with plot 4 being a five bedroom property and therefore require an amenity space of 100m². Plot 5 is a three bedroom property and therefore, requires an amenity space of 60m². Each plot benefits from a rear amenity space of sufficient quality (including privacy) in excess of 100m² and therefore, there are no objections in this respect.

Limited details in relation to the hard and soft landscaping of the site, alongside the proposed boundary treatments has been provided however, a condition can be included to ensure appropriate details in respect of this can be secured.

Parking, Access and Highway Safety

Policy DM21 requires all new developments to seek to enhance accessibility for sustainable modes of transport. Policy DM22 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedroom. Furthermore, 0.25 spaces per dwelling would need to be provided for visitor parking.

Plots 1, 2 and 3 are to be served by a detached garage which is shown to provide parking provision for two vehicles with internal measurements of 6.5 metres by 7.5 metres and would therefore comply with the minimum standards required by the standards of 7 metres by 3 metres. Additionally the hardstanding to the front would

also be suitable to provide another two spaces and therefore, there are no concerns in relation to adequate parking provision.

The proposal includes the extension of the existing access to serve the dwellings. Essex County Council Highways originally raised concerns due to the intensification of vehicular use of this track, adjacent to the public footpath however, additional information was provided during the assessment of this application and the Public Rights of Way team were also consulted on this, and no objection is raised to the proposal on Highway grounds subject to the inclusion of a number of conditions, which are recommended to be included should the application be approved. Furthermore, within the proposed development site, as shown on the block plan provided, a level 3 turning head is to be provided, which would allow sufficient maneuverability for larger vehicles such as refuse vehicles. Additionally, a condition has been included securing a construction management plan which requires details of the storage of materials, machinery and vehicles to be provided. Taking into account the above, it is not considered that there would be sufficient harm as per the NPPF's definition, to warrant the refusal of the application on Highway grounds.

Flood Risk/Drainage

Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Policy DM23 includes the provision that, where proposals include driveways, hardstanding or paving, the use of permeable materials and landscaping will be sought to minimize the cumulative impacts of flooding from such developments.

The application site sits within Flood Zone 1 and as the proposal site measures less than a hectare an FRA would not be required to support this application. Therefore, it is not considered that the proposal would have a harmful impact upon flooding or surface water drainage within the locality.

RAMS/ Habitat Regulations

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.

It is anticipated that, without mitigation, new residential development in this area could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.

The necessary financial contribution is proposed to be secured within the Unilateral Undertaking and therefore, it is considered that the appropriate mitigation will be secured, following the execution of this document.

Ecology

Policy ENV1 seek to conserve or enhance biodiversity of the City. Additionally, the National Planning Policy Framework states that if significant harm to priority habitats

and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

The application is supported by a Preliminary Ecological Appraisal prepared by T4 Ecology Ltd dated November 2021. This advises that three dusk/dawn bat activity and emergence surveys are conducted between mid-May and the end of September. During the assessment of this application an additional Bat Survey was carried out by Hybrid Ecology dated September 2022, Essex County Council Place Services have been consulted and have raised no objection in this respect.

It is not considered reasonably likely that Great Crested Newt species would be adversely affected by the development proposals and further surveys have not been recommended. However, given the habitats noted on/bounding site and biological records, further surveys in respect of reptile species have been advised. The survey methodology should comprise a minimum of 7 initial monitoring visits using artificial refugia mats. If reptiles are found, further visits may be required to establish population size, depending on the findings of the first 7. Surveys can be undertaken between March and early October in suitable conditions, with optimum survey periods comprising late March, April, May and September. During the assessment of this application an additional Reptile Survey carried out by Hybrid Ecology dated February 2023 has been submitted Essex County Council Place Services have been consulted and have raised no objection in this respect.

No active or inactive badger setts were found, with no evidence of badger activity identified. No surveys have been advised

As general guidance, the bird breeding season is from March to September. If works vegetation is proposed during the season, a check should be made for nests prior to works commencing. If nests are present, they should be left intact and undisturbed until the young have fledged

Small scale proportionate ecological enhancement have been recommended within section 5.2 and include:

- 1 x integral or external bird box per building;
- 1x integral or external bat box per building
- Installation of 1x invertebrate box per dwelling;
- Use of bat considerate lighting scheme;
- Planting of new trees and hedgerows;

It is also recommended that that boundaries remain relatively open such that wildlife can continue to radiate in the area. This includes the use of permeable boundaries such as tree lines and hedgerows, in addition to leaving hedgehog gaps in any new fencing proposals. Therefore, subject to the above mitigation measures being secured via condition, there are no concerns in terms of the impact of the proposal in respect of ecology.

UU Contributions

Communities have requested an amount of £19277.03 using the standard methodology for the dwelling mix, this would be contributed towards the improvement of the community Hall at the Well Methodist Church (0.4 miles from the development), these include the introduction of energy saving lighting, heating, air conditioning and additional equipment and construction of external storage area. This contribution request is considered to be CiL compliant and proportionate to the proposed development.

A Unilateral Undertaking has been submitted as part of this application, and subject to its execution, it is considered the relevant contributions have been secured.

To date, no contribution request has been received from Parks and Recreation and no projects have been identified. the Case Officer has followed up on this again and will update Members accordingly should details be provided prior to the determination of this application at committee.

17.0 Planning Balance and Conclusion

17.1 In terms of sustainability the National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimizing waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy

This stance is supported within Policy SP1. In relation to the economic role, the expenditure by future occupiers would help to support local services within Myland and the wider area. Also, in the short term the construction works could generate local employment and therefore, it is considered the scheme is likely to have a marginally positive economic impact. In terms of the social role, again it is considered the proposal would have a negligible impact as the dwellings are not strictly of a size required by the City and the provision of five dwelling does marginally support the community. Lastly, the environmental role, the site is located within the settlement

boundary and therefore future occupants are not considered to be reliant on the private motor vehicle to access everyday services and facilities, the design, scale form and layout is considered to be acceptable and reflective of other new developments within the area and is therefore, not considered to result in detrimental harm to the character and appearance of the surrounding area.

Taking into account the above, it is considered that the scheme would provide marginally positive impacts in term of the economic and social role and as no harm can be identified in terms of environmental impacts the scheme, is therefore considered acceptable and is therefore, recommended for approval

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the completion of a unilateral undertaking securing the relevant contributions to mitigate the impact of the proposed development, 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. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following conditions:

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 Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 1350/08 Rev A, 16350/01 Rev A, 1350/07, 1350/06, 1350/05, 1350/04, 1350/03, 1350/02 and 1350/09

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

3. Materials to be Agreed

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

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

4. – 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: None

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

5. Highways – Signage

No development shall take place including any ground works until “slow” and “pedestrians in the carriageway ahead” and additionally “construction works, plant and machinery ahead” temporary signs have been erected and maintained prominently and in clear view on both sides of the carriageway of Braiswick Lane 10m north-easterly before the junction with the Primary Vehicular Access (PVA) to the proposed development site and also at the junction of Braiswick Lane with Mile End Road, alerting construction vehicle drivers to potential pedestrians in the vicinity of the development site and alerting pedestrians on the footpath of construction activities ahead which shall remain in situ until all vehicles, plant and machinery has vacated the development site and all construction and fitting out phases are complete. The drawings shall be submitted as a scaled drawing to and approved in writing by the local planning authority

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way

6. Construction Management Plan

No development shall take place, including any site clearance, ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted as a scaled drawing to and approved in writing by the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety

7. Foul Drainage

Prior to works above ground level, details of the foul drainage scheme shall have been submitted and approved in writing, by the local planning authority and shall subsequently be carried out in accordance with the details as approved.

Reason: In order to avoid unnecessary environmental, amenity and public health problems that could otherwise arise

8. Ecological Survey

The development hereby approved shall be carried out in strict accordance with the mitigation measures provided within the Preliminary Ecological Appraisal prepared by T4 Ecology Ltd dated November 2021, the Bat Survey carried out by Hybrid Ecology dated September 2022 and the Reptile Survey carried out by Hybrid Ecology dated February 2023.

Reason: Nature conservation interests to the amenity of the area

9. Ecological Enhancements

Prior to the occupation of the development hereby approved, the ecological enhancements as identified within the Preliminary Ecological Appraisal shall be installed and retained in perpetuity:

- 1 x integral or external bird box per building;
- 1x integral or external bat box per building
- Installation of 1x invertebrate box per dwelling;
- Use of bat considerate lighting scheme;
- Planting of new trees and hedgerows

Reason: To protect and enhance the biodiversity of the area in accordance with policy ENV1

10. Vehicular Access Prior to occupation

Prior to the occupation of any of the proposed development the Primary Vehicular Access (PVA) shall be a continuous extension of the existing carriageway which shall be provided at no less than the existing width and shall be provided as shown in Mark Perkins Drawing Numbered 1350/01A.

