

# Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,  
Colchester, CO1 1PJ**

**Thursday, 28 July 2022 at 18:00**

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

# Information for Members of the Public

## Access to information and meetings

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

Dates of the meetings are available here:

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

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

## Have Your Say!

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

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

## Audio Recording, Streaming, Mobile phones and other devices

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

## Access

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

## Facilities

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

## Evacuation Procedures

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**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 28 July 2022 at 18:00**

**The Planning Committee Members are:**

Cllr Lilley  
Cllr Barton  
Cllr Chapman  
Cllr Chuah  
Cllr Mannion  
Cllr McLean  
Cllr Maclean  
Cllr McCarthy  
Cllr Nissen  
Cllr Tate  
Cllr Warnes

Chair  
Deputy Chair

**The Planning Committee Substitute Members are:**

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

**Councillors:**

Tracy Arnold	Molly Bloomfield	Michelle Burrows	Roger Buston	Mark Cory
Pam Cox	Adam Fox	Mark Goacher	Jeremy Hagon	Dave Harris
Mike Hogg	Richard Kirkby-Taylor	Sue Lissimore	Andrea Luxford Vaughan	Patricia Moore
Beverly Oxford	Gerard Oxford	Chris Pearson	Kayleigh Rippingale	Lesley Scott-Boutell
Paul Smith	Dennis Willetts	Barbara Wood	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 2 are normally dealt with briefly.**

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

#### **Live Broadcast**

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

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

#### **1 Welcome and Announcements**

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

#### **2 Substitutions**

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

#### **3 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.

#### **4 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.

#### **5 Have Your Say!**

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

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

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

## 6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meetings held on the 25 May 2022, 26 May 2022, 16 June 2022 and 7 July 2022 are a correct record.

<b>2022-05-25 CBC Planning Committee Minutes</b>	7 - 8
<b>Planning Committee Minutes 260522</b>	9 - 16
<b>2022-06-16 CBC Planning Committee Minutes</b>	17 - 20
<b>2022-07-07 CBC Planning Committee Minutes</b>	21 - 22

## 7 Planning Applications

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

7.1	<b>211510 Colne Quay, Land to the East of Hythe Quay, Colchester</b>	23 - 72
	Full planning application for the demolition of existing buildings and construction of student accommodation blocks to provide student studio apartments, internal communal areas, staff offices and associated facilities, a substation, landscaping, works to river wall, changes to access and parking.	
7.2	<b>220595 School Road, Langham, Colchester</b>	73 - 112
	Outline application for erection of 30 houses with a new access onto School Road, Langham. All matters reserved.	
7.3	<b>221174 Roman Circus Archaeological Site, Flagstaff Road, Colchester</b>	113 - 122

Erection of an interpretation panel containing historical information and graphics at the Roman Circus archaeological site, Flagstaff Road.

- 7.4 **220921 Land opposite, Magpie Chase, Stanway, Colchester, CO3 8WB** 123 - 136

Proposed construction of additional overspill car parking.

8 **Exclusion of the Public (not Scrutiny or Executive)**

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

**Planning Committee Information Pages v2** 137 - 148

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

**PLANNING COMMITTEE**  
**25 May 2022**

<i>Present:-</i>	Councillors Barton, Chapman, Chuah, Lilley, Mannion, McLean, MacLean, McCarthy Nissen, Tate, Warnes
<i>Substitute Member:-</i>	

**917. Appointment of Chairman**

RESOLVED that Councillor Lilley be appointed Chairman for the forthcoming Municipal Year

**918. Appointment of Deputy Chairman**

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





**PLANNING COMMITTEE**  
**26 May 2022**

<i>Present: -</i>	Councillors Lilley (Chairman), Barton, Chapman, Chuah, Maclean, Mannion, McCarthy, Tate and Warnes
<i>Substitutes: -</i>	Councillor Kirkby-Taylor for Councillor Nissen Councillor Rippingale for Councillor McLean
<i>Also in attendance:</i>	Councillor T.Young

**919. Site Visits**

Councillors Barton, Lilley, Kirkby-Taylor and Tate attended a site visit in respect of application 220865 115 Butt Road, Colchester.

**920. 220149 Land to the South of, Veronica Walk, Colchester**

**Councillor Warnes (in respect of his position as a Director of Colchester Commercial Holdings Limited) 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 the demolition of existing garages and the construction of a terrace of three dwellings, comprising one 3-bed and two 2-bed dwellings with associated landscaping, parking and private amenity provision. The proposal would consist of 100% affordable housing, and would be owned by Colchester Borough Council and managed by Colchester Borough Homes. All dwellings would be designed to Part M Cat 2 standards. The palette of materials included red brick, buff brick, and rock panel cladding. This application had been referred to the Planning Committee because the applicant was Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

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

Nadine Calder, Principal Planning Officer, presented the report to the Committee and assisted the Committee in its deliberations. The application was in relation to a garage site owned by Colchester Borough Council (the Council), and it was proposed to remove the 19 garages on the site and replace them with 3 affordable homes. An existing area of open space on the land would be safeguarded, and the site would be a modern one with solar panels fitted to the dwellings, with provided

parking spaces and gardens. The site was considered to be suitable for this development, no material harm had been identified, and the application was subsequently recommended for approval.

Chelsea Gardner addressed the Committee against the application pursuant to the provisions of Meetings General Procedure Rule 8(3), on behalf of the residents of Veronica Walk and part of Blackthorn Avenue. It was felt that the plans had not taken into consideration the impact which they would have on the current residents, many of whom had lived in the area for a significant period of time. Concern was raised about the loss of the garage spaces, the impact on local parking that the addition of the properties would have, and the noise pollution and disruption to residents which would be caused by the construction of the dwellings. The lack of parking availability in the local area was considered to be a particular issue, and the assessment which had been carried out in the middle of the day in respect of parking did not reflect the true position in relation to parking issues as people would have been at work at this time. Although the need for more social housing was accepted, squeezing more houses on to this site in an already heavily residential area would serve to have a detrimental affect on local residents, many of whom had health concerns, and who relied on the parking spaces which would be lost as a result of the development. The Committee was asked to carefully consider the affect which the proposed development would have on existing residents.

Rebecca Howard addressed the Committee in support of the application pursuant to the provisions of Meetings General Procedure Rule 8(3), explaining that the scheme which was proposed contained 3 high quality, sustainable and affordable homes in the middle of Colchester which would be built to enhanced accessibility standards. The proposal would result in the loss of 19 garages, 5 of which were currently rented out to tenants. The garages were predominantly used for storage as they were unsuited to housing a modern sized car, and the tenants had been approached with an offer to find them garage space on an alternative site if they wished. A consultation event had been held in Greenstead with local residents, and it was considered that the scheme would enhance the local street scene. The scheme was in accordance with the Essex Vehicle Parking Standards and the provided parking was in excess of the Planning Policy requirements and there would be no impact on the highway infrastructure. The proposed scheme would add affordable enhancements to the area, and the Committee was invited to approve the application in line with the Officer recommendation.

With the permission of the Chair, Councillor Tim Young addressed the Committee, explaining that his comments were both on behalf of himself and Councillor Julie Young. Although the need for more affordable housing in Colchester was fully accepted, Councillor Young offered his full support to the comments which had been made by Chelsea Gardner, believing that a duty was owed to long standing tenants in the area who formed part of a vibrant community which needed to be considered. Councillor Young contended that the consultation that had been carried out by the applicant was poor, and the public meeting was not well advertised or organised and as a consequence of this was not well attended. A number of residents had contacted Council Officers with regard to the issues that had been raised, and it was not felt that satisfactory responses had been received. The Committee heard that Greenstead Ward had a high volume of Council housing, and Councillor Young did

not object to more such housing, providing it was situated in the correct location. Officers were requested to provide information on how eco-friendly the proposed scheme was, and considered that the scheme had been presented to the Committee too early, before the questions which had been posed by residents had been answered adequately. He requested that the Committee defer the application to a future meeting to afford an opportunity for questions which had been raised to be answered. Cllrs Tim and Julie Young had been in correspondence with officers in the Client Team and residents over the last five months but their concerns had not been resolved satisfactorily.

At the request of the Chair, Nadine Calder, Principal Planning Officer responded to the points which had been raised. The Committee heard that only 5 of the 19 garages on the proposed site currently had a tenant, and 14 were therefore empty. The application had been delayed in its progress to the Committee to allow for consultation to take place with the current garage tenants. Assistance was offered to all garage tenants to find alternative garage space if the site were to be developed, and only 2 of the tenants responded to the consultation confirming that one of the garages was used for storage only, and the other used for storage and parking a trailer. This meant that a maximum of three of the garages with tenants were used for parking a vehicle. Two parking surveys had been carried out in the area, one of which took place at 9.00am on a Sunday morning, when the highest volume of car parking was expected to be observed. Although the application had been made in January, an enquiry from Councillors had only been received by Planning Officers in the last week, and a response had been given to this. Residents enquiries had also been responded to, and efforts had been made to ensure that the application was as transparent as possible. With regard to the concern that the development would serve to increase anti-social behaviour in the area, it was considered that the proposed scheme would provide houses which would face onto a current area of open space, and their presence would in fact serve to reduce the likelihood of anti-social behaviour in the locality. The houses would be constructed with solar panels on the roof, and in accordance with the new energy efficiency Building Control standards, which fell outside Planning control. The Committee heard that Essex Highways had raised no objection to the application, and that although vehicles were currently parking on the garage site, they had no legal right to do so, and could be stopped from parking there at any time if the Council so wished. The only relevant parking in the area what would be affected by the proposed scheme was that contained within the garages on the site.

Committee members sought clarification on the amount of displacement of parking that the scheme would generate, and it was confirmed that there would be some displacement, although parking would still be available on site. The Committee considered that the potential loss of parking in the area was outweighed by the need for additional social housing.

A Committee member expressed disappointment at the number of solar panels which had been depicted on the plan elevations of the proposed housing, considering that more could easily be installed. The Committee heard that the design met the minimum standards which were required, and the Council did all that it could to encourage developers to be as energy efficient as possible in their proposals in compliance with relevant plan policies.

*RESOLVED* (NINE voted FOR, ONE voted AGAINST and ONE ABSTAINED from voting) that that the application be granted for the reasons set out in the report.

#### **921. 220150 Land to the rear of, Hedge Drive, Colchester**

**Councillor Warnes (in respect of his position as a Director of Colchester Commercial Holdings Limited) 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 a proposal that included the demolition of the existing garages and the construction of two 2-bedroom semi-detached dwellings and one 2-bedroom bungalow (Cat 3) with associated landscaping, parking and private amenity provision. The proposal was to be 100% affordable and would be owned by Colchester Borough Council and managed by Colchester Borough Homes. In terms of the external appearance of the development, the scheme would comprise a pair of semi-detached properties and a detached bungalow. The palette of materials includes red brick, buff brick, and rockpanel cladding. This application had been referred to the Planning Committee because the applicant was Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

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

Nadine Calder, Principal Planning Officer, presented the report to the Committee and assisted the Committee in its deliberations. The Committee were advised that this application had been deferred from a previous meeting of the Committee on 31 March 2022 in order to allow further consultation to be carried out with the current tenants of the garages, which had now occurred. Tenants of the garages had been written to, to advise them that development of the site was being considered, seeking confirmation of the use to which the garage was being put, and asking whether assistance would be required to find alternative garage space should the development go ahead. Of the 39 garages on the site, 26 were rented, and 9 responses had been received from garage tenants to the consultation, indicating that these garages were used for a mix of storage and parking purposes. The proposed scheme was well designed and compliant with all Policies and the Development Plan, and the application was subsequently recommended for approval.

Kenneth Gulling addressed the Committee against the application pursuant to the provisions of Meetings General Procedure Rule 8(3). Mr Gulling was a local resident whose property backed onto the proposed site, and concern was expressed that the removal of garages would open up his garden and turn it into a building site. Additionally, the Committee was advised that current garage tenants were not happy about the proposals, and there were concerns that additional housing in the area would cause parking problems locally as there was insufficient local infrastructure to cope with the development. The Committee were asked to reject the application.

Rebecca Howard (Agent) addressed the Committee in support of the application pursuant to the provisions of Meetings General Procedure Rule 8(3). The Committee heard that since the application had been previously considered in March 2022, all garage tenants had been directly notified of the proposal and provided with the opportunity to make further comment. In addition to this, all adjoining neighbours had been notified of the scheme prior to the application, and no major concerns had been raised at this time. The scheme proposed 3 high quality, affordable and accessible homes which would provide a visual enhancement to the locality and a sympathetic addition to the street scene. The scheme was compliant with the Essex Vehicle Parking Standards, the distance between the proposed dwellings and neighbouring properties would ensure that there would be no loss of light to existing properties, and the overall proposal had been designed to ensure that there would be no significant impact on local residents. The scheme would provide affordable, high quality housing and the Committee were asked to approve the application.

At the request of the Chair, Nadine Calder, Principal Planning Officer responded to the points which had been raised, and clarified that once the garages had been removed, neighbouring gardens would be opened up, but a temporary fence would be put in to enclose these again, which would be replaced with a permanent fence once the buildings had been finished. It was noted that Essex Highways had raised no objection to the proposed scheme.

A Committee member voiced disappointment that consultation with the garage tenants had only been carried out at the recommendation of the Committee and noted that a large number of the garages on the site was still in use. It was considered that although more affordable housing was to be welcomed, there were other sites in Shrub End which were more suitable.

In response to questioning from the Committee, Nadine Calder confirmed that of the 26 garages that were rented, some tenants lived over 4 miles away from the site. The consultation had taken place 4 or 5 weeks ago, and as a result some objections to the scheme had been received. Garage tenants were only asked whether they still needed the garage and whether or not they would require help finding another alternative garage to use. There were Council owned garage sites which would not be developed for various reasons, and it would be possible to relocate tenants to these. When considering parking displacement, it was confirmed to the Committee that of the 26 garages that were rented, 13 were rented by people living within a mile radius of the site, 6 tenants lived between 1-2 miles from the site, 4 lived 2-3 miles from the site, and 3 lived 4 or more miles away from the site, meaning that parking displacement would potentially only affect 13 of the garages.

A Committee member considered that the people of the area deserved to have family homes again, and though that businesses could be running from the site by people who were not local. With the correct fencing erected following construction, the development could be a desirable, peaceful place for everyone in the area, and would be far kinder to the area than the current garages. It was proposed that the application be approved.

There was some discussion around the potential loss of electric charging points which may have been in the garages, but it was confirmed to the Committee that such garages did not have their own power supply. Building Control Regulations would make provision for the availability of electric vehicle charging points, or the infrastructure to support these, and this was not a material planning consideration. It was confirmed to the Committee that the access road was wide enough to allow construction vehicles and emergency services to access the site, and the most appropriate way to deal with the security of gardens adjoining the site was through an initial temporary barrier, to be replaced by a permanent barrier once construction on the site had concluded.

*RESOLVED* (SIX voted FOR, TWO voted AGAINST and THREE ABSTAINED from voting) that the application be approved for the reasons set out in the report.

**922. 211105 Land and Building adj, Little Doves Day Nursery, Lower Road, Peldon**

The Committee considered an application for planning permission for a new office building. The proposed building measured 195 sq. metres. Following submission of a revised site plan, there were 11 car parking spaces proposed, along with 4 additional car parking spaces for the adjacent nursery. This would result in 17 spaces for the nursery. In total, 28 car parking spaces were proposed for the Nursery and new office building. The application had been referred to the Planning Committee because the applicant was an elected Member.

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

*RESOLVED* (UNANIMOUSLY) that the application be approved subject to the recommended conditions.

**923. 220865 115 Butt Road, Colchester**

The Committee considered an application for consent for the repositioning of the existing Wilco/FastFit sign to an alternative position on the same elevation and the addition of a billboard 6.096 metres in width and 3.048 metres in height. The application had been referred to the Committee because it had been called in by Councillor Crow, as detailed in the Officer's report.

