

# Planning Committee Meeting

**Online Meeting, Virtual Meeting Platform  
Thursday, 18 June 2020 at 18:00**

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

## Information for Members of the Public

### Access to information and meetings

You have the right to observe all meetings of the Council, its Committees and Cabinet including those which may be conducted online such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least 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>.

Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

### Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. Planning Committee meetings, other than in exceptional circumstances, are subject to one representation in opposition and one representation in support of each application. Representations can be a statement or questions of no longer than three minutes when spoken (maximum 500 words) submitted online by noon on the working day before the meeting date. Please use the form [here](#).

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>.

**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 18 June 2020 at 18:00**

**The Planning Committee Members are:**

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

**The Planning Committee Substitute Members are:**

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

**Councillors:**

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

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

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

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

**Live Broadcast**

Please follow this link to watch the meeting live on YouTube:  
<https://www.youtube.com/user/ColchesterCBC>

**1 Appointment of Chairman**

To appoint a Chairman for the forthcoming Municipal Year

## **2 Appointment of Deputy Chairman**

To appoint a Deputy Chairman for the forthcoming Municipal Year

## **3 Welcome and Announcements (Virtual Meetings)**

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

## **4 Substitutions**

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

## **5 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.

## **6 Declarations of Interest**

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

### **7.1 Planning Committee Minutes 20 February 2020** 7 - 22

The Councillors will be invited to confirm that the minutes of the meeting held on 20 February 2020 are a correct record.

### **7.2 Planning Committee minutes 5 March 2020** 23 - 26

The Councillors will be invited to confirm that the minutes of the meeting held on 5 March 2020 are correct a record.

## **8 Have Your Say! (Virtual Planning Meetings)**

At meetings of the Planning Committee, members of the public may make representations to the Committee members. 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 will be for no longer than three minutes (500 words). Members of the public may register their wish to address the Committee members by registering online by 12 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself. The Chairman will invite members of the public to make their representations at the start of the meeting.

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

## 9 **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.

- |     |  |           |
|-----|--|-----------|
| 9.1 | <b>200351 Land at Dawes Lane, West Mersea</b>  | 27 - 62   |
|     | Outline planning application for 100 dwellings and land for community uses, public open space and landscaping; and access from Dawes Lane.   |           |
| 9.2 | <b>190043 Phase 2, Land west of Brook Street, Colchester</b>   | 63 - 118  |
|     | Amended proposal for creation of 119 no. one and two bedroom apartments in five blocks plus associated roads, landscaping and open space.  |           |
| 10  | <b>Temporary Changes to planning Scheme of Delegation</b>  | 119 - 126 |
|     | See report by the Assistant Director, Policy and Place setting out the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown. It also details all those applications that were determined during this period and proposes a further change to the scheme of delegation while virtual committees are in operation.  |           |
|     | <b>Planning Committee Information Pages v2</b>   | 127 - 138 |
| 11  | <b>Exclusion of the Public (not Scrutiny or Executive)</b>   |           |
|     | In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). |           |

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



# **Planning Committee**

## **Thursday, 20 February 2020**

**Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Jackie Maclean, Councillor Martyn Warnes

**Substitutes:** Councillor Robert Davidson (for Councillor Derek Loveland), Councillor Gerard Oxford (for Councillor Philip Oxford)

**Also Present:**

### **784 Site Visits**

Councillors Chuah, Davidson, Hazell, Jarvis, Liddy and Maclean attended the site visits.

### **785 Planning Committee minutes 18 December 2019**

The minutes of the meeting held on 18 December 2019 were confirmed as a correct record.

### **786 192136 Land at Brierley Paddocks, West Mersea**

The Committee considered a report by the Assistant Director Place and Client Services requesting the formal determination of planning application 192136 at land at Brierley Paddocks, West Mersea, Colchester, the consideration of which had been deferred by the Committee in December 2019.

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

James Ryan, Principal Planning Officer, presented the report and, together with Karen Syrett, Planning and Housing Manager, assisted the Committee in its deliberations. It was explained that the Committee had previously deferred its consideration of the application until the publication of the Inspector's report on Section 1 of the emerging Local Plan, or for a period of six months, whichever was the longer. However, the applicants had provided formal notification of their intention to appeal on grounds of non-determination which would mean that the Planning Inspectorate would determine the application. In the circumstances, the Committee was requested to determine the application as this would either allow for formal reasons for a refusal of permission to be defended at an inquiry or to obviate any need for an inquiry to be held in the event of an approval of the application. It was also confirmed that two further elements of the

Section 106 Agreement, namely the provision of an adult gym and a fully wheelchair compliant affordable dwelling, had now been agreed by the applicants. Reference was made to a legal opinion which had been submitted by Stop350 and the contents of a legal opinion which had been sought by the Council which had confirmed that the original Committee report had been sound in its conclusions and its recommendation for approval.

The Principal Planning Officer also explained that it had been agreed with the applicants that, should the Committee members consider it appropriate to approve the application, a further condition would need to be included setting out the details of the mix of housing on site, and to provide for the mix of housing to be agreed by the Planning Authority prior to commencement of the development.

David Cooper addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He considered that the application conflicted with the up to date Development Plan and, as such, there was a presumption that it should be refused. He referred to the Bloor Homes scheme for 255 homes in Tiptree, he considered that the Council was able to demonstrate five years housing land supply, there were outstanding objections to the deposited Local Plan for West Mersea, whilst residential developments agreed at Chitts Hill, Eight Ash Green and Great Tey did not have objections within the emerging Local Plan. He referred to the single access road to Mersea Island and concerns in relation to access in times of flooding. He referred to the National Planning Policy Framework (NPPF) in relation to mitigation of climate change impacts and public safety and the confirmation from NHS and the local GP surgery that was insufficient capacity to accommodate growth in the population. He considered that the consideration of the application should wait for Section 2 of the emerging Local Plan to be considered by the Inspector and, as such, he urged the Committee members to refuse the application.

Daniel Poole addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the applicants were a local Essex based company committed to the delivery of a high-quality scheme at Brierley Paddocks, including 30% affordable housing, community uses and open space. He explained that notice of an appeal had been lodged, pending a local resolution by the Committee. He explained that a fully accessible home had been agreed together with a contribution for the provision of an adult gym, either on site or elsewhere. He explained that the site had been allocated for 100 homes in the emerging Local Plan, acknowledged the proposals had generated much local interest and confirmed that Mersea was recognised as a sustainable location for the anticipated growth. He confirmed that the timescale for submitting an appeal against the refusal of the application for 200 homes had now expired and that no appeal had been lodged. He confirmed that the application had benefitted from considerable consultation and that there were no technical objections to the scheme. He was also of the view that the application was in accordance with the emerging Local Plan and, as such, opinions



suggesting potential harm caused by the scheme indicated a lack of support for the emerging Local Plan. He confirmed that matters relating to housing mix and uses would be addressed by condition and he confirmed continued commitment to work with the Neighbourhood Plan Group and to further consultation to help shape the detailed plans before they were submitted to the Council. He confirmed that the site provided an opportunity for an additional or relocated GP practice, although he acknowledged that the scheme was not able to fully facilitate its delivery or to resolve the existing deficit and committed to continued liaison with the NHS to determine how the site could best serve their needs. He asked the Committee members to support the officer's recommendation for approval.

Councillor Jowers attended and, with the consent of the Chairman, addressed the Committee. He questioned why the Committee members were being asked to consider the application again and was of the view that the application should have been refused. He referred to the question of weight to be given to the emerging Local Plan, the Council's demonstration of an adequate five-year supply of housing land and the lack of consideration given to the draft Neighbourhood Plan. He welcomed the professional advice provided by officers but reiterated that it was the Committee members who made the decisions. He referred to the 1,400 representations submitted in response to the application and was concerned that they had not been listened to. He was of the view that the local issues set out in Section 2 of the emerging Local Plan should have considered before Section 1. He acknowledged that the allocation of 200 for Mersea in the Local Plan was generally acceptable but considered the application to be outside the Plan and that its consideration needed to take place after the results of the examination had been published. He agreed that non-controversial applications, such as those in Chitts Hill, Eight Ash Green and Great Tey were acceptable but he did not consider the current application to be non-controversial. He was also of the view that, given the acceptance of the Council's ability to demonstrate an adequate five-year housing land supply, there was no need for the application to be put before the Committee for determination. He accepted that the application was a reasonable one but he advocated its refusal and for the outcome to be determined by a Planning Inspector.

The Principal Planning Officer referred to the Bloor Homes scheme for 255 homes in Tiptree explaining that it was not contained in the emerging Local Plan and had been refused on that basis. The Brierley Paddocks site was different in that it was being supported as an allocation within the emerging Local Plan. He welcomed the confirmation from the applicants that they had not lodged an appeal against the scheme for 200 homes. He explained that the West Mersea Neighbourhood Plan was still in draft form and had not yet been published and, as such, did not benefit from any weight being able to be attributed to it. He confirmed that the Council's view was that a five-year housing land supply could be demonstrated and he welcomed comments acknowledging the acceptability of 200 homes for Mersea Island and the reasonable nature of the application.

The Planning and Housing Manager also confirmed that the Bloor Homes site in Tiptree was not an allocated site either in the directions of growth in the emerging Local Plan or the site-specific allocations in the Tiptree Neighbourhood Plan. She explained that the Tiptree Neighbourhood Plan made its own allocations for 600 units, was far more advanced than the Mersea Neighbourhood Plan having already been the subject of a consultation exercise and, as such, was required to be afforded more weight. She was of the view that the public had taken the opportunity to make representations, these had been listened to and the allocations for Mersea had been reduced from 350 to 200 accordingly. She also confirmed that Colchester did have a five-year housing land supply, but that the current Local Plan would expire in 2023 and when the housing land supply was reviewed in April it would need to extend to 2025.

One member of the Committee sought clarification on the justifications for the Committee's ability to give weight to the emerging Local Plan.

The Planning and Housing Manager explained that the NPPF provided the parameters for when documents could be taken into account, in terms of the further progression a Neighbourhood or Local Plan had achieved towards the route to adoption, the more weight it could be afforded in decision making. The emerging Local Plan had been submitted to the Planning Inspectorate in 2017 and its examination was underway, with Hearing sessions having taken place on Section 1 as well as various rounds of public consultation and, as such weight could be afforded to the policies contained within it.

Another member of the Committee was concerned that the members of the Committee had previously been misled in their original consideration of the application. The Chairman reminded the Committee members that their original deliberations on the application in December had been recorded in the minutes of the meeting and these had been confirmed as a correct record by the Committee. As such, he strongly refuted the assertion that the Committee had been misled.

A member of the Committee was of the view that Mersea did not have capacity for further growth and that the allocation of 200 units for the area had yet to be proved. Concern was expressed about access to the Island and the clearly expressed need within the draft Neighbourhood Plan for an additional GP surgery. The view was expressed that the application included an over-provision of open space and an under-provision of commercial/community space. It was acknowledged that the site was very contentious, being the subject of over 1,000 objections to that of the emerging Local Plan which had yet to be examined. In addition, reference was made to the 4,000 mobile homes and their occupants who had not been taken into account in relation to their use of local services, such as GPs without being subject to financial contributions in the form of Council Tax. Reference was also made to constructive meetings which had taken place between the Town Council and the applicants but the Section 106 Agreement proposed with the application did not reflect the discussions which had taken place. It was also explained that the draft Neighbourhood Plan had taken two years to come to

fruition including various residential surveys and it was regretted that this work and evidence could not be taken into account.

The Principal Planning Officer confirmed that 2.8 hectares of open space was proposed which was well in excess of the required standard but it was considered to be a genuine public benefit and would alleviate some climate change impacts of the development. He explained that it was not possible to seek a change in ratio between open space and commercial space, as the Committee was required to consider the application on its own merits. He acknowledged the presence of mobile homes on the Island but the allocation of 200 homes had been agreed by the Local Plan Committee as an acceptable number, originally allocated at 350.

The Planning and Housing Manager also acknowledged the extent and duration of mobile home occupation on the Island and explained that a report had recently been considered by the Licensing Committee confirming that one family had been evicted from a caravan site in July 2019.

Another member of the Committee acknowledged the advice from officers that the Committee needed to come to a formal determination of the application, the need to attribute the appropriate weight to the emerging Local Plan, the draft Neighbourhood Plan and the Development Plan and the confirmation that the Council was able to demonstrate a five-year housing land supply. As such, he did not consider it necessary to determine the application in a way that could be premature, with strong reservations that there was a clear need to approve the application, preferring a refusal of the application on the grounds that it was contrary to the current Development Plan and the Section 106 Agreement not yet being in place.

Another member of the Committee referred to the provisions within the NPPF to allocate weight to a Plan in accordance with its relative progress towards submission and the anticipation that the Inspector was likely to issue his decision in relation to Section 1 of the Local Plan in March 2020. Accordingly, he was of the view that the emerging Local Plan could be attributed considerable weight but that the draft Neighbourhood Plan was nowhere near the point of being adopted and, as such, the weight which could be attributed to it was very limited. Reference was also made to the original allocation of 350 houses for Mersea in the emerging Local Plan which had been reduced to 200, a figure which could be defended should further speculative applications come forward. It was further suggested that delegation could be given to officers to conclude the Section 106 Agreement negotiations to reflect the discussions which had taken place between the applicant and the Town Council.

The Principal Planning Officer confirmed that considerable weight could be given to the emerging Local Plan but that very little weight could be attributed to the draft Neighbourhood Plan as it was yet to be published. Nevertheless, he was aware that the detail of the Neighbourhood Plan did accord with the Brierley Paddocks application,

including a potential use of part of the site for a GP practice. He confirmed that Section 106 Agreements were generally the subject of agreement by the Head of Service following approval of the application by the Committee. He suggested, however, that it may be possible to incorporate a cascade system within the Section 106 Agreement to provide for the allocation of the financial contribution of £168,000 towards a community facility on Brierley Paddocks itself but, if this option failed to come to fruition, the funds be transferred for improvements to the Glebe Sports Ground instead.

Another member of the Committee sought clarification on the need to determine the application at the current time. She acknowledged that the Committee had been advised of the risk of the application being subject to an appeal on grounds of non-determination but she was of the view that the wishes of the Committee, to defer the application, should be upheld.

The Principal Planning Officer confirmed that the Committee was being advised to determine the application as maintaining a deferral of consideration of the application would mean that the Council would have no grounds on which to defend an appeal, was also likely to be considered unreasonable by an Inspector and, as such, the Council was likely to have costs awarded against it.

The Planning and Housing Manager also explained that the anticipated Inspector's report on the emerging Local Plan was in relation to Section 1, Strategic Policies and, as such, would not include the Mersea allocations or policies. She was also of the view that the six-month period for deferral would not give sufficient time for the Inspector to comment on the Mersea allocations and policies or for the Neighbourhood Plan to progress to submission. She also reminded the Committee members that the applicant had given notice of their intention to lodge an appeal in the event of a non-determination and that work on the Neighbourhood Plan had started in 2017 with an anticipation that it would be concluded more promptly than had proved to be the case.

In response to the Chairman's request for clarification on potential grounds to refuse the application, the Planning and Housing Manager indicated that potential reasons for refusal could include conflict with the adopted Development Plan and Site Allocations document; failure to incorporate a legally binding Section 106 Agreement and prematurity in relation to the emerging Local Plan and the draft Neighbourhood Plan.

*RESOLVED* (FIVE voted FOR and FOUR voted AGAINST) that -

(i) The Assistant Director Place and Client Services be authorised to approve the planning application subject to the conditions set out in the report and an additional condition to provide for the mix of housing as referred to in the Council's legal opinion for that mix to be agreed by the Local Planning Authority prior to commencement of the development and the delegation of authority to the Assistant Director Place and Client Services to negotiate minor amendments to those conditions and subject to the signing

of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Archaeology: £18,150.00 for display case and display of finds;
- Parks and Recreation: on-site provision of 2.8 hectares of open space, including a NEAP standard playground and an adult gym, up to the value of £3,000;
- Community: £168,652.00 to provide a community/medical facility on-site with a mechanism if this is not possible to cascade the funds in default to the provision of a multiuse community facility with changing rooms at the Glebe Sports Ground;
- NHS: £59,027.00 for additional improvement requirements to the Mersea Island Practice to accommodate additional growth resulting from the proposed development by way of refurbishment, reconfiguration, extension or other solutions of benefit to patients;
- Affordable Housing: 30% affordable housing based on the requirement in the emerging Local Plan with the exclusion of the provision of “gifted” properties, tenure mix to be no less than 80% affordable rent and no more than 20% intermediate shared ownership, 3 95% of the affordable homes should meet a minimum of Building Regulations 2015 Part M Category 2, 5% of the homes to meet Building Regulations 2015 Part M Category 3 (2) (b) and a minimum of one dwelling to be Part M4(3) 2B compliant, to be fully wheelchair accessible;
- Highways Requirements to be conditioned and delivered either as part of the site or by a Section 278 Agreement: Upgrade of the two bus stops which would serve the proposal site to current Essex County Council specification (details to be agreed by the Local Planning Authority);
- North Essex Recreational disturbance Avoidance Mitigation Strategy (RAMS): a contribution of £12,250 (£122.30 per unit) towards mitigation under the Conservation of Habitats and Species Regulations 2017.

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

## **787 192993 Colchester Hospital, Turner Road, Colchester**

**Councillor Chuah (by reason of her Stakeholder Governorship of Colchester Hospital University NHS Foundation Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a planning application for the erection of single deck car park with vehicular access from Turner Road, associated lighting and other ancillary works at Colchester Hospital, Turner Road, Colchester. The application had been referred to the Committee because it constituted major development on which a material planning objection had been received and the recommendation was for approval, albeit subject to further negotiation.

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

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

Simon Cairns, Development Manager, presented the report and assisted the Committee in its deliberations. He explained that a further representation had been received from Colchester Cycling Campaign since the Amendment Sheet had been published raising issues of traffic concerns, trip generation and the re-provision of displaced parking, contending that the scheme would result in 255 extra cars and more than 500 extra journeys. He explained that officers did not agree with this statement and would not conclude that the proposal would result in the generation of additional trips. He also confirmed that the applicant's agents had submitted a statement of rebuttal which concluded that there would be the same number of staff and patients on-site as were already on the transport network and, as such, it was not accepted that the proposal would give rise to any additional unsustainable trip generation. It also explained that the proposal was to provide replacement parking lost to staff from the former car park A.

Will Bramhill addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was speaking on behalf of Colchester Cycling Campaign, a group campaigning against daily car dependency on the grounds it was unnecessary and generated a considerable amount of traffic to the detriment of alternative means of travel such as cycling and walking whilst contributing to the unreliability of buses, poor public health, obesity, heart disease, premature deaths and air pollution. He considered the NHS should be giving greater consideration to issues which are a health problem. He considered the plans to be disingenuous, being of the view that 150 extra parking spaces were being created which he considered would generate 500 extra car journeys locally. He asked the Committee members to defer the proposal to enable further discussions to take place and for a robust travel plan to be formulated. He also referred to works having been commenced on-site, supportive comments from displaced hospital staff in relation to the Park and Ride service, the daily cost of 48p for subsidised on-site hospital car parking compared to the Park and Ride cost of £1:50.

John Fulcher addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the merger of Ipswich and Colchester Hospital Trusts had led to considerable investment in the acute hospital sites to meet planned population growth and had included the opening of new facilities including Accident and Emergency and an Urgent Treatment Centre. Part of this investment had included additional and relocated visitor parking which had resulted in the interim displacement of 140 staff parking spaces to the Primary Care Centre and off-site. He explained that the relocation of parking spaces was urgently

required for frontline and essential staff on a 24/7 basis. He considered the level of parking was less than would otherwise be required as the spaces would be limited to a total of 1,300 for around 3,000 permit-holding staff. He also referred to initiatives contained in the updated travel plan, including the appointment of a travel plan co-ordinator and further use of the Park and Ride facility to deliver a sustainable travel strategy. He explained that the proposal required the removal of Holm Oaks, planted as part of a previous landscaping scheme but that surveys had indicated that the trees were likely to damage the Listed Villas and the estate road and would not be in harmony with the car park deck structure.

The Development Manager referred to comments made in relation to additional trip generation and explained that the applicant had confirmed that the associated trips would not be additional to the local road network because the additional parking spaces were to meet existing parking demand displaced from elsewhere on-site. He explained that the report on air quality modelling, submitted in support of the application, had included a reference to 255 additional cars for modelling purposes and did not constitute additional trips. This report had concluded that the air quality impact of the scheme would be negligible and this had also been concluded in the health impact assessment. He confirmed that the proposed removal of the Holm Oaks, particularly given the Council's declaration of a Climate Emergency and its recent tree planting initiatives, remained in dispute with the applicants such that the recommendation in the officer report was subject to the need for landscaping matters and the loss of maturing trees, together with other detailed conditions to be satisfactorily resolved prior to the approval of the application.

Members of the Committee sought clarification on whether the proposal would lead to additional parking spaces on-site as well as an associated impact on congestion and referred to the potential detrimental impact on air quality as a result of the loss of maturing trees planted as a requirement of a previous planning application, fully supporting the need for the trees' continued retention to be secured as part of any planning permission. Reference was also made to the very low ratio of car parking spaces allocated for disabled users on the site and the intention not to include any disabled spaces within the proposed scheme, given the likely demand from members of staff.

The Development Manager confirmed that the scheme was providing replacement staff car parking spaces for those which had been displaced for use by visitors but the scheme also provided an additional 155 spaces overall. He confirmed that the site provided a total of 96 dedicated disabled car parking spaces for use by both visitors and staff, representing 5% of the overall total. He also indicated that the applicants had confirmed that disabled spaces could be made available within the ground floor area of the scheme, should the Committee members consider this to a requirement. He explained the Arboricultural Officer's view that the scheme, as proposed, would prejudice the long-term development of the maturing trees and he had remained of this

view despite the submission of further arboricultural evidence by the applicants. He stressed that it would not be possible to conditionally approve the application in its present form, without first securing the retention of the maturing trees which was not possible given the current design solution. He was of the view that officers would need to be given authority to negotiate with the developers to retain the trees, if necessary by means of changes to the design of the car park deck, to facilitate this.