Reason: To ensure that there is a satisfactory access available at the time when the site becomes occupied in the interests of highway safety.

11. Vehicle Parking

The development shall not be occupied until such time as car parking has been provided in accordance with current Parking Standards together with a workable, convenient and efficient turning area. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles

related to the use of the development thereafter.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

12. Cycle Parking

The development shall not be occupied until such time as details of the provision for parking and storage of bicycles sufficient for all occupants and of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the

proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety

13. Vehicular Turning Facilities

Prior to any occupation of the proposed development, vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety

14. Landscape Scheme

No part of the development shall be occupied until a scheme of hard and soft landscape works has been submitted to and agreed, in writing, by the Local Planning Authority. The submitted landscape details shall be in full compliance with the Councils Landscape Guidance Note LIS/B and include any significant changes in ground levels and also

accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site; proposed planting; details of any hard surface finishes and external works. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning

Authority. Any hard or soft landscape works which, within a period of, 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the

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relatively small scale of this development where there are areas to be laid out but there is insufficient detail within the submitted application

15. Unexpected Contamination Reporting

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – The site lies on or in the vicinity of where there is the possibility of contamination

16. Removal of PD for Loft conversion

Notwithstanding the provisions of Classes B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or the equivalent provisions of any order revoking and re-enacting that Order), the dwellings as hereby permitted shall be two-storey and no windows or rooflights shall be installed to give light to the roof void of the dwelling unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: As this is the basis on which the application has been submitted to, considered and approved by the Local Planning Authority having had regard to the context of the surrounding area and the use of the roof void with external changes would need further consideration at such a time as it were to be proposed, in the interests of neighbouring amenity

19.1 Informatives

19.1 The following informatives are also recommended:

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.

Informative on Conditions Stating Prior to Commencement/Occupation

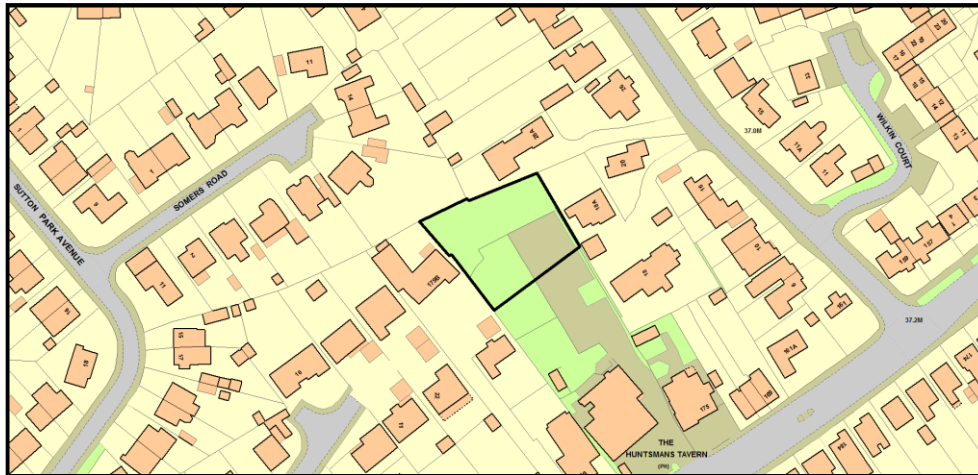
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via

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

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Informative on works affecting the Highway

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



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Item No: 7.4

Application: 230380

Applicant: Mr Jim Parker

Agent: Mr Jim Parker

Proposal: A new 3 bedroom Art-deco influenced dwelling and separate garage. (Revised drawings)

Location: Land adj to, 179B Shrub End Road, Colchester, Essex, CO3 4RG

Ward: Prettygate

Officer: Hayleigh Parker Haines

Recommendation: **Approval** subject to completion of Unilateral Undertaking under s.106 of the Act to secure contributions.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee due to a Member Call-In by Cllr. Lissimore for the following reasons:

Layout and density of building.
Design.
Loss of privacy.
Road access.

2.0 Synopsis

- 2.1 The key issues for consideration are the design of the proposed dwelling and associated impact on character and appearance of the surrounding area, the impact on neighbouring amenity and highway matters
- 2.2 It is considered, that whilst the proposed dwelling is of a unique design, this would not have a detrimental impact on the character and appearance of the surrounding area, and subject to suitably worded conditions would not represent an unneighbourly form of development. These matters are discussed further within the report. The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site sits to the north-eastern side of Shrub End Road, to the rear of the Berechurch Arms Public House, and benefits from an existing access to the north of Shrub End Road which runs north alongside 179 Shrub End Road and serves two other dwellings. The site previously formed part of the car park associated with the public house. The site falls within the settlement boundary, there are no listed buildings within the vicinity of the site and it does not sit within a conservation area. There are no TPO or trees or significant vegetation worthy of protection/retention.

4.0 Description of the Proposal

- 4.1 Planning permission is sought for the construction of a self-build, two storey detached, flat roofed dwellinghouse of art deco design. This would have a height of 7.2 metres, a maximum width of 20.88 metres and a maximum depth of 14.32 metres. This would provide a hall, office, lounge, kitchen/diner and two bedrooms with ensuites at ground floor and one bedroom with ensuite, bathroom and two roof terraces at first floor.

5.0 Land Use Allocation

- 5.1 The land to be utilised was formally associated with the public house to the south.

6.0 Relevant Planning History

- 6.1 There is no recent planning history particularly relevant to the determination of this application

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy
SG2 Housing Delivery
ENV1 Environment
CC1 Climate Change
DM2 Community Facilities
DM9 Development Density
DM10 Housing Diversity
DM12 Housing Standards
DM15 Design and Amenity
DM18 Provision of Open Space and Recreation Facilities
DM19 Private Amenity Space
DM20 Promoting Sustainable Transport and Changing Travel Behaviour
DM21 Sustainable Access to development
DM22 Parking
DM23 Flood Risk and Water Management
DM25 Renewable Energy, Water Waste and Recycling

- 7.5 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
Backland and Infill
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Managing Archaeology in Development.
Developing a Landscape for the Future

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.

The North Essex Parking Partnership have raised no objections or comments

Essex County Council Highways have raised no objection to the proposal subject to the inclusion of a number of conditions should the application be approved

Environmental Protection have raised no objections to the proposal subject to the inclusion of a condition limiting the hours of construction and an informative on EV charging points and demolition and construction

The Landscape Officer has raised no objections.

The Contaminated Land Officer has raised no objections.

The Archaeological Officer has raised no objections to the proposal.

Place Services Ecology have raised no objection to the proposal subject to a condition securing biodiversity enhancement of the site.

9.0 Parish Council Response

- 9.1 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.

Eight neighbouring letters of objection has been received and this is summarised below:

Objecting Comment	Officer Response
Design is unsympathetic and not in-keeping	Comments noted and discussed below
The first floor windows will overlook neighbouring properties – loss of privacy	Comments noted and discussed below
Site has already been cleared – spoiling enjoyment of wildlife	Comments noted,
Access road inadequate	Comments noted and discussed below
Excessive Scale	Comments noted and discussed below
Noise impacts if parties are held on the roof terrace	Comments noted, however, this is not considered to be unreasonable given the proposed residential use of the site and no worse than any other dwelling if gatherings were to be held in rear gardens.

One letter raising a general observation has been received, advising that the site has already been cleared and is being used as an area to store plant and equipment which seems to contradict the highways recommendation.

11.0 Parking Provision

11.1 Sufficient parking will be provided on site for a minimum of two vehicles, in line with the requirements of policy DM22, this will be discussed further in the below report

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of potential direct or indirect discrimination.

13.0 Open Space Provisions

13.1 The proposed development includes appropriate provision of private amenity space and there is no need for any public open space to be provided.

14.0 Air Quality

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

15.0 Planning Obligations

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

15.2 Notwithstanding the above, should the application be approved a unilateral undertaking would be required to secure contributions for Community Facilities/Sport & Recreation and RAMs as per our adopted SPD.

16.0 Report

The main issues in this case are:

- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Highway Safety and Parking Provisions (including Cycling)

16.1 Five-Year Housing Land Supply

Section 1 of the Colchester Local Plan 2017-2033 was adopted by the Council on the 1 February 2021, with Section 2 being adopted in July 2022. The complete Local Plan carries full statutory weight as the development plan.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

The Tendring Colchester Borders Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings ($5 \times 920 + 5\%$).