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

John Miles, Senior Planning Officer, presented the report to the Committee and assisted the Committee in its deliberations. The Committee were advised that the application related to the retention and relocation of an existing sign, located on the south elevation of the property, and the installation of an additional 48 sheet advertisement billboard to the same elevation which would be approximately 6

metres in width and 3 metres in height. The proposed site was within the Mill Field Estate Conservation Area, and was adjacent to the Garrison Conservation Area. The proposal did not give rise to any concerns from a residential amenity perspective, but there were, however, serious concerns from a visual amenity perspective. The Mill Field Estate Conservation Area "Conservation Area Character Statement & Management Proposals" that had been formally adopted by the Council, specifically noted that the large garage buildings at the junction of Butt Road and Wickham Road are an alien feature that eroded the character of the area. The buildings were particularly conspicuous, not only because of their form and design that clashed with the predominant architecture within the Conservation Area, but also by virtue of the amount and design of the signage that exacerbated their appearance. The Management Proposals for the Mill Field Estate Conservation Area advised that signage should be small and discreet, and clarified that large plastic signs, advertisements, banners and other intrusive modern signage would be resisted by the Council. For these reasons, it was considered that the proposal would result in unjustified harm to the visual amenity of the area, as well as the character and appearance of the Conservation Areas. The proposal therefore failed to accord with relevant national and local policy, including the Management Proposals for the Conservation Area which aimed to protect its character and significance. In addition to this the proposal is held to fail to meet the statutory tests for the preservation or enhancement of the Conservation Areas. Additionally, concerns had been raised by the Colchester Civic Society and the Council's own Historic Buildings and Areas Officer. The application was therefore recommended for refusal.

Mike Yexley addressed the Committee against the application pursuant to the provisions of Meetings General Procedure Rule 8(3). Mr Yexley was the Managing Director of a Colchester based company – UK Media Group, and was speaking on behalf of the applicant. He considered that the site at 115 Butt Road was a garage forecourt that would be well known to Council members as a blot on Colchester's street scene. Conservation Area constraints still allowed for an area to evolve without necessarily preventing change by working with building owners to encourage the repair and maintenance of their property without loss or damage to the property or its surroundings. The application was not for a new feature, but was in fact related to the replacement and betterment of a feature that had been present for many years at the site. Sizable adverts had been placed at the location since the 1960's, which were as large as the poster currently being proposed. The attention of the Committee was drawn to a digital billboard on Harwich Road which had recently received planning permission, and it was urged to take a consistent approach to such advertising by granting this application. The proposed billboard would generate significant income for the Council via the business rates which would be payable on it, and the uplift and renovation of the immediate area would be an additional benefit. The proposed billboard would be of modern design, not illuminated and would be for the benefit of advertising local Colchester businesses, and the Committee was urged to grant the application.

At the request of the Chair, John Miles, Senior Planning Officer responded to the points which had been raised. Of the examples of similar signs which had been approved in the past which had been cited in support of the application, the only sign which was also in a conservation area was situated at the corner of East Street and the Ipswich Road, and this was a hand painted sign in keeping with the character of

the area. In contrast, the proposed sign that had been applied for was modern in character and would be a dominate addition not in keeping with the locality. Although there would be some financial benefits to the application being successful, it was not considered that this would outweigh the harm that it would cause to the conservation area that had been identified.

Members of the Committee member noted that residents in a conservation area were restricted in the changes that could be made to their properties, and considered that the proposed billboard would be an unwelcome and overpowering addition to the conservation area.

*RESOLVED* (NINE voted FOR, ONE voted AGAINST and ONE ABSTAINED from voting) that the application be rejected for the reasons set out in the report.



## PLANNING COMMITTEE

### 16 June 2022

<i>Present:-</i>	Councillors Lilley (Chair) , Buston, Cory, Fox, Hogg Kirkby-Taylor, MacLean, Mannion, McCarthy, Warnes and Willetts
<i>Substitute Member:-</i>	Cllr Cory Substituted for Councillor Barton Cllr Buston Substituted for Councillor Chapman Cllr Hogg Substituted for Councillor Chuah Cllr Fox Substituted for Councillor McLean Cllr Kirkby-Taylor Substituted for Councillor Nissen Cllr Willetts substituted for Councillor Tate
<i>Also in Attendance:-</i>	Cllr Bentley

#### 930. Minutes

It was noted that no minutes were submitted for approval at the meeting.

#### 931. 213530 & 213531 Land West of Peldon Road and Land adj, Borleys, Peldon Road, Abberton, CO5 7PB

**Councillor Warnes (as a resident of the village) declared a non-pecuniary interest in the following item pursuant to the provision of Meetings General Procedure Rule (75).**

The Committee considered an application for Outline Planning permission for: up to 50 new dwellings; a new vehicle drop-off point/ pick up point; and access to Peldon Road. All matters reserved, except access and an Outline application for the erection of five dwellings. The applications were referred to the Planning Committee as they represented a departure from the adopted Development Plan and in the case of the larger application the signing of a legal agreement is required, and objections have been received.

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

Nadine Calder, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the two application sites within the report. The Principal Planning Officer outlined that Site A (213530) which was the larger site would be providing 30% affordable housing, that a new access would be created for the site, and that a pedestrian footpath was proposed in the northern corner of the site. The Committee heard that site B (213531) sought outline permission for 5 dwellings and showed the indicative plan for the site and possible designs of the houses. The Principal Planning Officer concluded by outlining that the officer recommendation was for approval as detailed in the Committee report.

Simon Dougherty addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard that the proposals would have a serious effect on the school and outlined that the proposed car park was in the wrong location as it would require children and families to cross a busy road. It was noted by the speaker that currently 78 out of 108 students at the school were not residents in the village, that the proposed 8 parking spaces would not be adequate for those visiting the school and concluded that there was a site within the school grounds that could be used and asked that the Committee explore this further.

Andrew Ransome (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 as amended by the Chair in support of application 213530. The Committee heard that the proposal sought to secure the permission for the Local Plan allocation which had been found as sound and legal by the Planning Inspector. It was noted that this could be afforded weight in the Committee's decision-making process and detailed that the proposal was supported by a transport statement, mitigation measures and provision had been made for £500,000 and concluded by detailing the density of the site and that there were no technical constraints on the site.

Mark Jackson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 as amended by the Chair in support of application 231531. The Committee heard that the application included the details of access and was included in the emerging Colchester Local Plan. The Supporter elaborated that the conditions on the proposal would secure the pedestrian access and would be a sustainable development within the village. The speaker concluded by detailing that the proposal had sought pre-application advice from the Council and that a phasing plan and RAMs payments would be provided and asked that the application be approved.

With the permission of the Chair, Councillor Kevin Bentley addressed the Committee. The Committee heard that there was a school in close proximity to the site and that people were forced to drive there. The Visiting Councillor elaborated that they were pleased to hear that the proposed developments would be supporting infrastructure but reminded members that sustainable transport was not available in the area. It was noted that there had been no objections from Essex County Council but drew attention to the details requiring the relevant authorities and parties to work together to plan for the future.

The Committee debated the application on the issues including: whether a crossing could be installed on the main road between the two applications, the location of the pathways from the site and their access to the school.

At the request of the Chair the Principal Planning Officer responded to the points that had been raised by public speakers, visiting councillors, and the debate so far. The Committee were shown on the presentation screen the location of the school and its relationship with the two sites, that there would be an allocation of at least 8 parking spaces but could not be confirmed until final detailing was undertaken, but clarified that the sites could not be linked in terms of footways as they were standalone applications. It was further noted that the applications before the Committee did not have to mitigate the issues that were in existence but were required not to exacerbate problems.

Members of the Committee continued to debate the application on the issues including: the current pressures upon the school regarding parking and traffic, the speed limit along Peldon Road and the movement of 30MPH signs further away from the site.

At the request of the Chair Martin Mason, the Strategic Development Engineer for Essex County Council, responded to questions raised by the Committee and points made in the

debate. The Committee heard that the predicted number of journeys crossing the road from pedestrians would warrant an informal crossing point but not a controlled or zebra crossing. It was noted that the school run of parents driving to destinations was a national issue but not one that could be easily resolved.

Members continued debating the application on the issue of road safety and felt that an informal crossing would not provide a safe access to the school and suggested the possibility of a traffic island. The Strategic Development Engineer responded to the debate regarding the crossing and advised the Committee that the demand from the crossing was measured and that the Highways Department of Essex County Council would not be supporting a scheme if they did not think that it was safe.

Members raised significant concern regarding the proposed informal crossing and whether it would be suitable for the area and considered whether more time was needed to review the crossing point to take into account the safety of future users as well as access to the school. The Committee debated that the applications could not be approved in their current forms and discussed reasons for deferral which included: access to the school which included existing public rights of way and possible new extensions, road calming measures and road crossings.

*RESOLVED ( UNANIMOUSLY)* that applications 213530 & 213531 be deferred for officers to investigate the following items:

1. Improved turning area and drop off point in school grounds.
2. Crossing point between two site allocations in policy SS1 and whether the safe delivery of a controlled crossing is possible at an affordable cost.
3. Possible site B footway link to Public Right of Way.
4. Possible options for further road calming speeds on Peldon Road.

And that the applications are referred back to the Committee in due course.



## PLANNING COMMITTEE

### 7 July 2022

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

### 932. Minutes

The Minutes of the meeting held on the 28 April 2022 and 9 June 2022 were confirmed as a true record.

### 933. 220154 & 220155 garage site between 7&9 Prospero Close Colchester and Garage site adj, 15 Prospero Close, Colchester.

The Committee considered an application for (i) redevelopment of site to involve demolition of the existing garages and provision of 2 no. one bedroom units: and (ii) redevelopment of site to involve the demolition of the existing garages and provision of 2 no. one bedroom units. The applications were referred to the Planning Committee as the application was made by Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

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

RESOLVED (UNANIMOUSLY) that the applications be approved subject to the conditions and informatives in the report and amendment sheet.

### 934. 220147 Garage Block Wheeler Close, Wheeler Close, Colchester

The Committee considered an application for the demolition of existing garages and redevelopment of site to provide 6x2 bedroom flats. The application was referred to the Planning Committee as the application was made by Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

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

RESOLVED (UNANIMOUSLY) that the applications be approved subject to the conditions and informatives in the report and amendment sheet.





**Item No:** 7.1

**Application:** 211510

**Applicant:** Beyond The Box

**Agent:** Mr James Firth, Savills

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

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

**Ward:** Old Heath & The Hythe

**Officer:** James Ryan

**Recommendation:** Approval

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

1.1 This scheme was previously before committee as it is had been called-in by Councillor Lee Scordis for the following reasons:

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

1.2 The scheme is now before Members following a previous deferral.

## **2.0 Synopsis**

2.1 The key issues for consideration are the impact the scheme will have on the townscape and amenity of neighbours, the need for the development and the PRow, alongside the planning benefits of the scheme.

2.2 The scheme was deferred at committee on the 17<sup>th</sup> February 2022. The reasons for deferring the application were in respect of the design, access and parking.

2.3 As is set out below, the scheme has undergone significant amendments in order to overcome Member's concerns. The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

3.1 The application site is located inside what is recognised in Colchester's adopted Proposals Maps as the settlement boundary of the town. The site is located in the former commercial harbour known as the Hythe area, which comprises a mix of industrial, commercial and residential buildings. The area has been subject to regeneration and redevelopment in recent years, notably the Maltings student accommodation scheme to the south and a series of residential apartments and student accommodation blocks located to the eastern side of the River Colne all of which are fairly tall buildings.

3.2 The site itself is mostly a vacant piece of brownfield scrub/grassland located between the A134 (Hythe Quay) to its western bank and the River Colne estuary to its east. The north of the site however, comprises low level commercial buildings, which a tyre business operates from. Two houseboats are moored alongside.

3.3 To the north of the site is a footbridge across the River Colne providing connectivity to the developed area to the east of the river. The eastern boundary of the site adjoins the River Colne which is supported by a piled river wall. The site is largely enclosed on its western boundary by a concrete wall, which is abutted by a narrow walkway along the eastern side of the A134. This walkway ends at the southern boundary of the site. This area has been left open and is not enclosed by walls. The space to the south of the site comprises

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an area grassland which occupies the space between the river side and the curb on the A134 until a new footpath starts at the Malting Roundabout and providing onward connection to Colne Causeway (another river crossing).

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

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

- 4.1 The application proposes two student accommodation blocks (amended from three blocks as originally submitted) in a sustainable location in Colchester. The proposals allow for the redevelopment of a mostly vacant strip of previously developed former industrial land between the A134 (Hythe Quay) and the western boundary of the Colne Estuary, comprising grass land and scrub. The site provides the opportunity to provide high quality buildings, public realm enhancements and footpath connectivity from the eastern side of the A134 to the south of the site to the Maltings and to a footbridge which crosses the river Colne to the north of the site. The site is located within a designated regeneration and growth area for Colchester.
- 4.2 It is important to note that the proposals also include the construction of a new river wall. There are sections of the existing river wall at the northern and southern extents of the site that are in good condition and do not need to be raised to protect the buildings from flooding. However, the remaining part of the wall is too low to protect the site and is not in a good condition. It is proposed to construct a new river wall by sheet piling on the river side of the existing wall. This element represents a significant investment.
- 4.3 **Following the deferral of the item at committee** on the 17<sup>th</sup> of February the applicants have reduced the tallest part of the scheme by two-storeys, from 10

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down to a maximum of 8-storeys for the southern block. A further reduction in height is achieved through the progressive stepping-down of the built form, in turn minimising any impact on the existing properties along Hythe Quay.

- 4.4 As a result of this reduction, the tallest elements of the scheme are now below the respective heights of The Maltings and Hythe Mills student accommodation blocks. The southern block has also been extended by a single row of rooms to compensate for the loss of some rooms.
- 4.5 In respect to the northern block, the previous pitched roofs have now been replaced with flat roofs on the southern section, reducing the overall height. All of the flat roofs are to be covered in solar-brown roofs, improving biodiversity and generating electricity. The northern block has also been extended by a single row of rooms to compensate for the loss of some rooms. In combination, these alterations significantly reduce the scale and massing of the built form, whilst also alleviating fears over the loss of light, privacy and overshadowing. This is further supported by the submitted Daylight and Sunlight Report.
- 4.6 The blocks have also been moved fractionally north and south in order to keep the central public square as large as possible and to minimise any impact on the existing properties along Hythe Quay. The buildings have also been positioned further away from Hythe Quay in order make the road appear and feel wider, maximising the amount of light to the existing properties and creating additional space for better parking, an additional delivery bay and footpaths.
- 4.7 There is an associated reduction in the number of units overall from 270 to 268 student studios apartments. It is intended that the proposed external finishes will also remain the same as per the original submission.
- 4.8 Parking and access arrangements have been improved as set out below.

## **5.0 Land Use Allocation**

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

## **6.0 Relevant Planning History**

- 6.1 There is no recent planning history.
- 6.2 COL/96/1251 – Outline application for residential development comprising 24 no. two bedroom flats – Former Gas Quay, The Hythe, Colchester was approved on the 7th November 1996. This does not appear to have been implemented.

## **7.0 Principal Policies**

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

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

## 7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP5 Employment
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

## 7.3 The Local Plan 2017-2033 Section 2

Since the deferral Section 2 of the Colchester Local Plan was adopted on the 4 July 2022 and is afforded full weight. The following policies are considered to be relevant in this case:

- Policy SG1: Colchester's Spatial Strategy
- Policy SG2: Housing Delivery
- Policy SG7: Infrastructure Delivery and Impact Mitigation
- Policy EC2: East Colchester
- Policy ENV1: Environment
- Policy ENV3: Green Infrastructure
- Policy ENV5: Pollution and Contaminated Land
- Policy CC1: Climate Change
- Policy PP1: Generic Infrastructure and Mitigation Requirements
- Policy DM1: Health and Wellbeing
- Policy DM9: Development Density
- Policy DM10: Housing Diversity
- Policy DM12: Housing Standards
- Policy DM15: Design and Amenity
- Policy DM17: Retention of Open Space and Recreation Facilities
- Policy DM18: Provision of Public Open Space
- Policy DM19: Private Amenity Space
- Policy DM20: Promoting Sustainable Transport and Changing Travel Behaviour
- Policy DM21: Sustainable Access to Development
- Policy DM22: Parking
- Policy DM23: Flood Risk and Water Management
- Policy DM24: Sustainable Urban Drainage Systems

- Policy DM25: Renewable Energy, Water, Waste and Recycling

7.4 The site is not in a Neighbourhood Plan area.

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

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

## **8.0 Consultations**

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

### **8.2 Anglian Water**

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

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

### **8.3 Arboriculture**

No trees on site.

### **8.4 Archaeology**

No objection, condition requested.

### **8.5 Cadent**

We do not object to the proposal in principle.

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

8.6 Contaminated Land

No objection subject to conditions.

8.7 Colchester Civic Society

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

8.8 Colchester Cycling Campaign

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

8.9 Colchester Travel Plan Club

TPC supports this application. Beyond The Box Ltd have been a member of CTPC for a number of years through their existing student accommodation on Avon Way, and throughout this time have been a proactive member of the group. They have a genuine desire to ensure their development is as sustainable as possible, including building practices, travel and transport, and carbon reduction. We look forward to working with Beyond The Box on further developments in the borough as a positive and community-minded student developer.