Members of the Committee were of the view that the travel plan proposals needed to be robust such as by means of the greater encouragement of the use of the Park and Ride service, the potential to introduce a shuttle bus facility to enable front line and essential staff to travel to the hospital without being required to make individual travel arrangements and greater emphasis on measures to discourage parking on site such as a reduction in the car park subsidy. The offer from the applicants to include the provision of additional disabled spaces on the ground floor of the scheme was welcomed whilst additional measures to offset the impact of climate change, such as a contribution to the Council's tree planting scheme, was suggested.

One member of the Committee sought clarification on the weight to be given to the Council's declaration of a Climate Emergency in determining the application and regretted the inclusion of a net addition to the total number of parking spaces on-site on the grounds that it would promote an unsustainable level of travel behaviour. Accordingly, the view was expressed that the concept of providing a shuttle bus facility should merit thorough exploration as well as the potential to reduce on-site car parking spaces. In addition, reservations were voiced regarding the robustness of the travel plan, citing the lack of measurable impact of the Severalls travel plans and the need for the travel co-ordinator to be on a full-time basis.

The Development Manager explained that the travel plan contained around 70 proposals which would be conditioned as part of any planning permission, including 12 electric charging points and incentivising the use of public transport and sustainable modes of transport. He confirmed that there were 4,500 staff at the hospital with 1,300 on-site car parking spaces and, as such, significant numbers were using alternative means of travel already. The number of parking permit-holding staff was to be reviewed and he was of the view that the application needed to be considered in the context of wider proposals at the Northern Gateway which was likely to provide growth in sustainable forms of transport. He also explained that the applicant had committed to funding a travel plan co-ordinator to facilitate the delivery of the extensive proposals in the travel plan. He confirmed that a very extensive climate change report had been submitted to support the application which included the issues of climate change and sustainable transport and he considered there was a genuine prospect that the measures contained in the enhanced travel plan would significantly mitigate the impact of staff travelling to work. He further confirmed that the provision of disabled parking spaces within the scheme could be secured either by means of an additional condition or through negotiations regarding the design of the scheme. He acknowledged the geographical comparisons made with



the travel plan for the Severalls development but was of the view that a perceived lack of impact had been due to business interests and fragmented ownership, whilst this travel plan was in the control of a single employer, more able to influence the behaviour of staff and to control the allocation of parking permits and to promote sustainable transport. He explained that there was a duty to determine a planning application in accordance with the Development Plan and that the Climate Emergency declaration was a material consideration, whilst achieving sustainable development was a key provision in the National Planning Policy Framework. However, he considered that the travel plan would lead to a genuine reduction in trip generation and it could also improve the traffic circumstances. He was also mindful of the inevitability that the facilities at Colchester Hospital would grow with increased numbers of patients and visitors and, as such, retaining a level of on-site parking would be a public benefit and would enable the hospital to function efficiently. He also reported that the Environmental Protection Team had raised no objections to the application.

*RESOLVED* (UNANIMOUSLY) that –

(i) The Assistant Director Place and Client Services be authorised to negotiate amendments to the proposals in order to secure the retention of the maturing Holm Oak trees and the provision of additional disabled car parking on the ground floor level of the decked car park, together with addressing landscape matters, the setting of non-designated heritage assets and the necessary requirements for conditions;

(ii) Once the negotiations referred to in (i) above are satisfactorily concluded, the Assistant Director Place and Client Services be further authorised to approve the planning application subject to the necessary conditions to provide for the following matters:

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

**788      192137 Former Pharmacy, Abbey Field Medical Centre, Ypres Road, Colchester**

**Councillor Davidson (by reason of his use of the Abbey Field Medical Centre) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Hazell (by reason of her use of the Abbey Field Medical Centre) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5). She further confirmed that, although she had called in the application for consideration by the Committee, she had done so, stating the views expressed to her by residents, she had not expressed a view on the application herself and had not pre-determined the application.**

**Councillor G. Oxford (by reason of his use of the Abbey Field Medical Centre Pharmacy) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a planning application for the Change of use and minor remodelling works to accommodate Colchester Foodbank Centre at the former garrison medical centre store, Abbey Field Medical Centre, Ypres Road, Colchester. The application had been referred to the Committee because it had been called in by Councillor Hazell.

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

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

Alistair Day, Planning Specialists Manager, presented the report and assisted the Committee in its deliberations. He explained that officers had been advised that the conversion of the medical reception store to a foodbank would enable the Abbey Field Medical Centre to convert the internal landscaped courtyard area for additional car parking and the Foodbank had obtained agreement for the use of three parking spaces in this area in addition to the two proposed on the application site itself.

David Brazington addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was speaking on behalf of residents of Churchill Gate and stated that he was not unsupportive of Foodbanks but was concerned about the location of the site which he considered to be unsafe. He explained that the surrounding roads were very narrow, insufficient for existing traffic whilst on-street parking was creating problems for residents accessing their own homes. As there were no passing places, vehicles were using

pavements and undertaking dangerous manoeuvres, putting pedestrians at risk. He considered the proposal to be contrary to highway safety policies and would accentuate existing parking problems, with high potential for accidents and congestion. He expressed surprise at the withdrawal of the original objection to the proposal by the Highway Authority as he considered it to be harmful and detrimental to the nearby road network, residents and pedestrians.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he was the Patron of Colchester Foodbank and Trustee of the Foodbank Charity. He considered there was a growing need for a Foodbank and the ownership of a building, as opposed to renting, was deemed beneficial financially for the charity. He referred to the lack of material planning considerations to refuse the application, whilst acknowledging the comments from residents about local parking issues. He was of the view that these issues would not be exacerbated by the proposal as it was anticipated that vehicle movements would be two per hour for six hours each day. He was also of the view that other uses of the premises, not requiring planning permission, would generate considerably more traffic. He confirmed that parking for volunteers was available five minutes' walk away at a local business site. He explained that a satellite distribution centre had been opened in Greenstead, premises in North Station Road had been donated for use as alternative Foodbank outlet as well as a warehouse for storage. He referred to the historic connections of the building, although not in a good condition or attractive visually and he considered the proposal would bring improvements to the building. He considered the concerns about traffic problems needed to be addressed but that this was a separate issue to the consideration of the planning application.

The Specialist Planning Manager explained that the original objection from the Highway Authority was on the grounds of lack of parking and potential for indiscriminate parking. However, the Council's parking standards were maximum ones and, as such, the proposals did not conflict with these standards. He stated that the recommendation for a two-year permission would enable the Foodbank to monitor traffic movements and, if significant congestion or highway safety problems materialised, then this would be taken into account by the Highway Authority when considering a future application to extend the use at the site. He also confirmed that there was an extant permission for medical centre use which could be put into operation at any time and would generate more traffic than use as a Foodbank. He confirmed that the current base was at Moorside which benefitted from five car parking spaces, whilst the proposed site would operate in conjunction with two satellite sites at North Station and Greenstead. The proposed site would benefit from two spaces with potential for further spaces if cars parked tandemly. Other arrangements may come to fruition from opportunities nearby. This was therefore considered more than sufficient, given no problems had been reported at Moorside.

Members of the Committee fully supported the aspirations and benefits of the Foodbank

to the community whilst concerns from residents about traffic congestion were acknowledged. The proposed revised operating hours and proposed parking provision was generally considered to be adequate given the number of expected trips by car to the building. The revision of the application to provide for a temporary two-year permission was welcomed, in order to give consideration to the concerns of residents.

One member of the Committee was considerably concerned about the traffic generated from the Medical Centre and Pharmacy and the congestion and excessive on-street parking in the area as a consequence. Concern was also expressed regarding the anticipated number of visitors attending the proposal, together with the parking arrangements proposed for volunteers and whether the volunteers would adhere to these arrangements. Clarification was sought regarding the potential for parking to be made availability for residents at the Medical Centre when it was not open to the public and regarding the monitoring arrangements in relation to traffic movements.

The Specialists Planning Manager explained that the Highway Authority had originally objected to the proposal on parking grounds but this objection had been removed once the parking standard criteria had been clarified. He explained that the projected trip rate to the building had been based solely on the use of the facility at Moorside whilst the proposed building would be used in conjunction with two satellite sites. As such he was of the view that the proposed parking provision would be adequate. Nevertheless, a two-year permission had been promoted to provide the Highway Authority with additional reassurance regarding the potential to address any problems that may arise from the Foodbank using the building in the future. It was intended that the Foodbank would monitor and record the number of people visiting the site and their modes of transport which could then be used as evidence to support a permanent application. He explained that there was a proposed condition to provide for a travel plan and the applicant had advised that an agreement had been reached for staff parking to be used at the nearby Britannia Public House as well as three spaces in the proposed new internal parking courtyard. He explained that the proposed hours of use had been revised to provide for the operation of the Foodbank on Wednesdays to be extended from 2pm to 5:45pm, with closure of the building at 6pm. He also observed that the opening hours proposed would be considerably less than a medical centre use of the building. He also confirmed that any refusal of an application on highway grounds was required to demonstrate a severe impact on the highway network and that the advice of officers had been the proposal would not have a severe impact.

Another member of the Committee referred to options to travel to the site other than by car, pointing out the five nearby bus stops and footpaths in the vicinity of the building which would provide adequate mitigation of car travel. He also commented that there was a public car park at Napier Road, 0.5 miles away from the site.

*RESOLVED* (FIVE voted FOR, TWO voted AGAINST and TWO ABSTAINED) that the application be approved subject to the conditions set out in the report and the

amendment sheet.

**789      193009 83 Apprentice Drive, Colchester**

The Committee considered a planning application for an electric roller garage door (and motor) fixed to applicant's property to the front of carport, in accordance with and as advised by Crocodile, the purpose of the installation to provide security for the family members (children) and to restrict access to the rear of the property at 83 Apprentice Drive, Colchester. The application had been referred to the Committee because the applicant was a member of staff at Colchester Borough Council.

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

*RESOLVED* (UNANIMOUSLY) that the application be approved subject to the conditions set out in the report.



# Planning Committee

## Thursday, 05 March 2020

**Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes

**Substitutes:** Councillor Gerard Oxford (for Councillor Philip Oxford)

**Also Present:**

### 790 Site Visits

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

### 791 Planning Committee minutes 6 February 2020

The minutes of the meeting held on 6 February 2020 were confirmed as a correct record.

### 792 192219 Wakes Hall, Colchester Road, Wakes Colne, Colchester

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

**Councillor Jarvis (by reason of his holding of a Directorship of Colchester Commercial Holdings Limited, operating as the holding company for Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a planning application to demolish part of the existing buildings, extend and convert into 11 dwellings and erect 11 dwellings (22 dwellings in total), erect garage court, cart lodges and media lounge, layout parking and landscaping at Wakes Hall, Colchester Road, Wakes Colne. The application had been referred to the Committee because it constituted a major development which required a S106 legal agreement. The accompanying Listed Building Consent application (192220) was also referred to Planning Committee for completeness as the applications were mutually dependent.

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

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

*RESOLVED* (UNANIMOUSLY) that:-

(a)(i) The Assistant Director Place and Client Services be authorised to approve the planning application subject to the conditions set out in the report and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- That the development be for the over-55's (as this was the basis on which the application has been made and has a bearing on the contributions being sought);
- That the on-site facilities (tennis courts, allotments, communal gym and lounge area) be provided and maintained for use by the residents;
- A review mechanism for the viability review (in order to ascertain whether there is any monetary surplus from the development that can be contributed towards affordable housing, as no affordable housing is being provided, and Chappel and Wakes Colne Village Hall);
- A clause to ensure that the works to the listed building would be carried out as part of the development (as the premise of the application is that the overall development of residential units will fund additional works to the listed building in order to improve its character and setting); and
- A contribution towards the Recreational disturbance Avoidance Mitigation Strategy (RAMS).

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

(b) The application for listed building consent be approved subject to the conditions and informatives contained in the report and with the Assistant Director Place and Client Services being given delegated authority to make minor amendments to those conditions, as appropriate.

**793 200040 Town Hall, High Street, Colchester**

**Councillor Liddy (by reason of his holding of a Directorship of Colchester Borough Homes) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**



The Committee considered an application for listed building consent for the removal of the existing wooden shelving in the Court Library in Colchester Town Hall. The application had been referred to the Committee because the applicant was Colchester Borough Homes on behalf of Colchester Borough Council.

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

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

Simon Cairns, Development Manager, presented the report and assisted the Committee in its deliberations. He explained that the shelving in question was composed of light oak with the only decoration being a small plaque above with a cornice running along the top of the shelving unit. The shelving was considered to be a period or original feature of the Grade 1 listed building. The former legal library had now been removed, and would have been classed as a chattel and therefore would not have been considered part of the listed building. It was explained that the sole consideration was in relation to the impact of the proposal on the listed building in terms of the contribution made by the shelving to the historic interest of the building. The report explored the heritage values of the shelving to the building in terms of the guidance offered by Historic England on how the impact on special interest should be assessed. The Committee was advised that there was a degree of harm associated with the removal of the shelving, and that national policy advice was that all harm to heritage assets was undesirable and required justification, and the consideration before the Committee was whether the formation of the Members Room justified the limited harm that was being proposed.

The Development Manager referred to an email sent to the Committee by Sir Bob Russell, and for the sake of clarity summarised the contents of the email to the Committee. The Committee heard that in Sir Bob's opinion the removal of an original feature of the building sent out the wrong message to the owners of other listed buildings, who may then be encouraged to undertake similar works themselves. The Committee was advised that taking all factors into consideration, the specialist advice of the Conservation Officer was that the re-use of this room did justify a flexible approach to the removal of the feature.

In response to an enquiry from a member of the Committee, the Development Manager explained that there was evidence to suggest that the shelves were an original feature of the building.

Members of the Committee expressed their concern that the proposed use of the room which necessitated the removal of the shelving did not constitute sufficient justification for the impact that the works would have on the listed building. It was not considered that the space that was available was suitable for the purpose for which it was intended. It

was also suggested that it may be more appropriate to consider returning the law books to the shelves and in order to retain the character of the room. . The small size of the room was particularly troubling, and although it was acknowledged that additional facilities for members were required, it was suggested this room was not an appropriate location for these. Members of the Committee voiced their concern that other, alternative locations for the Members Room may not have been considered, which may not require alterations to the listed building. In particular it was suggested that the availability of the Old Library might present further possibilities that were not available at the time the application had been submitted.

The Committee was therefore of the view that there was insufficient justification for the harm to the listed building that would result from the removal of the shelving. The Committee considered that alternative options for the provision of a Members Room needed to be explored.

*RESOLVED* (UNANIMOUSLY) that the application be deferred to allow for alternative options to be explored (including the potential for the law books to be restored to the shelves).



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

1.1 This application is referred to the Planning Committee because it is a Departure from the Local Plan and substantive objections have been received from third parties and a s.106 agreement is required to secure developer contributions.

1.2 The application has also been called in by Cllr Moore for the following reason:

This application appears to be premature on the grounds that the emerging local plan is in danger of being found unsound by the inspector and is therefore not at a sufficiently advanced stage to be relied upon. There is considerable local objection to this application, It is considered that it does not comply with the adopted local plan, that It will adversely affect the landscape, the coastal protection zone, and put further strain on the local infrastructure. Given the current situation with Corona Virus restrictions this application should be refused or deferred until after the inspector has given his decision on the emerging local plan and should be heard in front of the public so they may be reassured that a correct decision has been made.

## **2.0 Synopsis**

2.1 The key issues for consideration are the principle of development and the impact of the proposed access. Whilst this site is not allocated in the Adopted Development Plan, it is allocated for 100 dwellings in the Emerging Local Plan (ELP). As is explored in detail in the report below, following careful consideration it is considered that it is appropriate to bring this site forward ahead of the Examination in Public (EiP) of Part 2 of the ELP.

2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

3.1 The application site extends to 10.2ha and is located to the west of Dawes Lane, West Mersea. It comprises a large agricultural field with few features. It is currently cropped.

3.2 The northern boundary is currently an open, forming part of the agricultural field that includes the application site. The eastern boundary runs parallel to Dawes Lane, whilst the southern boundary is bound by the properties that form the existing settlement edge of the town of West Mersea. The western part of the site bound by an area of public space that includes sports pitches, children's play area and walking route. This boundary is characterised by a newly established hedgerow containing some trees at regular intervals.

## **4.0 Description of the Proposal**

4.1 Outline planning application for 100 dwellings and land for community uses, public open space and landscaping; and access from Dawes Lane.

## **5.0 Land Use Allocation**

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

## **6.0 Relevant Planning History**

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

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

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

DP1 Design and Amenity  
DP2 Health Assessments  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP4 Community Facilities  
DP12 Dwelling Standards  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes  
DP23 Coastal Areas

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

7.5 Submission Colchester Borough Local Plan 2017-2033:  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing. Modifications to Part 1 of the ELP have been suggested by the Inspector to make the draft plan sound. The suggested modifications have yet to be considered by the Council's Local Plan Committee and, if supported, would necessitate a further round of public consultation before examination of part 2 of the plan is undertaken.

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

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

The Emerging Local Plan is therefore at a mature stage with Part 2 awaiting examination and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Affordable Housing  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Sustainable Drainage Systems Design Guide  
Street Services Delivery Strategy  
Planning for Broadband 2016  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
ECC's Development & Public Rights of Way

## Planning Out Crime

### 8.0 Consultations

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

8.2 Air Quality (Tim Savage Chelmsford City Council)

No objection to scheme.

8.3 Anglian Water

No objection

8.4 Arboricultural Officer:

Comments Regarding the proposed development and the AIA received 21<sup>st</sup> and 3<sup>rd</sup> March 2020, I am in agreement with the tree survey and impact assessment provided.

The AIA shows how trees will be protected as per BS5837:2012. This is sufficient for outline purposes but will need to be amended and updated when a reserved matters application is made. In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above.

Make the tree report an approved document and condition the provision of an updated AIA at reserved matters.

8.5 Archaeological Advisor:

Comments that an adequate pre-determination (3%) trial-trenched evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established (CAT Report 1499). Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

In this case, a further (2%) trial-trenched archaeological evaluation will be required. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

8.6 Cadent

No comment received.

8.7 Contaminated Land Officer

Brown2 Green, 'Phase 1 Geo-environmental Desk Study Report' Lane West of Dawes Lane , West Mersea, Ref. 2363/Rpt 1v2, dated January 2020

The above has been submitted in support of this application and is acceptable for Environmental Protection's purposes. I note that no potential sources of unacceptable contamination or pollutant linkages were identified for the proposed use and no recommendations for remediation were made. Based on the information provided, this conclusion would appear reasonable and no further information will be required by Environmental Protection with respect to land contamination matters.

8.8 East Mersea PC:

East Mersea Parish Council wishes to object most strongly to the above planning application for 100 new houses on Dawes Lane, West Mersea, for the following reasons:-

1. It contravenes the CBC adopted current Local Plan and is premature to the adoption of the CBC submitted emerging Local Plan.
2. It pre-empts the work-in-progress of the West Mersea Neighbourhood Plan.
3. It breaches the WM Village Settlement Boundary and the Coastal Protection Belt.
4. Together with the recently approved development at Brierley Paddocks, it will seriously increase traffic congestion on the Island's roads which will adversely affect East Mersea residents' access to both on and off-Island destinations.
5. There is only one GP Surgery serving Mersea Island – East and West and this is currently almost at full capacity and certainly will not be able to absorb new patients from Brierley Paddocks, let alone Dawes Lane.
6. Similarly, the local school, dental practice, parking and other essential infrastructure elements will not be able to cope with this continual housing development.

Finally, it is emphasised that the community of East Mersea relies almost entirely on the infrastructure of West Mersea for its daily requirements. Further, it should be remembered that there is only one access to the island, including to the tourist and leisure facilities and activities at East Mersea, and that is regularly restricted by the tide and high traffic volumes as it is. Please reject this Dawes Lane Housing application no. 200351 for the above reasons.



- 8.9      Emergency Planning CBC  
No response to date consulted 4/4/2020
- 8.10     Emergency Planning Essex  
No response to date consulted 4/4/2020
- 8.11     Environment Agency  
No comment to date.
- 8.12     Environmental Protection  
No objections raised but conditions requested.
- 8.13     Essex County Fire and Rescue  
No comment to date.
- 8.14     Essex Police  
No comment to date.
- 8.15     Essex Wildlife Trust  
No comment to date.
- 8.16     Health and Safety Executive  
No objection
- 8.17     Highway Authority (ECC)  
No objection subject to conditions.
- 8.18     Landscape Advisor:  
  
Comments that the landscape content/aspect of the outline application proposals lodged on 21/02/20, principally under drawing(s) 1124.L.004 and Landscape/Visual Appraisal & Landscape Strategy Report (L/VA&LSR) Part 1 dated August 2019, and the revised L/VA&LSR Part 2 dated March 2020 lodged on 27/03/20, would all appear satisfactory.  
  
In conclusion, there are no objections to this application on landscape grounds.
- 8.19     Lead Local Flood Authority (ECC)  
  
Comments that having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission. Conditions suggested.

8.20 Natural England

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

*We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.*

We consider that without appropriate mitigation the application would:

☐ have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure the on-site mitigation measures, including links to footpaths in the surrounding area. The financial contribution should be secured through an appropriate and legally binding agreement, in order to ensure no adverse effect on integrity.

8.21 NHS

No objection – require a financial contribution to mitigate impact of scheme of £59,027.00

8.22 Office of Nuclear Regulation

This application falls outside of any GB nuclear consultation zone, therefore ONR has no comment to make.