The Council's latest published Housing Land Supply Annual Position Statement (July 2022) demonstrates a housing supply of 5,074 dwellings which equates to 5.25 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied)

which was calculated using the Standard Methodology. This relates to the monitoring period covering 2022/2023 through to 2026/27.

8. Five Year Supply Calculation

8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2022/2023 through to 2026/2027.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing allocations and windfall allowance	5074
Total number of years' worth of housing supply including emerging allocations	
Supply against OAN with permissioned sites, existing allocations and windfall	5.25

8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.25 years is deliverable within this period.

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

16.2 Principle of the Development

Policies SP1, SG2 and DM15 state that development within the City is directed to sites within existing settlement development boundaries, with an emphasis within policy SP1 for a favour is presumption of sustainable development. The application lies within the defined development boundary for Colchester and given its location within a built up environment, with easy access to public and sustainable modes of transport, via established footpaths with lighting, alongside the facilities offered within the vicinity of the site, it is considered that the principle of provided an additional dwelling in this location is acceptable.

16.3 Design and Impact on Character and Appearance of the Site and Surrounding Area

Policies SP7 and DM15 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Policy SP7 states in particular that all new development must meet high standards of urban and architectural design. In addition,

the additional dwelling within the rear garden would be classed as Backland and infill and therefore the Backland and Infill SPD is relevant.

The Council's Adopted Supplementary Planning Document (SPD) 'Backland and Infill' states that proposed building plots should be of similar dimensions in size and shape to the existing plots in the immediate locality. Proposals that would lead to overdevelopment of a site or the appearance of cramming will be resisted. Furthermore, the SPD sets out that the layout should create a sense of place and integrate well with the existing development.

The proposed dwelling would not be readily visible within the public realm, due to the existing built form largely blocking views from public vantage points, and is therefore considered to have a limited impact on the character and appearance of the surrounding area.

The proposed dwelling would follow the relatively established building line of properties to the west of the site. The plot size however, is slightly larger than neighbouring properties but not completely uncharacteristic of the surrounding area (10 Somers Road to the rear is similar.) Furthermore, other properties to the west tend to be quite wide and provide a minor degree of separation between plots and therefore it is considered that the plot size and the width of the proposed dwelling in itself is considered acceptable and the dwelling is considered to respond to its context appropriately.

The proposed dwelling would feature a circular focal point central to the dwelling which is proposed to reflect the hexagonal feature on the public house to the south and is considered to contribute to the art deco aesthetic; whilst this design aesthetic is not overly characteristic of residential properties within the immediate area, there are some examples within the wider surrounding area. The built environment surrounding the site is considered relatively eclectic in terms of form, materials and detailing, as such it is not considered that the proposed dwelling would be at odds with any overriding character within the surrounding area.

The proposed detached garage is modest in footprint, however, given the spacious nature of the site, it is not considered that this alongside the proposed dwelling would represent a cramped form of development. Furthermore, the proposed garage is single storey in nature and does not visual compete with the host dwelling and would be read as an outbuilding.

Taking into account the above, the spatial and massing elements of the proposal appear grounded within their context and the architectural elements are considered acceptable on the basis they deliver an authentic and coherent design approach and in design terms, the proposal is considered acceptable and policy compliant.

During the assessment of the application the Urban Design Officer and Planning Officer have worked with the Agent, to provide a more typically proportioned and detailed art-deco designed dwelling, that provides a cohesive design through all elevations and whilst this results in a unique residential dwelling, subject to conditions securing the detailing.

16.4 Impact on Neighbouring residential amenity

Policy DM15 requires all development to be designed to a high standard that protects and promotes both public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

The application site is bordered by five neighbouring residential properties; to the east is 18A King Harold Road, to the north are 26A King Harold Road and 10 Somers Road, to the west is 179B Shrub End Road and to the south west is 179A Shrub End Road.

The proposed dwelling would sit a minimum of 10.3 metres from the closest neighbouring property to the north and 9.61 metres from the neighbouring property to the east and 9.6 metres from the neighbouring property to the west; due to this degree of separation alongside the relationship and orientation of neighbouring properties, it is not considered that the proposed dwelling would represent an unneighbourly form of development in terms of loss of light or having an overbearing impact.

The main concern in terms of neighbouring amenity is the loss of privacy to the neighbouring occupants to the north and east due to the provision of a roof terrace at first floor. To the eastern and western boundaries, the floor level sits 1.7 metres lower than the wall to these elevations, which is considered sufficient to overcome any concerns relating to the loss of privacy to these neighbouring occupiers, as the resultant wall would sit above eye level. To the rear there is a small 'dip' where the wall falls below 1.7 metres from floor level, although it is considered a condition can be included to ensure an obscure screen with a height of 1.7 metres from finished floor level is installed and retained in perpetuity prior to the occupation of the dwelling; this is considered to overcome any concerns in regards to a material loss of privacy to neighbouring occupiers. It is also considered necessary to ensure that the first floor window to the rear elevation is also obscure glazed and of a non-opening design for 1.7 metres above the finished floor level; again, this can be conditioned.

16.5 Private Amenity Space and Landscaping

Policy DM19 requires all new residential development to provide private amenity space to a high standard, where the siting, orientation, size and layout make for a secure and usable space. For houses of one or two bedrooms a minimum of 50m² of useable amenity space is required, for houses with three bedrooms a minimum of 60m² is required and for dwelling with four or more bedrooms a minimum of 100m² will be required.

Due to the spacious nature of the plot, the dwelling would benefit from a private amenity area in excess of 200m² and therefore, it is considered that sufficient, high quality amenity space will be provided and there are no objections in this respect.

16.6 Parking, Access and Highway Safety

Policy DM21 requires all new developments to seek to enhance accessibility for sustainable modes of transport. Policy DM22 states that the Council will refer

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developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedroom.

The application would utilise an existing access and therefore, there are no objections in this respect. The hardstanding to the front of the site is considered sufficient to provide a minimum of two parking spaces. Furthermore, the proposal includes the provision of a detached garage which is considered sufficient to provide parking for a reasonable sized vehicle. Essex County Council have also raised no objection to utilising the existing access road.

16.7 Flood Risk/Drainage

Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Policy DM23 includes the provision that, where proposals include driveways, hardstanding or paving, the use of permeable materials and landscaping will be sought to minimise the cumulative impacts of flooding from such developments.

The application site sits within Flood Zone 1 and as the proposal site measures less than a hectare, a Flood Risk Assessment would not be required to support this application. Therefore, it is not considered that the proposal would have a harmful impact upon flooding or surface water drainage within the locality.

16.8 RAMS/ Habitat Regulations

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.

It is anticipated that, without mitigation, new residential development in this area could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.

The necessary financial contribution has been sought to be secured within the Unilateral Undertaking and therefore, it is considered that subject to the execution of this deed, the appropriate mitigation will have been secured.

16.9 Planning Obligations (s106)

Communities have requested an amount of £2872.83 using the standard methodology for a three bedroom dwelling, this would be contributed towards one of the following projects:

- to increase the offering and accessibility of the Prettygate Baptist Church to the community, including updating/replacing their toilets and improvements to the café area.

- Update the air raid shelter at Straight Road Community Centre in order to provide a usable space for the community
- Increase and improve the offering provided at Shrub End Social Centre, including improvements to the kitchens, guttering and roof repairs, fire doors etc....

A Unilateral Undertaking has been requested as part of this application, and therefore, subject to the execution of this deed, it is considered the relevant contributions will have been secured.

16.10 Other Matters

It is noted that a number of neighbouring comments mention that the site was previously occupied by a number of trees which have since been cleared. It is clear from aerial photography that was the case until recently. The Case Officer has checked using the resources available and can confirm that this was not a protected woodland and is not recorded as being occupied by any protected species or priority habitat, so whilst the clearing of this site is regrettable, it is not considered to have had a detrimental impact on ecology or biodiversity. However, in accordance with policy CC1, any application should seek to include a 10% increase in tree canopy cover; given the site has been cleared of all vegetation, it is considered that a 10% increase could easily be achieved onsite and therefore, a condition will be included to secure this to ensure policy compliance and provide mitigation given the recent loss of vegetation.

Similarly, a neighbouring comment mentions badgers. Having checked the NBN (National Biodiversity Network) atlas, whilst 44 recordings of badgers within 5km of the area are recorded, there is no record of a badger sett on site, nor any recordings of sightings since 2021. The Case Officer did carry out a site visit whereby there was no obvious sign of any habitat or badgers. Place Services Ecology have been consulted as part of this application and have advised that there is no evidence of a Badger Sett. They have recommended that a condition securing biodiversity net gain is achieved on site, based on the habitat that was originally on site, should the application be approved.