8.10 Environment Agency

No objection.

8.11 Environmental Protection

No objection subject to conditions

8.12 Essex Police

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

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

8.13 Highway Authority

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

8.14 Health and Safety Executive

Do not advise against (no objection).

8.15 Historic Buildings and Areas Officer

No objection – please see relevant section below

8.16 Historic England

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

8.17 Landscape Advisor

No objection subject to conditions.

8.18 Natural England

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

8.19 NHS

Require a financial contribution towards healthcare provision in the area.

8.20 Place Services Ecology

Following additional information, no objection subject to conditions.

8.21 Private Sector Housing

Object – see main body of report.

8.22 Ramblers

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

8.23 SuDS (LLFA)

No objection to the scheme.

8.24 Urban Designer

Updated response is set out in the design section below.

## **9.0 Parish Council Response**

9.1 The area is non-parished.

## **10.0 Representations from Notified Parties**

10.1 Prior to the planning committee of the 17/02/2022 the application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below. As the scheme was amended during the application period two consultations were undertaken. A number of representations were received, with 62 were in objection and 53 were in support and 13 were general comments. Following the deferral the amended scheme generated a further 13 objections, 5 support comments and one observation.

10.2 An objection was also received from Alderman Theresa Higgins. In summary this objected to the scheme as it is considered to be too tall, comprises overdevelopment, will dominate the area, will harm biodiversity and is harmful to the historic area. The impact on the sewage system was also raised. The need for student accommodation was also questioned. A further objection was

received from Alderman Theresa Higgins following the deferral setting out how the changes have not overcome the previous issues noted.

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

#### Objections

The scheme is ugly.

The scheme is too large/high/tall.

The scheme is overdevelopment.

The area should be a park.

The area is a haven for wildlife.

There is no need for this student accommodation.

Students do nothing for the area or the economy.

Students should be located at the University.

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

Where will they park?

Highway and traffic problems in the area will be exacerbated.

The scheme is harmful to the Conservation Area.

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

#### Support

This will be good for the area.

The buildings are well designed.

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

Beyond the Box provides great accommodation.

#### Following consultation post deferral, the following comments were made:

The changes have done nothing to improve the scheme and my previous objections remain.

There will still be parking/traffic problems.

The proposed walking routes are hazardous.



The roads are already gridlocked.

This is not beneficial to local residents.

The scheme is still harmful to the amenity of the neighbours.

There are too many students in the area already.

The scheme is the wrong one for the site.

The scheme is still too large and comprises overdevelopment.

It should be put elsewhere.

The scheme should be 8 metres from the river.

Loss of habitat and biodiversity.

This will impact my quality of life, the students cause numerous problems in the area already in terms of loitering and disturbance at all hours.

There is flooding in Haven Road.

Please retain the beauty of the Hythe.

This scheme will be very positive for the area.

This scheme will open up the waterside for walkers.

Colchester needs more student accommodation.

## **11.0 Parking Provision**

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

11.2 Following the deferral of the application at committee on the 17/2/2022 the amended scheme reduces the overall quantum of development marginally thus reducing the overall parking demand.

11.3 In any case, as requested by Members on the 17/2/2022, the latest iterations of the scheme now propose a second layby for refuse collections and delivery vehicles along Hythe Quay. It can also be utilised for additional vehicular parking during change over days for students leaving or moving into the accommodation blocks. Overall, there are now seven parking bays with one for electric vehicles, one over-spill parking and two loading bays.

## **12.0 Accessibility**

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

## **13.0 Open Space Provisions**

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

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

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

### **Community – £35,000**

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

### **Transport - £50,000**

Following the previous committee where the flooding in Haven Road was noted, it has been decided to reallocate the transport funding to start a fund to attempt to solve the flooding there.

If the money is not spent in 5 years, it will revert to the original spend purpose as set out below:

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

### **Highways -**

a) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)

- b) Improved crossing facilities in Hythe Quay (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) A Travel Plan and Residential Travel Information Packs both in accordance with Essex County Council guidance.

Works conditioned and delivered either as part of the site or by a s278 agreement

#### **Archaeology - £15,153.00**

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

£753 for enhancement of the Colchester HER

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

#### **NHS - 71,700.00**

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

### **16.0 Report**

The main issues in this case are:

#### Policy Background

- 16.1 Following the deferral, the section 2 Local Plan for Colchester was formally adopted. The CB Local Plan 2017-2033 is now the development plan for the Borough.
- 16.2 In the adopted Section 2 Local Plan, the site also forms part of the East Colchester Special Policy Area (Policy EC2). Policy EC2 supports and encourages development that helps to achieve the following key objectives. The proposals have therefore been assessed against the relevant objectives of Policy EC2 below (only the relevant section of policy is shown in italics and some are abridged due to length):
  - i) Support regeneration of the area through appropriate densities, providing good public transport, a mix of uses including commercial community and residential as well as providing community and environmental enhancements*
- 16.3 It can be argued that the proposals will directly support the regeneration of the local area by providing development on a mostly vacant underutilised parcel of land that runs alongside the river Colne. Proposals will allow for a new footpath connection and footway along the river front, creating better connectivity along the eastern side of the A134 and opportunities for human interaction with the river front (in accordance with the aspirations for the Rowhedge Trail Route), providing significant benefit to the public and the local community. Opportunities for enhancement of the public realm; and environmental enhancement all exist as a result of the proposals. Student accommodation provides a type of residential development specific to the University. The Hythe is a suitable

location for student accommodation given its proximity to the University of Essex site, which is also evidenced by the numerous examples of other student accommodation sites also situated in the local area (for example the Maltings, Hythe Mills, Hawkins Rd).

*ii) Maximise the potential benefits of the location adjacent to the University, enhanced by its expansion (Policy EC1)*

- 16.4 In accordance with this objective, the proposals will provide additional student accommodation primarily for students returning to university after their first year of study. Returning students are not guaranteed student accommodation by the University and there is demand to provide quality private student accommodation outside of the University Campus to those individuals who are not guaranteed accommodation by the University. As confirmed in the University of Essex's University Strategy 2019–2025 they currently enrol 15,317 students across three campuses with ambitions to expand their student population to 20,000 students. The additional 268 student units proposed will provide a significant contribution to the university's targets, by providing accommodation in accordance with their expansion. As noted above at paragraph 5.8 the application site is ideally located in an accessible location within walking distance of the university, in an area which has already proved to be a popular location for student accommodation. The need for accommodation is dealt with in more detail below.

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

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

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

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

*v) Contribute to the East Transit Corridor*

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

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

- 16.8 The application site mostly comprises low value grassland and an area of which is inaccessible to the public. As shown on the accompanying landscape drawings, the proposals will introduce green infrastructure through soft landscaping to the site and provide opportunities for biodiversity enhancement and habitat creation including the provision of a biodiverse roof. This application is also accompanied by a Preliminary Ecological Appraisal, which is commented upon further below.

*vii) Contribute towards flood risk solutions*

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

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

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

*ix) Situate development away from contaminated land*

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

Policy Conclusion

- 16.12 Subject to the proposal meeting other relevant policies contained within the Development Plan and national planning policy, the principle of student accommodation at the policies referenced above within the newly adopted Local

Plan establish the principle of development at the application site and proposals should be supported.

- 16.13 It is also noted that CBC have supported the development of this site for residential development previously as noted in the planning history section above.

Amendments following the deferral on 17/02/2022

- 16.14 The scheme was amended significantly during the application period in a response to neighbours' comments. As noted at para.4.3 to 4.8 the scheme has recently been amended further to overcome issues raised by Members at the committee on the 17/2/2022. Alongside the primary changes to the height and access arrangements set out above as per the formal deferral, the applicants noted the following issues were raised in the discussion at the committee meeting and actions the following changes:

- The bin store has been split between the northern and southern blocks to assist students;
- The proposed bike store has an improved layout and an increased capacity of 82 bikes, including two large/cargo bikes. A dedicated bike maintenance area is also provided;
- The building maintenance and store room has increased in size and is now 59.5m<sup>2</sup>;
- The communal kitchens and dining rooms on all floors now include a 'lounge area' for relaxation;
- An increase in the variety of studio bedrooms to six types, ranging in size from 13.5m<sup>2</sup> to 26m<sup>2</sup> The area of bio-solar roofs has increase to 595.8m<sup>2</sup>. This combines bio-diverse roofs and solar power;
- Increasing the footpath width from the footbridge to the zebra crossing to 3m to allow bicycles to use it.
- 

Amount/Operation

- 16.15 As submitted the scheme comprised 300 units of student accommodation. During the application period in an attempt to overcome some of the objections the scheme was changed from three blocks to two and the number of bedspaces was reduced from 300 rooms to 270 rooms.
- 16.16 Following the deferral on the 17.2.2022, the scheme now proposes a total of 268 studios. 227 are 13.5sqm studios, 18 are 15sqm studios, 11 are 18 sqm, 3 are 20 sqm, 3 are 24sqm, and 6 are 26sqm. Two of the larger studios are wheelchair compliant.
- 16.17 On the ground floor there are a number of group study rooms, kitchens, laundry, plant room, bin area, bike stores, a reception area and a TV room. There is no residential accommodation on the ground floor. Both blocks have lifts. The entire

building is covered by sprinklers for fire safety and the applicants have confirmed that the layout has been informed by a fire consultant. The studios are located on the floors above. Each floor also has a shared kitchen in each block.

- 16.18 Operationally, the applicants have confirmed that their staff are on site during normal business hours plus the key move in weekends. They also employ additional staff and students to help on the key move in weekend. They remotely manage the CCTV and other systems.

### Design

- 16.19 The National Planning Policy Framework (2021) sets out the Government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, going on to state that 'good design is a key aspect of sustainable development'. The framework also states that 'development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'.
- 16.20 Government guidance on design is provided by the National Design Guide and National Model Design Code, both of which form part of the government's Planning Practice Guidance. The National Design Guide seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice. Whilst the National Model Design Code sets out clear design parameters to help establish what good quality design looks like and provides a common overarching framework for design. These documents are intended to help create beautiful and distinctive places, with a consistent and high quality standard of design.
- 16.21 At a local level these policies are carried through to Section 1 Plan Policy SP7, which seek to ensure development responds positively to local character and context to preserve and enhance the quality of existing places and their environs. These policies are supported by more detailed guidance provided by supplementary planning documents such as the Essex Design Guide.
- 16.22 Section 2 of the Colchester Borough Local Plan 2013-2033, 'Local Plan for Colchester', now carries full weight. Policy DM15 is of particular relevance with regard to setting design standards and amongst other requirements seeks to ensure proposed developments respect and enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.

### Design Assessment

- 16.23 It is noted that revisions have been made to the scheme following requests from Members present at Planning Committee, for a reduction in height and enhanced vehicular accessibility.

- 16.24 A reduction in POS and the slight re-alignment of the built form within is relocated closer to the river have facilitated increased parking and servicing provision. Whilst a reduction in units combined with a re-arrangement of massing, increased building footprints and an amended roof form have facilitated a modest reduction in height of the northern block and a two storey reduction in the height of the southern block.
- 16.25 The revisions to the scheme reduce the contrast between the scale and height of the proposal and its immediate context. However, comments previously made pertaining to the scale and height of the proposed built environment, along with its impact upon both public and residential amenity, remain relevant, though to a lesser degree. Additionally, the trade off for achieving the desired changes to the scheme is considered to be a reduction in the quality and quantity of public realm/POS and reduced access and views along the river.
- 16.26 The composition and treatments of the facades of the proposed structures have been revised in response to their amended massing. As a result, they continue to seek to mitigate their scale and ensure they appear as a coherent collection of various structural elements which share consistent features. The use of a variety of materials and detailing break down the massing of the structures effectively. As a result, the elevational treatments of the proposed structures achieve a consistent rhythm, appearing balanced and visually articulated. The approach to materiality is consistent with the vernacular of the wider area. A good degree of active frontage is delivered at ground floor, however it is not evenly distributed. As such, the ground floor elevations to the north of the site would benefit from enhanced detailing or landscaping. On balance, the proposed built environment is considered to achieve an acceptable intrinsic standard of design.

#### Design Policy Compliance

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

#### Conclusions

- 16.28 As highlighted above, elements of the design of the proposed development have been improved, whilst others remain contrary to elements of policy. The proposal brings a disused parcel of land back in to use, delivers public realm improvements, significantly enhances access to the waterfront and looks to respond to the existing historic fabric of the area. The Urban Designer argues that the proposed development has a poor connection with its immediate context



by virtue of its scale but notes that the scale has been reduced following the 17/2/2022. The negative elements of the design are generally a result of the density of the proposed development, which pertains to matters of principle. As such a balanced judgement is required as to whether the negative elements of the proposed design are considered acceptable in the context of the wider material planning considerations relevant to this application.

- 16.29 On balance, the amendments have improved the overall design of the scheme, continuing to build on that developed collaboratively with officers through a detailed pre-application process, and ensure that the updated scheme better accords with policy DM15 of the adopted local plan.

### Need

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

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

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

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

### Landscaping

- 16.33 The revisions made to the overall site layout have been directly influenced by a desire to improve the offering of public open space and realm on the site, and to ensure that these spaces relate specifically to the unique location of this site. The revised layout provides significantly more usable space of this nature and, as such, more flexibility to design them in a way which ensure they are beneficial for both the new and existing community, whilst also making a maximum contribution to biodiversity. The use of rain gardens allows these spaces to contribute positively to the flood and drainage strategy for the site in a dual purpose manner also. The scheme will therefore comply with LP Section 2 Policy ENV1.
- 16.34 It is noted that the Landscape Master Plan shows a great deal of planting at the northern end of the site. Whilst this appears as very attractive, it will need to be rearranged to provide a 3m wide cyclable connection from the white bridge to the proposed crossing whilst also maintaining the definitive alignment of the PRow that was previously amended to avoid the landing of the white footbridge. This will be achieved via condition.

### Impact on Townscape

- 16.35 Policy DM15 of adopted local plan requires proposals to respect its context and surroundings in terms of townscape and/or landscape setting, it also requires proposals to respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area.
- 16.36 In respect of this policy, a Landscape, Townscape and Visual Impact Assessment has been prepared by Guarda Landscape and accompanies this planning submission. The report sets out the baseline situation of the site and its surrounding context and has informed the design of the development of the application proposals and approach to mitigation as part of landscape led approach.
- 16.37 The report has been prepared in accordance with the relevant LVIA guidance with viewpoints also being agreed with CBC Officers before the assessment was undertaken. The defined study area is centred on the proposed site and is based on the area from which views of the development may be visible i.e. the visual envelope.
- 16.38 The report has undertaken two types of assessment landscape effect and visual effect. It considers the effect of the completed scheme on the surrounding landscape, townscape character and visual amenity from the surrounding roads and footpath network.
- 16.39 An initial baseline appraisal in Part 1 of the report confirms in landscape terms, with the exception of a small, isolated reed bed, that the overall condition of the site is poor and it has a derelict and degraded character. The wall to the western boundary of the Site, visually separates the Site from the Hythe Quay forming a detracting feature within the Site's townscape context, and PRow FP 127\_138

does not currently exist on the ground. The site is considered to be of low landscape and townscape value. In terms of visual amenity, the site within its context was considered to offer medium to high visual amenity.