8.23 Sport England

Are satisfied in principle that the proposed development would accord with exception 3 of Sport England's playing fields policy as it would only affect land incapable of being used for playing pitches and would not prejudice the use of the playing field. I can therefore confirm that Sport England therefore makes no objection to the planning application as a statutory consultee.

No planning conditions are requested on this occasion. However, through a reserved matters application (if outline planning permission is granted) it is requested that attention is given to the siting and design/layout of residential and other potentially sensitive uses close to the boundary with the recreation ground so that any low risk of ball strike is prevented plus any noise issues associated with the use of the playing fields does not generate residential amenity concerns.

8.24 UK Power Networks  
No comment received.

8.25 Urban Designer:  
Comments that all matters are reserved and the submission demonstrates that 100 dwellings could be successfully constructed on the site.

## **9.0 Parish Council Response**

9.1 West Mersea Town Council have stated (in full);

There has been very significant comment from the community to West Mersea Town Council on this topic, and West Mersea Town Council accordingly endorses the public's opinion and recommends that consent is NOT granted to this planning application for the following reasons:

Prematurity: In the National Planning Policy Framework (NPPF) February 2019 paragraphs 59-50 (page 14) premature applications are specifically discussed.

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

The West Mersea Neighbourhood Plan has now progressed to preparation of a Draft Plan and granting permission for this application would therefore "prejudice the outcome of the plan making process" – NPPF February 2019 paragraph 50 (page 15).

Lack of Conformity:

- i. This application is in conformity with the CBC Emerging Local Plan. However, it is not in conformity with the developing West Mersea Neighbourhood Plan which is following the NPPF February 2019 paragraph 29 (page 10) and respective footnote (16).
- ii. This application conflicts with Policy ENV1, which states that the Borough will conserve and enhance Colchester's natural & historic environment, countryside & coastline. The policy also states development within the Coastal Protection Belt will not be permitted that would adversely affect its open and rural character.
- iii. This application conflicts with Policy DP1, which states that all development must respect its landscape setting and contribute to the surrounding area.
- iv. This application conflicts with Policy DP23, which states that development within the Coastal Protection Belt will only be supported only if it would not be significantly detrimental to the landscape character of the area.

Pedestrian Access: West Mersea Town Council has grave concerns around the safety and suitability of the proposed pedestrian access points.  
Breaches Settlement Boundary: This application breaches the settlement boundary.

Additional comments: Having stated our objections, West Mersea Town Council is also aware of its responsibility and obligation in working with Colchester Borough Council to mitigate the effects on the community should the decision by CBC Officers and Councillors be to proceed with this development. Accordingly, West Mersea Town Council will work with Colchester Borough Council and the developer to secure the best possible outcome for the residents of Mersea – certainly in respect of Parks and Recreation and Community. West Mersea Town Council would also urge Colchester Borough Council to work with the West Mersea Neighbourhood Plan Working Group in this regard.

9.2 A further representation from WMTC was received on the 15/5/2020 which stated:

Thank you for your advice in respect of land to be provided at 200351 for a doctor's surgery, should planning consent be granted.

However, irrespective of this proposed concession, West Mersea Town Council wishes to reiterate its objection to this application and the basis for objection previously stated still stands.

However, in a World dramatically changed by recent events, we have grave concerns - in a post-Covid World - just who these houses are being built for? A recent study by Knight Frank suggests house sales will plummet as a result of the Covid-19 crisis - down from 1.2 million in 2019 to a projected pitiful 734,000 units (this year, and this position is exacerbated by mortgage lenders being increasingly unlikely to underwrite a great many applications in the foreseeable future.

As a result, the need for developments such Dawes Lane have been very significantly reduced. There is clearly going to be reduced demand for housing in the coming years as the market recovers, certainly the need for housing sites to be 'brought forward' has evaporated.

As you also know, we believe this application should be deferred at the present time since it is highly controversial and very significant, and that it should await a meeting of the full Planning Committee at which the public can attend in person.

## 10.0 Representations from Notified Parties

10.1 This scheme has generated significant public interest with 509 representations (some from the same address) made in objection and 9 general comments noting concern. Many were in the form of a standard letter. Representations were also received from neighbours groups and from 'Stop 350'. The representations can be read in full online however in summary they objected to the scheme for the following reasons:

- The Emerging Plan has not been Examined yet.
- This scheme is premature.
- The scheme undermines the Emerging Plan and Neighbourhood Plan.
- The Council should be confident in it's five-year housing supply.
- The Council should wait for the garden communities.
- Mersea is at capacity.
- The road network can't cope.
- The other facilities on the island can't cope, for example schools/doctors/dentists.
- There is no Police presence on the island.
- The Fire Service is very limited.
- Colchester Hospital is 10 miles away.
- Mersea is an Island!
- Mersea is already overpopulated.
- The caravan parks cause a huge spike in seasonal population.
- There are many retired people on Mersea
- One hundred is too many dwellings.
- Scheme will be materially harmful to my amenity.
- Harm to amenity.
- Loss of good agricultural land.
- The consultation exercise has not changed anything.
- The water treatment plant cannot cope with 100 more houses.
- The Doctor's surgery can't cope and is highly oversubscribed.
- This will destroy wildlife.
- Scheme will create light pollution.
- Harm to the Coastal Protection Belt.
- Landscaping will not mitigate this scheme successfully.
- The site is visually important at a gateway site and forms part of residents homecoming and is important for wellbeing.
- The site is over a mile from the village centre so residents will drive from it.
- There is no safe pedestrian access from the site.
- Brierly Paddocks was approved recently.
- Approving this would set a dangerous precedent for other speculative proposals.
- The LPA need to consider the implications of Bradwell Power Station and a potential new Nuclear Power Station on the same site.
- There will be no need for these dwellings.
- This scheme should not be determined until the Covid-19 pandemic is over.

- There is no evidence that the community needs a further 5ha of open space.
- The site should have been removed from the Emerging Local Plan in its entirety.
- There is now no need for these homes following the Covid-19 pandemic as no-one will buy them.

## **11.0 Parking Provision**

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

## **12.0 Accessibility**

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

## **13.0 Open Space Provisions**

13.1 Indicative frameworks and landscape masterplans have been submitted with the application which indicate large amounts of open space – 4.5ha is suggested by the applicants. In policy terms least 10% open space would be required in accordance with both adopted and emerging local plan policies but the site has the potential to provide significantly more.

13.2 It is important to note that the large parcel of proposed public open space which broadly forms the northern half of the site, sits outside of the emerging local plan site allocation.

## **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 classed as a “Major” application and therefore it was considered by the Development Team. It was considered that the following Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990;

**Archaeology** – £17,553.00 contingent on finds for display.

**Parks and Recreation** – £31,992.72 for play equipment, likely to be used for an upgrade of the Wellhouse Farm play space. An outdoor gym has also been requested.

A commuted sum has also been requested if the Council is to maintain the open space. It is proposed that the Legal Agreement will include a clause to determine the precise figure when the detail of the open space is finalised at reserved matters stage, based on the following costings:

- Rural and/or suburban countryside - £9,430 per hectare for single sites greater than 1 hectare in extent
- Maintenance of sports pitch area - £69,700 per hectare
- Woodland (new planting) - £32,400 per hectare
- Public Open Space, predominantly urban in character - £43,460 per hectare

There will also be the option of transferring the open space and maintenance fee to Town Council if all parties are agreeable.

**Community** – £168,652.00 to be spent via a cascade mechanism, with priority going toward an upgrade of the MICA centre but if that is not possible then the contribution goes towards funding a multi- use community centre at the Glebe.

**Affordable Housing** have made an emerging policy compliant scheme request for 30% affordable units. The tenure mix would be expected at no less than 80% for affordable rent and no more than 20% intermediate (shared ownership). The shared ownership dwelling types and sizes should be proportionate to the affordable rented dwellings/ types and sizes provided, or if not practical, then the shared ownership units should be more weighted to smaller dwellings as opposed to family dwellings. 1 dwelling to be Part M4 Cat 3 (2)(b) Wheelchair standard.

Affordable Housing will be required to meet the emerging policy requirements of emerging policy DM12. Specifically, 95% of affordable housing to be complaint with M4 Cat 2 and 5% of the affordable housing to be compliant with M4 Cat 3 (2) (b)

**NHS** – £59,027.00 financial contribution to expand facilities.

It is noted that the applicants will also gift 0.7ha of land to West Mersea Town Council suitable for community uses/a doctors surgery/ community parking or other uses as WMTC see fit. This will be secured via the Legal Agreement.

Not part of the Development Team process but to be secured by legal agreement is the £125.58 x 100 dwelling (£12,558.00) **RAMS** contribution.

On that basis it is requested that Members delegate the negotiation of the detailed planning contributions and related projects and conditions to officers if they are minded to resolve to approve this scheme.

## 16.0 Report

The main considerations in this case are:

- the principle of development; and
- highway safety and impact on the capacity of the road network.

The report will also explore the impact on Trees, Flood Risk/Drainage/SUDs, impact on Heritage, Ecology and the landscape amongst other issues as set out below.

### Principle of Development

#### **Introduction**

The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging Local Plan are relevant. The relationship of the proposal to each of those plans and the compliance of relevant adopted and emerging policies with the 2019 NPPF are accordingly key variables in assessing the planning balance. The Council considers that it has a 5-year housing land supply and therefore there is no need to apply the 'tilted balance' principle (para.11d) NPPF).

It is considered that the fundamental principles of both the Adopted and Emerging Local Plans are compliant with the new NPPF. The analysis below will consider whether there are any relevant non-compliant elements of adopted CBC policy with the NPPF that justify a reduction in the weight to be given to the relevant policies in the adopted local plan in assessing the planning balance in this case. For the Emerging Local Plan, the following analysis reflects the NPPF criteria on the weight to be given to policies, which depends on the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies to the Framework (see paragraph 48). In terms of the first criteria, the ELP is in the examination stage so can be given some weight.

West Mersea are also preparing a Neighbourhood Plan although, it is understood to be close to reaching a regulation 14 consultation, it is in the early stages of preparation and can be afforded very limited weight currently in the context of the Development Plan. The Neighbourhood Plan must also accord with the strategic policies contained in the Local Plan. Accordingly the principle of development on this site is established by the Local plan and not the Neighbourhood Plan.

#### **Adopted Local Plan**

The NPPF continues to support the Policy approach in the Adopted Local Plan in principle, in respect of the key policies on settlement hierarchy relevant to this proposal, SD1 and ENV1. As the Council is able to demonstrate a 5 year housing land supply these policies are relevant to the decision making on this proposal. Policy SD1 accords with Paragraphs 10-12 of the 2019 NPPF which provide for a presumption in favour of sustainable development. Policy SD1 is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the LPA working proactively with

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applicants. It is noted, however, that the housing and jobs target provided in the policy no longer remain current. Whilst the supply figure itself may be out of date the principle of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded. SD1 includes West Mersea as a 'District Settlement' which lies below Colchester Town/Stanway and above Rural Communities in the spatial hierarchy. Development in the plan period was however, primarily focused on the top tier with only limited development directed to the District Settlements. Policy H1 provided for 280 units to be allocated in West Mersea in the 2001-21 plan period.

Since the proposal falls outside the settlement boundary for West Mersea, policy ENV1 covering the countryside outside settlement boundaries is relevant. The requirements of policy ENV1 for the conservation and enhancement of Colchester's natural and historic environment is in accordance with paragraph 170 which clearly recognises the intrinsic character and beauty of the countryside and demonstrates that planning policies should contribute to and enhance the natural local environment via protection, maintenance, and preventing unacceptable risk. It is considered that the criteria-based approach of ENV1 accords with the more flexible approach to countryside development adopted in the NPPF.

Based on the protection afforded to land outside Settlement Boundaries (SBs) and outside of the most sustainable locations in SD1 and ENV1, the proposal is not considered to be compliant with these policies. While Policy ENV2 on rural Communities concerns rural exception sites, it is of no relevance to this specific proposal which is not based on the rural exception principle. Other policies are relevant to the proposal including those relating to affordable housing and design and layout, but no comment is made in respect of most of these in this response as it is focusing on the key policy principles.

### **Emerging Local Plan (ELP)**

The NPPF also advocates consideration of other factors including emerging local plans which can be afforded weight when they reach an advanced stage of preparation. In this respect Paragraph 48 states that authorities may give weight to emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies (and the significance of these objections - the less significant the greater the weight that can be given) and the degree of consistency of the relevant policies to the NPPF (the closer the policies are to policies in the NPPF the greater the weight that may be given). Testing these criteria will inform the judgement about the weight which should be afforded to the emerging Local Plan in this case.

In terms of Paragraph 48(a) of the NPPF the ELP is considered to be at an advanced stage having been submitted in 2017 with examination commenced in January 2018.

Amongst other matters, the ELP seeks to allocate additional land to meet the housing targets up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1).

While the Adopted Local Plan included the 3 District Centres only in the second tier below the urban area of Colchester, the Emerging Plan provides for a wider scope of development in 17 Sustainable Settlements, including West Mersea. Policy SS12a proposes the allocation of land for 200 dwellings on 2 sites in West Mersea. Land at Dawes Lane is allocated to provide 100 dwellings and Land at Brierley Paddocks to also provide for 100 units as part of a mix of uses to be informed further by the Neighbourhood Plan.

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

***Policy SS12a: West Mersea***

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

***Dawes Lane***

*Development will be supported which provides:*

- i. 100 new dwellings of a mix and type of housing to be compatible with surrounding development;*
- ii. Public open space, including sports pitches;*
- iii. Children's play area / land for a sports pavilion if identified in the Neighbourhood Plan;*
- iv. A single site access off Dawes Lane*

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

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

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

The key policies in the emerging Local Plan relevant to this scheme are accordingly considered to be highly consistent with the NPPF and should therefore in respect of paragraph 48(c), be afforded considerable weight.

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

### **Development on Mersea Island Policy SS12a**

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

The following Additional comments specific to the Dawes Lane

- Site is agricultural land;
- Development will be intrusive
- Access is off a substandard unclassified highway road which is unsuitable
- Road should be widened and roundabout put in place at East Road
- Location has poor access to community facilities

While the site is allocated for development in line with the scale of development proposed for Sustainable Settlements and the level of development proposed for this site as per the allocation in the emerging local plan, the level of objection to this in response to the regulation 19 consultation was significant. While some of the objections are likely to be addressed and therefore resolved, through mitigating measures and /or planning obligations, others are more about the principle of development and capacity of the Island's infrastructure to accommodate the growth planned through the ELP. Having regard to this, the representations which potentially remain unresolved are those relating to the principle of development and the capacity of the Island's infrastructure to accommodate this and other planned growth in the ELP. It is relevant to consider whether this matter alone is material to the weight to be afforded to the ELP. Paragraph 48 (b) is relevant stating; *"the extent to which there are unresolved objections to the relevant policies (the less significant the unresolved*

*objections, the greater the weight may be given)*". The objections relating to the principle of development (including capacity) at West Mersea also relate to the Spatial Strategy in Policy SG1. It is also relevant to consider whether the concerns raised by these objections, relating to the principle and level of development based on the capacity of the infrastructure to accommodate the proposed development, can be addressed by provisions which form part of a planning application and any mitigation which may be proposed and secured as part of any permission. The need for thorough consideration of these issues is further enhanced by the local concerns expressed through the Local Plan representations and objections to other recent planning applications, regarding the capacity of the infrastructure to accommodate the growth planned including, that proposed on land at Dawes Lane.

### **Infrastructure capacity concerns**

The key concerns regarding infrastructure capacity appear to relate to traffic, community facilities- particularly health and education, sewage and flooding. In addition concerns are expressed about the ability of emergency services to reasonably respond to accidents / other emergencies due to the constraints especially when there is a High Tide.

The response of the Infrastructure providers to planning applications and the Local Plan is the best measure of the extent to which there is capacity for the planned growth. This also provides the context for considering whether any objections to the Local Plan proposals remain unresolved, since those relating to the principle of development, are intrinsically linked to the capacity of the infrastructure to accommodate the planned growth.

The responses from the relevant Infrastructure providers is therefore an essential element in determining the balance and the weight to be afforded to the Emerging Local Plan. These are summarised below;

**Highways-** No objections – conditions suggested.

**NHS / CCG** – NEE CCG acknowledges that there are capacity issues currently and that mitigation would be required and request £59,027. No comment is made in respect of the land reserved for community uses. No comments regarding ambulance service.

**Note:** North East Essex CCG are currently undertaking a feasibility study in relation to a potential new health facility for the residents of West Mersea Island with expected outcome late summer 2020. The study will identify suitable site(s).

**Environment Agency-** no response.

**Anglian Water-** Confirm they have the capacity to deal with the new dwellings and require standard conditions to be applied.

**Essex County Council – Lead Flood Authority-** no objection

**Essex County Council – Local Education Authority** – No comment and no request for contributions received.

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

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

Based on the responses to the planning application from the infrastructure providers it is evident that they are satisfied that there is capacity to accommodate the development proposed or that mitigation can be secured to address the identified issues. (Subject to the comments of those Infrastructure providers that are awaited not raising any objections which cannot be addressed by way of mitigation or condition.)

### **West Mersea Neighbourhood Plan**

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

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matters follow an outline with specific details, assuming, sufficient progress on the NHP is made. The extensive work of the QB and engagement with the local community informing work on plan preparation to date is valued and it is appropriate that it may inform some of the detailed elements of planning for the site.

### **Planning Balance**

The Adopted Local Plan did not include the proposal site as an allocation, so it is contrary to policies SD1 and ENV1 restricting development outside development boundaries. The Council maintain that both of these relevant policies remain up-to-date in so far as they are relevant to this application. It is the Council's view therefore that paragraph 11(d) (the tilted balance) is not engaged.

It is also the case that the Council is able to demonstrate it has a 5- year housing land supply. The Council's latest published Annual Housing Position Statement (April 2020) demonstrates a housing supply of 5.4 years based on an annual target of 1078 which is calculated using the Standard Methodology. This equates to a need for 5659 dwellings over the 5 year period when a 5% buffer is added. The Council identifies sites that can deliver 6108 units. It is important to note that the current monitoring period covers the period 1.4.20 to 31.3.25. Although there have been a number of recent appeal decisions which have concluded that the Council cannot quite demonstrate a 5 year supply, they all covered a different 5 year period (1.4.2019 – 31.3.2024).

The ELP includes the site the subject of the application as a housing allocation proposed for 100 dwellings with a number of other policy requirements identified. It is therefore also relevant to consider the extent to which the application is compliant with the ELP. In the case of this site, the specific infrastructure requirements are set out in the allocation policy 12a (above) with other requirements including matters such as Affordable Housing and RAMs are included in other policies in the ELP. All matters other than access are subject to a reserved matters application, enabling details including the distribution of uses and layout etc to be addressed and further considered at that time.

The allocation policy in the ELP for the site at Dawes Lane includes a range of requirements including provision for community infrastructure and access with other policies in the plan requiring acceptable measures which would include ensuring any development was of an acceptable design and layout and appropriately landscaped for example.

The proposal provides for 100 dwellings and other provisions including access, SuDs, open space, landscaping and community facilities. The policy points to the Neighbourhood Plan for more details in respect of community facilities, the content of which is still to be confirmed. However, if outline permission were to be granted this would not prevent the Neighbourhood Plan from further informing detailed elements including the community facilities.

In respect of the NHP, the Council would not wish to frustrate the progress on this plan or undermine its role in influencing the details of the proposed

development in the NHP. Although progressing well, it cannot be said to be at an advanced stage of preparation and in any event, it is not intended that the NHP will be allocating any housing sites. It is however considered entirely appropriate for the NHP as it advances to inform key elements of any future detailed planning applications which may follow as stated in the ELP policy. The grant of outline permission would not prevent this happening. The NHP has not currently progressed to a stage where it is considered it could be used to justify a recommendation of refusal on prematurity grounds.

## **Conclusion**

Although the proposal is contrary to the Adopted Local Plan, the advanced stage of progress of the Emerging Local Plan and the compliance of the proposal with the key relevant policies are an important material consideration which are considered to inform the weight to be assigned to the allocation in the ELP. Based on a thorough consideration of the issues, there is no policy objection to the proposal in principle subject to full policy compliance on all relevant detailed matters as set out in Policy SS12a and all other relevant ELP policies including policy requirements for affordable housing and community infrastructure. In addition, evidence which confirms that there are no infrastructure capacity concerns from the infrastructure providers is also required as set out above in order to confirm the weight to be afforded to the Emerging Local Plan

## Highways/Access

Aside from the principle of development, the only matter for approval at this stage is the access. It is therefore also important to consider the impact on the highway network.

Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).

The scheme has been accompanied by a Transport Assessment that considered the East Road junction to be sufficient to accommodate the traffic flows this scheme will generate. It states that a simple priority junction at the East Road access will need to be provided and there is sufficient room to provide this. This Transport Assessment and the proposed access arrangement at East Road have been considered by Essex County Council (the Highway Authority). They have no objections to the scheme subject to conditions that are suggested at the end of this report.

As set out in the accompanying Transport Assessment, a new priority vehicular junction access will be provided on Dawes Lane to serve the site. In addition, the development proposals include two crossing points on Dawes Lane to improve pedestrian access to the site.

The new priority junction access on Dawes Lane that will lie approximately 100m north of the 30mph speed limit change and within the 40mph speed limit zone. The proposed access will form a Type E road access with a 5.5m carriageway suitable for serving the development proposals in a cul-de-sac arrangement.

The Highway Authority has no objection to the scheme subject to conditions which will be imposed. There include a number of off-site measures include bus stop upgrades and footway improvements.

On that basis this scheme is held to be acceptable in highway safety terms.

### The Impact on Trees

There are no TPO's on the site.

This application is accompanied by an Arboricultural Report. The key findings of this report indicate that the site generally contains low value hedgerow on the southern and western edges. There are some higher value trees in the south-eastern corner of the application site that extend further along Dawes Lane.