16.11 Procedural Matter

The recommended pre-commencement conditions have been sent to the applicant for agreement in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018. An update can be provided to Members at the Committee meeting.

17.0 Planning Balance and Conclusion

In terms of sustainability, the National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy

This stance is supported within Policy SP1. In relation to the economic role, the expenditure by future occupiers would help to support local services within Prettygate and the wider area. Also, in the short term the construction works, undertaken by the Applicant, is likely to result in local expenditure for materials, etc.... and could generate local employment and therefore, it is considered the scheme is likely to have a marginally positive economic impact. In terms of the social role, again it is considered the proposal would have a negligible impact as the dwelling is not of a size required by the City and the provision of one dwelling does significantly support the community. Lastly, in terms of the environmental role, the site is located within the settlement boundary and therefore future occupants are not considered to be reliant on the private motor vehicle to access everyday services and facilities, it is considered that the proposed Backland development would be acceptable and in principle reflective of neighbouring plots. Whilst the design of the dwelling is relatively unique, it is not considered that in environmental terms the proposed development would have a detrimental impact on the character and appearance of the area and therefore, given the minor positive impacts in term of the economic and social role and the lack of harm identified in terms of the environmental role, it is considered the proposal is acceptable.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the completion of a unilateral undertaking securing the relevant contributions to mitigate the impact of the proposed development within 6 months from the date of the Committee meeting. In the event that the above is not achieved within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following conditions:

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 Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: JRP/23/SE/03 REV C, JRP/23/SE/04 rev c, JRP/23/SE/05 REV C, JRP/23/SE/10, JRP/23/SE/01 REV A, JRP/23/SE/02 REV C and JRP/23/SE/06

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

3. Materials to be agreed

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

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

4. Architectural detailing

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the depth of reveal); doors; cills; lintels; mouldings (architraves, ribbon/beading); parapet & coping; and any rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design and deliver an authentic and coherent design. To ensure that the quality of approved development is not materially diminished between permission and completion.

5. Utilities

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

Reason: In the interests of maintaining an authentic and coherent design, and to

ensure that the quality of approved development is not materially diminished between permission and completion.

6. Construction Management Plan

No development shall take place, including any site clearance, ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted as a scaled drawing to and approved in writing by the local planning authority. The approved plans shall be adhered to throughout the construction period. The plans shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

7. Biodiversity Net Gain

No development shall commence unless and until a Biodiversity Management Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority.

The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time and the Biodiversity Management Plan shall include:

- a) Proposals for the on-site biodiversity net gain;
- b) A management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;
- c) Proposals for any off-site biodiversity net gain provision;
- d) A management and monitoring plan for all offsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Management Plan.

Reason: To conserve and enhance protected and Priority species / habitats and allow the development to demonstrate measurable biodiversity net gains

8. Limit 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: None

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

9. Foul Sewage Drainage

No works above ground level shall take place until details of foul drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of foul water drainage has been fully installed and is available for use.

Reason: In order to avoid unnecessary environmental, amenity and public health problems that could otherwise arise.

10. Landscaping Scheme

No works above ground level shall take place until a scheme of hard and soft landscaping works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. Please note that this scheme will need to evidence a 10% increase in canopy cover of the site

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there is insufficient detail within the submitted application.

11. Obscure glazed Window

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor windows to the rear elevation shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity below 1.7 metres in height from the finished floor levels, before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

12. Obscure glazed Screen

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any

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Order revoking and re-enacting that Order with or without modification), an obscure glazed screen to the rear elevation, where the wall height falls below 1.7 metres shall be installed with a minimum of level 4 obscurity to bring the total height to 1.7 metres, before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

13. Parking

The development shall not be occupied until such time as car parking has been provided in accord with current Parking Standards together with a workable, convenient and efficient turning area. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

14. Cycle Parking

The development shall not be occupied until such time as details of the provision for parking and storage of bicycles sufficient for all occupants and of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

19.1 Informatives

19.1 The following informatives are also recommended:

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.

Advisory Note – Highways

It appears that the means of access is not in control or ownership of the applicant therefore, the pedestrian and vehicles rights of access should be demonstrated to exist in perpetuity.

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

applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.uk

Advisory Note – Ecology

To avoid killing or injuring small animals which may pass through the site during the construction phase, it is best practice to ensure the following measures are implemented:

- a) Trenches, pits or holes dug on site should be covered over at night. Alternatively, ramps (consisting of a rough wooden plank) or sloped/stepped trenches could be provided to allow animals to climb out unharmed;
- b) materials brought to the site for the construction works should be kept off the ground on pallets to prevent small animals seeking refuge;
- c) rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge; and
- d) should any protected species or evidence of protected species be found prior to or during the development, all works must immediately cease and a suitably qualified ecologist must be contacted for further advice before works can proceed.

All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.



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Item No: 7.5

Application: 230777

Applicant: Mr Jason Claridge

Agent: Mr David Macdougall

Proposal: Proposal for a change of use of a section of residential garden into a secure dog exercise field

Location: Kroonstadt, 63 London Road, Copford, Colchester, CO6 1LG

Ward: Marks Tey & Layer

Officer: Kelsie Oliver

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in by Cllr Ellis for the following reasons:

- Detrimental impact on neighbouring residential amenity (location, hours of use, nature of use);
- Inadequate size for a dog exercise field

2.0 Synopsis

2.1 The key issues for consideration are the potential impacts on neighbouring amenity from the development proposed. For the reasons outlined in the main body of the report it is concluded that, subject to the imposition of appropriately worded conditions, the amenity of the surrounding area can be suitably preserved, and neighbouring amenity protected. The proposals are also not considered to give rise to any concerns with regard to other wider material planning considerations.

2.2 The application is subsequently recommended for approval, subject to conditions.

3.0 Site Description and Context

3.1 The application site forms part of Kroonstadt, 63 London Road, Copford. The application site is located within a predominately residential location with the access point and entrance gate located within the settlement boundary and the main body of the site (exercise field) being located outside of the settlement boundary.

4.0 Description of the Proposal

4.1 The application seeks planning permission for a change of use of a section of residential garden into a secure dog exercise field. The application site is an existing residential garden owned by No.63 London Road, Copford.

5.0 Land Use Allocation

5.1 Residential

6.0 Relevant Planning History

6.1 None

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

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and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

- DM15 Design and Amenity
- DM19 Private Amenity Space
- DM22 Parking

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

The Essex Design Guide
EPOA Vehicle Parking Standards

7.6 The Neighbourhood Plan for Copford is also relevant. This forms part of the Development Plan in this area of the City.

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.

Contaminated Land Officer: No comments

Environmental Protection: Recommended conditions to control lighting levels, confirm that no floodlighting is approved, control hours of operation and number of dogs allowed on site at any one time, and ensure waste collection.

Highways Authority: Confirmation that the proposal is acceptable from a highway and transportation perspective subject to conditions: vehicular access gates to be inward opening only and set back from the highway boundary, car parking and turning areas provided, passing place to be provided. An informative is also recommended regarding works affecting the highway.

9.0 Parish Council Response

9.1 Copford and Easthorpe Parish Council have stated that the “Council strongly objects to this application on the grounds that the area is too small and due to the proximity of neighbouring properties this will affect their enjoyment of their homes and their privacy. It is an inappropriate place for this kind of facility.”

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

- Inappropriate location for a business

- Noise and odour nuisance
- Proposed use will have an impact to wildlife
- Will increase anti-social behaviour
- Increase of pollution

11.0 Parking Provision

11.1 The proposal is not considered to have a material impact on existing parking provisions or the demand for such. Parking provision has been recommended by Essex County Council Highway Authority and can be conditioned.

12.0 Accessibility

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

12.2 The proposal is also not considered to present further conflict with any other arms of the Public Sector Equality Duty.

13.0 Open Space Provisions

13.1 The proposal does not include, nor is it required by policy to make any open space provisions.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.1 Report

16.1 The main planning considerations in this case are:

- The Principle of Development
- Design and Impact on the Surrounding Area
- Amenity - Impacts on Residential Properties
- Highway Safety and Parking Provisions (including Cycling)

Principle

16.2 The proposed development should be considered on its own merits, with regards to wider material planning considerations as set out in the sections below. The entrance is located within the settlement boundary and the main body is located outside of the Settlement boundary, therefore policies DM6 and

OV2 will be relevant in policy terms. The proposed development would encourage economic and leisure benefits to the application site.