- 16.40 The assessment of landscape effects found that there would be a permanent change in land use which will alter the character of the site and the immediate surroundings. However, the development will bring significant riverside public realm enhancements, for example through landscape improvements and a biodiversity. In the context of the site's existing post-industrial brownfield character, these changes are beneficial.
- 16.41 The applicants argue that upon completion, the overall effect of the development would be predominantly beneficial. Although built form will increase, the new buildings (architecturally) reflect the Hythe's industrial past and the area with positive outcomes for the setting of the site and the Hythe Conservation Area.
- 16.42 Following the deferral on the 17/2/2022 the buildings have rotated on their south eastern axis to the north east. The changes are as follows:

*Footprints are as follows:*

*North Building: 644.65m<sup>2</sup> (Previously: 604.81m<sup>2</sup>)*

*South Building: 637.72m<sup>2</sup> (Previously: 566.06m<sup>2</sup>)*

***The heights of both buildings have reduced.***

*The South Block has been reduced by two storeys and is now lower than a number of surrounding existing buildings, notably The Maltings and Hythe Mills.*

*Building Heights are set out below:*

*Previous: 30.08m*

*Proposed: 24.45m*

***Reduction: -5.63m***

*The North Block has reduced in height due to a change in the roof as set out below:*

*Previous 20.49m*

*Proposed 19.65m*

***Reduction -0.84m***

*There are 14 trees. The previous scheme had 15 (specifically at the northern end of the landscape scheme).*

*Both buildings now have biodiverse roof areas, totalling: 595.81m<sup>2</sup>*

*North: 237.52m<sup>2</sup>*

*South: 358.29m<sup>2</sup>*

*The previous scheme only included the south block and amounted to approx. 185m<sup>2</sup>*

*There will be less open space as a result of the additional loading bay, and the increase in size of the building footprints – which all occurs within areas previously*

*given as open space. The reduction to the central space due to the proposed new loading bay will necessitate that planting is moved by 1.5m to the east.*

- 16.43 The LVIA has been updated by way of an addendum. The consultants considered that the decrease in building heights can only be beneficial in terms of the local townscape character and that the increase in biodiverse roof area compensates for the slight decrease in area of open space at ground level. They confirm that the findings of our Landscape and Visual Impact Assessment (LVIA) are unchanged, and the reports remains valid.
- 16.44 The assessment of visual effects report found that those in closest proximity to the site will experience the greatest changes in visual amenity, particularly pedestrian users. The effect on visual amenity to local residents was also assessed to be major adverse or major/moderate adverse impact during construction. The construction phase will be most disruptive however these effects are temporary. However, the proposed landscape mitigation, aims to reduce the effects of development and provide new public realm to the riverside. Given the narrowness of the site, most of the mitigation, in terms of tree planting, is to the north and south of the building and the plaza links between the buildings. The use of mature vegetation will provide immediate impact and provide positive change, immediately on the scheme.
- 16.45 The new buildings will be a visible element in the riverside view and from Hythe Quay which will be seen in conjunction with the existing built form which surrounds the site. The buildings have been designed to reflect the local context in terms of scale, layout and landscape. The effect of tree planting will be most effective at ground level in close proximity to the site. In middle distance views the effect of tree planting will provide a green setting to the buildings improving the areas townscape character and visual amenity. In longer distance views the proposed buildings are beyond the existing built form and the landscape proposals will not be visible and have no effect.
- 16.46 The proposal will alter the character of the site and its immediate surrounding, although there will be localised adverse visual and landscape effects, especially to receptors close the site, the change to high quality new development is seen as beneficial given the public realm enhancements, the reinstatement of the public footpath along the riverside and the interconnectivity of the site. This is an element of the scheme that must be assessed in the planning balance.
- 16.47 Given the extent of the changes and the impact they have on views in and out of the proposed development site, an Addendum to the LVIA previously submitted has therefore also been prepared to form part of this submission. This concludes that the proposed changes will be beneficial in terms of Townscape and Landscape visual impact considerations.

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

16.48 Adopted local plan policy DM16 – Historic Environment confirms development proposals that will adversely affect a listed building, conservation area, historic park or garden or important archaeological remains will be not be permitted unless there are clear and convincing public benefits that justify the harm identified. Section 16 of the NPPF is also concerned with impacts on heritage assets that in determining application local planning authorities should require applicants to describe the significance of any heritage assets affected, to quantify the impacts on significance and provide a convincing justification for any harm identified.

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

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

### Heritage Asset: Summary of Significance

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

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

### Scope Of Works: Summary

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

### Relevant Statutory Duties

16.54 S.66(1) PI (Lb & Ca) Act 1990 – To preserve the setting of listed buildings

S.72(1) PI (Lb & Ca) Act 1990 – To preserve or enhance the character and appearance of the conservation area.

### Analysis of Impact Upon Heritage

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

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non-designated HA. Following the deferral, the unit numbers have been reduced further to facilitate a reduction in the height and massing of the development.

- 16.56 In terms of the wider impacts on the setting of the Hythe CA to the north, the principal effect will be experienced in terms of the long views along the river corridor out from and into the CA. The introduction of a significant built form will soften views of the adjacent Maltings Development (8 Storeys) through the use of a cascaded massing from a peak at the northern end (9 storey focal point on the southern junction) to a more typical 4 storeys at the northern end (addressing the CA). The increased mass and intensity of development will contrast with the former historic haphazard coal and lime kiln uses and will instead respond to the later C20 and C21 development on the opposed bank of the Colne in Hawkins Road. The scale will contrast with that established in the later C20 e.g., to the west of Hesper Road where a modest 3 storey format dominates. Following the committee deferral, the reduction in the storey heights achieved further improves the contextual relationship of the development and does not exceed that established by the neighbouring Maltings scheme.
- 16.57 However, the built form now proposed will have only a peripheral impact on the character of the CA to the north and will simply reinforce more recent patterns of development of increased scale to the south. This reflects the transitional character of this part of the Hythe, in terms of the magnitude of effects, the impact will be at the lower end of less than substantial harm and offset by the public benefits of regenerating a derelict area of river frontage and providing new public realm and planting.
- 16.58 The Development Manager has stated that he does not perceive any material impact on the significance of listed buildings to the north as the development site does not make a material positive contribution, either now or historically, to their individual heritage values or significance. They are too remote in his opinion and lack a functional relationship to the application site.
- 16.59 The impact on the significance of the Spinnaker PH (NDHA) has been significantly mitigated by the revisions secured to the scheme. But nevertheless, it will suffer a change to its historic setting in terms of its established visual dominance and character. The 1840's Spinnaker PH will still be appreciated and understood in terms of its heritage values, but it will be subordinated in terms of townscape presence. The DM Manager believes this modest harm is more than offset by the public benefits of the scheme, and in particular, the economic uplift to the local economy including potential customers of the PH which may secure its viability in the longer term.

#### Compliance With Relevant Policies

- 16.60 CBLP 2017-2033 SP6 Place Shaping Principles in part, ENV1 Environment, EC2 Hythe Special Policy Area, DM15 Design and Amenity, DM16 Historic Environment.

16.61 The scheme complies with the NPPF and above policies. It is important that relevant plan policies are read in the context of the plan as a whole and not in isolation.

#### Conclusions & Recommended Actions

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

#### Suggested Conditions

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

#### Living Conditions

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

*Although there has been some fundamental amendments to your submission, the internal layout still falls between DCLG's Space Standards and Essex HMO Amenity Standards, neither fully conforming to either. Therefore I can only repeat the comments Daniel has put forward:*

- *The proposed accommodation is creating 'micro-flats' rather than shared HMO accommodation, as each bedsit has its own living area, kitchen sink/cooking facilities and an en-suite shower room. Each unit can therefore be considered a self-contained flat. The majority of the studio flats are around 10m<sup>2</sup> and therefore do not meet the attached DCLG space standards for minimum internal floor area for each unit, which for a single person is 37m<sup>2</sup>.*
- *Should the accommodation be considered as an HMO (due to insufficient facilities/space in each bedroom), then having one kitchen on each floor, for anything up to 28 bedsits, would be deemed as severely inadequate. There would be an inappropriate number of persons using the one communal room. The layout of the double kitchens also shows sinks and cooking facilities side by side, rather than 2 distinct kitchen areas for safe use.*
- *My suggestion would be to either make each unit meet the DCLG space standards for a 1 bed flat, or to remove all kitchen and cooking facilities from each room and provide a sensible level of kitchen/living room space based on the number of occupants for each floor of accommodation. I would suggest that no more than 10 persons should be allocated a designed kitchen/living area (meeting all space and kitchen facilities requirements for 10 persons) and*

*therefore at least 2 separate kitchen/living rooms would need to be provided per floor of accommodation.*

*Failure to comply with either regulation, should any complaints be made to Private Sector Housing once occupied, may result in formal action being undertaken and the possible requirement of alteration works. It would therefore be prudent to address these issues before planning permission is awarded*

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

#### Archaeology

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



### Impact on Amenity

- 16.70 Paragraph (v) of Policy DM15 Design & Amenity, requires development proposals to protect existing residential amenity.
- 16.71 It is first important to note that planning does not seek to protect views. Some residents of the flats located south of the development site will lose their current river view, but that is not a material consideration.
- 16.72 In respect of this, the proposals impact upon the daylight/sunlight enjoyed by neighbouring properties is relevant. An Assessment has therefore been produced by Point 2 and accompanies this planning application.
- 16.73 The applicants argue that the site is located in an area which has seen substantial redevelopment and regeneration into a primarily residential urban sector. They state that as most of the surrounding properties are already tall at (4 to 9 floors) in the existing scenario, a degree of flexibility from the default BRE guidelines is necessary if the development site is to be fully utilised and the building is to match the height and proportions of existing buildings.
- 16.74 The applicants therefore argue that in order to meet housing targets, a degree of pragmatism with regards to the BRE guidelines will be necessary in accepting a handful of derogations.

### Background

- 16.75 It should be noted that in order to assess daylight and sunlight it is usual to assess impacts in relation to the guidelines set out in the 2011 Building Research Establishment (BRE) Report 'Site layout planning for daylight and sunlight - A guide to good practice' by Paul Littlefair. This document is most widely accepted by planning authorities as the means by which to judge the acceptability of a scheme. As a result, all of the analysis that the applicants provide is fundamentally based upon this guidance.
- 16.76 It should be noted that the BRE guidelines does not consider pass or fail as a criteria (principally as the BRE provides nationwide guidelines), it primarily looks at whether daylight reductions will be noticeable. Thus if reductions mean that windows are left with greater than 0.8 times their former value (relative alterations of less than 20%), the alterations are not noticeable. Where the relative alterations leave a window with less than 0.8 times their former value of daylight (a relative reduction of greater than 20%), this is considered a noticeable alteration. It should be emphasized that it has been held on appeal that a noticeable alteration of daylight does not necessarily mean the reduction of daylight is unacceptable. Buildings with an unusually high level of existing daylight (perhaps due to an unusually underdeveloped neighbouring plot) may experience noticeable alterations due to additional massing. Of critical importance therefore is whether the windows/room are left with sufficient daylight.
- 16.77 As a result, a degree of flexibility on understanding the acceptability of a scheme is required. One of the key aspects for example may be the context of a scheme, such as whether it is located in an urban, sub-urban or rural setting. Other criteria

include reference to the NPPF where it highlights the requirement to maximise the efficient use of land, or aspirations of the local authority to develop land in accordance with the local plan – the creation of a sufficient number of homes alongside the expansion of the university. As a result of this position, the BRE therefore highlights what degree of additional obstruction may be considered noticeable or not. The acceptability of the degree of obstruction therefore rest on numerous factors. Indeed, the BRE at para 1.6 explicitly provides that in special circumstances the developer or planning authority may wish to use different target values. For example, in a historic city centre or in an area with modern high rise buildings a higher degree of obstruction may be unavoidable.

- 16.78 The consultants have provided some guidance within their report as to existing light levels in the locale, this seeks to provide what is commensurate with the locale and therefore what is considered acceptable for this proposal. Thus where alterations of daylight are noticeable they have provided guidance, using existing prevailing daylight levels, of what amount of retained/residual daylight is considered acceptable.
- 16.79 VSC is 'Vertical Sky Component'. The VSC method measures the general amount of light available on the outside plane of the window as a ratio (%) of the amount of total unobstructed sky viewable following introduction of visible barriers such as buildings.
- 16.80 Taking into consideration the flexibility of the default BRE Guidance according to Appendix F as encouraged by the NPPF, a target retained VSC target in the 'mid teens' is considered appropriate in relation to the Application Site.
- 16.81 Retained VSC values of 9% to 'low teens' have already been considered acceptable in planning terms within the immediate local context as this level of residual daylight already exists. Furthermore, the consultants note that it was held at appeal (Goldsworth Road, Woking December 2021 para 34-39) that retaining a VSC level of 27% in neighbouring properties is unrealistic; as has been recognised in many appeal decisions and other documents.
- 16.82 Even retaining 20% VSC is considered, generally, to be reasonably good, and in urban areas retaining around mid-teen % VSC is considered to be acceptable. Indeed the appeal that the consultants cite noted that with one living room retaining a VSC of only 9% was acceptable. Thus the consultants have highlighted in the report where daylight alterations will be noticeable and provided guidance as to what is an acceptable degree of retained daylight where this is the case.
- 16.83 Following the deferral, the scheme has been amended and the consultants Daylight and Sunlight report have been amended to consider the new scheme. It is beyond the scope of this committee report to set out the full findings of the Daylight and Sunlight Report but a summary is given below. The full report is on the website if needed.

### Daylight

- 16.84 The impact of the development is limited to a minority of windows within a handful of properties. Four properties (58-102 Caelum Drive, 33-43 Meachen Road, 1-52 Keel Point & Sail House) experience alterations of daylight which fully accord with BRE guidance and will therefore be unnoticeable. A further property (1-29 Maria Court) experiences very minor derogations from the BRE guidelines' recommendations to 2 rooms, but the overall effects are not material.
- 16.85 The remaining properties experience some reductions which are technically noticeable however these are considered minor in part due to their retained/residual VSC which are greater than mid-teens, these are 45-79 Meachen Road, The Spinnaker PH and 1-31 Meachen Road. These results are within the bounds of the current prevailing daylight levels of the locale, thus are commensurate to the general conditions and can be considered acceptable in planning terms.
- 16.86 It is important to note that following the deferral on the 17/2/2022, this revised scheme compares favourably to the previously submitted scheme that Members considered as there are fewer noticeable alteration of daylight, and where alterations are noticeable, the residual/absolute VSC values are superior.
- 16.87 For windows which experience noticeable alteration of VSC residual daylight increases from an average of 20.6% to 22.6% - an increase of 10%.

### Sunlight

- 16.88 As regards sunlight, most receptors are fully BRE compliant with only one ground floor and one first floor flats in 45-79 Meachen Court experiencing reductions of less than the recommendations; these derogations are considered minor and overall, the sunlight levels are considered acceptable.

### Overlooking

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

this is to come forward. On balance, it is not considered that this scheme will cause materially harmful impacts to neighbours that are sufficient to warrant a refusal of a scheme that has the significant public benefits such as this one.

#### Employment

- 16.91 The proposals will result in the replacement of low level commercial buildings to the north of the site, which is currently occupied by a tyre business. It is however, noted that the application site does not comprise allocated employment land. The Hythe area has long been the location for traditional industries, many associated with the former port operations. These industries however are unlikely to attract the necessary economic and environmental benefits required for the regeneration initiative. The tyre business is currently responsible for employing a relatively small number of people, whilst the development proposals will employ at least 5 permanent staff members. Furthermore, there will also be wider economic benefits to the Hythe and the wider Colchester area through the housing of circa 268 students, the proposals are considered to be acceptable in this regard.

#### Highways, Parking and the Public Right of Way

- 16.92 Policies DM20, DM21, DM22 require all new development proposals to be accompanied by an appropriate Transport Assessment to determine the impacts on access, traffic generation and assess that appropriate provision for pedestrians, cyclist and links to foot and cycle networks have been accounted for. Additionally. They are also concerned with changing travel behaviours i.e. promoting walking and cycling.
- 16.93 The scheme is 'car free' so there is no designated parking for students during term time.
- 16.94 As a 'car free' site, the proposals prioritise pedestrian movements and encourage other modes of transport. Due to the location, the site is already well placed to take advantage of existing walking and cycling infrastructure. The site is also located with good access to local public transport. Following the deferral, the scheme is still proposed to be a 'car free' development, but now has seven parking bays with one for electric vehicles, one over-spill parking bay and two loading bays. These will be managed by the operator.
- 16.95 Policy DM22: Parking confirms that CBC will refer to the adopted parking standards. The adopted parking standards document for CBC is the Parking Standards Design and Good Practice September 2009 (Essex County Council). The Essex Parking Standards do not provide an exact standard for private student accommodation schemes, however standards for residential establishments for further education provide the closest guide. Under these standards the proposals would need to provide 1 space per 5 students and 1 space per full time students. However, Policy DM22 also states that the level of parking provision required will depend on the location, type and intensity of use. Lower standards may be acceptable or required where it can be clearly demonstrated that there is high level

of access to services, such as town centre locations. Cycle parking will also be required for all developments.

- 16.96 The parking spaces that are provided will be reserved for loading/deliveries/services and to accommodate disabled people. Following the deferral an additional loading/drop off bay has been created as this was requested by Members. Cycle parking is proposed in accordance with the parking standards 1 space per every 3 students.