The Arboricultural Report indicates that these trees can be largely retained and protected with appropriate arrangements, although a small number of young specimens will need to be replaced to facilitate the pedestrian cycleway linkages. The tree coverage has the potential to be significantly enhanced as a result of the proposals.

### SuDS

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

The LLFA are satisfied with the scheme and have recommended conditions. At outline stage, this matter is held to be acceptable.

### Flood Risk

The site is within Flood Zone 1. As such, it is at the lowest risk of fluvial or tidal flooding in accordance with the Technical Guidance that accompanies the NPPF and is suitable for residential development from a flood risk perspective.

The Emerging Local Plan (Paragraph 15.125) states that the overall aim of national policy and guidance on flood risk is to steer new development towards land on the lowest risk from flooding (Flood Zone 1).



As part of the proposals, the SUDs are proposed at the southern part of the site. These features are strategically located to work with the existing topography of the site in order to manage surface water runoff and to ensure the site manages surface water entirely within the site to reduce the risk of flooding elsewhere. The detail of this arrangement can be dealt with at reserved matters stage.

Further information on the flood risk and drainage proposed on site is included in the accompanying FRA which can be read on the website.

### Impact on Heritage Assets

Policy DM16 states that the historic environment should be conserved where possible through new development proposals. This includes preserving and enhancing Listed Buildings as per the statutory test.

There are no listed buildings or other heritage assets that are materially impacted by this scheme.

### Ecology

Section 40 of the Natural Environment and rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Policy ENV1 of the emerging Local Plan states that the Local Planning Authority will conserve and enhance Colchester's natural and historic environment, countryside and coastline. Furthermore, proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas, protected species or result in the loss of irreplaceable habitats such as ancient woodland, important hedgerows and veteran trees will not be permitted.

An ecological assessment of the site has been undertaken by Eco-Planning UK between 6th May 2019 and 4th June 2019.

The ecological assessment found that there are no registered Priority Habitats on site or within an influencing distance of the proposed development. With specific regard to the existing site, it is currently an open and intensive arable agricultural field that has negligible biodiversity value and very limited conservation potential. The field margins/roadside verge are also limited in width and botanic diversity.

Whilst there are no ponds or ditches on-site, the south-western field corner does occasionally retain some surface rain water but has no aquatic habitat status. There are three off-site ponds, but the proposed development would not directly impact upon these ponds, their management or conservation value. The

proposed development would not restrict Great Crested Newt / amphibian access to or from these ponds or fragment any associated terrestrial habitats.

There is no active badger sett of any type within the survey site or accessible adjacent areas. The creation of new habitat areas as part of the proposed development will increase foraging potential for any off-site badger social group.

The scheme survey did discover a surprisingly good population of both Slow Worms and Common Lizards along the narrow field margin habitats, along the site boundary. These habitats will be protected, expanded and enhanced as part of the development proposals and an Ecological Management condition will be imposed to ensure this occurs.

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

It is necessary to assess the application in accordance with the Habitats and Species Regulations 2017 (as amended). The whole of Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment was therefore required to assess recreational disturbance impacts as part of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS).

A shadow HRA was requested and was duly provided. The LPA then drafted an appropriate assessment (AA). The AA concluded that with the on-site measures set out in the shadow HRA and with a financial contribution to the Essex Coast RAMS as mitigation the scheme would be acceptable.

Natural England support the findings of the AA. The RAMS financial contribution will be secured via legal agreement.

#### Landscape Impacts

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

The scheme was submitted with a Landscape Visual Impact Assessment (LVIA). This states that the landscape proposals have been designed to be sensitive to the character and outlook of the existing properties at the settlement edge, immediately adjacent to the Site and to respond to the adjacent countryside edge beyond Dawes Lane to the east and beyond the Sites northern boundary.

The development proposals would bring forward a significant quantity of new strategic green infrastructure planting to a currently open Site. This will filter/screen the currently hard settlement edge and the proposed new homes from viewpoints to the north. Generous new public open space and sports pitch facilities will be provided to augment the facilities of the existing recreation grounds to the west for the benefit of the wider public as well as the existing residents of West Mersea.

Given that the Site is considered to have a 'Moderate Landscape Capacity/Scope for Mitigation' and providing that the landscape recommendations set out in Chapter 5 of the LVIA are implemented in full, it is considered that that the proposed new housing and associated public open space could create a greener new settlement edge adjacent to the important Dawes Lane approach to West Mersea.

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

#### Loss of Agricultural Land

Some representations have argued that the scheme will result in the loss of good quality agricultural land. The land is rated as Grade 2 agricultural land so it is high quality. The NPPF (Paragraph 171, footnote 53) notes that *'Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality'*.

As set out above, the site has been allocated in the Emerging Local Plan. The question that must be asked is 'does the fact that this site is higher quality agricultural land warrant a refusal of this scheme for 100 dwellings'? This is a matter of planning balance. In this instance it is not considered that the loss of this land in favour of development is an issue that warrants a refusal of this scheme as the provision of dwellings carries such significant weight as a public benefit in the planning balance.

#### Health Impact Assessment

Policy DP2 requires all development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. Health Impact Assessments (HIA) are required for all residential development in excess of 50 units, with the purpose of the HIA being to identify the potential health consequences of a proposal on a given population, maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal's environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities. Where significant impacts are identified, planning obligations will be required to meet the health service impacts of the development.

The NHS have assessed the HIA and in this instance do not object to it. They have requested a financial contribution towards expanding their services and the applicants have accepted this.

### Contamination

Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.

A Phase 1 Geo-Environmental Desk Study Report has been submitted with the application that investigates matters of contamination. The Council's Contaminated Land Officer has assessed the submitted report and confirms that it is acceptable for Environmental Protection purposes. No further work is needed.

On this basis, the information submitted is considered to be acceptable and the site considered suitable for its proposed use in accordance with paragraph 178 of the National Planning Policy Framework.

### Design and Layout

In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.

As an outline application, details of design and layout would be put forward at reserved matters stage and would be assessed in accordance with relevant planning policy to ensure that the proposals are acceptable. There is no further detail required at outline stage as it essentially determines the principle of development rather than the detail.

The Council's Urban Designer has confirmed that the proposed 100 dwellings can be accommodated on site without compromising policy principles. He has made a number of suggestions that the applicants can take into consideration when making a reserved matters submission.

### Impact on Amenity

Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

The proposed position of the access point on Dawes Lane is not held to cause materially harmful increase in noise and disturbance to existing neighbours.

Any housing design/layout uses would need to respect the privacy and amenity of the residents of these properties and adhere to policy DP1 in terms of impact, as well as the design and layout principles of the Essex Design Guide which prescribes back to back distances between properties in order to preserve a

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satisfactory level of amenity. These matters would need to be assessed on the submission of reserved matters which will provide the detailed layout for the scheme.

### Environmental and Carbon Implications

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.

This report has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. This scheme has limited detail as it is an outline proposal however it would be possible to secure a significant amount of good quality tree planting on site as part of the landscape mitigation which is a reserved matter.

The scheme also proposes potential new walking links to the new public open space and the existing open space next door. This will encourage pedestrian interconnectivity throughout the wider area for all to use.

In addition to this Environmental Protection have suggested EV charging points to be conditioned and the applicants have agreed to a condition requiring approval of a scheme for EV charging. This will help facilitate the uptake of ultra-low emission vehicles.

It is therefore considered that on balance the application is considered to represent sustainable development as the impacts of the development are capable of mitigation and convincingly outweighed by the public benefits of the scheme.

### Bradwell Power Station

Representations have been received from residents that are concerned about Bradwell Power Station and the possible new Nuclear Power Station (NPS) that may be proposed next to the existing NPS.

Bradwell Power Station is in a very advanced stage of decommissioning and is in a 'Care and Maintenance State'. It is the first NPS in the country to enter this state of decommission.

Bradwell 'B' proposed by EDF Energy and China General Nuclear Power Group (CGN) is only at very early investigative stages. The Bradwell B project website notes it could be 7 years before construction could commence. The website set out how they would need regulatory approval, planning permission including a nuclear site licence, a development consent order and various environmental

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permits. In officer's opinion it would not be reasonable to resist the 100 houses proposed in this application on the basis that Bradwell B is a possibility. The scheme would, if permitted, have potentially wider considerations for the subregion and these would need to be considered as part of the NSIP Development Consent Order process.

### The Need for Housing

The Covid-19 pandemic has not reduced the need for housing and there has been no change in national policy to suggest this. Councils are still required to maintain a five-year housing supply. Whether the houses will be sold is a matter for the developer and is not a reasonable planning reason for refusal of this application.

## **17.0 Conclusion and Planning Balance**

National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the emerging Local Plan but is contrary to the adopted Local Plan as the site is outside the current settlement boundary of West Mersea. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In respect of the first of these considerations, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy. The social role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.

The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in West Mersea and the borough as a whole. In respect of the third dimension (environmental), the proposal will provide housing in a sustainable settlement so that future residents would not be entirely 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 can also be secured as part of the development.

There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby residents or have a severe impact upon the highway network. Whilst the proposed development would have an impact on the existing character of the site (i.e. by introducing built development where there is none currently) through a general suburbanising effect on the wider area, which weighs against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme and could reasonably be judged

to clearly outweigh the shortcomings identified given the significant weight afforded to the supply of new homes in the Framework and the possible design that could be secured as part of any future reserved matters application.

It is accepted that this scheme will result in the loss of 10.4ha of good quality agricultural land. However in this instance officers consider that the planning balance tips in favour of the approval of the scheme due to the significant benefit of both the housing proposed, the affordable housing that will be secured in the Legal Agreement and the open space that will be available for the community to use, including 0.7ha of land gifted to the Town Council.

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

## **18.0 Recommendation to the Committee**

### **18.1 The Officer recommendation to the Committee is for:**

APPROVAL of planning permission subject to the negotiation of planning obligations as set out in the relevant section above and minor amendments to the conditions set out below and signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

#### **1. Time Limit for Outline Permissions Part 1 of 3**

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

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

#### **2. Time Limit for Outline Permissions Part 2 of 3**

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

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

### **3. Time Limit for Outline Permissions Part 3 of 3**

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

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

### **4. Approved Drawings**

The drawings hereby approved as part of this application are:

1124.L.001  
1124.L.004  
1912/08  
1912/08A  
1912/08D  
TPSarb0961119TPP

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

### **5. Housing Mix**

Any reserved matters application seeking approval of scale and layout shall include a detailed schedule of the proposed housing mix, to be agreed by the Local Planning Authority through the approval of that reserved matters application. No development shall commence until the housing mix schedule has been agreed as part of the reserved matters and the development shall be carried out in accordance with the approved details. The detailed schedule shall include the following:

- The plot number,
- The type of dwelling,
- The number of storeys,
- The number of bedrooms and bedspaces,
- The size of the outdoor private amenity space,
- The number and sizes of parking/garage spaces provided

Have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details. It is expected that this schedule is submitted as part of any reserved matters submission.

### **6. Electric Charging Points**

The development shall not commence above damp-proof course level until a scheme for the provision and implementation of electric vehicle (EV)



charging points has been submitted to, and approved in writing by, the Local Planning Authority. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

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

## **7. SuDS**

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority.

The scheme should include but not be limited to:

- Limiting discharge rates to 9.3l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment

## **8. SUDs Maintenance and Management**

No occupation of the development shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who

is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk and to ensure that the SUDs are maintained for the lifetime of the development.

## **9. SUDs Monitoring**

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

## **10. Ecology**

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

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

## **11. Tree Protection**

No works shall commence until tree protection works have been implemented in accordance with the approved Arboricultural Impact Assessment. Any Reserved Matters application shall be designed in accordance with and take due regard for the approved Arboricultural Impact Assessment.

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

## **12. Used Water Sewerage Network**

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

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

## **13. Highway Works**

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

- a) A priority junction off Dawes Lane to provide access to the proposal site as shown in principle on the planning application drawings
  - b) Upgrade to current Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the local planning authority prior to commencement of the development)
  - c) Footway improvements (widening to 2 metres where possible) along Dawes Lane between the proposal site access and East Road and between the East Road/Dawes Lane junction and the pair of bus stops located in East Road to the east
  - d) A dropped kerb/tactile paving crossing point in Dawes Lane at its junction with East Road
  - e) A dropped kerb/tactile paving crossing point with new section of footway in East Road in the vicinity of the bus stops located to the east of the Dawes Lane junction
  - f) Residential Travel Information Packs in accordance with ECC guidance
- Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

#### **14. Street Name Signs**

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

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

#### **15. Landscape Management Plan**

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

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

#### **16 Construction Method Statement**

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;

measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

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

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

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

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

Sundays and Bank Holidays: **No working**

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

#### **18. Fires**

No fires may be lit on site at any time.

Reason: In the interests of neighbouring amenity.

#### **19. Archaeology**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The Scheme shall include an assessment of significance and research questions;

and:

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

The site investigation shall thereafter be completed prior to development, or in such

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and

timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

## **19.0      Informatives**

19..1      The following informatives are also recommended:

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

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

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

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

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

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





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**Item No:** 9.2

**Application:** 190043

**Applicant:** Inland Homes

**Agent:** Michael Smith, JCN Design & Planning

**Proposal:** Amended proposal for creation of 119 no. one and two bedroom apartments in five blocks plus associated roads, landscaping and open space.

**Location:** Phase 2, Colchester (Phase 2), Land West of Brook Street

**Ward:** New Town & Christchurch

**Officer:** Sue Jackson

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because it is a major application and material objections have been received. A legal agreement is also required.
- 1.2 The Mayor, Councillor Cope, has called-in the application for the following reasons “Over-crowding, over-development, impact on local amenity of surrounding residential area, lack of compliance with adjacent street scene”.

## **2.0 Synopsis**

- 2.1 The application seeks planning permission for 119 apartments and associated landscaping, open space, parking and road infrastructure. The report describes the site and its setting, details of the proposal, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.2 The key issues for consideration are: land use allocation, adopted policies and guidance, the development proposal, planning history, air quality, the impact on the area and neighbouring properties, the built form and detailed design, access and parking provision. The viability of the scheme will also be addressed, in so far as it relates to necessary planning contributions towards infrastructure. The planning merits of the case are assessed, leading to the conclusion that the proposal is acceptable.
- 2.3 The application is subsequently recommended for a conditional approval subject to a legal agreement.

## **3.0 Site Description and Context**

- 3.1 The application site has an area of approximately 2 hectares and comprises former railway depot/sidings. The site abuts land, also in the applicants' ownership, over which vehicular access will be provided. The applicant has recently converted a former rectory on this land fronting Brook Street into residential use and has planning permission for new residential units. The land immediately behind Brook Street is elevated above the road and has a high retaining wall to the road frontage.
- 3.2 The vehicular access to Brook Street which served the former Rectory has been modified to serve the rectory development and the application site.
- 3.3 As the name suggests, the site was formerly a railway depot/sidings and the Hythe to Colchester Town railway line forms the north boundary of the site in a cutting. The south and west boundaries abut residential development along George Williams Way, Simons Lane and Magdalen Green. The east boundary abuts the former Rectory and the other land in the applicant's ownership.
- 3.4 The site is characterised by changes in level to accommodate its former use. It comprises a man-made, engineered landform cut deeply into the

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valley side creating an artificial, level terrace, significantly lower than the ground levels of the more natural sloping valley side to the south, the north-east and the east. The change in level between the terrace and the more natural adjacent valley side topography is now articulated with steep, engineered embankments.

- 3.5 The north part of the site, where the development is proposed, has an average level of approximately 14.25m Above Ordnance Datum (AOD). The two steep slopes close to the southern boundary have levels up to 18.30m AOD and 22.00m AOD, the land to the east boundary has levels up to 19.77m AOD. The site is therefore at a lower level than the surrounding residential streets; Brook Street, George Williams Way, Simons Lane and Magdalen Green. When the land was in use as a rail depot/siding it was accessed from Magdalen Street. This internal road whilst overgrown is still visible and runs close to the south boundary and then turns through 360 to serve the land at a lower level.
- 3.6 The site is overgrown and includes areas of trees, grass, scrub and small ponds. A public right of way (PROW) extends close to the south and west boundaries running along the boundary with the George Williams Way. It connects to a footpath to the east at Simons Lane leading to Magdalen Street. It also connects to a pedestrian foot bridge elevated above the application site which extends over the railway line connecting to Priory Street and the town centre. Whilst the PROW over the footbridge provides a good link to the town centre the route it is unlit with little natural surveillance and several blind spots.
- 3.7 The surrounding area has a mixed character. Magdalen Street includes Victorian buildings and has several listed buildings reflecting its role as the historic route from the town to the port at the Hythe. Recent development along the road includes the YMCA building, student accommodation under construction on the site of the former bus depot, an Aldi supermarket and flats. Storey heights range from 2 – 5 storeys. Rosebery Avenue comprises 1930's semis; Brook Street includes narrow fronted terraced dwellings built-up to the footway edge. Brooklands, Magdalen Green and Saw Mill Close are all of traditional design and materials; Simon Lane contains a small row of Victorian cottages. Development in George Williams Way includes 2 storey dwellings but also chateau style blocks of apartments of 3 and 4 storeys constructed of buff brick white render with a grey tiled roof and include a distinctive turret feature; these flats face towards the site.
- 3.8 Magdalen Street contains residential development, 3 and 4 storeys high, the street also includes a range of local facilities including food shops and takeaways. Magdalen Street is on a bus route. The site is within easy walking distance of Colchester Town Station which is approx. 850metres away, the bus station approx. 1 kilometre and Culver Square approx.1.4 kilometres distant.

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

- 4.1 This full application proposes the erection of one and two bedroom apartments in five blocks and the original application proposed 120 units. Following a range of amendments, 119 units are now proposed; comprising 14 no.1-bed and 105 no. 2-bed units. Access is proposed from Brook Street using an existing access which serves the converted rectory and then drops steeply into the site. The access road follows the bottom of the southern embankment. A 3 metre wide cycle and pedestrian way is proposed on the southern embankment following the line of the former access. This embankment is in effect in two parts; with one above the access road and one below it, the former is retained unaltered whereas the latter is remodeled to allow the provision of the new access road. The remodeling will result in the removal of some trees; however, these works are the same as were approved under the previous application. The new bank is retained with a timber crib wall. Landscaping, including new tree planting is proposed on the embankment, along the access road and in the parking areas.
- 4.2 The development comprises 5 blocks of 5 storey apartments parallel to the railway line. Parking is proposed on ground floor of each building and between several of the buildings. A dedicated parking space for a “car club” car is indicated along the access road. Two amenity areas are proposed, one for residents of the development, between buildings and the second an area of public open space with an equipped LEAP located at the west end of the built form adjacent to a proposed wildlife area. Along the boundary with the railway line, a 12 metre-wide strip of land is reserved for use as part of the East Colchester Rail Transit route (ECRTr).
- 4.3 Block A contains 23 units and the remainder each contain 24 units. Car and cycle parking and refuse storage facilities are provided on the ground floor of each building with a single 1-bed unit also on the ground floor of blocks B, C, D, and E. Block A is built part into the slope which separates the site from the former rectory site making it impossible to provide any ground floor accommodation to this building. The buildings are spaced 20 metres apart.
- 4.4 The ground level, where the new development is proposed, will be raised by 900mm due to the excavated site sitting at the same level as the water table. The raised level will tail off to the existing ground level through the open space and biodiversity area at the western end of the site.
- 4.5 The proposal has undergone several revisions hence the delay in bringing it to the planning committee, the revisions are summarized below;
- Additional landscaping to the north boundary
  - Pedestrian/cycle path to link to the edge of the land reserved for the ECRTr
  - Provision of an area of public open space
  - Revised landscaping proposals
  - Amendments to access road turning head so it is suitable for fire appliances
  - Additional section drawings across the site to George Williams Way

- Overlay drawings of the approved and proposed building footprint and building height
- Setting back of the top floor of each block behind a terrace reducing the number of units by 5
- The addition of a one-bedroom apartment to the ground floor of Blocks B, C, D and E increasing the number of units by 4
- Adding trees to the parking courtyards
- External balconies added to the sides of the blocks
- Additional cycle parking

4.6 In addition to the plans and drawings detailing the proposal, supporting documents include:

- Air Quality Assessment
- Arboricultural Impact Assessment & Method Statement
- Archaeological Assessment
- Daylight, Sunlight and Overshadowing Report
- Ecological Appraisal
- Ecological Appraisal – Confidential Badger Appendix
- Energy and Sustainability Strategy
- Geo-Environmental Assessment
- Habitats Regulations Assessment
- Health Impact Assessment
- Flood Risk Assessment Incorporation Surface Water and Foul Drainage Strategy,
- Noise Assessment
- Planning, Design & Access Statement
- Townscape / Visual Appraisal & Strategy Report
- Transport Statement
- Viability Appraisal

## **5.0 Land Use Allocation**

5.1 East Colchester Special Policy Area: The site is allocated for redevelopment comprising residential development with site access improvements.

5.2 The Magdalen Street Rail Sidings Development Brief Adopted August 2014 (an extension to the Adopted Magdalen Street Brief February 2014)

## **6.0 Relevant Planning History**

6.1 152730 Hybrid planning application comprising of an outline planning permission for the development of 58 residential dwellings (26 x 1 bedroom, 32 x 2 bedroom) together with associated car and cycle parking, landscaping and open space access and servicing arrangements & full planning permission for the change of the former Rectory building to C3 (residential) to provide 5 residential dwellings (5 x 2 bedroom) and new build (1x 1 bedroom and 2 x 2 bedroom) together with associated car parking, access and servicing arrangement. Application granted planning permission

on 24 October 2016 subject to a legal agreement. **This application granted outline planning permission and full planning permission for the conversion of the rectory and new build. The applicant has recently completed the conversion of the former rectory building.**

- 6.2 152705 Erection of 4no.1-bedroom flats and 2no.1-bedroom maisonettes and associated parking; land between", 145a-151 Magdalen Street, Colchester. Application approved 4th February 2016.