Design & Impacts on the surrounding area

- 16.3 The NPPF and the Planning Practice Guidance recognise the importance of good design, with specifically paragraph 130 of the NPPF requiring planning decisions to ensure development is visually attractive as a result of good architecture. Paragraph 126 states that the creation of high quality and beautiful buildings and places are both fundamental to what the planning and development process should achieve.
- 16.4 Colchester Borough Local Plan 2013-2033 Section 1 Policy SP 7 requires all development to meet high standards of urban and architectural design, respond positively to local character and enhance the quality of existing places. Section 2 Local Plan Policy DM15 requires development to be designed to a high standard, respond positively to the context and achieve good standards of amenity.
- 16.5 The site itself is located to the south of London Road, to the west of the site sits three residential dwellings and residential gardens and commercial operating buildings with associated parking. To the east of the site sits residential dwellings, and to the rear is countryside. Adopted Local Plan Policy DM6 (Economic development in rural areas and the countryside) is therefore considered to be relevant. The policy states, In general, proposals for sustainable rural businesses will be supported if they are of an appropriate scale, meet a local employment need, minimise negative environmental impacts, and harmonize with the local character and surrounding countryside where they are being proposed.
- 16.6 To accommodate the change of use of the residential field to a dog exercise field, the proposal includes the addition of a 6ft high agricultural tornado wire fencing, set in approximately 1m from the garden boundary and positioned to wooden posts, to secure the site. Furthermore, an additional gate to the field access is proposed, alongside an existing hard standing area which will be retained. To the existing hard standing area, a timber shelter will be erected with the addition of electricity and water. A designated dog waste bin will also be on site. There are existing trees and vegetation on site, which are proposed to be retained.
- 16.7 The development being the change of use from residential garden to a dog exercise field is considered to be small scale. There are no materially harmful alterations to the existing land. Furthermore, the site is located to the rear of a residential dwelling with a separate access and approximately 51 meters from the main access of London Road. Therefore views of the development site from the public realm will be significantly limited.
- 16.8 It is considered that the proposal will incorporate a small scale operating business, which will include the operation of an online booking system, management of fencing and car park maintenance which will provide

employment. Therefore, the proposed will provided local rural employment in accordance with development Policy DM6.

Neighbouring Amenity

- 16.9 Paragraph 130 of the National Planning Policy Framework (2021) requires planning decisions to ensure development creates places with a high standard of amenity for existing and future users, while Paragraph 185 further requires planning policies and decisions to ensure that new development is appropriate for its location taking into account likely effects and potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 16.10 Section 2 Policy DM15 states that all development must be designed to a high standard and protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Section 1 Policy SP7 echoes these sentiments, requiring all development to protect the amenity of existing and future residents, including with regard to noise and vibration.
- 16.11 In this instance, the site is located to the rear of a residential dwelling and a row of Residential dwellings along London Road, Copford to the north.
- 16.12 The application has been assessed by the Environmental Protection and no objections have been raised. Conditions have been included with regards to the prevention of light pollution, flood lighting, permitted operating hours, number of dogs and details of the waste collection. These conditions are considered necessary and reasonable in mitigating the impacts of the proposed development.
- 16.13 The proposal does not give rise to any concerns from a loss of light or overlooking perspective.
- 16.14 In conclusion, subject to the imposition of the abovementioned conditions the proposal is considered acceptable from a neighbouring amenity perspective with no material impacts to neighbouring amenity expected, including in terms of noise or other disturbance.

Highway Safety and Parking Provisions

- 16.15 The development site has a separate gated access from the host dwelling No. 63 London Road, and has a proposed passing and turning point proposed within the site. Highways Authority have not objected to the proposal and have found it to be acceptable from a highway perspective.
- 16.16 The scheme is considered to provide adequate parking on site and complies with the adopted Vehicle Parking Standards SPD. Conditions can be imposed to secure the parking spaces.

17.0 Planning Balance and Conclusion

17.1 For the reasons outlined above, subject to conditions to provide necessary certainty and control on operating hours and the day to day functioning of the use, it is considered it can be ensured the proposed development can take place without resulting harm to neighbouring amenity. In the absence of harm in respect of other relevant material planning consideration officers conclude that the planning balance tips towards an approval in this instance and a conditional approval is therefore the recommendation put forward to members.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. 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 CHRTRA-IWD-XX-XX-DR-E-5100 P02, CHRTRA-IWD-XX-XX-DR-E-5101 P03 and CHRTRA-IWD-XX-XX-DR-E-5004 P01.

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

3. Hours of Operations

The development hereby permitted shall not OPERATE outside of the following times:

Weekdays: 07:30-21:00

Saturdays: 07:30-21:00

Sundays and Public Holidays: 08:00-19:00

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

4. Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E2 RURAL (low district brightness – sparsely inhabited rural areas, village or relatively dark outer suburban locations).

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

5. No Floodlighting

No floodlighting shall be constructed, installed or illuminated at any time unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: To ensure that there are no undesirable effects of light pollution.

6. Number of dogs

The use of the site for dog exercising shall be undertaken on a pre-booked appointment basis only (with 10 minutes between appointments) and with a maximum of two dogs on site at any one time.

Reason: In order to minimise potential noise nuisance in the interests of residential amenity

7. Waste

Waste shall be stored in the bin as shown on drawing Proposed site block plan ref: 2306-DMAC-00-DR-A-02-S1-P02 and shall be emptied by a licensed contractor once a week.

Reason: In order to minimise nuisance as a result of waste being stored on site in the interests of public amenity.

8. Vehicular Access Arrangements

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 12m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety.

9. Car Parking

The development shall not be occupied until such time as car parking for at least 2 No. cars has been provided in accordance with current Parking Standards (being a minimum dimension of 6.0m x 3.0m) together with a workable, convenient and efficient turning area. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

10. Passing Place

Prior to the first use of the proposed development the applicant shall provide at least 1 No. passing place with dimensions no less than 7.0m x 2.0m as shown in Drawing

Numbered 2306-DMAC-00-XX-DR-A-02-S1-P01. The passing place shall thereafter be retained as such.

Reason: To ensure that all vehicles using the private drive do so in a controlled manner and to ensure that opposing vehicles may pass unopposed, in the interests of highway safety.

19.1 Informatives

19.1 The following informatives are also recommended:

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.

Highway Informative

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

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.



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Item No: 7.6

Application: 230775

Applicant: Mr Ian Booth

Agent: Mr Robert Pomery

Proposal: Retrospective Stationing of Demountable Structure to form a Clubhouse

Location: The Stanway School, Winstree Road, Stanway, Colchester

Ward: Stanway

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Tracy Arnold who states:

"Resident's amenities will be significantly impacted by the light and noise pollution, the operation hours applied for will impact as it is a residential area.

It appears although not mentioned in the application there is an associated shipping container which is not in keeping with street scene. Visitor parking is not contained on the site and spills over onto the highway network with dangerous implications."

2.0 Synopsis

- 2.1 The key issues for consideration are the design, scale and form of the clubhouse and its impact upon highway safety and neighbouring residential amenity.
- 2.2 The application is subsequently recommended for approval. The provision of a facility relating to sport and leisure is supported in principle by Local Plan and National Policies. It is considered the design, scale and form of the clubhouse is acceptable and would be in keeping with the character of the location. The clubhouse is not deemed to be a traffic generator and it is not considered it would increase the intensity of use of this site in this respect. Accordingly it is not considered the proposal can be refused on highway safety grounds or lack of parking provision. It is not considered the clubhouse would result in any significant detriment to neighbouring residential amenity and it would not affect vegetation or wildlife. It is not considered there is any significant impact in respect of light pollution.

3.0 Site Description and Context

- 3.1 The site is part of Stanway school which includes a football ground that is used by Stanway Pegasus FC amongst others. There is also a Youth centre within the school grounds as well as a parking area close to the pitch and adjacent to school buildings.

4.0 Description of the Proposal

- 4.1 The proposal is for the retention of the stationing of demountable structure to form a Clubhouse serving Stanway Pegasus FC. The structure is in the form of a white, single storey, flat roofed building with openings. It is an adapted steel shipping container measuring approximately 11.0m x 3.5m.
- 4.2 The agent has submitted the following supporting information:
- The clubhouse provides a post-match entertaining space for relaxation and refreshments for the teams, officials and supporters. Stanway Pegasus operate a number of men and women's teams across all age groups.
 - The proposal does not remove any parking provision for the Football Club, The Stanway School or Stanway Youth Centre, and would not lead to further vehicular traffic to the existing facilities and surrounding local highway network.