#### The PRow

- 16.97 The site is not currently useable as public space, and although a public right of way (PROW 127\_128) runs through the site currently, it does not actually appear as currently potentially useable on site.
- 16.98 The definitive map has been checked and the alignment of the PRow is maintained (save for some landscaping that will be amended via condition as set out in the landscaping section). Whilst it is not usable currently, the applicants will need a temporary diversion during the construction phase and they are aware of this.
- 16.99 One of the key public benefits of this scheme is that the proposals will connect the site to the surrounding area and re-establish this footpath and thus revitalise this as an attractive riverside walk. The proposals will also provide an improved landing area from the footway across the river where a new controlled zebra crossing will provide safe passage across the road.
- 16.100 Colchester Cycling Campaign would like to see the new river walk (i.e. the existing PRow) dedicated as cycleway. The applicants and the Highway Authority are keen for this to be a footpath only. The Highway Authority have requested conditions to prevent the PRow being used for cycling.

#### Contaminated Land

- 16.101 Paragraph 178 of the NPPF states that a site should ensure it is suitable for its proposed use, taking account any arising risk from contamination.
- 16.102 Following the concluding advice of the Phase 1 Geoenvironmental Assessment submitted with the original application which was rather out of date, additional ground investigations have now taken place and an associated report now forms part of this updated submission. This report makes a number of recommendations in terms of the management of potential risk to both construction workers and future habitants of the site. Its findings have been assessed and agreed with the Council's Environmental Protection Team.

#### Ecology

- 16.103 Policy ENV1 states that development proposals should seek to protect habitats and species and conserve and enhance the biodiversity of the borough and provide for

any necessary mitigating or compensatory measures. It also states that planning applications should be supported by the appropriate ecological surveys.

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

#### Biodiversity Net Gain

- 16.109 Policy ENV1 (v) requires 10% Biodiversity Net Gain (BNG).
- 16.110 Full biodiversity net gain calculations have now been undertaken in respect of NPPF updates and emerging local policies. This assesses the biodiversity gains as a result of the proposal using the DEFRA metric. Overall, the proposed development will deliver a positive net gain in biodiversity. The total on-site net percentage change plus the off-site surplus is +77.54% of Area-based Habitat Units.
- 16.111 This is a very significant gain and should be given considerable weight in the assessment of the proposals. The ecological gain is achieved through the provision of high quality new and replacement habitats including a new artificial saltmarsh on the riverbanks, and a biodiverse roof. These unique features allow an opportunity for the provision of the highest quality habitats and maximising their value given that they are in part publicly accessible spaces that also have to provide functionality therefore.
- 16.112 To provide this level of BNG, the applicants are also looking to work alongside a local organisation who are currently working to clear the Colne River of rubbish and detritus. This is a significant public benefit as well as a very useful way of delivering BNG in the immediate vicinity.

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

#### Canopy Cover

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

#### RAMS

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

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

16.117 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the governments advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £127.31, which applies to all residential development within the Zone of Influence (Zoi). The whole of Colchester Borough is within the Zoi. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that

Habitat Sites are not adversely affected, and the proposal complies with the Habitat Regulations.

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

#### Flooding

16.119 A Flood Risk Assessment and Drainage Strategy has been prepared by Walsh in support of this planning submission.

16.120 Policy DM23 of the adopted Local Plan requires development to manage flood risk.

16.121 Paragraphs 155 to 169 of the NPPF establishes policy relating to flood risk management. The main focus of these policies is to direct development towards areas of the lowest possible flood risk without increasing flood risk elsewhere. The NPPF advises that the sequential test should be used to steer new development to areas with the lowest risk of flooding and if it is not possible for development to be located in zones of lower flood risk the exception test may have to be applied. This is a requirement for development located in either Flood Zone 2 or 3.

16.122 The report prepared by Walsh confirms that the site is located in Flood Zone 3A. Based on the flood risk vulnerability classification table (Table 2 of the NPPG), the development overall can be characterised as 'more vulnerable' as it consists of residential units above ground floor level. Based on the above vulnerability and after having applied the Sequential Test (Diagram 2 of the National Planning Practice Guidance) the development is subjected to the exception test. In accordance with paragraph 160 of the NPPF, the exception test requires applicants to demonstrate:

☐ The development would provide wider sustainability benefits to the community that outweigh the flood risk;

☐ The development will be safe for its lifetime taking account of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

16.123 The EA originally objected to the scheme. Following this objection, An updated Flood Risk Assessment and Drainage Strategy has been prepared by Walsh Engineering to address the comments received from the Environment Agency. The strategy proposes number of mitigation measures, such as ensuring that all habitable finished floor levels are at least 300mm above the tidal 0.5% AEP undefended level at or above 4.9mAOD, with other ground floor finished floor levels



being at least 300mm above the tidal 0.5% AEP undefended level at or above 3.6mAOD.

- 16.124 Section 7 of the amended FRA specifically deals with comments received from statutory consultees to date. This section has therefore further influenced finished floor levels and seen the inclusion of a non-return valve in the outfall pipe into the River Colne to ensure that tidal volumes do not enter the drainage system and attenuation facilities for the site. The drainage strategy has been updated accordingly.
- 16.125 The updated report concludes that the recommendations made will ensure that the proposed development will not put the occupants at undue risk of flooding nor increase flood risk in the surrounding areas as a result. The scheme will comply with DM23 and latest guidance provided within the 2021 NPPF also.
- 16.126 Additional information is also now provided in the form of a “Design Statement & Philosophy for River Wall Repair & Replacement Works” to detail the works that are proposed to the existing river wall.
- 16.127 Following revisions to the scheme and the FRA, the EA were reconsulted and they now have no objection to the scheme. The proposal is therefore acceptable in that regard.

#### Public Art

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

#### Houseboats

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

#### Climate Crisis and Sustainability Measures

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

## Equality and Diversity

- 16.132 This scheme has been carefully considered with regard to equality and diversity. Since the deferral one representation has been received that noted a protected characteristic of one of the residents. A standalone Equality Impact Assessment has been carried out but is confidential due the information it contains. It is not held that this scheme would materially impact upon the protected characteristic mentioned in the representation, subject to the conditions suggested below.

## **17.0 Conclusion and Planning Balance**

- 17.1 The proposals are compliant with Policies SP1, SG1 and EC2, which all advocate development within sustainable location within the settlement boundaries of Colchester, with a particular focus on utilising previously developed land and the regeneration of the East Colchester area and especially those that support the University. The objective of regenerating this area is a key theme of the adopted Section 2 Local Plan which establishes the principle of development at the site.
- 17.2 The proposals will provide significant benefits in respect of public realm improvement, pedestrian connectivity and pedestrian road safety. It will provide a new section of river wall which is a very significant investment (around £1,200,000) and this will create a new section of riverside walk that will connect the existing footway to the east with the southern end of the existing Hythe footbridge. This will be publicly accessible. The scheme is therefore beneficial in terms of the wider public realm and has the potential to genuinely create a new publicly accessible piece of the Hythe for the benefit of both the new students and the existing residents. It will transform this rather unkempt piece of land into a section of space that will be inviting to walk along. Whilst it is acknowledged there is a Public Right of Way in place on site already, it can be seen from the condition on site that it is not well used as it is blocked; this scheme will ensure it is surfaced and allow it to be used to its full potential as an important linkage. It is a shame that the scheme will not provide a cycleway but the upgrade to the PRoW is a benefit nonetheless.
- 17.3 The developers have also agreed to a contribution of £50,000 towards a pooled contribution pot directed at finding a solution to the flooding issue that occurs in Haven Road (rear of the Maltings). This in turn will significantly improve pedestrian and cycle accessibility in the immediate vicinity for both residents of the accommodation and existing residents.
- 17.4 The scheme also proposed an innovative 'tidal terrace' between the two proposed blocks. This break in built form will open up views from the Spinnaker Pub opposite and will provide a biodiverse space that the tide can rise up into, with a bridge over to ensure connectivity, and space for sitting out in and relaxing/socialising.
- 17.5 Furthermore, this scheme will also make a significant contribution to CBC's housing supply targets. It will result in an equivalent of circa 106 houses to the Council's five-year land supply. This is a very important benefit of the scheme and in effect results in brownfield development that protects unallocated greenfield sites elsewhere in the Borough from speculative development. The proposal will also aid

in the expansion of the University which is major employer in the area and provides wider economic benefits to Colchester.

- 17.6 Set against the significant public benefit is the impact the scheme will have on the neighbouring dwellings in terms of daylight and sunlight. These have been carefully assessed and it is not considered the impacts, whilst acknowledged, will be of a level that warrant the refusal of this scheme.
- 17.7 When located on brownfield sites in urban locations, schemes of this type and scale will inevitably have impacts, be they on neighbouring amenity or on townscape for example. Regeneration focuses on brownfield sites and that is a clear intention of the Development Plan and the NPPF 2021.
- 17.8 The Planning Balance assessment is exactly that, a balancing exercise of the benefits of the scheme weighed against the adverse impacts. This scheme has significant public benefits and has the potential to transform this part of the Hythe, acting as a catalyst for further high-quality development and opening up important pedestrian linkages for the benefit of all residents. Overall, the proposals are considered to provide sustainable development in accordance with the adopted Development Plan and after very careful consideration of the adverse impacts, the Planning Balance is held to tip in favour of an approval.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

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

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

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

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

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

- 180233-WCA-B0-00-DR-A-PL100 - North Block- GA Ground Floor Plan
- 180233-WCA-B0-01-DR-A-PL101 - North Block - GA First Floor Plan
- 180233-WCA-B0-02-DR-A-PL102 - North Block - GA Second - Fourth Floor Plan
- 180233-WCA-B0-05-DR-A-PL103 - North Block - GA Fifth Floor Plan

- 180233-WCA-B0-ZZ-DR-A-PL200 - North Block - GA North & South Elevations - Sheet 1 of 3
- 180233-WCA-B0-ZZ-DR-A-PL201 - North Block - GA East Elevation - Sheet 2 of 3
- 180233-WCA-B0-ZZ-DR-A-PL202 - North Block - GA West Elevation - Sheet 2 of 3
- 180233-WCA-B0-ZZ-DR-A-PL300 - North Block - GA Sections - Sheet 1 of 3
- 180233-WCA-B0-ZZ-DR-A-PL301 - North Block - GA Sections - Sheet 2 of 3
- 180233-WCA-B0-ZZ-DR-A-PL302 - North Block - GA Sections - Sheet 3 of 3
- 180233-WCA-C0-ZZ-PL100-South Block - GA Ground Floor Plan
- 180233-WCA-C0-ZZ-PL101-South Block - GA First- Second Floor Plan
- 180233-WCA-C0-ZZ-PL103-South Block - GA Third-Fifth Floor Plan
- 180233-WCA-C0-ZZ-PL106-South Block - GA Sixth Floor Plan
- 180233-WCA-C0-ZZ-PL107-South Block - GA Seventh Floor Plan
- 180233-WCA-C0-ZZ-PL200-South Block GA North and South Elevations
- 180233-WCA-C0-ZZ-PL201-South Block GA East Elevations
- 180233-WCA-C0-ZZ-PL202-South Block GA West Elevations
- 180233-WCA-C0-ZZ-PL300-South Block - GA Sections - Sheet 1 of 4
- 180233-WCA-C0-ZZ-PL301-South Block - GA Sections - Sheet 2 of 4
- 180233-WCA-C0-ZZ-PL302-South Block - GA Sections - Sheet 3 of 4
- 180233-WCA-C0-ZZ-PL303-South Block - GA Sections - Sheet 4 of 4
  
- 180233-WCA-00-00-DR-A-PL900-P02 - Site Location Plan
- 180233-WCA-00-00-DR-A-PL901-P03 - Existing site plan
- 180233-WCA-00-ZZ-DR-A-PL902 - Proposed Block Plan
- 180233-WCA-00-00-DR-A-PL903 - Proposed Ground Floor Masterplan
- 180233-WCA-00-01-DR-A-PL904 - Proposed First Floor Masterplan
- 180233-WCA-00-02-DR-A-PL905 - Proposed Second - Fourth Floor Masterplan
- 180233-WCA-00-06-DR-A-PL906 - Proposed Sixth Floor Masterplan
- 180233-WCA-00-RF-DR-A-PL908 - Proposed Roof Masterplan
- 180233-WCA-00-ZZ-DR-A-PL909 - Proposed Site Sections
- 180233-WCA-00-ZZ-DR-A-PL910 - Proposed Site Elevations
- 180233-WCA-00-05-DR-A-PL911 - Proposed Fifth Floor Masterplan
- 180233-WCA-00-07-DR-A-PL912 - Seventh Floor Masterplan
  
- 2105-GUA-DR-L-001-P11 Illustrative Landscape Masterplan Strategy
- 2105-GUA-DR-L-001-P11 Illustrative Landscape Masterplan
- 2105-GUA-DR-L-002-P16 Outline Hard and Soft Landscape Proposals
- 2105-GUA-DR-L-002-P17 Outline Hard and Soft Landscape Proposals for Ecologist
- 2105-GUA-DR-L-007-P08 Outline Soft Landscape Schedule and Specification
- 21-005-GUA-Doc-Landscape Visual Impact Assessment (LVIA) Addendum
  
- ZA861 PL SK 200 I Highways (From TA addendum)
- ZA861 PL SK 201 I Highways (From TA addendum)

- ZA861 PL SK 202 I Highways (From TA addendum)
- ZA861 PL SK 203 I Highways (From TA addendum)

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

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

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

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

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

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

Reason: This is the basis on which the application has been made and the basis on which it has been assessed. The scheme would not comply with adopted plan policy if it was for C3 residential accommodation and therefore this condition is needed to ensure it stays as student accommodation in perpetuity.

### **5. Cycle Store Provision**

The cycle store as shown on the approved drawing shall be provided prior to occupation and then retained as such on site in perpetuity.

Reason: To ensure that cycle park is provided and then retained on site at all times.

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

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

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

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

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Report (Carol Reid, April 2021), Reptile Survey and Assessment (ACJ ecology, October

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2021), Invertebrate Surveys and Assessment report (Hopkins Ecology, November 2021) and Biodiversity Impact Assessment (ACJ ecology, November 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

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

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

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

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

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

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

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

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

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

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

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures for habitats retained and created.

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

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021

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

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

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the

scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021.

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

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

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

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

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

- 1) The vehicular and pedestrian access arrangements as shown in principle on the planning application drawings.
- b) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) A minimum 3-metre-wide footpath/cycleway between the foot/cycle bridge over the River Colne and the improved crossing facilities in Hythe Quay mentioned under item d) below (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) Improved crossing facilities in Hythe Quay (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- e) Existing footway/cycleway located immediately to the south of the proposal site extended north to a suitable termination point (details shall be agreed with the Local Planning Authority prior to commencement of development)
- f) A Travel Plan and Residential Travel Information Packs both in accordance with Essex County Council guidance.

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

### **15. Noise Mitigation**

Prior to construction of the development above ground level, a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces shall be submitted to and approved, in writing, by the Local Planning Authority. Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night,

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23:00-07:00, outside) any reliance upon building envelope insulation with closed windows should be justified in supporting documents that cross reference the mitigation measures used. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime. The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

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

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

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

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

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

Sundays and Bank Holidays: **No working**

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

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

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

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

wheel washing facilities;

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

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

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

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

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

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

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

Sundays and Bank Holidays: **No working**

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

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

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the

Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

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

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

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

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

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

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

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application. The impact on existing residential plus those proposed above the substation.

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

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

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

## **23. Landscaping**

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

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

- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Planting plans.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

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

## **24. Landscape Management Plan**

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

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

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

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

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

(ii) an assessment of the potential risks to:

human health,

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

adjoining land,

groundwaters and surface waters,

ecological systems,

archaeological sites and ancient monuments;

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

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

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

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

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

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

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

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

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

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

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

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

## **29. Validation Certificate**

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

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

## **30. Materials**

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

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

## **31. Detailing**

Prior to the installation of the relevant architectural features, additional drawings that show details of all architectural features to be used including, but not limited to, windows, doors, rusticated brickwork, lintels, reveals, brick bonding, rainwater goods, parapet, rooftop railings, cladding pattern jointing, cills, soffits, and transition joints between different materials. Appropriate material shall be submitted to and approved, in writing,

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by the Local Planning Authority. As appropriate, this may include drawings at a scale between 1:20 and 1:1, product information and samples. The development shall thereafter be implemented in accordance with the approved details.

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

### **32. Drainage/FRA**

No development shall take place except in complete accordance with the submitted Flood Risk Assessment (Walsh, April 2021) and drainage strategy contained within that document.

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

### **33. Flood Plan**

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

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

### **34. Archaeology**

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

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

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

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

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

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## 19.1 Informatives

19.1 The following informatives are also recommended:

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

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

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

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

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

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

## 4.Anglian Water Informative

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

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

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

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

(4) INFORMATIVE - The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our

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Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Design and Construction Guidance for foul and surface water sewers offered for adoption under the Code for adoption agreements for water and sewerage companies operating wholly or mainly in England ("the Code"), as supplemented by Anglian Water's requirements.