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
SD3 - Community Facilities  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment

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

DP1 Design and Amenity  
DP2 Health Assessments  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP4 Community Facilities  
DP11 Flat Conversions  
DP12 Dwelling Standards  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP18 Transport Infrastructure Proposals  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

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

SA H1 Housing Allocations  
SA EC1 Residential development in East Colchester  
SA EC2 Development in East Colchester  
SA EC5 Area 3: Magdalen Street  
SA EC8 Transportation in East Colchester

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

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

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

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

The site is allocated for residential purposes both in the emerging Local Plan and adopted development plan.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Backland and Infill  
Affordable Housing  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Cycling Delivery Strategy  
Urban Place Supplement  
Sustainable Drainage Systems Design Guide  
Street Services Delivery Strategy  
Managing Archaeology in Development  
ECC's Development & Public Rights of Way  
Planning Out Crime  
Air Quality Management Guidance Note, Areas & Order

## **8.0 Consultations**

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

### **8.2 ECCSUDS**

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

### **8.3 Environment Agency**

No comment

### **8.4 Contaminated Land Officer**

No objection subject to conditions

### **8.5 Archaeologist**

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

## 8.6 Essex Police

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 69 of the National Planning Policy Framework has been achieved. To ensure this development is a safe, secure place to live, e.g. uniform lighting without dark areas and effective physical security on each property, I would recommend the applicant incorporate Crime Prevention through Environmental Design and apply for nationally acknowledged and police recommended Secure By Design accreditation. Essex Police is able to support the applicant and provide free, impartial advice to achieve the Secure By Design requirements and is invited to contact Essex Police via [designingoutcrime@essex.pnn.police.uk](mailto:designingoutcrime@essex.pnn.police.uk)

## 8.7 Chelmsford City Council Scientific Team (consultant used by Environmental Protection in respect of air quality)

The assessment now follows an approved methodology, uses 2018 air quality monitoring data and up-to-date emission factors. The significance of impact has been identified as negligible across most receptors in Brook Street with the exception of one location where a slight adverse impact has been identified.

It should be noted that although the negligible impact has been predicted, the proposed development does cause an increase of emissions in Brook Street which at some locations are predicted to be borderline with the air quality objectives at the opening of the development. This should not prevent development as long as suitable mitigation measures are provided.

The transport statement identifies that new applications should enable charging of plug-in and ultra-low emission vehicles in safe accessible locations (paragraph 2.1.11). I would recommend EV charging points be conditioned for installation in parking areas, ideally within undercroft parking areas at a rate of 20%. In addition, I would recommend suitable arrangements to be provided within the cycle parking areas for charging ebikes

## 8.8 Urban Design Officer

In December 2019 the Urban Design Officer (UDO) left the Council and an Interim Urban Design Officer (IUDO) was appointed. The concerns of the UDO are summarized below followed by the comments of the IUDO

The UDO had two principal concerns firstly the lack of active frontage on the ground floor and secondly whether the 5 storey buildings would noticeably contradict and inappropriate distort (flatten) the otherwise pleasing sense of naturally-derived and historically evolved valley topography and views.

*Officer comment: A single 1-bed unit has been introduced on the ground floor of 4 of the buildings, it is not possible to have any living accommodation*

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*on the ground floor of block A as it is built part into the adjacent bank. The Townscape / Visual Appraisal Report demonstrate that the valley topography is not readily visible; it is not an exposed valley side where tall buildings might be unacceptable. It is considered this concern is not justified in this instance.*

## 8.9 Interim Urban Design Officer

### Summary

The architectural response, amended to provide articulation to the 4th floor with a setback, is generally successful however residential standards in terms of privacy, amenity, parking, cycle parking is compromised by the ambitious density of development. A reduction in density would allow the necessary flexibility to address shortcomings.

*Officer comment: The existing scheme has been shown and independently confirmed to be challenged by limited viability and any reduction in unit numbers would threaten the deliverability of the scheme. The site is located in a highly accessible, edge of centre location on a brownfield site. It is concluded by officers that in these circumstances, a more flexible approach to parking and density may be justified having regard to the sustainability of the location and the low levels of car ownership in the vicinity. The Government has encouraged the delivery of higher residential densities in such locations that are close to transport hubs and well served by local facilities.*

### Ground Floor

"It is understood that the issue of informal surveillance has been adequately addressed"

### Under-croft parking

The provision of parking at ground level below buildings is the least satisfactory arrangement for compact urban developments as it tends to sterilise the space facing the parking. This proposal does not fall within the list of acceptable circumstances described in Essex Design Guide and the concern is that the public realm becomes surrounded and defined by areas of infrastructure, i.e. car parking, rather than architecture or social activity making it unattractive, unwelcoming and 'sterilised'. The outlook from flats in most cases would be directly to the neighbouring block across the car park. Much as the blocks may be designed with a modest amount of articulation / visual interest the close proximity of neighbouring blocks could be overbearing and, according to the standards of the Essex Design Guide, compromise privacy.

The recommended minimum separation for the purposes of privacy to bedrooms is 25m.

*Officer comment: The IUDO is concerned that some residents of the proposed development will have an outlook over parking areas and the privacy of these residents may be compromised by the separation of the buildings. The applicant has confirmed the buildings are no less than 20m apart. Tiered balconies have been introduced to the side elevation of all the*



*buildings so the 3 units on the first floor and the 2 units on the second, third and fourth floors have a private amenity space and an improved aspect. All the other units either face towards the front or rear of the site. The 25m separation referred to is the separation required when new residential units back onto existing residential properties*

#### Amount of Car Parking

The DAS advises that the provision is 119 spaces against a recommended standard of 259 spaces. If there is to be anything more than 4 visitor spaces then there would not be a 100% provision (1 space per dwelling) as stated in the DAS Update. The strategy relies on a low level of car ownership in the surrounding area however it is not clear if this is a matter of choice or a reflection of a low level of parking provision. If there was evidence of unused parking places locally the strategy would be more convincing. I note that all spaces are unallocated and visitor parking would be closely managed. I think that these circumstances the strategy could be made to work but I cannot say this with confidence.

#### Cycle Parking

##### Quantity

The Agents letter introducing the Update states that provision "...is one cycle parking space per dwelling, in line with the Borough's standards" However that is a 'minimum' standard that is applied with the minimum standard of 2 car parking spaces per 2-bed dwelling. If the number of car parking spaces is to be below the minimum then it should be expected that cycle parking provision should be above the minimum and 1 cycle space per bedspace would be a more appropriate standard.

##### Design

2-Tier Stands are proposed in order to accommodate the level of cycle parking required in the limited space available. The Cambridge Cycle Guide for New Residential Development says of 2-Tier Stands: Two-tier stands 3.5.3 Two-tier stands are generally not acceptable because cyclists often find them difficult to use, especially the top level. They may be considered for large volumes of student cycle parking (above 350 spaces) where significant space saving can be demonstrated. A minimum aisle width of 2500mm beyond the lowered frame is required to enable the cycle to be turned and loaded in comfort. The need to provide a wider aisle means that apparent density advantages of such systems are reduced. The proposed scheme is not for students and does not allow a 2.5m width aisle width below the lowered top rail (indeed it is only 2.2m wide without the top rail lowered).

*Officer comment; The Councils Sustainable Transport Officer have been asked to advise on the suitability of the cycle parking and has confirmed there is "no issue with two tier racks as such but they must be a quality design which make using the top deck as easy as possible (cantilever or gas/hydraulic powered) top row. They will need a maintenance plan to keep them in good condition/usable. They must also have noise dampers so as not to disturb residents". (These matters will be dealt with by condition). However, "the cycle parking must be secure and undercover; therefore the compound must be accessed via a key or similar. The racks should be located where they will be convenient and easy to use by the residents, and*

*covered by CCTV. The layout should be such that the bikes can easily be accessed – so if 2.5m space is recommended enable used to store the bikes securely then this should not be reduced. I agree 1 space per household is minimum, therefore 1 space per bed should be provided. The justification for this increase is that the car parking provision for this development is reduced. Also separate visitor cycle parking provision should be provided”.*

*Cycle parking has been increased from 119 to 140 cycle spaces.*

#### 8.10 ECC Economic Growth and Development

Thank you for providing details of the above application for up to 120 new homes. From the information I have received, I have assessed the application on the basis of 120 flats. Based on the homes with two or more bedrooms, a development of this size can be expected to generate the need for up to 5.18 Early Years and Childcare (EY&C) places; 17.25 primary school, and 11.5 secondary school places. Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

##### Early Years and Childcare

The proposed development is located within the Castle Ward. According to Essex County Council's childcare sufficiency data, published in summer 2017, there are 12 providers of early years and childcare in the area. Overall the data shows that there is sufficient places available to mitigate the impact of this development. As such a Contribution for EY&C will not be sought on this occasion.

##### Primary Education

This proposed development is located within the priority admissions area of St James Primary School which is part of the Colchester Group 8 – South/ South West Primary Forecast Group set out in Essex County Council's document 'Commissioning School Places in Essex'. The School is currently about to exceed capacity and will in September alone have a shortfall of 4 places. The demand generated by this development would be in addition to this demand. A project to provide sufficient school capacity is, thereby, proposed that would add at least 17.25 places to Colchester Group 8 School admissions area. The estimated cost of the project is £263,597 at April 2018 costs. This equates to £15,281 per place and so, based on demand generated by this proposal set out above, a developer contribution of £263,597, index linked to April 2018, is sought to mitigate its impact on local primary school provision.

##### Secondary Education

With regards to secondary school provision, the Priority Admissions Area school would be St Helena. As with primary school provision, there is just one year group in the School with any significant unfilled space. NHS data and evidence from primary school admissions suggests the size of future potential cohorts are significantly larger than the capacity of St Helena. According to forecasts set out in Essex County Council's Ten Year Plan, a substantial number of additional school places is needed to serve Colchester and, thereby, two new schools are planned. A project to provide sufficient capacity at St Helena is, thereby, proposed that would add at least

11.5 places. The estimated cost of the project is £266,961 at April 2018 costs. This equates to £23,214 per place and so, based on demand generated by this proposal set out above, a developer contribution of £266,961, index linked to April 2018, is sought to mitigate its impact on local secondary school provision. Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on education. Our standard formula s106 agreement clauses that ensure the contribution would be fairly and reasonably related in scale and kind to the development are available from Essex Legal Services. If your council were minded to turn down the application, I would be grateful if the lack of surplus education provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

8.11 Essex Wildlife Trust (EECOS Appointed by CBC to review the ecology survey work)

The ecological reports appear to sufficiently address the site's ecological issues and include reasonable recommendations.

Bats

Bats identified as using the site, trees are being retained, if retained trees are to be worked on, further survey work will be required, 'Bat friendly' lighting strategies are recommended, bat boxes will be installed on the trees and incorporated into the building design. No further recommendations needed.

Reptiles

Common Lizard on site, suggested gradual vegetation clearance and a destructive search, any reptiles found will be moved by an ecologist to surrounding suitable habitat. The applicant has suggested having some areas of rough grassland in the new habitat design and having habitat piles to support reptiles. No further recommendations needed.

Birds

Vegetation clearance to avoid March – August or to be preceded by a survey by an ecologist, active nests found need to be cordoned off, bird boxes are to be incorporated into the design.

No further recommendations needed.

### Badgers

Badger setts are present on site, a license is required, sett exclusion is needed, installation of badger gates, proofing, monitoring of the gates is required, trenches and pipes must be closed at night or there must be a method of escape. No further recommendations needed.

### Amphibians

Great Crested Newt not present, smooth newt, common newt, frog and common toad are present, a new pond has been recommended to enhance the site for amphibians. No further recommendations needed.

### Invertebrates

Over 550 invert species identified, several of which are of conservation concern or UK BAP species, installation of a pond will aid aquatic species, invert nest boxes should be incorporated into the design, there will be a two-year rotational cutting regime to help maintain invert populations. No further recommendations needed.

### Habitat

Herbicide to be applied to schedule 9 species, there should be continual management of the scrub and the management should be regularly reviewed, any monitoring should be carried out by an ecologist and areas of sandy bank and bare ground should be retained.

It is recommended that the preparation of an ecological management plan and its implementation be conditioned as part of any consent.

## 8.12 Natural England

### SUMMARY OF NATURAL ENGLAND'S ADVICE – European designated sites<sup>1</sup>

It has been identified that this development site falls within the 'Zone of Influence' (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained. In the context of your duty as competent authority under the provisions of the Habitats Regulations<sup>2</sup>, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated site through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

No objection – subject to appropriate mitigation being mitigated

We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation. We consider that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS. We are satisfied that the mitigation described in your Appropriate Assessment is in line with our strategic-level advice (our ref: 244199, dated 16th August 2018 and summarised at Annex 1). The mitigation should rule out an 'adverse effect on the integrity' (AEOI) of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these mitigation measures

#### 8.13 Fire and Rescue Service

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 Section 13. With regard to fire appliance access, to comply with ADB B5 it would appear the hammer-head turning circle needs to be extended by 3m. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

*Officer comment: the hammer-head turning circle has been revised and extended by 3 metres.*

#### 8.14 NHS

The proposed development is likely to have an impact on the services of 4 GP practices including 2 branch surgeries operating within the vicinity of the application site. These GP practices and branch surgeries do not have capacity for the additional growth resulting from this development. The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated. A Healthcare Impact Assessment (HIA) has been prepared by North East Essex CCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area. The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 276 residents and subsequently increase demand upon existing constrained services. The intention of NHS NEE CCG is to promote Primary Healthcare Hubs with co-ordinated mixed professionals. This is encapsulated in the strategy document: The NHS Five Year Forward View. The development would give rise to a need for

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improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Castle Gardens Surgery or through other solutions that address capacity and increased demand via digital solutions or health and wellbeing initiatives. For this a proportion of the cost would need to be met by the developer. A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £43,516. Payment should be made before the development commences.

North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

#### 8.15 Highway Authority

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

#### 8.16 North East Essex Badger Group

We have just, belatedly, come to know about this Application and have noted the comments from EWT that a Licence will be needed and one way gates installed. As a Group we monitor all the Setts we get to know about on a regular basis and to our knowledge there are no other related Setts in the area outside the development site. Therefore, there will be nowhere for the badgers to move out to if they are excluded from the setts on this land. As you are aware they are a protected species so do you know if the developer is arranging for an area to be set aside to accommodate them or an artificial sett being thought about? – just a few thoughts.

*Officer comment: these works will require a license from Natural England.*

#### 8.17 Landscape Officer

The landscape content/aspect of the strategic proposals lodged on 10/01/19 would appear satisfactory and there are no objections to this application on landscape grounds subject to conditions.

#### 8.18 Arboricultural Officer

I am in agreement with the Arboricultural Impact Assessment and recommend the tree report is conditioned as an approved document.

#### 8.19 Environmental Protection

Should planning permission be granted Environmental Protection have no objection subject to conditions.

### 9.0 **Parish Council Response**

9.1 N/A Unparished area.

## **10.0 Representations from Notified Parties**

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

10.2 The Civic Society comment on original application  
We object to the proposal on the following grounds  
Highway grounds.

There will be an unacceptable impact on highway safety and the residual cumulative impact on Brook Street will be severe. Brook Street is a modestly sized road carrying a heavy traffic load particularly at peak times where it acts as a part of an informal inner ring road in both directions. It is the site of continual new traffic management systems some more successful than others. Always it is an attempt to deal with queuing in both directions. The proposed site will produce at worst 120 additional vehicles needing access and egress. There is no designed solution to a need for right turns across the traffic flow unlike the access to the Sawmill Lane development with its mini roundabout.

### **Parking**

There is only a very limited provision for residents parking of 57 parking places on a site for 120 flats. There is an acknowledged design requirement for 235 places from the E.C.C There is an idealistic reliance on cycling and walking plus public transport. The cycle path forms no part of a designed cross-town route and exits only to the dangerous overused Brook Street or Magdalen Street. There is no nearby on street parking and the inner access road will of course be heavily used for resident parking to the disadvantage of public and emergency services.

### **Brook Street pollution levels**

The traffic causation of pollution in Brook Street is an acknowledged issue and a long-term aim of the Council is the reduction of same. This scheme will bring no benefit to this aim. In all traffic aspects this scheme can bring no benefit to the residents of the local area. It offers no improvement to health management and provision for the large additional impact on the local NHS services.

The design of the housing blocks appears to offer little architectural value to the locality other than to maximise the possibilities of the site. Featureless bland blocks with little merit except to offer some low cost housing .

## Civic Society comment on amended plans (September 2019)

The Society acknowledges that the application has enhanced the number of available parking places to residents to a figure now greater than the number of apartments. We note that parking on the access road will be attractive to commuters and the management company will be given responsibility for controlling parking within the site. We note too that the air quality expert regards any extra traffic from the site will have a negligible effect on the local air condition in the area of Brook Street etc from these improvements. This does seem extraordinary and rather hard to believe in one of the areas of Colchester with the worst of traffic induced air pollution. Naturally the additional traffic ingress and egress will only add to the considerable congestion in this overused street used as a means to cross the town from north to south in a commuter route. Much value is accorded to the through site pathway and cycle route. Clearly this will allow residents to access the local bus routes, but it has little value as a link in an otherwise invisible cycle route from the town centre to the Hythe. A cycle route that finishes with the middle of Brook Street has little advantage to safety or access or indeed at its other end into the middle of Magdalen Street. It is not our idea of an East Transit Corridor sadly. We note too, the redesigned nature of the blocks which now offer the local residents greater height now balanced by larger gaps through which to hope for the view of the Highwoods Country Park. The mass of these rightly called "Blocks" is hard to justify in these more enlightened days except as a method to compress as many small housing units as possible. The scheme does afford the future residents a modest area of open space and an over designed square. Is this enough for this many apartments?

We are far from convinced that this design is the best that our town can hope for or expect.

- 10.3 Three representations were received to original application objecting for the following reasons;
- Adding to existing vehicle congestion and pollution. Whilst the parking standards document mentions "reduced parking" it does not say what level is acceptable in this case it will be less than 50% required by the standards. Residents of existing flats own more than one car
  - Colchester is already overdeveloped and the development will add pressure to already oversubscribed schools, doctors, hospital, dentists and other facilities
  - Impact on wildlife
- 10.4 In May/June 2019 16 further representations were received, they include the objections set out above but also include the objections on grounds of;
- Increased use of the public footpath from Simons Lane alongside George Williams Way adding to crime and antisocial behavior.
  - Loss of green space
  - Development overbearing
  - Design not local vernacular
  - Loss of views
  - Proximity to the railway line



- 10.5 In July 2019 a petition was received with 580 signatures. The petition states;..... the main roads I focused on are as follows:  
George Williams Way  
Magdalen Street (Magadalen Green & Simons Lane)  
Brook Street (Brooklands, Saw Mill Road development)  
Hythe Hill (Barrack Street, Providence Place, Cannon Street & Rebow Street)  
East Hill (Roman Road)  
Wimpole Road  
Kendall Road  
Winnock Road

The majority of signatures are from residents of these streets but a few are from much further afield and states;

“The residents I spoke to were completely unaware of the application and once informed expressed shock, dismay, anger and incredulity that such an application was even being considered in this already highly developed area of Colchester. Also, reference was made by many to residents to the student accommodation which is currently being constructed in Magdalen Street opposite George Williams Way which will have a knock-on effect on the area. Clearly residents of George Williams Way will have additional concerns to residents of neighbouring streets but the residents of the neighbouring streets were extremely concerned about the high volume of traffic already within the area and the impact on their day to day life, traffic noise, poor air quality and subsequent health issues, lack of parking especially that residents from other roads (including George Williams Way due to the woefully inadequate parking arrangement since the introduction of the permit parking scheme) will park outside their properties and extra pressure on local public services. They recognized that these were areas of concern already and that the proposed development would inevitably exacerbate the situation”.

- 10.6 A resident of Saw Mill Close has detailed a complaint she made in February 2019, including correspondence to the local MP and the Environmental Health team, in relation to damage she alleges was caused to her property as a result of the conversion works and drainage works undertaken by the applicant.

*Officer comment: Whilst this is not a planning matter the applicant has been asked to comment and their response is set out below*

*“Her home is more than 100 metres from the application site, across Brook Street and behind the terrace that faces the east side of the road, and whilst the conversion of the former rectory to residential use included the installation of new drainage and construction of the new road that serves the whole site, no drilling was involved and the operation of a 360° excavator would not cause buildings to shake or cause damage. A subsequent inspection of the property by a representative of the applicant’s contractor found that there were some minor shrinkage cracks because of her new-build home drying out, but no evidence of damage caused by construction*

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*works. Inland Homes takes pride in its proactive approach with adjoining residents on all their developments and the scheme at Brook Street has been no exception – this was the only complaint received during the whole of the construction works on Phase 1”.*

10.7 During late 2019 early 2020 a further 3 representation were received raising additional objections

- Lack of pitched roofs no building in the area are higher than 3 storey .The existing development at George Williams Way is constantly referenced as having "3 to 4 storeys". This statement is highly misleading because the profile of the George Williams Way development does not exceed three storeys at any point. A fourth storey (if you will) only ever emerges where the valleyed topography of the site allows an extra row of apartments to effectively be "slotted in" below the rest of the building. As such, the bottom storey appears from most angles as being at basement level.

10.8 May 2020 following consultation on the amended drawings

The Colchester Civic Society has noted the amended plans from the applicant for this development. The Society does not regard the tiered galvanised balconies as an acceptable improvement to the design .Indeed the phrase regarding pigs ears and a silk purse is called to mind .The Society stands by our earlier comments on the concept , the design and the location and continue to believe that this is not a development that brings a quality of housing that our town should demand for its residents.