- As the former Site Manager for The Stanway School, I can confirm that Stanway Pegasus have been using the school facilities on Saturday afternoons for the past 10 years, with at least the last 6 on the 4G MUGA.
- They originally started on our grass pitches and then moved over once the 4G was completed.
- Prior to this Stanway Pegasus had used the facilities on Sunday mornings on grass for an additional 12 years. As Site Manager I signed them up for the bookings and can confirm that the above is correct.
- AFC Pegasus became SPFC in 2018, but before that AFC played at Stanway School and had a similar number of teams. In fact, they have been playing at the school for 22 years.
- Football in the area evolved as did the club. Stanway was more of an identity for people to relate to so was added to the name of the club, but the same people ran it and played.
- They have 12 teams from under 7 to adult men and women prior to 2018 they had fewer teams, but it is important to note that at capacity, there are only 4 pitches, so only four teams can play at one time, these may not all be Pegasus teams.
- Clubhouse attracts no additional traffic or visitors, the teams would continue to use the site for matches or training if it were not there. It is also the case that the school and other local teams use the pitches and have always done so.

5.0 Land Use Allocation

5.1 School, Open Space.

6.0 Relevant Planning History

6.1 222981 50 seated small sheltered stadium area. Approved: 26.1.23

230820 For the Stanway School, monopitch canopy Lawful Development Certificate Granted: 30.5.23

162148 Erection of six lighting poles around proposed Multi Use Games Area (MUGA) Approved: 21.10.16

160833 Demolition of teaching building (Gainsborough block) and erection of Replacement building (Arts building), new Science Wing, enclosure of existing area with roof and facade to create multi-use space and kitchen extension. New Multi Use Games Area (MUGA). Approved: 8.6.16

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP3 Spatial Strategy for North Essex
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy
SG7 Infrastructure Delivery and Impact Mitigation
SG8 Neighbourhood Plan
ENV1 Environment
ENV3 Green Infrastructure
ENV5 Pollution and Contaminated Land
CC1 Climate Change
PP1 Generic Infrastructure and Mitigation Requirements
DM1 Health and Wellbeing
DM2 Community Facilities
DM4 Sports Provision
DM5 Tourism, leisure, Culture and Heritage
DM15 Design and Amenity
DM16 Historic Environment
DM17 Retention of Open Space
DM18 Provision of Open Space and Recreation Facilities
DM20 Promoting Sustainable Transport and Changing Travel Behaviour
DM21 Sustainable Access to development
DM22 Parking

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Managing Archaeology in Development.
Developing a Landscape for the Future
Stanway Joint Design Statement and Parish Plan

8.0 Consultations

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

Environmental Protection state:” We recommend that use of the clubhouse is restricted to the hours specified in the application.”

Highway Authority states: “The proposed structure although called a clubhouse does not provide the benefits of a true clubhouse. This proposal appears to provide facilities for the use and comfort of those attending the site who watch or support teams playing here. A true clubhouse would be a structure which provides public conveniences, social spaces for meetings, events, the sale and consumption of food and drink within the structure and maybe used for entertainment purposes when matches are not being played.

This proposal would not be considered a traffic generator of attractor nor is it a destination venue, those that would use these facilities would already be attending the site.

The Highway Authority is aware and concerned by the motor traffic that parks indiscriminately and on some occasions in dangerous locations which cause hazards to other highway users and urges the applicant to plan for and manage motor traffic associated with football events at the site.

The Highway Authority does not object to the proposals as submitted.”

Recommended informative regarding any work within or affecting the highway.

Archaeologist: “Having examined the submitted plans and documents, I can confirm that the proposed development will not result in material harm to the significance of below-ground archaeological remains. Therefore, there will be no requirement for any archaeological investigation in this case.”

9.0 Parish Council Response

9.1 The Parish Council have stated “Stanway Parish Council raises NO OBJECTIONS to this proposal but does take a dim view of retrospective application.”

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.

6 letters of objection have raised the following concerns:

- Wholly unacceptable to allow further football facilities at Stanway School. Local residents are already plagued with the consequences of inconsiderate -and sometimes illegal parking.
- Bus routes are often obstructed and roads blocked. This presents a danger to elderly local residents should ambulances and fire engines be unable to get through. In particular Wheatfield Road is jammed every day through parents parking on pavements etc while collecting children from Winstree Primary.

- At weekend also have to deal with parking in Wheatfield and adjoining roads due to football sessions on the King George Playing field. This application must be rejected in favour of the well being of the local community.
- Not used by the school in any means and therefore is not a community asset.
- Should be refused on basis that location situated in a residential area and therefore is unsuitable for the development of football stadia.
- No creation of a traffic management plan following the increased traffic that occurs when the pitches are in private use, with the road now being congested regularly and outside of regular school timings which means that the current road markings designed around school times are not enforceable, this therefore impacts highway safety and there have been several contraventions of highway safety by patrons parking in a safe manner. There is a lack of travel plan with this development.
- Application statement says that this is in keeping with the development in the local area, of which is residential, and therefore this is an untrue statement.
- Request that planning application declined until a workable travel/traffic management plan is developed as this application will further the development of the team and subsequently enable further growth which will impact traffic further.
- They may need to turn down there language.
- Parking and noise levels are outrageous, very dangerous parking on zigzag, on the path, parking on both sides of the road so traffic can't get though, parking half on the path, blocking view coming out of Threshers end, double parking down Threshers end, dangerous parking on both corners, parking across driveways.
- Noise levels at night are bad enough now.
- Family, friends and ourselves can't park down Threshers end.
- Prevents safe crossing for pedestrians as the road crossing becomes obstructed to this.
- Given close proximity of another established Saturday league team there is now both congestion on new farm road and Winstree Road making the area difficult to access via the main road in Stanway.
- Good idea in the wrong place.

4 letters of support have been received which have made the following points:

- Fantastic idea that helps support all the kiddies and players playing on the pitch having a tea hut to help raise funds keeps costs low kiddies in the fresh air and with no hinderance to anyone. A big plus for those using facility.
- As a child welfare officer acting on behalf of this Club this is a huge benefit to all children attending.
- NO added teams added players or persons that already attend the site, its just to facilitate the already attending people so absolutely no increase of traffic.
- Having refreshments available for people attending actually stops traffic in and out as able to purchase them on site instead of going out and then returning.
- Having cold bottled water for children and spectators could be vital in hot summer months. I believe first aid equipment will be present in the cabin too.
- Certain cabin will not increase numbers attending just providing a better facility to all attending.

- Wonderful idea having a place at the school you can go and get refreshments whilst the children train.
- the amount of times I have had to drop off and go back out to the shop to get a drink. this saves the rush about.
- It also saves the amount of traffic constantly coming and going as most parents pop of to costa to get a hot drink.
- Look forward to this being open.
- Fantastic improvement.
- Additional revenues to help support our local children and keep these children entertained and off of the streets.

11.0 Parking Provision

11.1 30 spaces

12.0 Accessibility

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DM21 (Sustainable Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle:

16.1 In terms of the principle of the application, Local Plan policies are supportive of sustainable leisure uses subject to consideration of normal planning criteria (Policy DM5). The proposal is also supported by Policy DM2 and DM4, which encourage and support the provision of sports and community facilities.

16.2 The National Planning Policy Framework has similar provisions and Para 93 states that planning decisions should aim:

“To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local

services to enhance the sustainability of communities and residential environments;. As the site is within a sustainable location and there is an existing leisure use the proposal should therefore be judged on its planning merits.”

- 16.3 Accordingly it is considered that there is overall Local and National Policy support for the principle of the facility and that the proposal to retain the clubhouse should be judged on its planning merits having particular regard to issues such as impact upon visual amenity, highway safety and neighbouring residential amenity.

Design, Scale, Form and Impact upon visual amenity

- 16.4 In considering the design, scale, form and layout of the proposal, Policies DM15 and SP7 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. All new development must meet high standards of urban and architectural design.
- 16.5 In this case the design, scale and form of the clubhouse is considered to respect the character of the surroundings and would not be detrimental to the character of the street scene. It is modest in scale with appropriate materials and finishes and would fit in reasonably well with the character of the existing modern school buildings. It would be partially screened by boundary planting from some angles and with a backdrop of large modern buildings although is visible from the road from some points.
- 16.6 Overall the clubhouse is considered to be visually acceptable and would thus accord with the abovementioned policies DM15 and SP7.