## **5.Cadent Informative**

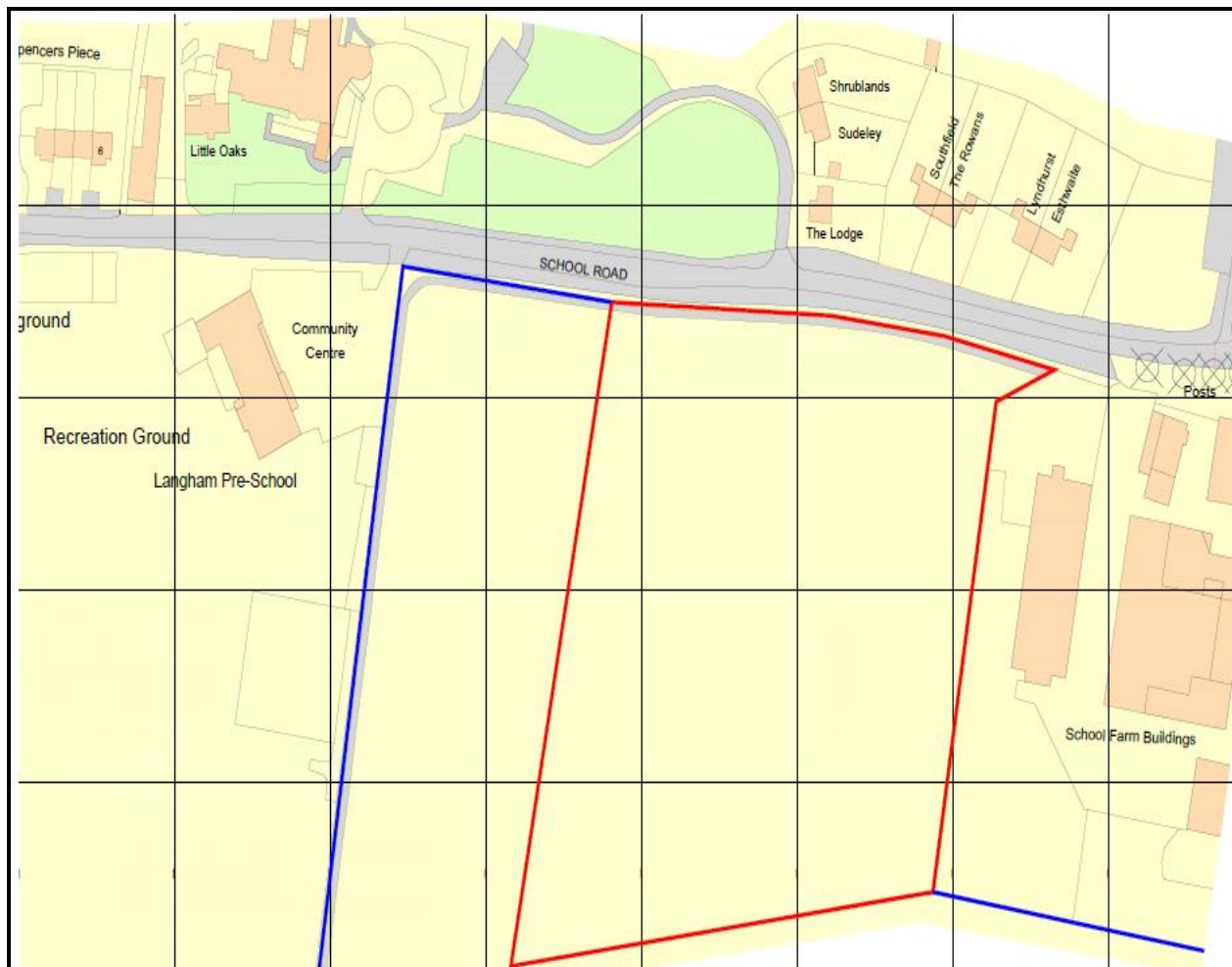
Cadent Gas own and operate the gas infrastructure within the area of your development. Please note that there is a Low pressure gas main at the proposed entrance to the site, the main may need to be lowered to enable the access to be constructed. The developer is to contact Cadent Gas to discuss these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

## **6.Highways Informative**

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

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





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## Item No: 7.2

**Application:** 220595  
**Applicant:** William Developments Ltd  
**Agent:** Malcolm Inkster  
**Proposal:** Outline application for erection of 30 houses with a new access onto School Road, Langham. All matters reserved.  
**Location:** School Road, Langham, Colchester  
**Ward:** Rural North  
**Officer:** Hayleigh Parker Haines

**Recommendation:** Approval subject to conditions and the completion of an appropriate S.106 agreement delegated to Officers

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

- 1.1 This application is referred to the Planning Committee, as the development proposed would constitute a major application; requiring a S106 agreement. Furthermore, a number of objections have been received raising material planning considerations.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are: the principle of development as an allocated site within the newly adopted Local Plan and the wastewater drainage for the site, given Anglian Water's lack of foul water treatment capacity. Other material planning matters and representations are also considered. The application is subsequently recommended for approval subject to conditions and a section 106 legal agreement to secure planning obligations.

## **3.0 Site Description and Context**

- 3.1 The application site sits to the southern side of School Road, to the west of 'Power Plus'. The site is allocated for residential development in the recently Adopted Local Plan, Section 2, Policy SS9. The site is currently in agricultural use. There is a public right of way that runs along the southern boundary of the site, with the existing employment site, as named above, to the east, to the north of the site are residential properties with the community centre to the west.

## **4.0 Description of the Proposal**

- 4.1 The application comprises an outline planning permission with all matters reserved, comprising 30 dwellings with a new access onto School Road. The outline application procedure allows for applicants to identify specific matters for consideration which include the principle of the development, layout, access, scale, appearance and landscaping. The applicant has identified that this application is to consider the principle of the development. The considerations of appearance together with access, layout, scale and landscaping will form the subsequent reserved matters application should outline planning permission be granted for this proposal. Nevertheless, all material planning considerations are relevant, where applicable, to this application.

- 4.2 Indicative drawings have been provided detailing an illustrative layout for the units with the land to the west, directly adjacent to the Community Centre outlined in blue, allocated as public space as per the allocation requirements within Policy SS9. The indicative masterplan and supporting statement advises that the dwellings on site would comprise the following unit mix:

Bedrooms	No. of Units	Affordable Housing
5	3	0
4	12	2
3	9	3
2	6	4

## **5.0 Land Use Allocation**

- 5.1 The land is currently Agricultural and is an allocated site within the recently adopted local plan at Policy SS9.

## **6.0 Relevant Planning History**

- 6.1 There is no relevant planning history pertaining to the site. However, it is worth noting that the site to the east of the employment site (another allocation within Policy SS9) which benefits from planning permission for the construction of 46 dwellings under the terms of application 191830.

## **7.0 Principal Policies**

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

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

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

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

7.3 The recently adopted Local Plan 2017-2033 Section 2, contains local strategic policies and policies that apply to new development. Particular to this application, the following policies are most relevant:

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM2 Community Facilities
- DM3 Education Provision
- DM4 Sports Provision
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM18 Provision of Open Space and Recreation Facilities
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water Waste and Recycling

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

- SS9 Langham

7.5 The site does not fall within a Neighbourhood Plan Area.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Affordable Housing  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Cycling Delivery Strategy  
Sustainable Drainage Systems Design Guide  
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 The Arboricultural Officer has raised no objection to the proposal, subject to an appropriate canopy cover assessment. The proposal as shown in the tree report will have a minimal impact on trees to be retained. *A condition has been recommended to ensure policy compliant tree canopy cover is achieved on site as part of the reserved matters*
- 8.3 The Archaeological Officer has raised no objection to the proposal. The site is in an area of relatively high archaeological potential. Therefore, should the application be approved a pre-commencement condition is recommended to secure a written scheme of investigation.
- 8.4 The Contaminated Land Officer has raised no objection to the proposal, advising that based on the evidence provision, it would appear that the site could be made suitable for the proposed use, subject to the inclusion of five conditions, should the application be approved
- 8.5 The Urban Design Officer has raised no objection to the principle of development but does highlight a number of design considerations to be taken into account should this outline application be approved. *These will be discussed within the below report*

- 8.6 The Historic Buildings Officer has raised no objection to the proposal but recommends that as much of the hedge boundary be retained as possible to retain the rural character of this part of the road and this would also ensure that the historic layout of the village remains more legible.
- 8.7 The Landscape Officer has raised no objection in principle to the proposed development.
- 8.8 Essex County Council SUDs team have raised no objection to the proposal, subject to the inclusion of four conditions should the application be approved
- 8.9 The Highway Authority have raised no objection to the proposal subject to the inclusion of a number of conditions should the application be approved.
- 8.10 Anglian Water have raised no objection to the proposal. However, it is advised that the foul drainage from this development is in the catchment of Langham (Essex) Water Recycling Centre (WRC) which currently does not have capacity to treat the flows from the development site. Anglian Water has been working with the Environment Agency to find a solution to the issues of flow compliance at Langham WRC and the associated effects arising from new development and future growth identified in the emerging Local Plan. Upgrades to Langham WRC are expected to be complete by 2025 at the latest. Alongside this AW have also completed work on removing surface water from the foul only network to ensure surface water flows are reduced during storm events.
- 8.11 The Area of Natural Beauty Planning Officer has no comment to make on principle of the site being developed. Primary concern is the potential for unresolved water and sewage treatment issues and the impact on the river Stour which runs through AONB
- 8.12 Essex County Council Place Services have placed a holding objection due to potential presence of protected species within the hedgerow to the front of the site. *This will be discussed within the below report.*

## **9.0 Parish Council Response**

- 9.1 The Parish Council have objected to the proposal for the following reasons:
- I. Capacity at the Langham Water Recycling Centre. LPC believe that this should be a key item in reserved matters should the LPA be minded to approve this application.
  - II. Capacity in the Local Sewerage Network. Residents reported issues relating to the overflow of the AW foul network. LPC believe that this should be a key item in reserved matters should the LPA be minded to approve this application.
  - III. SuDs and the suitability of the local ditch network.
  - IV. Safety Issues with an open ditch. Pedestrian footfall on School Road will significantly increase due to the two new sites on School Road. Up to 300 new

residents including children will at some point have a need to use the footway along School Road which connects the village shop, Community Centre and pub to the two new sites.

- V. Any work on this site should be dependent on flooding and safety issues being addressed and should also be considered as Reserved Matters should the LPA have a mind to approve the outline planning permission
- VI. Site Access Point: Potential safety issues with the line of sight in School Road for vehicles leaving the site. Particularly relevant looking in a westerly direction when leaving the site as there is a bend in the road which limits the distance where oncoming traffic can be observed. When leaving the site after dusk vehicles headlights could be shining directly on the premises opposite the site, which is causing some concern to residents who live in these properties. If the LPA have a mind to approve this application, we would like the final site layout to be reviewed under Reserved Matters to investigate these two points.
- VII. Transport Statement: It would seem that no traffic measurement has been carried out on the existing traffic levels in School Road, which relate to this application, and how two new sites in School Road would impact the future traffic levels. Although the LPA treats all planning applications independently this surely cannot be applied when you have two large developments adjacent to each other. (Planning Apps: 191830 and 220595). There could be around 200 more vehicles in School Road as a result of these two developments and a broad statement as shown in paragraph 7.6 of the ITL document conclusions is extremely questionable and is not supported by combined figures. The statement says, “the weekly peak hour traffic is not expected to have a significant effect on the operation of the local road network”. That might be true if there were only one new development but even that is questionable. Again, we feel that this another potential Reserved Matter if the LPA have a mind to approve this outline planning application.
- VIII. We should also point out that paragraph 4.6 (table 2) of the ITL document which lists the available Bus services in Langham is incorrect. There is no 93 or 93A bus service from Ipswich to Colchester that has a stop in Langham.
- IX. Overhead Power Cables: On the site masterplan there is a statement to relocate power cables underground which is an essential requirement. The Parish Council would like to ensure that this also applies to the existing section of overhead cable that spans the area of land referred to in the ELP SS9 as the Recreation Ground extension adjoining the west end of the site

## 10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighboring 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.

Objecting Comment	Officer Response
Access and safety concerns being in close proximity to the School and with it being on a slight bend	Comments noted and discussed below
Access opposite residential dwelling – headlights inconvenient for residents	Comments noted and discussed below
Sewerage capacity	Comments noted and discussed below
30 houses on top of 46 already approved out of proportion to the size of the village – hardly a housing shortage in immediate area	Comments noted and discussed below. However, the site is allocated for housing in the recently adopted local plan (Policy SS9)
Highway and pedestrian safety – School Rd/St Margaret's Cross/Wick Rd junction	Comments noted and discussed below
Mains Electricity – outdated infrastructure with flickers of low power and power cuts – additional homes will worsen situation	Comments noted
Infrastructure will not be able to cope	Comments noted and discussed below
Development out of character with housing in village	Comments noted and discussed below
Increase in Traffic	Comments noted and discussed below
Overlooking of properties opposite the site	Comments noted and discussed below
Loss of privacy to properties opposite the site	Comments noted and discussed below
Loss of outlook to properties opposite the site	Comments noted and discussed below
Impact of noise and odour from additional vehicles on neighbouring properties opposite the site	Comments noted and discussed below



2.5 storey dwellings not in keeping	Comments noted and discussed below
Traffic report incorrect – busiest times on School Rd are 2.30 – 3.30 – Highway safety concerns	Comments noted and discussed below
The grass area to the west is of no use, this should run along School Road to set the proposed properties back moving noise and light pollution away from existing properties	Comments noted
Indicative plans do not demonstrate that 30 houses could be satisfactorily accommodated on this site	Comments noted and discussed below
Layout issues	Comments noted and discussed below
Electricity substation location and design concerns	Comments noted and discussed below
No post office as stated in supporting docs	Comments noted
Impact on Stour Valley project area	Comments noted and discussed below
Pond worrisome – should be removed and trees planted	Comments noted and discussed below
Loss of trees and vegetation to front boundary increases the oppressive impact of development on local area	Comments noted and discussed below

<b>General Comments</b>	<b>Officer Response</b>
Sewage Capacity issues – should permission be granted a condition should be included to ensure sites on which development has commenced are capable of being built out prior to the commencement of development on this site	Comments noted and discussed below. However, a condition of this nature would not meet the six tests and would therefore not be condition precedent.

## 11.0 Parking Provision

- 11.1 This application is outline in nature with the internal layout subject to future consideration. However, based on the indicative masterplan provided as part of this application, it is

considered there is sufficient space on site for all dwellings to have policy compliant, off street parking. This matter will be discussed in further detail below

## 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 As the application is outline in nature, the layout will be determined at reserved matters stage. It should be noted as part of the allocation that the land directly to the east as part of any application should be utilised for open space provision. This is over 10% of the site area and therefore is policy compliant.

## 14.0 Air Quality

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

## 15.0 Planning Obligations

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

- **Education:** Contributions sought towards Secondary School Transport using standard methodology
- **Communities:** Currently under negotiation in collaboration with the Parish Council as part of the S106, which will be pursued subject to CiL compliance.
- **Parks and Recreation:** Currently under negotiation in collaboration with the Parish Council as part of the S106, which will be pursued subject to CiL compliance.
- **Archaeology:** Contribution toward the display and interpretation of any archaeological finds - £348 is required to update the Historic Environment Record if no remains are found
- **Affordable Housing:** 30% (to include 2 No. wheelchair accessible units)
- **RAMS:** £137.71 per dwelling – Contribution to also be collected via S106 agreement

Please note as this application is outline in nature, these figures are subject to the final mix of dwellings to be provided on site and are dependent on the total number of bedrooms to be provided.

## 16.0 Report

### 16.1 Principle of Development

The Land the subject of this application is a residential allocation within the recently adopted Local Plan, under Section 2, Policy SS9. Policy SS9 states:

#### **School Road**

*Development will be supported which provides:*

- (i) 70 new dwellings of a mix and type of housing for which there is a demonstrated need, including smaller family homes and sheltered housing;*
- (ii) One site to the east of the Powerplus site to accommodate 40 dwellings plus a car park for the school;*
- (iii) One site to the west of the Powerplus site to accommodate 30 dwellings plus an extension to the adjacent recreation ground;***
- (iv) A landscape Appraisal which will then inform appropriate design and suitable screening/landscaping to minimise any negative impact on the surrounding landscape, including visual screening around the School Road employment site and;***
- (v) A design and layout which protects and enhances the listed buildings including their setting including suitable screening/landscaping***

Reviewing the proposal against Policy SS9 in order of relevant criterion

- (iii) One site to the west of the Powerplus site to accommodate 30 dwellings plus an extension to the adjacent recreation ground*

The outline application submitted provides 30 dwellings in accordance with the above criterion. The land to the west of the proposed dwellings (east of the community Centre) is included within the blue line boundary of this application (as shown below). Discussions are ongoing between the Parish Council and the Applicant in relation to the most appropriate way to achieve the extension to the recreation ground and this will form part of the S106 negotiations.