Eight representations have been received raising the following objections

- The 580 signatories of the Petition included residents of George Williams Way and Brook Street who will be those most directly affected by the proposed development, together with residents of neighbouring roads who will also be severely impacted due to the already high volume of traffic and associated traffic noise, poor air quality and subsequent health issues, lack of adequate parking arrangements and the additional pressure on the local services. It is generally recognised that Colchester is a town which is over-developed, with a high proportion of new constructions being flats, and has a worrying pollution problem.
- The issue of pollution within Colchester is often addressed in the local newspaper – and reference has, on a number of occasions, been made specifically to Brook Street as studies have shown that extremely poor levels of air quality have been recorded. A selection of articles from the Colchester Gazette illustrating the significance of pollution in Colchester in general and also specifically in Brook Street have been submitted. The articles demonstrate, the concerns the local residents with regard to this proposed development are validated/substantiated – various charities, organisations and even Colchester Borough Council itself acknowledges that various issues need to be urgently addressed in respect of the existing high volume of traffic, poor air quality and related health concerns in Colchester and, most significantly, in Brook Street. We are

justified in our position that we consider planning permission for any further flats should not be granted when taking into consideration the detrimental impact it will inevitably have on the existing issues already faced by residents of Brook Street and the surrounding area – especially in terms of health concerns.

- The creation of 120 flats will clearly generate further difficulties for Brook Street and neighbouring roads – causing a substantial amount of additional traffic, noise and pollution. In addition to the residents' vehicles, there will also, for example, be visitors' vehicles, taxis, Royal Mail vans and delivery vans/lorries to take into account.
- We understand that the two developments will be “linked” with the residents of the proposed development being able to access the George Williams Way site via gates which will lead to an increase in footfall. I believe it would be more desirable for the George Williams Way residents if the two developments were regarded as two separate entities without an immediate access. George Williams Way does already experience a variety of anti-social problems i.e. graffiti on the buildings facing the proposed development, bins set alight and undesirables loitering around the communal green area/bin stores the level of anti-social behaviour will be increased.
- The George Williams Way development was created with insufficient parking provision. The situation has been further exacerbated by the introduction of the permit parking scheme which has not only affected the George Williams Way residents but also inadvertently the residents of neighbouring roads – the George Williams Way residents unfortunately having no other option but to park on nearby roads thus causing difficulties for those residents.
- Loss of wildlife
- Impact on services
- Loss of outlook and views, overlooking
- I am for the 3rd or 4th time writing to highlight the destruction, this awful building company caused to my property and the surrounding area.

## **11.0 Parking Provision**

- 11.1 The adopted Vehicle Parking Standards for Class C3 dwelling houses are set out below

Use	Vehicle	Cycle	PTW	Disabled
	Minimum	Minimum	Minimum	Minimum
1 bedroom	1 space per dwelling*	1 secure covered space per dwelling. None if garage or secure area is provided within curtilage of dwelling	N/A	N/A if parking is in curtilage of dwelling, otherwise as Visitor/ unallocated
2+ bedroom	2 spaces per dwelling*			

Visitor/ unallocated	0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number)	If no garage or secure area is provided within curtilage of dwelling then 1 covered and secure space per dwelling in a communal area for residents plus 1 space per 8 dwellings for visitors	1 space, + 1 per 20 car spaces (for 1 <sup>st</sup> 100 car spaces), then 1 space per 30 car spaces (over 100 car spaces)	<b>200 vehicle bays or less</b> = 3 bays or 6% of total capacity, whichever is greater, <b>Over 200 vehicle bays</b> = 4 bays plus 4% of total capacity
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## 11.2 The informative notes include the following statements;

Reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport (See Parking Standards in Urban Areas section).

Car Clubs should be promoted in low provision/car free residential developments and car club spaces provided.

### Parking Standards in Urban Areas

For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling

and walking links, accessing education, healthcare, food shopping and employment.

- 11.3 The application proposes 119 car parking spaces and provision for 140 cycles.

## **12.0 Accessibility**

- 1.21 Please refer to Design & Access Statement regarding duties under the Equalities Act. This states “The preparation of the scheme has been undertaken in line with current best practice contained in BS8300:2018 (Design of an accessible and inclusive built environment) and Building Regulations Approved Document M (2016 edition). It is the intention of Inland Homes that everyone can enjoy their developments with no discrimination and no barriers.” The development provides for some units at street level with direct entry for those with restricted mobility. The remainder of the apartments at upper floor levels are however served by a stair core.

## **13.0 Open Space Provisions**

- 13.1 The development includes a private amenity area of approx. 2000 square metres; a public open space, including a LEAP, of approx. 1270 square metres; a biodiversity zone of approx. 862 square metres and in addition approx. 1/3 of the whole site will remain as a green space. The public open space is more than 10% of the developable area of the site and satisfies the Councils standard of 10%. In addition to the private amenity area all the apartments (other than those on the ground floor) have a balcony, approx. 50% of the balconies exceed 5 square metres and therefore form part of the private amenity space calculation. The Councils standard require 25 square metres of private amenity space per flat which equates to 2975 square metres. The private amenity space provided is 2000 square metres and 50% of the apartments have a balcony of 5 square metres and the minimum private amenity space required is therefore exceeded.

## **14.0 Air Quality**

- 14.1 The site is within the Air Quality Management Area. An Air Quality Assessment has been submitted with the application which has been assessed by Environmental Protection and their specialist, following the submission of a revised report they commented “The assessment now follows an approved methodology, uses 2018 air quality monitoring data and up-to-date emission factors. The significance of impact has been identified as negligible across most receptors in Brook Street with the exception of one location where a slight adverse impact has been identified. It should be noted that although the negligible impact has been predicted, the proposed development does cause an increase of emissions in Brook Street which at some locations are predicted to be borderline with the air quality objectives at the opening of the development. This should not prevent development as long as suitable mitigation measures are provided. The transport statement identifies that new applications should enable charging of plug-in and ultra-

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low emission vehicles in safe accessible locations (paragraph 2.1.11). I would recommend EV charging points be conditioned for installation in parking areas, ideally within undercroft parking areas at a rate of 20%. In addition, I would recommend suitable arrangements to be provided within the cycle parking areas for charging ebikes”.

## **15.0 Planning Obligations**

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. The following planning obligations were requested;

- Affordable Housing 20%
- Communities a contribution of £198,000
- OpenSpace Sport and Recreation a contribution of £67,716 subject to satisfactory on site provision
- Education a total contribution of £530,558.00 ECC are not seeking a school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available
- CBC Transport & Sustainability – Walking and Cycle Link to the Town Centre and University and Hythe Station/walking and cycle link through to the town centre to the west of the site. Modify the design of the open space area to allow a potential connection to be made through the northern boundary at a later date by the local authority to connect a walking and cycle route towards the town centre for delivery with the transit corridor. Improvements to the bridge and Ernulph Walk (CCTV and lighting needed) to allow better access to Priory Street. (via S278) Provide a suitable, safe crossing point on Brook Street to allow pedestrian and cycle access to the Saw Mill Road development and access to the Wivenhoe Trail and beyond. (via S278)
- ECC Highways - Works to be conditioned and delivered either as part of the site or by a s278 agreement a) Upgrade to current Essex County Council specification the two bus stops which would best serve the proposal site b) Upgrading of the footway along the western side of Brook Street between the proposal site access and the mini roundabout to the south to a shared footway/cycleway c) A cycle link between Brook Street and the site's westernmost boundary d) Improvements to the north-south footpath (which crosses over the railway) between the east-west footpath and Priory Street e) Residential Travel Information Packs
- NHS a contribution of £41,630, increased to £43,217 (following the addition of 4 units a total of 119).

15.2 In addition to the above a RAMS contribution of £14,944 is required.

15.3 Following confirmation of the planning obligations required, the Applicant submitted a Viability Appraisal, which concluded that the development would be unviable if the financial contribution exceeded £400,000. Paragraph 173 of the NPPF states that ‘pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of

obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.’ Therefore, issues surrounding the viability of the scheme need to be assessed and taken into consideration.

- 15.4 The appraisal underwent an Independent Viability Review by BPS Chartered Surveyors who agreed that the development would be unviable if all the planning obligations were pursued and the financial contribution should not exceed £400,000.
- 15.5 The application has therefore been re-considered by the Development Team to decide how the £400,000 should be apportioned. Whilst the BPS report is accepted Development Team considered a mechanism for reviewing viability was required as costs could change as and when the site is actually developed leading to a potential surplus over and above the developer’s accepted profit of 17.5%.
- 15.6 The Development Team agreed the £400,000 should be apportioned as follows;
- RAMS £14,944.00
  - NHS £43,217
  - To fund a single affordable 2-bed unit off-site estimated £150,000
  - CCTV/ lighting(estimated cost)
  - Computer facilities within nearby community facility £5000
  - Once these projects are funded any remaining monies to go to ECC Education

## **16.0 Report**

### **16.1 The main issues in this case are:**

#### **The Principle of Development Policy Background and Principle of the Development**

- 16.2 One of the core planning principles set out by the National Planning Policy Framework (NPPF) is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. The application site is brownfield land, so its redevelopment would be encouraged, subject to material planning considerations.
- The Council’s Core Strategy (CS) provides the spatial strategy for the Borough and this directs development towards the most accessible and sustainable locations, and plans for the provision of transport, employment and community facilities to support identified growth areas. Within the adopted Core Strategy policy SD1 identifies the “East Growth Area” (which includes the site) as a strategic area for new development. Policy H1

confirms that housing development will be focused in strategic areas, to meet the Borough's housing target. The site also has a specific allocation within the adopted Site Allocations Development Policies Document where the site forms part of "Land to North of Magdalen Street", and allocated for 'predominantly residential' development under policy SA EC1. The site is also within "East Colchester Special Policy Area 3" (Magdalen Street) – policy SA EC5. Here, housing development will be extended and consolidated, and other small scale uses that are compatible with overall housing proposals will be permitted. In addition, the policy confirms that land will be safeguarded adjacent to the railway line, in order to provide for a future transit link (ETC) and will also include footpaths and a cycleway.

- 16.3 Policy SA EC8 refers to 'Transportation in East Colchester', and confirms that land will be safeguarded for the transit link between Colne Causeway and Recreation Road, and alongside the south of the railway from Hythe Station (Station Road) to Colchester Town. Supporting paragraph 5.80 confirms that the exact requirements of safeguarding shall be agreed on a site by site basis either within an agreed Development Brief.
- 16.4 In 2014 the "Magdalen Street Rail Sidings Site brief was adopted as Supplementary Guidance. The aim of the brief was to guide future development at the site and not to be prescriptive. The brief identifies that the site is in close proximity to the Town Centre, as such, suitable development to create connectivity between this part of the Town and main Town Centre is desirable. It states a cycle way/pedestrian access needs to be provided to allow ease of movement between Brook Street and Magdalen Street/St Botolphs and land must be safeguarded for the Eastern Transit Corridor. Due to the levels of the site buildings ranging from 2 to 3 storeys were considered acceptable. The brief proposed a linear form of development comprising 70 units with 6 buildings at right angles to the road with vehicle parking between some buildings. The brief assumed vehicular access would involve upgrading the existing access road on the embankment from George Williams Way. At the end of the embankment this road had to turn through 180 degrees to return along the lower part of the site to provide access to the development, this resulted in a smaller developable area.
- 16.5 The application reserves land required for the transit link and includes a footpath cycleway link these matters will be secured in a legal agreement.
- 16.6 The development of the site for residential purposes is acceptable in principle and in conformity with adopted policy.



## **Design and Layout**

- 16.7 As described above the topography of the site means it is set below the surrounding landform and therefore there is little opportunity to create a relationship with adjoining residential development. The design ethos the applicant has adopted is “to establish a distinctive contemporary character that makes the most of the relative isolation of the built form” “Lifting the buildings so that they stand above the car parking on piloti.”
- 16.8 The scheme has undergone extensive amendment since the original submission to achieve good design in terms of providing an active frontage on the ground floor and to achieve appropriate form and architectural detailing.
- 16.9 The units are split between five buildings, regularly spaced at 20 metre intervals along the northern side of the road. Each building is almost identical to the next, creating rhythm to the street. The internal layout of the apartments means they face outwards in all directions creating informal surveillance of the public realm to the south, the parking and amenity spaces.
- 16.10 Officers were concerned that the regularly spaced buildings with a repeating design could lack interest, particularly when viewed from a distance. A range of amendments have been agreed, the most significant is the articulation of the top floor of each building. The top floor is now “stepped in on all sides from the main elevation; there is also a change in material as this floor will be clad in vertical timber boarding. These amendments produce greater interest and modulation in the roofscape and visually this floor will appear more visually recessive and subordinate. This amendment resulted in the loss of 5 units a total of 115. Architectural detailing to the buildings has been enhanced by inset balconies on the southern elevation to either side of the central stair core, wrapping around the corners to the east and west sides of the buildings and finished in an orange, yellow or green render; and by expressing the stair core as a separate element that projects forwards and above the main part of the building and finished in off-white render, recessed panels in the brickwork which will add shadow lines and texture to the side elevations. Architectural interest is added to the functional elements in the undercroft space by the addition of the brick paneling and painted metalwork. The principle material is buff brick.
- 16.11 To create active frontage to the street four individual one bedroom units have been introduced into the proposed scheme, one each to blocks B, C, D and E (there is no ground floor to Block A because it sits against bank and is effectively entered on the first floor) bringing the total number of units to 119.
- 16.12 A final amendment is the addition of external balconies to the sides of the blocks, a stepped form is proposed with each balcony extending 500mm beyond the one above; this stepped form was negotiated to improve the outlook of the units which overlook the car parking courts. The stepped form also compliments the set back to the upper floor of the building.

- 16.13 The contemporary design proposed, takes advantage of the relatively isolated nature of the site. There is no development nearby that can be seen or read in the same context as the proposed development and the design is considered acceptable
- 16.14 A linear layout, on an east -west axis, is proposed with the 5 blocks on the north side of the access road. At the end of the road is an area of public open space, including a play area, available to the wider public and creating a destination at the far end of the street. This open space takes access directly from the street and is overlooked by the new homes in the westernmost block of apartments, making it safe and secure to use. A private area of open space for residents is also proposed.
- 16.15 Car and cycle parking and refuse facilities are provided on the ground floor of the buildings with further car parking provided between blocks A-B, B-C D-E. The land to the south of the access road is remodeled and retained with a timber crib wall. It will be maintained as amenity land and will also contain the pedestrian cycle path on the line of the former access from George Williams Way. The path will join the new access road and to the edge of the rapid transport route.
- 16.16 The steeply sloping southern edge to either side of the former access way already contains mature landscaping and it is proposed to be landscaped further as part of the redevelopment of the site, meaning that there will be a buffer of planting that interrupts direct views between the buildings. In addition to being placed at a lower level so that the new buildings are no taller than the existing block of apartments, the face-to-face distance is always more than 30 metres, rising to more than 40 metres at the south eastern corner where houses face towards the site
- 16.17 The relocation of the boundary to the East Colchester Rail Transit route creates more space to the north of the buildings, where additional landscaping is proposed. Approximately half of the site is now used as amenity and green space.

### **Scale, Height and Massing**

- 16.18 Although the bulk of the built form would be significant on this site it is considered that the design and arrangement of the development ensures that it would not appear as monolithic within this setting. The articulation of the upper floor of the buildings and a simple palette of materials help to break up the mass of individual elements. Furthermore, architectural detailing and use of balconies add visual interest to the buildings. Whilst there is a repeating design with equally-spaced blocks and a consistent height of the buildings it is not possible to view all of the blocks together from within the site, other than at an oblique angle along the length of the new estate road. There are only limited long views of the site from the outside and the gaps between the buildings ensure that their bulk and mass is carefully managed and the five blocks do not read together. The long frontage of the buildings to the south on George Williams Way has become

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a feature of the Colchester skyline and the white rendered, four storey elevations can be seen from many parts of the town including Firstsite. The proposed scheme will sit at a lower level and in front of the existing buildings, with the separate blocks ensuring that they have a lesser visual impact.

### **Impact on the Surrounding Area**

- 16.19 Although the site is at a lower level than the surrounding development the buildings are all 5-storeys high. A Townscape and Visual Appraisal report was requested by officers to determine the visual impact of the buildings and an assessment of the impact of the increased height and mass of the buildings when compared to the approved scheme. Officers were particularly concerned at potential views from the grounds of St Botolphs Priory and Priory Street. The Urban Design Officer was also concerned that the proposed height might contradict and inappropriately distort the valley topography and views.
- 16.20 The report looks at the extent of the visibility of the approved and proposed development from the surrounding roads, public footpaths and residential properties within the surrounding townscape. It also assesses how views from viewpoints within the country park to the north would change. Viewpoints were agreed with officers and further viewpoints submitted following a site meeting.
- 16.21 Following a detailed site visit officers established the development would not be conspicuous from North Hill, Brook Street or Priory Street and that the long view across the town from High Woods Country Park would not be compromised. The development will be seen through the gaps between buildings on Brooklands and George Williams Way, the PROW and the footbridge that crosses the site. The site is screened from the wider townscape by the buildings to the south, by the houses and intervening garden trees to the north and from Brook Street by a change in ground levels.
- 16.22 The drawings compare the proposed development with that approved under application 152730. This was a hybrid application part full for the conversion of the former rectory, now completed, and new build and part outline, for the same land as the current application, whilst in outline layout and form were approved with only design left for the approval of reserved. Approval was given for a linear building fronting the access road. The buildings were part 2 storey, part 3 storey with a pitched roof equivalent to 2.5 – 3.5 storeys of if a steeply pitched roof equivalent to 3 to 4 storeys.
- 16.23 The information in the report and site visits identified a semi-public view from decked terrace to the rear of Firstsite, a view from the square within the centre of the grounds of St Botolphs Priory, a view from the centre of the station (Britannia) car park to the west and a semi-public view from the platform at Colchester Town Railway Station to the west. There is also view from public seating adjacent to the obelisk within the square on George Williams Way.

- 16.24 Having assessed the submitted information and having walked the area viewed the site from the key viewpoints officers are satisfied the development would not have an adverse impact upon views from the station, St Botolphs Priory or First site. Whilst the buildings will be at the same height as those on George Williams Way they are at a greater distance from these viewpoints and they will also be located behind a wildlife area and area of open space. This vegetation and new landscaping will effectively filter any views. It must also be remembered that current views are across land, the former bus station rear of Queen Street and Britannia car park, where redevelopment is likely to take place.

### **Impacts on Neighbouring Properties**

- 16.25 The new buildings face towards the existing flats in George Williams Way, these flats in are built right up to their north site boundary and separated from the site by a PROW. This development is high density with little amenity space, they do not have a traditional front and rear elevation, the north elevation has “borrowed” amenity across the application site and the south elevation faces parking areas. The application site is set at a lower level than the surrounding land and the proposed buildings will be the same level as the flats in George Williams Way. The new buildings will be over 30 metres distant, increasing to more than 40 metres from the face of the apartments in George Williams Way. Retained trees in groups and individual trees on the southern embankment and on the south boundary will filter views of the buildings. It is considered that due to the intervening separation distance and the existing and proposed landscaping the resultant impact on amenity is acceptable. Residents have expressed concern regarding overlooking from balconies, it is possible to add a condition requiring a privacy screen to the end of the balconies on the side elevation to remove the possibility of overlooking from these balconies.
- 16.26 The proposed parking provision, which is below the Councils adopted parking standard, is detailed above. Residents are concerned vehicles from the development would put pressure on the already limited number of roadside parking spaces. George Williams Way, Brooklands and Saw Mill Road all benefit from a controlled parking zone and on-street parking is therefore only available to holders of a parking permit. A permit to park in a particular road can only be purchased by residents of that road. Residents of the proposed scheme will not be able to obtain a permit to park in other adjacent roads. Brook Street and Magdalen Street both have parking restrictions. It is therefore considered parking on adjacent streets will consequently not be adversely impacted by the development.
- 16.27 A Noise Assessment is submitted as part of the application for planning permission. In addition to considering the potential impact of railway noise on the new homes, it also reviews noise from road traffic generated by the proposed scheme and finds that there will be a 0.1 dB increase on Brook Street and Wimpole Road and no change on Barrack Street and Magdalen Street. This report concludes changes to the existing noise environment will be negligible. The construction phase is likely to cause noise and disturbance and, as such, the Council’s Environmental Protection team has

recommended conditions to limit the hours of work and establish a construction method statement. This is considered to ensure that the amenity of local residents is protected as far as reasonable.

- 16.28 A public footpath extends from Magdalen Street along Simons Lane and then along the boundary of the site with the apartments in George Williams Way. Residents are concerned the development will increase footfall along these paths leading to an increase in the existing anti-social behaviour and disturbance. The proposed scheme does not change any connections but does include improvements to lighting and CCTV. It is expected that more people walking and cycling through George Williams Way will create better surveillance of the public realm, reducing opportunities for anti-social behaviour and creating a more vibrant public realm. The same principle applies to Simons Lane, Childwell Alley and Ernulph Walk, all of which would benefit from the informal policing that would be generated by greater use.
- 16.29 Residents are also concerned at the impact on air quality. The site is within the Air Quality Management Area and an Air Quality Assessment has been submitted, the report has been independently assessed and concludes emissions should not prevent development as long as suitable mitigation measures are provided including electric charging points for cars and bikes.
- 16.30 Residents refer to the loss of an important local wildlife habitat. The principle of development was established by the previous outline permission. Furthermore, the site is not subject to any statutory or non-statutory wildlife designations. Habitats on the site are not considered to be of ecological importance, as described in the Ecological Appraisal. Mitigation measures are proposed to minimise harm to protected species and secure the opportunity to create biodiversity benefits in the land at the eastern end of the site and to the south of Magdalen Green. Works affecting badger setts will require prior consent license from Natural England.