Highway Issues

- 16.7 The concerns expressed by neighbours in terms of the intensity of vehicular movements and the impact upon the surrounding road network and residential amenity have been carefully assessed. The site is already in use as a school, as well as for Stanway Pegasus FC, and the clubhouse would not increase the intensity of use of the site. The Highway Authority has raised no objections and concludes that “This proposal appears to provide facilities for the use and comfort of those attending the site who watch or support teams playing here.” In accordance with the Highway Authority’s view, it is considered the clubhouse proposal would not be deemed as traffic generator or attractor, nor is it a destination venue with those that would use the facility already attending the site. Indeed some users have argued that it may reduce vehicular movements as people could stay on site rather than going off site for a drink and collecting players later.
- 16.8 There are 30 car parking space available and this is a reasonable provision for the use of the site. It is therefore not considered the proposal should be refused on insufficient parking, particularly as the clubhouse is not considered to be a traffic generator. The parking standards are maximum not minimum for such a use. The site lies within a sustainable location and users can also walk or cycle.

- 16.9 It is not considered that highway safety issues can be compromised but it is not considered this would be the case in respect of the retention of the clubhouse. The access has good visibility splays. It is also not considered the proposal would cause a sufficiently severe impact upon the Highway network, as referred to in the NPPF (para.111) to be contrary to the NPPF. It is therefore considered the proposal is acceptable on highway safety and parking provision grounds and would not conflict with Policy DM15, DM22, SP7 (place shaping principles).
- 16.10 Nevertheless it is clear that there is some concern in the community about vehicular movements and parking in relation to the use of the site. The use of the site also appears to have grown over the years. The Highway Authority has confirmed that it is "is aware and concerned by the motor traffic that parks indiscriminately and on some occasions in dangerous locations which cause hazards to other highway users and urges the applicant to plan for and manage motor traffic associated with football events at the site." Accordingly it is considered that a condition relating to the submission of a traffic management plan is justified in order to help manage vehicular activity in the vicinity and to flag up best parking practice to users of the site (which includes users of the clubhouse).

Impact upon neighbouring residential amenity

- 16.11 The neighbour's concerns have been carefully considered. However it is not considered the proposed retention of the clubhouse would have a significant impact upon neighbouring amenity and could not be refused on these grounds. There is an existing leisure use in terms of a football pitch within the school grounds. There is nothing to suggest that the clubhouse would result in an intensification of use of the site or an increase in any noise and disturbance. Football pitches inevitably have some noise associated with them and the clubhouse is not particularly close to dwellings. There may be spectators watching the game with or without the clubhouse. Environmental Protection have raised no objections and the hours of use condition suggested will be applied. If there is a statutory nuisance deemed to be caused from the site, Environmental Protection can investigate separately.
- 16.12 The clubhouse does not appear overbearing on the outlook of neighbours and does not result in a loss of light or overlooking. Accordingly, overall, it is considered the impact on the amenity of the area from the proposal is appropriate and the proposal accords with Policy DM15.

Other Issues:

- 16.13 Finally, in terms of other planning considerations the proposed development does not raise any concerns. Vegetation is avoided and there are no significant ground works anyway. There is no impact upon wildlife (ENV1) and no archaeological implications (DM16). It is not considered there would be any significant light pollution from the clubhouse.
- 16.14 It is noted that the proposal is situated within Public Open Space, as shown within

the Local Plan Policies Map. However, the proposal would not result in the loss of an area important for its amenity or playing space and achieves the aims of the prevailing strategy relating to recreation, in compliance with Policy DM17.

17.0 Planning Balance and Conclusion

17.1 The provision of a facility relating to sport and leisure is supported in principle by Local Plan and National Policies. It is considered the design, scale and form of the clubhouse is acceptable and would be in keeping with the character of the location. The clubhouse is not deemed to be a traffic generator and it is not considered it would increase the intensity of use of this site in this respect. Accordingly it is not considered the proposal can be refused on highway safety grounds or lack of parking provision. It is not considered the clubhouse would result in any significant detriment to neighbouring residential amenity and it would not affect vegetation or wildlife.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. Development Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: Block Plan, Location Plan, Floor Plan 11.4.23, SPDP005.301.00, SPD P005310.00 Rec'd 12.4.23.

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

2. Traffic Management Plan

Within one month of the date of this permission precise details of a traffic management plan shall be submitted in writing to the Local Planning Authority. The approved plan shall thereafter be complied with.

Reason: In the interests of highway safety and residential amenity.

3. Hours of Use

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 18:00-22:00 hrs

Saturdays: 12:00-18:00 hrs

Sundays and Public Holidays: 10:00-18:00 hrs

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

19.1 Informatives

19.1 None

Positivity Statement: The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Planning Committee

15 June 2023

Item

Report of	Karen Syrett, Head of Planning	☎ 506477
Title	Revised procedures for S106 Developer Contributions	
Wards affected	All	

1. Executive Summary

- 1.1 This report seeks approval to formalise the spend release process in relation to S106 agreements and unilateral undertakings.
- 1.2 The report provides some background and procedures for setting section 106 contributions and identifies proposed changes.
- 1.3 A number of changes to procedures have already been implemented and others are proposed.

2. Decision Required

- 2.1 Planning Committee is asked to agree the revised scheme of delegation in relation to the S106 Spend Release Protocol.

3. Reason for Decision

- 3.1 The existing spend release protocol has evolved informally over time and is no longer considered fit for purpose. This is a view shared by external auditors.

4. Alternative Options

- 4.1 The Committee could decide not to change the spend release protocol but this would be contrary to the findings of the audit report and continue the existing system which leads to uncertainty and inconsistency.

5.0 Background Information

- 5.1 Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal. They are also commonly referred to as 'section 106', 's106', as well as 'developer contributions'.
- 5.2 These obligations can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority being a signatory.
- 5.3 Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.
- 5.4 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 5.5 These tests are set out as statutory tests in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework.
- 5.6 Planning obligations in the form of section 106 or section 278 (highway works) agreements should only be used where it is not possible to address unacceptable impacts through the use of conditions.
- 5.7 It is not appropriate to set out formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these are not subject to examination. Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out above. This means that planning obligations will only be appropriate for funding a project that is directly related to that specific development. A financial contribution should not be sought just because of the existence of a formula. This is an important point in relation to the spend release process.
- 5.8 Local planning authorities are expected to use all of the funding received by way of planning obligations, as set out in individual agreements, in order to make development acceptable in planning terms. Agreements should normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not spent.
- 5.9 A number of issues have arisen over the past year in relation to S106 and an internal review of procedures was carried out. Some of the findings have already been addressed and others are in the process of being implemented. More recently there has been an external audit conducted of S106 spend in Stanway which has supported the changes made.

- 5.10 One of the areas of change requires delegated approval from Planning Committee in relation to the Spend Release Protocol. This has been a slow and cumbersome process and has evolved over time without any oversight. Appendix 1 shows the existing spend release process which often requires 9 people to sign each agreement. In the past few years this has included ward councillors but there is no explanation of why this was introduced and what purpose it serves. In many cases specific projects are identified in the legal agreement, there is no flexibility and it should be a very straightforward process to release the money for spend. However, in theory any one of those nine signatories could object to the project or spend and there is no process for resolving this.
- 5.11 The introduction of Councillor involvement early in the process to help identify projects and keep the list up to date, should ensure there are no surprises late in the day and remove the need for so many signatures. In accordance with the recommendations from the external audit, Ward Councillors and parish councils will be advised when spend is taking place. Councillor approval will not be sought other than for spend over £250,000 where Portfolio Holder approval will be required (Planning Portfolio Holder). Appendix 2 shows the revised spend release process.
- 5.12 The procedure notes will also be amended to read as follows;

Scheme of Delegation to the Head of Planning:

That subject to written confirmation from the S151 Officer and the Monitoring Officer, the Head of Planning be authorised to agree the release of funds secured by means of a legal agreement under the Planning Acts for expenditure, for purposes in accordance within the specified legal agreement/unilateral undertaking.

Expenditure for any other purpose which requires a deed of variation to the signed legal agreement, will be referred to Planning Committee to determine whether or not any such changes are appropriate.

Commuted sums received for annual maintenance will be automatically released back to revenue and drawn down periodically by the relevant service manager. There is no requirement to complete a spend release form for this.

Schemes over £250,000 will be approved by the Portfolio Holder for Planning.

6 Equality, Diversity and Human Rights implications

- 6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking on this link:
[Equality Impact Assessment June 2017.pdf \(windows.net\)](#)

7 Strategic Plan References

- 7.1 The Council's Strategic Plan includes the objective to deliver homes for those most in need and to improve health and wellbeing. Effective use of S106 agreements can help deliver affordable housing and infrastructure to support our communities.