- (iv) A landscape Appraisal which will then inform appropriate design and suitable screening/landscaping to minimise any negative impact on the surrounding landscape, including visual screening around the School Road employment site and;*

The current application is outline in nature with all matters reserved and therefore would be a matter for a subsequent reserved matters application. However, from the landscape appraisal submitted there are no objections in principle, and it is considered achievable on site. It is recommended that as part of the reserved matters application, some units should face onto the links to the public open space to the west to improve public amenity and to result in these aspects being a more inclusive part of design. Furthermore, it is considered that given the isolated and enclosed nature of this public open space, some units from the indicative layout could be repositioned and any planting should allow for some passive surveillance of this space.

*(v) A design and layout which protects and enhances the listed buildings including their setting including suitable screening/landscaping*

As with the above, this is a matter which would be subject to a subsequent reserved matters application. It is considered that a number of design features should be taken into consideration at this stage, and this is discussed further in the report below.

Paragraph 14.180 of the supporting policy text for Policy SS9 advises that the 2016 Water Cycle Study identified a lack of head room capacity at the Langham Water Recycling Centre (WRC). With regards to wastewater, the report also identified the need for upgrades at the Langham Water Recycling Centre (WRC) to enable it to accept all wastewater flows from the proposed development. Discussions are underway between the Local Planning Authority, the Environment Agency and Anglian Water to resolve the above issues, a condition has been recommended to ensure that development does not commence until the Langham Water Recycling Centre has capacity taking into account the increased pressure from the neighboring allocated site and the development proposed under this current application

Taking into account the above assessment, it is considered that the proposed scheme is acceptable in principle.

## **16.2 5 Year Housing Land Supply**

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

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

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

The Council's latest published Housing Land Supply Annual Position Statement (August 2021) demonstrates a housing supply of 5,597 dwellings which equates to 5.79 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2021/2022 through to 2025/2026.

## 8 Five Year Supply Calculation

8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2021/2022 through to 2025/2026.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing and selected emerging allocations and windfall allowance	5597
Total number of years' worth of housing supply including emerging allocations	
Supply against SM with permissioned sites, existing allocations, windfall and selected emerging allocations	5.79

8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.75 years is deliverable within this period.

The LPA's 5YHLS has been tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

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

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

### 16.3 Design, Layout, Scale and impact on the Character and Appearance of the surrounding area

The National Planning Policy Framework (2021) sets out government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, going on to state that 'good design is a key aspect of sustainable development'. The framework also states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. The framework is supported by a collection of planning practice guidance which includes a National Design Guide. This document seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice.

At a local level these policies are carried through and adopted as part of the Colchester Borough Council Local Plan 2017-2033. Relevant policies include ENV1 and DM15, which seek to secure high quality and inclusive design in all developments and avoid unacceptable impacts on amenity. These policies are supported by more detailed guidance provided supplementary planning documents such as the Essex Design Guide.

In terms of housing density and diversity, Policy DM10 requires a range of housing types and tenures across the Borough in order to create inclusive and sustainable communities. Policy DM9 makes specific reference to the setting of important heritage assets; access and local road network; scope to enhance walking and cycling access to local amenities and public transport; and existing landscaping, trees, and hedgerow.

Given the outline nature of the proposal the assessment of the application on design grounds is limited. Ultimately, design considerations are limited to whether the quantum of development proposed is appropriate in the context of the site and whether the application demonstrates that the site is capable of successfully accommodating the quantum of development proposed in an appropriate manner.

The site is located on the western rural edge of the existing settlement and consists of open countryside. As a result, the site has a prevailing rural character and the use of a rural system of spatial organisation should be adopted to provide a scheme that is dominated by landscape features. The proposed site is allocated within Policy SS9 as advised above, and within the policy context, paragraph 14.179 advises that this represent a logical extension to the village as it lies between existing housing and employment sites and is well located for the school and community centre/shop. It is also advised that the Parish Council favour frontage development however there is potential on these sites for an estate or green approach in terms of layout.

Furthermore, the site measures approximately 2.1 hectares, this would result at an average density of approximately 15 dwellings per hectare, which is considered to be consistent with the site's rural, edge of village context and would allow for the adoption of an appropriate spatial strategy and development typology.

Taking into account the above and that the proposal provides 30 dwellings as advised within policy SS9, it is considered that the site is capable of accommodating the proposed quantum of development in a sympathetic manner without contradicting the sites context and existing character.

Given the quantum of development proposed and the site area, it is considered that an acceptable and policy compliant standard of design could be achieved at a reserved matters stage. However, it is not considered that the indicative drawings submitted achieve an appropriate standard of design and therefore, in the interests of being proactive, it is considered relevant to advise that the following recommendations to enhance the design of the scheme, should be taken into consideration upon the reserved matters application submission:

- Given the site's rural location and the density proposed the proposed development should adopt a rural system of spatial organisation. Typologies such as Arcadia or Boulevard would be appropriate. The resulting layout should be landscape led and landscape dominated, with the landscape containing the built environment (see Essex Design Guide).
- Given that the site bounds the settlement on two sides, with public open space and open countryside on the other two sides, it would be expected that the site would provide a degree of transition between these two contrasting settings. This might be reflected in densities or typologies adopted across different areas of the site.
- The proposed location of the access requires the removal of the only tree along the northern boundary of the site. This appears to be an illogical approach, given policy requirements relating to the conservation of natural habitat, tree canopy cover and biodiversity net gain.
- Pedestrian connections to the existing PROW network and adjacent extended recreation ground are welcomed. The latter are currently of inappropriate form, consisting of alleyways.
- The ratio of grey infrastructure within the site is excessive considering the densities proposed, primarily due to the low ratio of roads fronted by dwellings.
- It is not considered acceptable to use parking treatments and rear boundary treatments to enclose areas of POS.
- Given the site's context, the scheme already has a number of sensitive boundaries/edges to deal with and as such the creation of numerous further sensitive edges (to areas of POS) within the site is not advisable.
- Parking provision is overly prominent within the scheme, partially as a result of positioning and partially due to over provision.
- The site lacks legibility (evidenced by the fact the main access road and longest road within the proposal is only fronted by three units)
- Areas of public realm lack any genuine sense of enclosure.
- Fronting on to School Road is welcomed, as is the open aspect to the site's southern boundary.

More general advice to be taken into consideration as part of a detailed reserved matters application is also provided below:

- Residential areas should include areas of informal/incidental green/open space. This should include both green and blue infrastructure, which should consist of a network of integrated features.
- The updated NNPF specifically acknowledges the important contribution that trees make to the character and quality of urban environments and that trees can also help mitigate and adapt to climate change. The framework requires that new streets are tree-lined and that opportunities are taken to incorporate trees elsewhere in developments. It is important to ensure that the right trees are planted in the right places and that appropriate measures are in place to secure the long-term maintenance of newly planted trees and that existing trees are retained wherever possible.

- Built form should establish a site wide positive and coherent identity that residents and local communities can identify with. This identity should respond to the sites context and reinforce/enhance the local vernacular. This can be achieved through a historic/traditional approach or through the adoption of a contemporary design solution; both options are valid, but whichever approach is adopted, the detailing must be of a high quality.
- The layout of the development and positioning of elements of landscape/built form should create a series of distinct spaces and take the opportunity to create character areas within the development. Character areas can be established through the hierarchy of streets, the grain of the development, the spatial enclosure of the street, the definition (boundary treatment) between the public and private domain as well as through landscaping, materials, and the design of the buildings. Distinct and legible character areas within the site should contribute to an overall distinct sense of place for the wider site.
- Areas of public open space should be fronted by units in order to ensure good levels of activity and natural surveillance. Similarly, units should front boundaries with existing adjacent roads and countryside edges to avoid domination of the streetscape and wider landscape views by rear boundary treatments.
- A variety of parking treatments should be adopted across the site. The National Design Guide requires car parking to be well-designed, landscaped and sensitively integrated into the built form so that it does not dominate the development or the street scene. The Guidance states that car parking should incorporate green infrastructure, including trees, to soften the visual impact of cars, help improve air quality and contribute to biodiversity and that they should be secure and overlooked.
- A clear road hierarchy should be established and reinforced by adopting a varied surface material for shared surfaces and utilising a variety of frontage treatments for plots.
- Back to back distances should comply with the Essex Design Guide (15-25m dependent on relationship between units).
- Focal/nodal buildings should be included to enhance legibility within the site.
- Brick walls should be used to enclose boundaries that address public/semi-public realm, this includes parking courts.
- Consideration should be given to the proposals carbon footprint, for both the long and short term. This should include consideration of energy consumption and energy generation (i.e. construction methods, materials, building orientation and openings, utilities, renewables, etc).

The scheme has been accompanied by a Landscape Appraisal and in turn this has been assessed by the Council's in-house Landscape Advisor. The landscape content/aspect of the proposal submitted principally under daring 200.P10 lodged on 24/03/2022 and the Landscape statement dated April 2020, reviewed 2022 were considered to be acceptable and it is therefore held that at reserved matters stage it is possible to provide a layout that is sensitive to landscape interests.



## **16.4 Impact on Neighbouring Amenity and Living Conditions**

Recently Adopted, Section 2 of the Local Plan Policy DM15 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.

This is a matter that will be dealt with via the reserved matters as the layout is only for indicative purposes. There is nothing to suggest that a scheme of this density cannot be achieved in a matter that is not compliant with the Essex Design Guide in terms of overlooking and back to back distances.

It is accepted that the scheme will intensify the use of site with a new access point which will in turn cause an increase in noise and disturbance to existing dwellings opposite the site. This has been carefully considered but it is not held to be a matter that warrants refusal of a scheme of this scale.

## **16.5 Amenity Space and Landscaping**

This is a matter that will be dealt with via the reserved matters as the layout is only for indicative purposes. It is clear from the layout that all dwellings can be provided with gardens in line with the minimum requirements as set out in the Local Plan Policy DM19 (One or two bedroom houses – a minimum of 50m<sup>2</sup>, three bedroom houses – a minimum of 60m<sup>2</sup>, Four bedroom houses – a minimum of 100m<sup>2</sup>).

## **16.6 Parking, Access and Highway Safety**

This application is outline in nature with the internal layout subject to future consideration. However, based on the indicative masterplan provided as part of this application, it is considered there is sufficient space on site for all dwellings to have policy compliant, off street parking, to ensure that sufficient parking is provided on site a number of conditions have been recommended.

It is noted that a number of neighbouring residents have raised concerns in relation to the location of the access on the indicative layout plan, due to vehicles entering and exiting the site and the impact on neighbouring amenity to the properties opposite the site. However, access is a matter which is reserved and will be discussed in more detail and subject to a formal detailed assessment under the reserved matters application.

Essex County Council have raised no objections to the proposal in relation to the access and highway safety, subject to a number of conditions which have been included.

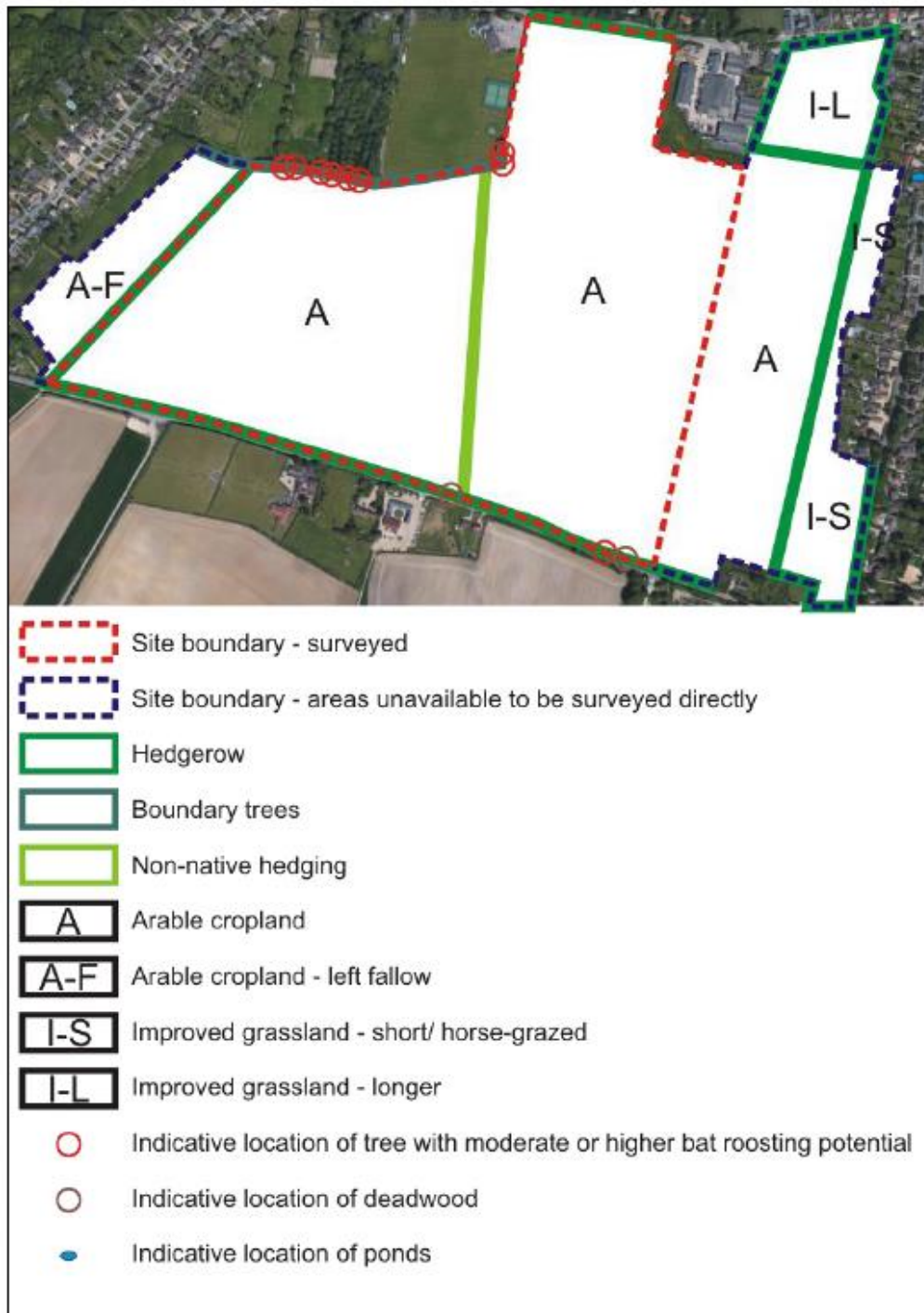
## **16.7 Ecology**

Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should

contribute to conserving and enhancing the natural environment. Adopted Section two of the Local Plan policy ENV1 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.

A Preliminary Ecological Appraisal was prepared by Skilled Ecology Consultancy Ltd in August 2019. The Assessment relates to three separate plots, the relevant plot to this application is referred to within the appraisal as 'Plot C' as shown below:

**Figure 3 – Map of Plot C. 27<sup>th</sup> March 2019.**



The report advises that Plot C was dominated by arable fields low in ecological value with boundary hedgerows high in ecological value with potential for badgers, bats, birds, reptiles and

notable invertebrates, and development of the central area of the plot would represent an opportunity for ecological enhancement within development designs.

### Bats

Plot C was deemed low in ecological value for foraging and commuting bats indicating the likely presence of small sized local bat populations. Additionally, boundary trees on site supported very few potential bat roosting features. The retention of boundary habitats would protect the features of highest ecological value for bats. Further bat surveys will be required.

### Badgers and Hedgehogs

Signs or evidence of other protected or priority mammals were not observed. However, it is possible that hedgehogs may use habitats adjacent to the proposed plots, though significant use of the site was unlikely. Additionally, it is noted that the likely planned construction zone may be suitable for low numbers of brown hare. The potential loss of brown hare habitat could be compensated for through the provision of public open green space within proposed development schemes

### Reptiles

Habitats were largely unsuitable for reptiles. Consequently, the risk of presence or impact to reptiles was very low. Further reptile surveys or mitigation were considered unnecessary for plots B & C. However, impact avoidance precautionary measures primarily including retention of boundary habitats and should be followed.