**Highway Matters Parking and Cycling Provision (including sustainability and accessibility)**

- 16.31 Vehicular access into the site will be gained via Brook Street; the first section of the vehicle access route has already been constructed and is in use to serve the former Rectory. A simple priority junction arrangement is provided, with site access being the minor arm. The design speed of the access road is 30mph and the required visibility splay of 43m can be achieved in both directions. The proposed vehicular access to the site includes footways on both sides of the carriageway. The access road is designed in accordance with the standards for adoption set by Essex County Council and has been subject to tracking and swept path analysis to ensure that it can safely accommodate emergency vehicles and refuse freighters. However, due to the gradient of the slope down from Brook Street the road will not be adopted, it will be privately owned and maintained in perpetuity by a management company that will also be responsible for the maintenance of the site.

- 16.32 A 3.0m wide cycle and footpath link is proposed along the southern length of the site using the former access way from George Williams Way. This path will link to Magdalen Street via George Williams Way and also link to the pedestrian footbridge over the railway line leading to Priory Street to the north.
- 16.33 The application includes a Transport Statement (TS) the scope of which has been agreed with the Highway Authority. The TS includes
- Assessing the accessibility of the site by walking, cycling and public transport;
  - Reviewing personal injury accident data for the most recent five-year period (2011 to 2016);
  - Assessing parking requirements, based on the Essex's Parking Standards and car ownership data (based on 2011 census);
  - Assessing the impact of the proposed development for the year of application (2018) and the year of application + 5 years (2023);
  - Factoring the surveyed traffic flows to 2023, using locally adjusted NTM growth forecasts;
  - Determining trip generation rates for the proposed development based on a review of TRICS 7.5.1 trip generation database;
  - Distributing development generated traffic based on 'Journey to Work' statistics from the 2011 Census; and,
  - Considering the impact of the proposed development on the surrounding highway network
- 16.34 Accident analysis includes personal injury data obtained for the period 2012 to 2016 (inclusive) for the area around the site. The study area; includes key routes and junctions surrounding the site, together with the location and severity of accidents that occurred within it. The data indicates that five serious and 17 slight accidents occurred in the study area, which resulted in 22 casualties. It further indicates that
- 13 accidents involved cyclists, of which four were serious;
  - Three accidents involved motorcyclists; and,
  - Three accidents involved pedestrians.
- The TA considered that this is typical for the nature of the road and traffic flow and it therefore, considers that the proposed development will have only a minimal impact on road safety.
- 16.35 Information in the TA regarding car ownership in the area indicates car ownership is lower than Colchester as a whole due to its sustainable location. It reports that in the immediate area, each home owns 0.64 to 0.84 cars compared to a car ownership rate of 1.26 in Colchester as a whole and 1.37 across Essex.
- 16.36 The development proposes 119 car parking spaces which equates to one car parking space for each residential unit, provision is also made for 140 cycles. The adopted parking standards for residential dwellings are set out in the Parking Provision section above. 119 units are proposed comprising 14 1-bed and 105 2-bed units. To satisfy the adopted standard 249 spaces are required, (14 x 1 + 105 x 2 + 30 visitor spaces = 254), 119 spaces

represents 47% of the total. The cycle parking exceeds the minimum required. Policy DP19: Parking Standards of the Development Policies DPD (2010, 2014) states within the explanatory text that “Highly accessible town centre locations, however, are considered to be examples of appropriate candidates where car free and low car developments could succeed given the ready access to alternatives transport methods to private vehicles.”

- 16.37 The TS acknowledges that the proposal does not meet minimum parking standards and draws attention to the parking standards guidelines (also referred to in the parking Provision section above) which state that ‘reductions of the vehicle standard may be considered if there is development within an urban area (including town centre locations) that has good links to sustainable transport’
- 16.38 The TS provides the following justification; “It is considered appropriate to reduce the parking requirement as the site meets a number of the points that are usually considered when determining parking provision, including:
- The scheme consists entirely of apartments, which typically have lower car ownership rates than houses. Flats and houses are treated the same in the standards despite evidence showing that lower car ownership rates are associated with flats;
  - The parking spaces will be unallocated as this provides the most efficient use of parking and spaces can be shared across residents with different car ownership and usage profiles;
  - The site is located within easy walking distance of Colchester town centre;
  - There is good access to public transport; and,
  - The level of cycle parking provided meets the standards”.
- 16.39 The TA also refers to National Planning Policy Framework (NPPF) July 2018 In particular paragraph 108 the matters to be taken into account in assessing new development
- Appropriate opportunities to promote sustainable transport modes can be – or have been taken up given the type of development and its location;
  - Safe and suitable access to the site can be achieved for all users; and
  - Any significant impacts from the development on the transport network, (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 16.40 The TR also refers to paragraph 109 of the NPPF which states “Development should only be prevented or refused on highway grounds if there would be an ‘unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’.
- 16.41 The site is in a very sustainable location. Magdalen Street includes a Tesco Express, an Aldi food store and Takeaways. There is a dentist in Wimpole Road and doctors’ surgeries on East Hill. The site is within easy walking distance of Colchester town centre where there is a full range of retail, social

and employment opportunities. A foot path/cycle way is proposed within the site which will link to existing footways to the town centre, local schools and the wide range of other facilities in the vicinity. To the north of the site there is a pedestrian footway which extends over the railway line to Childwell Alley and Priory Street. The closest local cycleway is part of the National Cycle Network (NCN) 400m to the north of the site on East Street, this long-distance route (Ipswich -Harwich) passes through Colchester a second cycle route can be joined via St Botolph's Street linking Colchester to Chelmsford and Ipswich. Local buses provide hourly services to Greenstead, Clacton, Brightlingsea, Jaywick and Frinton-on-Sea. There are bus stops on Magdalen Street, additional bus services can be boarded on East Hill and at Colchester Bus Station. Colchester Town railway station is located approximately 850m walking distance from the site. Residents will be provided with Residential Travel Information Packs.

- 16.42 Of the 119 parking spaces, 20% will be equipped with electric vehicle charging points. Provision is also made for 140 cycles and electric bicycle charging points will also be provided.
- 16.43 The application also includes the creation of a car club, in association with Love ur car (LUC). A car will be purchased and based at the site with a dedicated space. In addition, each resident will be provided with a free three-year membership and £50 driving time credit.
- 16.44 Whilst car parking is below the Councils adopted standard, the site is in a sustainable location within easy walking distance of Colchester town centre and there are a range of facilities available in the nearby streets. Sustainable modes of transport form part of the application and the site is conveniently located for access to the Colchester town railway station and Colchester bus station with some bus routes close by on Magdalen Street.
- 16.45 The access road will be managed by a management company who will also control parking, keeping the street clear and ensuring that the parking areas are restricted for use by residents and their visitors. Parking in the residential streets adjacent to the site is controlled either by "resident only parking" measures or by parking restrictions. The Colchester Parking Partnership only issue parking permits to residents who live in the street to which the permit relates. So it would not be possible for residents of the development to have a permit to park elsewhere.



- 16.46 The sustainable location of the site and the justification put forward in the TA are considered to be sufficient to justify a lower car parking provision, given the high levels of connectivity and accessibility (in accordance with the provisions of DP DPD Policy DP19). The TA also demonstrates that the proposal would not result in adverse harm to the road network. The Highway Authority has confirmed the proposed layout and access are acceptable in highway terms and they have not expressed any concerns regarding the findings and conclusions of the Transport Assessment. Policy DP19 of the Council's Adopted Development Policy document also confirms that "*A lower (parking) standard may be acceptable...where it can be clearly demonstrated that there is a high level of access to services, such as town centre location*". A legal agreement and conditions will secure the sustainable modes of transport identified in order to improve the connectivity of the site and reduce the reliance on the private car.

### **Drainage and Flood Risk**

- 16.47 Council policy seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk and follows advice in the NPPF which states at paragraph 155 "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere." and at paragraph 165 that all major developments should incorporate SuDS unless there is clear evidence that this would be inappropriate".
- 16.48 There are 3 flood zones 1, 2 and 3, "Flood Zone 1: Low Probability, defined as land assessed as having less than a 1 in 1,000 annual probability of river or sea flooding (<0.1%). The overall aim of Government and Local policy is to direct new development to Flood Zone 1 (FZ1).
- 16.49 The site including the development footprint is located entirely within Flood Zone 1. A Flood Risk Assessment (FRA) is not normally required within FZ1 except in certain defined circumstances. one of which is where a site exceeds 1 hectare where a site specific FRA is required. As the site exceeds 1 hectare the supporting documents include a FRA incorporating a Surface Water and Foul Water Drainage Strategy and Geo-Environmental Assessment. These documents have been considered by the Lead Local Flood Authority and Anglian Water. The Environment Agency was also consulted and responded to say the application was not within their remit.
- 16.50 The FRA explains that the River Colne is located approximately 340m east of the site boundary, and a secondary water course, Salary Brook river is located approx. 2km south east of the development. Although the site is in FZ1, Environment Agency mapping shows the west bank of the River Colne benefits from flood defences. Due to the close proximity of the River Colne flood levels for the site were obtained from the Environment Agency and this data indicates that the flood level for 1 in 100 year (1%) including climate change is at 5.10m AOD, the site is at a level of approx. 14.25m AOD and

is surrounded by steep slopes with levels from 18.30m AOD to 22.00m AOD therefore the site is above the potential flood level.

- 16.51 The FRA also indicates Environment Agency mapping identifies the site as being outside any Groundwater Source Protection Zones and that it is not susceptible to groundwater flooding. Anglian Water mappings shows there are foul, surface and combined sewers located within the area. The site is therefore not at risk from tidal flooding or fluvial flooding (rivers) or reservoir flooding.
- 16.52 However, notwithstanding the above, the applicants Geo-Environmental Report has identified that the groundwater level within the site can be very high and seasonally influenced. Tests have shown that in January the groundwater was encountered 'at' or 'close to surface' levels for the lower lying parts of the site those areas of approx. 14metres AOD. Two separate registered cases of weather-related flooding have been identified, one is located within the development's boundary, and the second one is located at close proximity to the boundary. A single area of potential high risk will form part of an open space with soft landscape only. To overcome this issue the ground level where the buildings are proposed will be raised by approx. 1metre resulting in an average lowest ground levels around the new buildings in the region of 15.40m AOD. This will reduce the groundwater flooding risk to the new buildings and the site.
- 16.53 As the site is currently undeveloped the proposed development will change the drainage regime of the existing site by increasing the impermeable surface water area and could therefore increase the runoff flow rate, volume and the potential risk of surface water contamination. To overcome this surface water runoff will be collected using porous paving draining into a tanked storage facility providing attenuation. Subsequently the flows will be discharged via a pipe network at a controlled rate to the existing AW surface water network located along the site entrance. The SuDS system for the site has been designed to accommodate surface water flows for a 1 in 100 year storm event plus 40% climate change this will mitigate the risk from overland flows within the proposed development. The foul drainage system will connect to the public sewer system. The foul water flows will be directed to the rear of the development via gravity sewer and subsequently pumped, via an onsite pumping station, to the existing foul sewer into Brook Street.
- 16.54 The drainage proposals and the conclusions in the submitted documents are accepted by both the Lead Local Flood Authority and Anglian Water. The Environment Agency has confirmed they have no comment to make on the application.

## **Trees and Landscape**

- 16.55 The site contains a number of tree groups and individual trees, there are no tree preservation orders or category A trees; the majority of trees being self-seeded. The tree groups comprise sycamore, goat willow, willow and birch with individual tree mainly sycamore and goat willow with a single holm oak and a walnut. The groups of trees are located in the west corner and south boundary of the site; linear groups are also on the southern embankment either side of the former access road and along part of the east boundary. Individual trees are mainly located close to the south boundary. A number of the tree groups and individual trees are required to be removed to facilitate the proposed development a further two individual trees are recommended to be removed based on their condition.
- 16.56 Much of the tree removal relates to tree groups made up of self-seeded species predominantly sycamore and willow. The application documents include an Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Constraints Plan and Tree Protection Plan and Tree Survey these documents categorise the trees and identify in written form and on drawings which are to be retained and which removed.
- 16.57 Although, a number of groups of trees and individual trees are to be removed; the majority were approved for removal under the earlier planning permission. Trees on the southern embankment to the north of the tarmac road will be removed where the embankment is remodeled to accommodate the new access road. Part of the group of trees in the west corner will be removed to accommodate the open space. Whilst the trees are all low category; they do have some screening value, particularly those on the southern embankment either side of the existing access way and those close to the southern boundary. The landscape proposals seek to mitigate tree lost by replacement of trees with larger, longer lasting species; a new planting scheme is secured by condition.
- 16.58 The Council's Arboricultural Officer has advised that the Arboricultural Impact Assessment submitted is acceptable; the vegetation that would be removed from within the site as a result of the development is of moderate value at best. Conditions will be required to ensure that the impact assessment is an approved document and that tree protection measures will be carried out during demolition and construction works. Subject to these conditions, the proposal is not considered to have an adverse impact on trees and therefore respects its landscape setting. The Landscape Officer is satisfied with the proposed landscape scheme.

## **Habitat/ Ecology**

- 16.59 The Ecological Appraisal accompanying the application describes the site "as comprising an open mosaic habitat including scrub and grassland which has colonized over hardstanding, other habitats present include an Ephemeral pond, two wet ditches and areas of common reed". The site and the area adjacent to the site are not subject to any statutory or non-statutory nature conservation designations and the submitted Phase 1 habitat survey

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confirms that the site is dominated by habitats not considered to be of ecological importance. However, the report indicates that “where open mosaic habitat is to be found it is considered to be of elevated value and the proposals for the redevelopment of the site are therefore required to mitigate for any loss through new habitat creation as part of the soft landscaping scheme”.

- 16.60 The phase 1 habitat survey assessed the trees for their suitability to support roosting bats and the site was walked to ascertain the level of usage for foraging or commuting bats, a badger survey was undertaken with 2 subsequent surveys for evidence of badger setts and badger activity, all the water bodies within and adjacent to the site were surveyed for great crested newts and reptile survey, breeding birds invertebrate surveys were also carried out.
- 16.61 In respect of bats the reports conclude that, although there are tree groups and individual trees on the site only one tree was identified as suitable for a bat roost a semi -mature sycamore which is to be retained and there were only low level of bat activity during the walk over of the site. The site is therefore of low level value to bats and subject to a lighting condition and enhancements bats will be fully safeguarded under the proposals. The survey work resulted in no records of any other protected, rare or notable mammal species either within or adjacent to the site. Mammals which are likely to utilise the site such as foxes do not receive specific protection. Hedgehogs were recorded, however they remain common and widespread and there is abundant similar habitat in the form of dense scrub present in the local area. There is no evidence to suggest the proposal will significantly affect local populations of these species. The report recommends precautionary safeguards which are secured by condition.
- 16.62 A Badger Survey report has been submitted, this document which identifies a number of badger setts is confidential as badgers are a protected species. The report indicates the site was first surveyed in 2014/15 when no badger setts were found, in 2017 during site clearance works 2 setts were recorded although not all were recorded to be active. A further field survey was carried out in 2018 when six confirmed badger setts were recorded, however not all were recorded as active. Foraging scrapes and mammal trails were also recorded within the site, although these could not be confirmed as Badger. Of the six setts 3 are identified as Likely Inactive Outlier/Subsidiary Sett and three as Likely Active Outlier/Subsidiary Sett. The report states “As the use of setts by Badgers is a dynamic process and new setts can appear at any time or disused setts become reinstated, it is strongly recommended that a check survey be undertaken within 3 months of site preparation/construction works commencing, in order to verify that the level and location of any Badger activity has not significantly altered and to inform the license application. This will also be a requirement of the license application. The report indicates one of the likely active setts will be retained and should have a buffer around it and 2 are likely to require temporary closure to facilitate the development and safeguard the badgers. The main sett, which would be of higher importance, is not present within the site and is likely to be located within other suitable habitat within the local area. As such, it is

considered that the potential disturbance of a sett and the temporary closure of 2 setts would not significantly affect Badgers within the local area. The temporary closure of the 2 setts would require a mitigation license from Natural England for which a detailed method statement to safeguard the local Badger population would be produced.

- 16.63 The report identifies a range of measures to safeguard Badger should they enter the site during construction works including;
- trenches within the site that are to be left open overnight will be provided with a means of escape should a Badger enter
  - temporarily exposed open pipes should be blanked off at the end of each working day
  - trenches/pits will be inspected each morning to ensure no Badgers have become trapped overnight
  - storage of topsoil etc. in the site will be given careful consideration
  - storage of any chemicals at the site will be contained in such a way that they cannot be accessed or knocked over by any roaming Badgers
  - fires will only be lit in secure compounds away from areas of Badger activity and not allowed to remain lit during the night
  - unsecured food and litter will not be left within the working area overnight.
- 16.64 The surveys found no evidence to suggest Great Crested Newts were utilizing the water bodies or habitats within the site and whilst there was a population of smooth newts and common toad in wet ditches over time the suitability of aquatic habitats has reduced and habitat on site is of negligible value to Great Crested Newts and limited value to amphibians. Common lizard was present on the site they are of local importance and mitigation measures are recommended.
- 16.65 Whilst no records of any protected rare or notable bird species within or adjacent to the site; the site as a whole offers a range of nesting and foraging opportunities for birds 20 species were recorded but comprise relatively common species typical of the urban setting of the site and they do not pose a constraint to development.
- 16.66 No invertebrate priority species were recorded within the site but it has interest for the diversity of common species recorded. Whilst proposal will result in the loss of some habitats the report notes that these habitats, of open mosaic and damp habitat will soon be lost to succession in any event. However the report recognizes it is important to mitigate the loss of current habitats and compensatory planting and habitat management is recommended plus enhancement measures. These matters will be secured by condition.

- 16.67 Subject to conditions to secure ecological enhancement measures, it is considered that the proposed development accords with adopted policy ENV1 and the requirements of the NPPF which seek to minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity.

### **Other Matters**

#### Archaeology

- 16.68 The Archaeological assessment concludes that when the sidings were constructed over 4m depth of material was removed and the proposed development in this area will therefore have no archaeological impact. An archaeological evaluation has taken place and also concludes there will be no impact on any archaeological assets. The Councils Archaeology specialist agrees with this conclusion and no archaeological investigation is required.

#### Contamination

- 16.69 The Contaminated Land Officer has considered the WDE Consulting, 'Geo-Environmental Assessment and notes the report has identified contamination/potential for contamination/ uncertainties within the site and that further assessment, ground gas monitoring and the completion of a remedial strategy is required. However, it is concluded that based on the information provided and on the assumption the matters identified are adequately addressed it would appear that the site could be made suitable for the proposed use consequently, should this application be approved, Environmental Protection would recommend inclusion of conditions.

#### Health Impact Assessment

- 16.70 A Health Impact Assessment (HIA) is required for all residential development in excess of 50 units. An HIA identifies the potential health consequences of a proposal on a given population, and looks to maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal's environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities. Where significant impacts are identified, planning obligations will be required to meet the health service impacts of the development. Any HIA must be prepared in accordance with the advice and best practice for such assessments. A Health Impact Assessment has been submitted with the application, taking into account personal/family lifestyles and characteristics, the social environment, physical environment, and access to quality services. NHS Essex were consulted on the application and did not provide any comments in respect of the Health Impact Assessment, other than to confirm that a contribution would be required to mitigate the impact of the development on health services (in this case, Castle Gardens Surgery being identified).

#### RAMS

16.71 The application has to be assessed in accordance with the Habitats and Species Regulations 2017 (as amended). Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment was therefore required to assess recreational disturbance impacts as part of the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). To support the Local Planning Authority Appropriate Assessment, a Habitats Regulations Assessment was submitted as part of the application. The assessment provided details that the development would include both on-site and off-site mitigation measures. The appropriate assessment concluded that the on-site and off-site mitigation proposed would mean that the development would not have an adverse effect on the integrity of the European sites included in the Essex Coast RAMS. Natural England was advised of this assessment and confirms their agreement provided that the mitigation measures are secured.

## **17.0 Conclusion**

17.1 To summarise, National policy requires planning to be genuinely plan-led. The proposal is considered to be acceptable with regards to the relevant policies contained in the Council's adopted development plan. The NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as establishing new residential development where residents can readily utilise and support nearby businesses, services and facilities. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure benefits in terms of ecology and biodiversity, as well as provide homes in an area that is highly accessible so as to encourage more sustainable means of transport and reduce the need to travel by private car. Members are recommended to resolve to grant planning permission subject to a legal agreement and the conditions set out below.

## **18.0 Recommendation to the Committee**

### **18.1 The Officer recommendation to the Committee is for:**

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. The agreement is required to secure the matters referred to in the Planning Obligation section 15.0 above plus the purchase of a car club car to be made available to the general public, the provision of an area of Public Open space with an equipped leap. The agreement to also include a mechanism to review viability (using the same criteria as the Viability Assessment submitted with the application) prior to the occupation of 25% and 50% of the units. Any further viability identified would then be apportioned on the basis of an equal split between affordable housing and education.