8 Consultation

8.1 N/A

9 Publicity Considerations

9.1 Planning contributions can be controversial so the report could generate publicity for the Council.

10 Financial implications

10.1 An effective system will ensure financial contributions are collected to mitigate the impact of new development.

11 Health, Wellbeing and Community Safety Implications

11.1 An effective system will ensure financial contributions are collected to mitigate the impact of new development and ensure health and wellbeing are planned for.

12 Health and Safety Implications

12.1 N/A

13 Risk Management Implications

13.1 An effective system for collecting S106 contributions should manage the risk of inappropriate development that can place a burden on existing infrastructure.

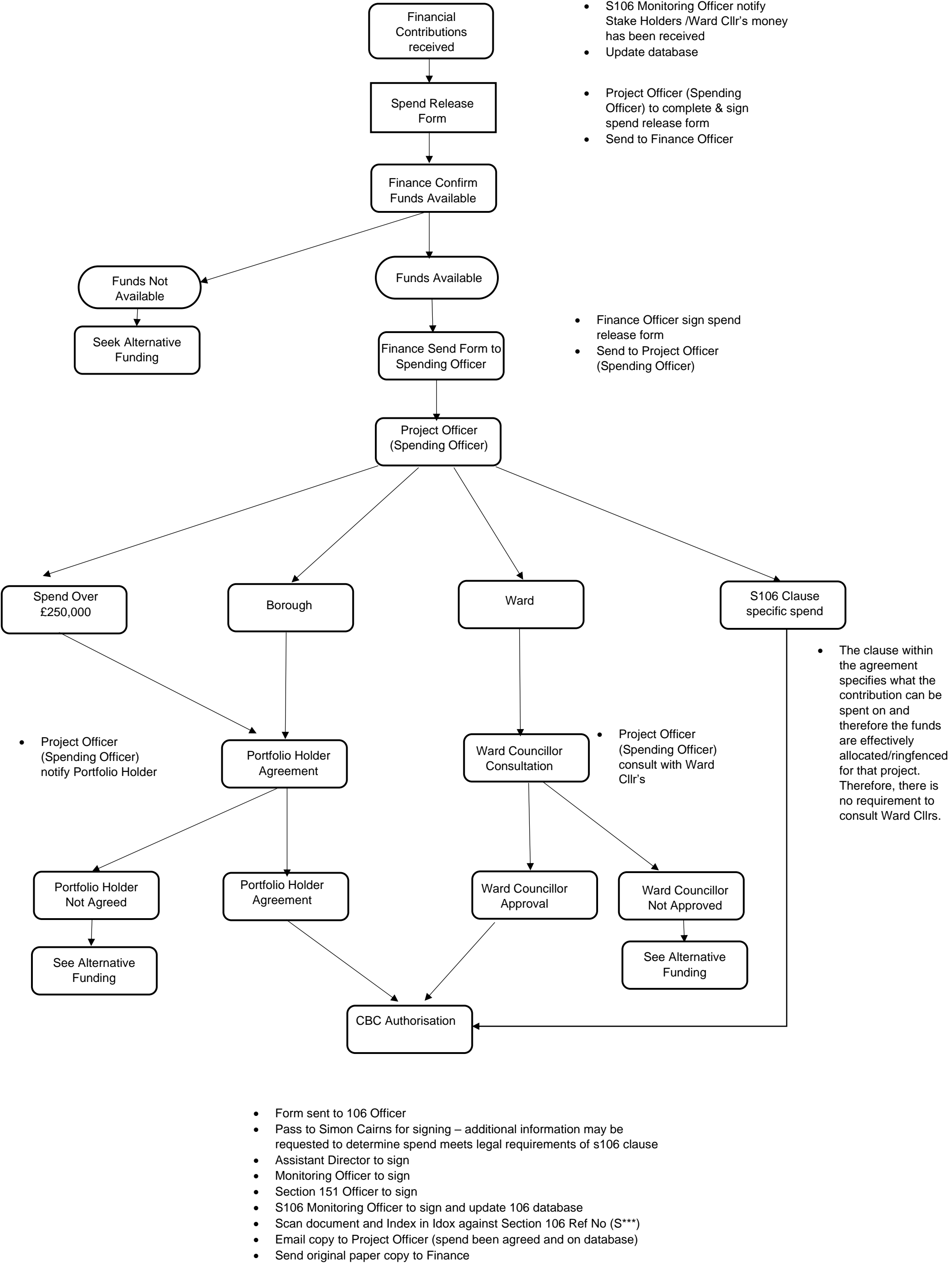
14. Environmental and Sustainability Implications

14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. Sustainable Development is the golden thread running through planning.

Appendix 1 – existing spend release process

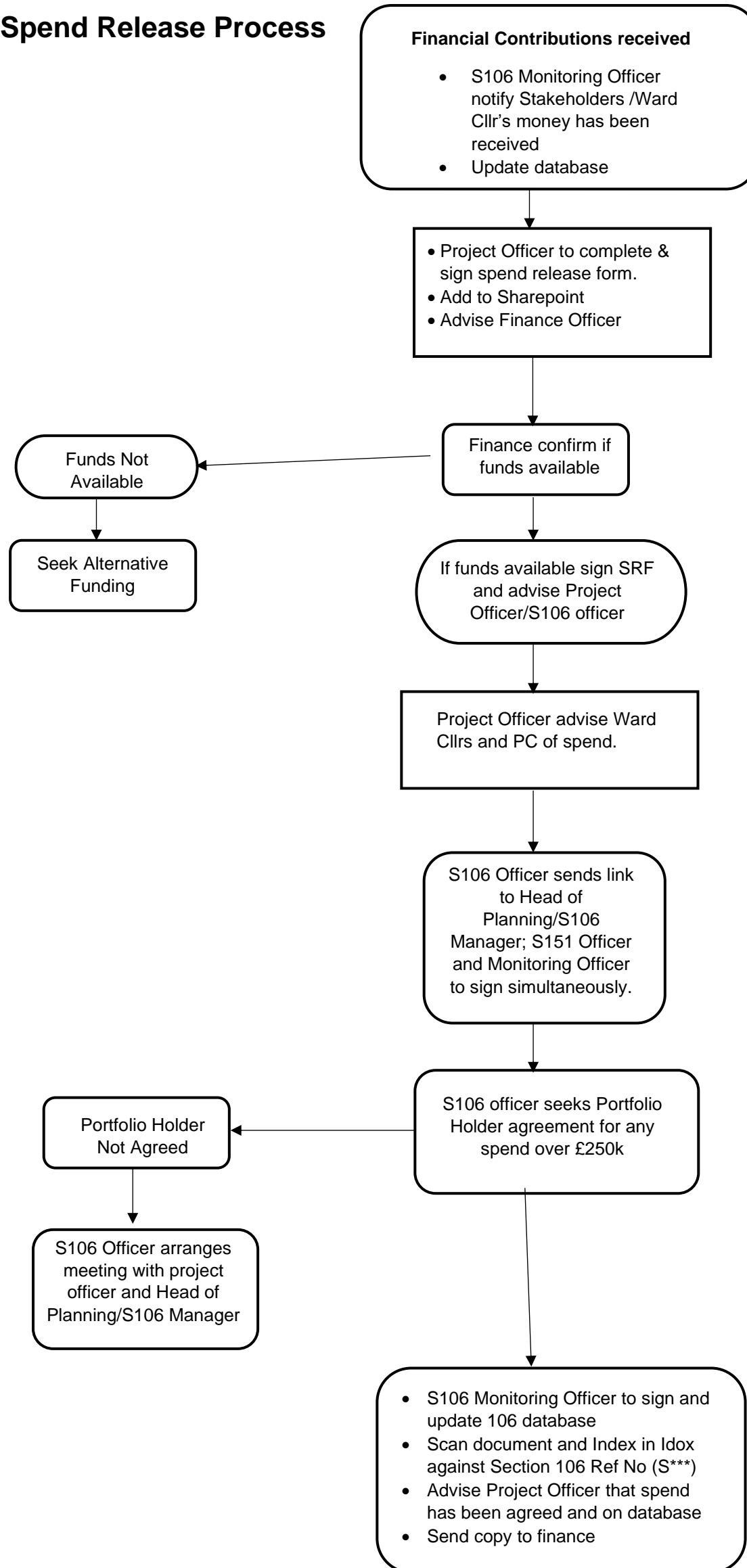
Appendix 2 – proposed spend release process

Spend Release Process



Appendix 2

Revised Spend Release Process



Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