In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

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

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

#### **2. Z1A – Street Name Signs**

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

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

#### **3. ZAM - \*Development to Accord With Approved Plans\***

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

IN003-AP-A-01 I APARTMENT BLOCK 'A' PROPOSED ELEVATIONS

IN003-AP-A-02 I APARTMENT BLOCK 'A' BASEMENT, GROUND & FIRST FLOOR

IN003-AP-A-03 H APARTMENT BLOCK 'A' SECOND/THIRD FLOOR & FOURTH FLOOR

IN003-AP-B-01 K APARTMENT BLOCK 'B' - PROPOSED ELEVATIONS

IN003-AP-B-02 J APARTMENT BLOCK 'B' - GROUND, FIRST & SECOND FLOOR



IN003-AP-B-03 H APARTMENT BLOCK 'B' - THIRD/FOURTH FLOOR AND ROOF

IN003-AP-C-01 K APARTMENT BLOCK 'C' - PROPOSED ELEVATIONS

IN003-AP-C-02 J APARTMENT BLOCK 'C' - GROUND, FIRST & SECOND FLOOR

IN003-AP-C-03 H APARTMENT BLOCK 'C' - THIRD/FOURTH FLOOR & ROOF

IN003-AP-D-01 K APARTMENT BLOCK 'D' - PROPOSED ELEVATIONS

IN003-AP-D-02 J APARTMENT BLOCK 'D' - GROUND, FIRST & SECOND FLOOR

IN003-AP-D-03 H APARTMENT BLOCK 'D' - THIRD/FOURTH FLOOR & ROOF

IN003-AP-E-01 L APARTMENT BLOCK 'E' - PROPOSED ELEVATIONS

IN003-AP-E-02 K APARTMENT BLOCK 'E' - GROUND, FIRST & SECOND FLOOR

IN003-AP-E-03 I APARTMENT BLOCK 'E' - THIRD/FOURTH FLOOR & ROOF

IN003-PL-02 Q GROUND FLOOR AND ROOF PLAN

IN003-PL-03 L PARKING STRATEGY

IN003-PL-04 J HIGHWAY DIMENSIONS

IN003-PL-05 I REFUSE STRATEGY Public

IN003-PL-08 I AMENITY SPACE

DFCC\_2899-L02 A West POS Detail

DFCC-2899-L03 CENTRAL COURTYARD POS DETAIL

AG086-LP-01 00 LOCATION PLAN

IN003-SS-01 00 PROPOSED SUB-STATION FLOOR PLANS AND ELEVATIONS

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

#### **4. ZAN - Site Levels Plan**

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

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 of the surrounding area.

#### **5. ZBC - 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

#### **6. Architectural Detailing**

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1), 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 but not be limited to window detailing including details of the depth of reveal, recessed/projecting/decorative brickwork and cladding, balconies and metalwork. The development shall then be implemented in accordance with the approved drawings.

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design in the interests of visual amenity

#### **7. ZCE - Refuse and Recycling Facilities**

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

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

## **8. ZCO - Public Open Space & Communal Storage Areas Management Company**

Prior to the first occupation of the development hereby permitted details of the management company responsible for the maintenance of any public open space and communal storage areas and provide for the long term maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail shall include the constitution of the company which shall follow best practice including the code of conduct of the Royal Institution of Chartered Surveyors (RICS) and shall be accredited by the Association of Residential Managing Agents (ARMA).

Reason: The application contains insufficient information to ensure that the public open space and any communal storage areas will be appropriately maintained to a satisfactory condition and there is a potential adverse impact on the quality of the environment for residents and the wider community.

## **9. ZFE - Landscape Management Plan**

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas 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.

## **10. ZFS - 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.

## **11. ZF0 - Communal Gardens**

Prior to the first occupation of the development hereby permitted, a phasing plan/strategy/timetable for the provision of the communal garden areas as shown on approved drawing to be laid out and made permanently available for use by the occupants of all the flats to which this permission relates or in such a manner as may otherwise have previously been agreed, shall be submitted to and approved in writing, by the Local Planning Authority. The

communal garden area/s shall be provided in accordance with the agreed phasing plan/strategy/timetable

Reason: In the interests of residential amenity, as this communal garden is an essential element of the development.

## **12. ZIR - Vehicle Parking**

Prior to the first occupation of each block the vehicle parking area indicated on the approved plans for that block, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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.

## **13. ZJB - Cycle Parking (as approved plan)**

Prior to the first OCCUPATION of each block, the bicycle parking facilities indicated on the approved plans for that block shall be provided and made available for use. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

## **14. ZPA – Construction Method Statement**

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from construction works.

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

## **15. Scheme to control risk of offsite flooding during construction**

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

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure

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development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

#### **16. Maintenance Plan for Surface Water Drainage**

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

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### **17. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)**

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
  - (ii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).
- This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination,

CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

#### **18. ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)**

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

#### **19. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)**

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

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

#### **20. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 17, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 18, which is subject to the approval in writing of the Local Planning Authority.

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Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 19.

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

#### **21. Contamination Validation Certificate**

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 17.

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

#### **22. EV Charging Points Cars**

No works shall commence above ground floor slab level until a detailed scheme, including design, a cantilever or gas/hydraulic powered top row, maintenance plan, details of noise dampers, location and implementation timetable, of the EV charging points to be installed within a minimum of 20% of parking spaces has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented. Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

#### **23. EV Charging Points Bicycles**

No works shall commence above ground floor slab level until details, including number location and implementation timetable, of EV charging points for bicycles has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented. Reason: In the interests of sustainability.

#### **24. Ecological Mitigation and Management Plan (EMMP)**

No works shall take place until an Ecological Mitigation and Management Plan (EMMP) has been submitted to and approved in writing by the Local Planning Authority. The EMMP shall include, but not be limited to, all the mitigation measures set out in Chapter 6 of the Ecological Appraisal December 2018 and Chapter 4 of the Confidential Badger Appendix December 2018. The development shall then be carried out and maintained in accordance with the approved EMMP.

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

#### **25. Traffic Construction Management Plan**

No works shall take place (above ground floor slab level) until a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

## **26. Highway Works**

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

- a. A priority junction off Brook Street to provide access to the proposal site as shown in principle on the planning application drawings
- b. A yellow cage road marking at the eastbound bus stop in Barrack Street (east of Brook Street, known as "Cannon Street ID 33042008")
- c. Upgrading of the footway along the western side of Brook Street between the proposal site access and the mini roundabout to the south to a shared footway/cycleway
- d. A cycle link between Brook Street and the proposal site's westernmost boundary (details to be submitted to and agreed with the Local Planning Authority prior to commencement of the development)
- e. Improvements to the north-south footpath (which crosses over the railway) between the east-west footpath and Priory Street (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- f. Residential Travel Information Packs in accordance with Essex County Council guidance

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

## **27. ZFE – Landscape Management Plan**

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

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

## **28. Landscape Scheme**

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 include:

- Proposed finished levels or contours.
- Means of enclosure.
- Car parking layouts.
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials.
- Minor artefacts and structures (e.g. dog litter bins, 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. +
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- 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.

Note: in order to revise the above bespoke condition to a prior to occupation condition proposals will need to be revised to:

1. Clearly identify the proposed tree species (giving the botanic (Latin) name) for individual tree(s), as well as its/their position.
2. Confirm (verbatim) on any proposal drawing (against the tree symbol(s) in the key) that 'principal tree planting positions have/will been/be designed to lie well outside of and take precedence over any lighting/service/drainage locations/routes'.

## **29. Arboricultural Impact Assessment**

No works or development adjacent to retained trees shall take place until a scheme of supervision for the arboricultural protection measures as set out in the Arboricultural Impact Assessment has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.

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g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

### **30. ZPD - 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.

### **31. Noise**

All residential units shall be designed so as not to exceed noise criteria based on figures by the World Health Authority Community Noise Guideline Values given below:

\*Dwellings indoors in daytime: 35dB LAeq 16 hours

\*Outdoor living area in daytimes: 55dB LAeq 16 hours

\*Inside bedrooms at night time: 30 dB LAeq 8 hours (45 dB LAmax)

\*Outside bedrooms at night time: 45 dB LAeq 8 hours (60 dB LAmax)

Appropriate noise mitigation measures shall be implemented, to ensure compliance with the above levels, prior to occupation of the development on the site and thereafter maintained. 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 units share a party wall from a bedroom to a kitchen, an increase in sound insulation of 3db above building regulation shall be provided.

Reason: To ensure that there are unacceptable levels of noise to residents and to protect bedrooms from living noises from adjacent dwellings.

### **32. Wheelchair Accessible Units**

Notwithstanding the approved drawing the ground floor one bedroom apartments shall be amended internally to enable them to be suitable for a wheelchair user.

Reason: To ensure an inclusive development that is accessible to all.

## **19.0 Informatives**

19.1 The following informatives are also recommended:

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

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

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

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

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

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

### **4.ZTG - Informative on Section 106 Agreements**

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

### **5.ZTS - Informative on Fire Tenders**

PLEASE NOTE that under Building Regulations B5, access for fire tenders is required to a point not further than 45 metres from the entrance to the dwelling. Any road or private drive forming part of such a fire access must be no less than 3.7 metres wide between kerbs (this may be reduced to 3.1 metres for a gateway or similar short narrowing) and should have a minimum centre line bend radius of 6.55 metres. The access way should be capable of carrying a 12.5 tonne vehicle. A cul-de-sac which is more than 20 metres long must have a turning head of at least Size 3.

## **6.ZTX - Informative on Public Rights of Way**

PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.

(ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

(iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

**7. 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.

## **8.ZUL - Informative on Badgers**

PLEASE NOTE that it is understood that a badger sett exists within or adjacent to the application site. Badgers are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Badgers Act 1991 are fully complied with.

## **9.ZUM - Informative on Bats**

PLEASE NOTE that it is understood that bat roosts exist within the application site. Bats are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 which relate to the protection of bats and their roosts are fully complied with.

## **10. Highway Informatives**

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate
- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority

- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or SMO1 – Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

### **11.ZUP - Informative on Surface Water Drainage**

PLEASE NOTE that it is the responsibility of the developer to ensure proper provision is made for the surface water drainage of the site to ground, watercourse or surface water sewer. To avoid foul sewer flooding, surface water must not be drained to a foul sewer. The use of sustainable drainage systems (known as SUDS) is very much encouraged. SUDS offer an alternative approach to traditional engineered drainage solutions by detaining run-off on site and releasing it slowly into watercourses or to ground (e.g. dry ditches/swales, detention/attenuation ponds, integrated wetlands). Source control techniques are also increasingly popular, e.g. the use of porous (as opposed to impermeable) paving and 'green roofs' which allow rainwater re-use. These techniques reduce the likelihood of flash flooding, result in greatly improved water quality, are often cheaper and easier to maintain than traditional engineered drainage solutions (i.e. involving seal-trapped gullies and petrol interceptors), and can provide wildlife habitats.



18<sup>th</sup> June 2020

Report of	Assistant Director of Place and Client	Author	Karen Syrett ☎ 506477
Title	Temporary Changes to Planning Scheme of Delegation		
Wards affected	All		

## 1. Executive Summary

- 1.1 This report sets out the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown. It also details all those applications that were determined during this period and proposes a further change to the scheme of delegation while virtual committees are in operation.

## 2. Recommended Decision

- 2.1 Planning Committee are asked to note those applications that have been determined under the emergency delegation.
- 2.2 The Committee are also asked to agree an update to the revised scheme of delegation.

## 3. Reason for Recommended Decision

- 3.1 To allow council decision making to continue in the most efficient manner whilst ensuring those applications which are controversial or contrary to policy are determined in the public domain.

## 4. Alternative Options

- 4.1 The Committee could decide to change the proposed scheme of delegation or the length of time it operates.

## **5. Background Information**

5.1 Due to the Coronavirus pandemic and in response to Government advice on social distancing etc, the Council in March 2020 cancelled all scheduled formal decision-making meetings for the remainder of the 19/20 Municipal Year. However, it was recognised that it was important to ensure that the Council's ability to determine planning applications which would ordinarily have been considered by members of the Planning Committee could still function during this period. Accordingly, Interim Planning Arrangements following agreement by the Leader of the Council, Group Leaders and the Chair of the Planning Committee, were introduced with effect from 18 March 2020.

5.2 The Interim Arrangements comprised of the following:

1. Formal meetings of the committee will be cancelled until further notice. This will be kept under review in line with the Govt's emergency legislation which may change the way in which we can conduct formal meetings.
2. All applications that are required to be considered by the Planning Committee will now be determined by the Planning & Housing Manager following consideration and recommendation by the Chair and Group Spokespersons of the Planning Committee; i.e Councillors Liddy , Hazel, Barton & P Oxford ("the Members")
3. Applications will be emailed to the Members who will consider the reports and decide them on a majority decision with the chair having a second and casting vote. The Members will have the option of deferring an application if they feel they require further information.
4. A record of all decisions will be maintained and if any decisions are contrary to the recommended decision in the report, reasoning must be provided.
5. Any councillor which has requested that an application be called in will be afforded the opportunity to submit a written submission by email to the Members who will consider the submission when determining the application.
6. A report will be submitted to the first formal meeting of the Planning Committee (howsoever formed) which will detail the applications and decisions made in relation to all applications considered under these Interim Arrangements.

5.3 A decision will be taken on any application to be decided under these Interim Arrangements where there is particular public interest. This may include deferring the application to a later date. It was intended that the Interim Arrangements would be used for as short a period as possible and were designed to ensure that the Council's planning decision process could be maintained during the current national situation. The Monitoring Officer kept the arrangements under review so adjustments could be made if necessary and expedient in consultation with the Group Leaders and Chair of Planning Committee. No such changes have been necessary.

5.4 The Local Authorities and Police and Crime Panel (Coronavirus) (Flexibility of Local Authority and Police and Crime Meetings) (England) Regulations 2020 ("the Regulations") came in to force on 4 April 2020 and apply to meetings taking place before 7 May 2021 (which could be brought back to an earlier date if the existing restrictions are relaxed). The Regulations override any provisions to the contrary in the Constitution. The Regulations provide that, amongst other provisions, Council meetings can be held remotely. Remote meetings bring new challenges, require alternative ways of working and require a different discipline by all who participate. As a result, it is necessary to consider how Planning Committee should function during this period.

5.5 There are a number of documents and best practice guidance available from the likes of the Planning Advisory Service (PAS) and Planning Officers Society (POS). Planning committee exists to make decisions on significant and sometimes finely balanced



applications. It is recognised that at least in the short term it is very likely that the workload of a committee will need to be reduced. One way of achieving this is to increase the scheme of delegation.

- 5.6 The arrangements for public participation at the majority of the Council's online meetings provide for the submission of written representations only. However, the ability of members of the public, objectors or supporters of applications to make their representations in person to the Planning Committee members was an important consideration. With the Chairman and Group Spokespersons consent, provision has been made for public participation at Planning Committee meetings online to replicate the conventional speaking arrangements which had been in place previously, so far as is possible. As such, members of the public will be able to register to speak at meetings and will be invited to make their representations in person to the Committee members. In addition, a new innovative approach to enable meetings to be more accessible to the public has been introduced with online meetings being broadcast to the Council's YouTube channel from where they will be freely available to view live and afterwards.
- 5.7 The practice guidance suggests that in the short term, it might be wise to consider whether applications, previously earmarked for a committee decision, should instead be determined under delegated powers, go through a virtual planning committee or instead be deferred. It is vital that there is no perception that these emergency conditions reduce scrutiny, public engagement or accountability. However, set against these considerations is the risk of a large backlog building up and of important applications becoming delayed or starting to drift. It is recognised at both a national and local level that the construction industry is extremely important to economic recovery and it is not desirable to put unreasonable obstacles in the way.
- 5.8 The Interim Arrangements have been in place for 11 weeks now and have demonstrated that there are certain types of applications/developments that can be determined without the need for a formal committee decision. It is therefore recommended that the arrangements detailed above at 5.2 are adapted so fewer applications are referred to the committee while it operates on a virtual basis.
- 5.9 The substantive scheme of delegation from the Planning Committee is as follows;

Delegated to Assistant Director for Place and Client Services;

1. The determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application:
  - a) significantly contrary to adopted policies or a departure from the development plan, and which is recommended for approval;
  - b) which any Ward Councillor requests in writing to the Assistant Director for Place and Client Services within 25 days of notification, should be subject of consideration by the Committee;
  - c) which constitutes a major application on which a material planning objection(s) has been received in the stipulated time span and the officer recommendation is to approve;
  - d) which constitutes a major application, that is recommended for approval and where a section 106 Agreement is required (excluding unilateral undertakings);

- e) submitted by or on behalf of a Colchester Borough Council Councillor, Honorary Aldermen (or their spouse/partner) or by any Council officer (or their spouse/partner);
- f) submitted by or on behalf of Colchester Borough Council (for clarity, this does not include applications made by other parties on land owned by the Council where the development is not by or on behalf of the Council).

Note: this scheme of delegation is temporarily superseded by the Interim Arrangements set out above at 5.2.

5.10 Officers, the Committee Chair and Group Spokespersons have discussed a revised scheme based on their experience of interim arrangements. This would change the delegation for a limited period to the following;

1. Delegated to Assistant Director for Place and Client Services - the determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application which is significantly contrary to adopted policies or a departure from the development plan, and which is recommended for approval.
2. Those applications where a Ward Councillor requests in writing to the Assistant Director for Place and Client Services within 25 days of notification, that an application should be subject of consideration by the Committee will be referred to 'The Members' who will consider if the application needs to be determined by Committee or whether the Interim arrangements would be appropriate.
3. Those major applications, that are recommended for approval and where a section 106 Agreement is required will only be referred to Committee if there is a dispute about the detail of the S106 agreement.

5.11 All those applications determined under the revised Interim Arrangements will be reported to The Members who will be able to recommend that an application is referred to the Committee if they consider it to be in the public interest. All decisions taken under the Interim Arrangements, that would ordinarily be considered by the Committee, will be reported to the next available committee meeting. If agreed the revised Interim Arrangements are intended to operate for the duration of the operation of virtual meetings.

5.12 In the 11 weeks since the Interim Arrangements have been in place 16 applications have been determined. Every application was determined in accordance with the protocol set out above and in line with the Officer recommendation. The details of each application are contained in Appendix 1 to this report. A verbal update will be provided at the committee if further applications have been considered under the Interim Arrangements following the writing of this report.

## **6. Equality, Diversity and Human Rights implications**

6.1 In completing this section you should give proper weight to equality and diversity considerations and demonstrate how the decision will impact on the promotion of equality and overcome discrimination in relation to gender, gender reassignment, disability, sexual orientation, religion or belief, age and race/ethnicity.

- 6.2 All new policies and any major changes to a policy need an Equality Impact Assessment (EIA) to be completed. Senior Management Team has advised that the following process must be complied with:
- EIA to be completed in line with the policy or change being introduced;
  - EIA to be uploaded to the website and Equality and Diversity Officer informed who will amend the master timetable to include the new EIA and review date;
  - A link to the EIA to be included in the relevant section of the report.

*Reports will not be processed without a link to a completed and agreed EIA.*

- 6.3 Furthermore, you need to generally consider whether a course of action will involve a breach of human rights and show that these have been taken into account by recording the reasoning behind a particular decision. For help contact Andrew Weavers ext. 2213.

## **7. Standard References**

- 7.1 There are no particular references to the Strategic Plan; consultation considerations or financial; community safety; health and safety or risk management implications.

## **8. Risk Management Implications**

- 8.1 The proposed scheme of delegation is intended to improve decision making by ensuring the Planning Committee can concentrate on matters that are of most importance.

## **9. Environmental and Sustainability Implications**

- 9.1 The purpose of the planning system is to contribute to the achievement of sustainable development. Each report should consider the social, environmental and economic implications which are the overarching objectives set out in the National Planning policy Framework, which are interdependent and need to be pursued in mutually supportive ways.

## Appendix 1

App. Ref.	Site	Ward	Recommendation	Decision
191830	Land south of School Road Langham -	Rural North	Approval subject to S106 agreement	Approval subject to S106 agreement
20019	Axial Way, Braiswick - extension	Myland	Approval	Approval
192963	76 Maidenburgh Street – replacement windows	Castle	Approval	Approval
190522	Land West of Gosbecks Road – 144 dwellings	Shrub end	Approval subject to S106 agreement	Approval subject to S106 agreement
193049	Timberlands Spring Gardens Rd, Chappel – change of use – agricultural and B2	Rural North	Approval – temporary period	Approval – 2 year temporary consent
193133	Land to the north/south Tollgate West – vary outline permission for retail park, cinema, etc	Stanway	Approval subject to s106 linking agreement	Approval subject to s106 linking agreement
192841	Eight Ash Green – vary conditions attached to 171529 (up to 150 units)	Lexden and Braiswick	Approval subject to S106 agreement	Approval subject to linking S106 agreement
200037	5 Military Road, Colchester – conversion of 10 flats to 27 bedsits/studios (retrospective)	New Town & Christ Church	Refusal	Refusal
192756	Breton Hill Barn, Layer Breton	Marks Tey & Layer	Approval	Approval with changes to 2 conditions
200275	Embassy Suite, Balkerne Hill – Change of Use	Castle	Approval	Approval with extra condition re. glazing
200079	Northern Gateway – Infrastructure works	Highwoods	Approval	Approval on receipt of satisfactory highway drawings
2000094	Highfields Farm, Messing – Solar Farm – extend the permission to 40 years	Tiptree/outside of borough	Approval	Approval with extra conditions/informative
200303	R/O International House, Moss Rd, Stanway	Stanway	Approval	Approval

200202	55 Harwich Road – change of use from HMO to guest house	St Annes & St Johns	Approval	Approval – extra condition/informative
191997	Colchester Rd, West Bergholt – 41 new homes	Lexden & Braiswick	Approval subject to S106 agreement	Approval subject to S106 agreement
192271	Colchester Rd, West Bergholt – 41 new homes	Lexden & Braiswick	Approval subject to S106 agreement	Approval subject to S106 agreement



## Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

### **Planning Obligations**

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

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

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

### **Human Rights, Community Safety and Equality and Diversity Implications**

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

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

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



## **Using Planning Conditions or Refusing Planning Applications**

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

#### **Best Practice for Construction Sites**

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

### **Class A1. Shops**

Use for all or any of the following purposes—

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

### **Class A2. Financial and professional services**

Use for the provision of —

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

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

### **Class A3. Restaurants and cafes**

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

### **Class A4. Drinking establishments**

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

### **Class A5. Hot food takeaways**

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

### **Class B1. Business**

Use for all or any of the following purposes—

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

### **Class B2. General industrial**

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

### **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

**Sui Generis Uses**

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

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

**Interpretation of Class C3**

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

**Interpretation of Class C4**

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

## **Supreme Court Decision 16 October 2017**

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

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

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

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



## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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