### Invertebrates

It is recommended that invertebrate surveys are undertaken around the location of the stag beetle record on the northern boundary of Plot C. Surveys should be undertaken by a suitably qualified and experienced ecologist, following relevant guidelines

### Hedgerow

It is recommended that assessments of hedgerows are undertaken to determine if the hedgerow is Important under the Hedgerow Regulations (1997). Hedgerows to the north and south of Plot C, to the north and east of land to the east of Plot C should be surveyed. Surveyor should be suitably qualified and experienced, following relevant guidelines.

### Breeding Birds

It is recommended that three breeding bird surveys take place between March and the end of May to determine presence of skylark and other birds breeding

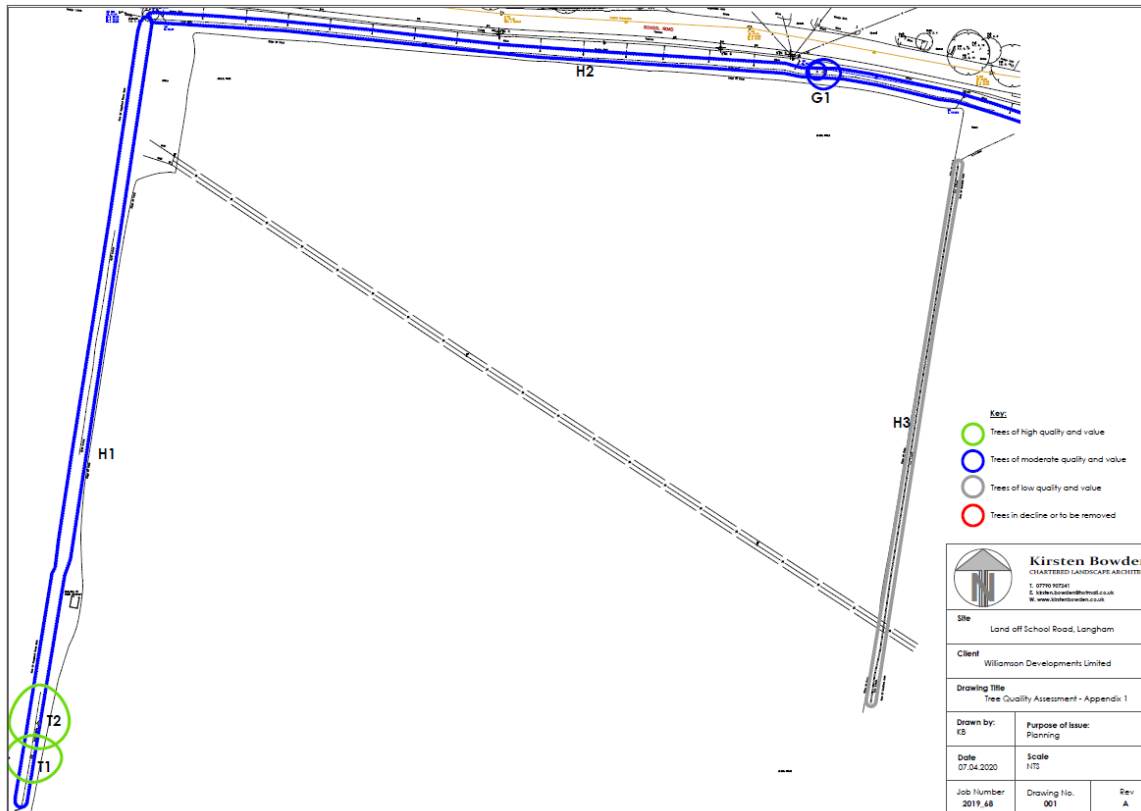
Place Services have placed a holding objection in relation to the application due to insufficient ecological information having been provided in relation to bats, reptile, badgers, skylark and

priority habitats (hedgerow). Whilst this feedback is afforded weight, as advised above the ecology report, whilst not fully covering all the matters to an acceptable degree, indicates that there is clearly potential for the development to come forward, whilst also mitigating any due harm. As the application is outline in nature, and due to it being an allocated site, it is considered reasonable to impose a condition requiring details to be submitted explicitly in relation to • Bat Activity Survey (foraging and commuting bats) • Reptile Presence and Absence Survey • Badger Survey • Breeding bird survey (specifically for skylark) • Stag beetle survey, prior to the submission of a reserved matters application. A biodiversity mitigation strategy can then be secured by condition. Therefore, there are no objections on ecological grounds.

## **16.8 Biodiversity Net Gain and Tree Canopy Cover**

In terms of Biodiversity Net Gain (BNG), due to the nature of the application, limited information has been provided in relation to a detailed BNG Strategy and the extent of achievable BNG is not yet known. However, the applicant intends to achieve a minimum 10% Net Gain, in line with the Section 2 Local Plan, with this being achieved through on-site habitat enhancements and/or off-site offsetting, to be determined at Reserve Matters. The current proposals plan indicates that the greater part of the site will be used to provide housing, residential gardens and landscaping. The Biodiversity Net Gain metric does not value such features highly, as they cannot be managed for their ecology post-development. Other proposed features comprise public open space, potentially to be a wildlife habitat/park depending on the outcome and wishes of the Parish. However, given that the site does not currently benefit from any overriding specialist habitats, it is anticipated that the appropriate management of these features for biodiversity could achieve a measurable Net Gain in terms of area habitats.

Similarly, in terms of Canopy Cover (CC), the AIA indicates that there are only two trees (G1 – Holly and Oak) on site to be removed with part of H2 (hedgerow) removed to accommodate the access in its indicative position. Given that the application is outline in nature with all matters reserved alongside the density of development, it is considered that 10% increase in canopy cover can be achieved on site, through appropriate landscaping, which again has been secured via a condition.



## 16.9 RAMS/Habitat Regulations

A further requirement is that development proposals must not have an adverse effect on the integrity of habitat sites. Adopted, Section 2, Plan Policy ENV1 states that development proposals that have adverse effects on the integrity of habitats sites will not be supported. A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been completed as part of the plan in compliance with the Habitats Directive and Habitats Regulations. Further to Section 1 Policy SP2, contributions are required from qualifying residential development, within the Zones of Influence as defined in the adopted RAMS, towards mitigation measures identified in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The proposed development has been considered in line with Natural England guidance, which concludes that the whole of Colchester Borough is within the zone of influence for the East Coast RAMS and that, unless a financial contribution is secured (to fund avoidance and mitigation measures in line with the RAMS), the proposed development is likely to have a significant effect upon habitat sites through increased recreational pressure, when considered in-combination with other plans and projects. A contribution will be included as part of the s106 requirements (see Section 15 of this report) and the proposed development is therefore considered to be in accordance with recently adopted policy ENV1 and acceptable in respect of its impact upon habitat sites.

## 16.10 Flood Risk

Policy DM23 of the recently adopted Section Two of the local plan seeks to direct development away from land at risk of flooding. It is advised that site proposed for allocation in the Local Plan have been considered sequentially with respect to flood risk. Policy DM25 also requires all development proposals to incorporate measures for the conservation and sustainable use of water. Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Major development proposals required to reduce post development runoff rate back to the greenfield 1 in 1 year rate, with an allowance for climate change. On brownfield sites where this is not achievable, then a minimum betterment of 50% should be demonstrated for all flood events. In addition, Policy DM24 requires all new residential development to incorporate Sustainable Drainage Systems (SuDS) appropriate to the nature of the site.

The NPPF also establishes policy relating to flood risk management. The main focus of the policy is to direct development towards area of the lowest possible flood risk without increasing the risk elsewhere. The NPPF advises that the sequential test should be used to steer new development to areas with the lowest risk of flooding. This a requirement for developments located in either Flood Zone 2 or 3.

The application site is located in Flood Zone 1, which is land that is considered to be at low risk of flooding and does not need to undergo the sequential test. All sources of flood risk are assessed in the accompanying Flood Risk Assessment and Drainage Strategy document prepared by Ingent Consulting Engineers.

As detailed in the Drainage Strategy specifically, the redevelopment of the site will not alter is surface water drainage outfall location. Flows from the site will discharge to the ditch running along the norther border which drains east into a 300mm diameter pipe. This is proposed as infiltration is not possible at the site as the soil is predominately clay with pockets of sand. Essex County Council as the Local Lead Flood Authority have raised no objections in relation to the proposed drainage scheme, subject to a number of conditions which have been included.

In terms of Foul Water, Anglian Water sewers records show that there is a potential connection point to the north of the site (MH4700).

It is pertinent to note that the foul drainage from this development is in the catchment of Langham (Essex) Water Recycling Centre (WRC) which currently does not have capacity to treat the flows from the development site. Anglian Water have been working with the Environment Agency to find a solution to the issues of flow compliance at Langham WRC and the associated effects arising from new development and future growth identified in the emerging Local Plan, with the required upgrades to Langham WRC expected to be complete by 2025 at the latest. A condition has been recommended in order to address the capacity issues which does not allow for any works pertaining to the construction of dwellings to be completed at the site until a scheme has been provided to the LPA for wastewater drainage.

## 16.11 Land Contamination

Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. Emerging Plan Policy ENV5 supports proposals that will not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses due to land pollution.

A Phase 1 Geo-environmental Desk Study has been prepared by 'Geosphere Environmental' and accompanies this planning submission. Policy ENV5 confirms that development will need to undertake appropriate remediation of contaminated land. Paragraph 178 of the NPPF, also states that a site should ensure it is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

The report concludes the site is likely to be suitable for the proposed residential end use subject to the following: An investigation should be undertaken to determine the concentrations of potential contaminants of concern in surface soils associated with the former use of the site as an orchard; and, a discovery strategy should be put in place to manage the discovery of potential contamination during future works. The inhouse Contaminated Land officer agrees with these findings and subject to appropriate conditions raises no objection to the scheme at this stage.

## 16.12 Other Matters

In relation to new schemes, given the density it is common practice to remove permitted development rights. However, given the nature of this application and that the layout of the site is unknown, it is not considered to be reasonable to remove permitted development rights at this stage. Should this be required once the layout of the proposal is known, this can be dealt with at reserved matters stage.

## 16.13 Planning Balance

In terms of the planning balance and the **environmental role** of sustainability it is accepted that the scheme will have a minor to moderate adverse impact on landscape interests. It is also accepted that there will be a potential very minor impact on neighbouring amenity and an intensification on the highway network. It is however held that this scheme has the potential to be a well-designed development befitting the rural area, that would provide a biodiversity net gain and additional canopy cover.

In terms of the **economic role**, this scheme will be beneficial as the proposed dwellings would result in new residents who will use local and Borough wide services and facilities. The scheme will also generate new Council Tax receipts.

In terms of the **social role** this scheme provides very convincing benefits, namely the provision of market housing and the provision of affordable housing in a comprehensive manner, whilst also providing an extension to the recreational grounds.



It is officers' opinion that the planning balance tips convincingly in favour of an approval.

## **17.0 Conclusion**

17.1 To summarise, the proposal to provide 30 residential dwellings, as per the allocation requirements within SS9 is acceptable in principle. The final details of the scheme will have to be the subject of a submission of detail within the appropriate reserved matters and these will have to demonstrate that the design, layout, access, appearance and landscaping element of the proposed development are acceptable.

## **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, to be delegated to Officers. 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**  
No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the access, 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**  
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**  
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. **Development to Accord with Plans**  
The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 2140181-PUR-00-XX-DR-A-100 and 2140181-PUR-00-XX-DR-A-1001

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

5. **Further Information Required**

No development shall commence and no submission of reserved matters shall be submitted until the following have been submitted to and approved in writing by the Local Planning Authority:

- A Tree Canopy Cover Assessment to evidence that a minimum increase of 10% in canopy cover of the site can be achieved
- A Biodiversity Net Gain Assessment to evidence that a minimum increase of 10% can be achieved
- Bat Activity Survey (foraging and commuting bats) & mitigation strategy

- Breeding Bird Survey and mitigation strategy
- Reptile Presence and Absence Survey together with a mitigation strategy
- Badger Survey and mitigation strategy
- Stag Beetle Survey and mitigation strategy

Reason: To safeguard and enhance the natural environment and green infrastructure networks, in accordance with policies ENV1 and ENV3

6.

### **Scheme of Archaeological Investigation**

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 Adopted Policy DM16 and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

7.

### **Contaminated Land**

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

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

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

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

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

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

8.

### **Contaminated Land**

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

9.

**Contaminated Land**

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

10.

**Contaminated Land**

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 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

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

11.

**Construction Method Statement**

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

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

Reason: In order to ensure that the construction takes place in a suitable manner, that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that amenities of existing residents are protected as far as reasonable.

12.

**Loading, Unloading and Turning Areas**

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

Reason: To ensure that appropriate loading, unloading and manoeuvring facilities are available that allow vehicles using the site access to enter and leave the highway in a forward gear, in the interest of highway safety.

13.

**Ecological Survey**

Prior to the commencement of the development including any demolition or clearance works, a scheme detailing ecological mitigation measures to protect and relocate where necessary any protected species that may be present on the site and other measures as detailed in the 'preliminary ecological appraisal carried out by Skilled Ecology Consultancy Ltd submitted as part of the application, and any subsequent mitigation measures identified within the additional surveys provided to discharge Condition 5, shall be submitted to and approved in writing by the Local Planning. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area

14.

### **Surface Water Drainage**

The layout details referred to in condition 1 shall provide full details and specifications of a 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:

Verification of the suitability of infiltration of surface water for the development.

This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. Limiting discharge rates to 3.95l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.

Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.

Demonstrate that all storage features can EITHER half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event, OR are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.

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.

An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

Depth of sub-base material to permeable paving must be amended on the detail drawing to comply with the depth of 450mm included in the calculations

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 minimise the risk of flooding, ensure the effective operation of SuDS features over the lifetime of development, and to provide mitigation of any environmental harm which may be caused to the local water environment.

15.

### **Surface Water Drainage**

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

Reason: To minimise the risk of flooding; 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.

### **Surface Water Drainage – Additional Information**

Pursuant to Condition 15 above, no development shall commence until details of who shall be responsible for the maintenance of the surface water drainage system in perpetuity, have been submitted to and approved in writing by the Local Planning Authority. The management of the surface water drainage system shall accord with the approved details thereafter.

Reason: To minimise the risk of flooding.

17.

### **Foul Sewage Drainage**

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved, or approved as part of the reserved



matters referred to in condition 1 of this permission, shall be occupied until the foul water strategy has been carried out in complete accordance with the approved details. The strategy as approved will be retained as such thereafter

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

18.

**Waste Water Draining – Anglian Water Capacity**

No development pertaining to the construction of the dwellings hereby approved, shall commence until a detailed wastewater strategy has been submitted to and approved in writing by the local planning authority. No dwelling hereby approved, or approved as part of the reserved matters referred to in condition 1 of this permission, shall be occupied until the wastewater strategy has been carried out in complete accordance with the approved details. The Strategy as approved will be retained as such thereafter.

Reason: In order to prevent damage to the environment and harm to the amenity of residential occupiers in the locality

19.

**Access**

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

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner, that roads and footways are constructed to an appropriate standard and provide adequate segregated pedestrian access; in the interests of highway safety.

20.

**Bus Stop**

Prior to the first occupation of any of the proposed dwellings the applicant/developer shall provide a new east bound bus stop in the vicinity of the vehicular access to Langham Oaks School OR Spencer's Piece (subject to survey), the precise location to be agreed with the Highway Authority, including a hardened passenger waiting area, level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing, pedestrian crossing points and any accommodation works to the footway and carriageway channel being provided entirely

at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development

21.

**Footpath**

Prior to the occupation of any of the proposed dwellings the existing footway from "Oak View" across the frontage of the recreation fields and community centre and the entire sites frontage to School Road shall be extended to a minimum of 2.0m in width or the extent of available highway. Continuing eastwards, the applicant shall provide a new footway also at 2.0m or to the extent of available highway past School Farm and connecting to the new footway at the new residential development at St Margaret's Cross being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development

22.

**Validation Certificate – Contaminated Land**

Prior to the first occupation 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 9.

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

23.

**Parking Laid out Prior to Commencement**

The layout details referred to in condition 1 shall ensure that car parking will be provided in accordance with current Parking Standards together with a workable, convenient and efficient turning areas for each dwelling. This should also include sufficient provision for the storage of bicycles sufficient for all occupants and visitors to that development. The approved facility shall be secure, convenient, covered and provided prior to the first occupation. These facilities shall be retained in this form at all times and shall not be used

for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur and that suitable parking layout is agreed with satisfactory parking and cycling storage provision at the site, in the interests of highway safety

24.

**Landscaping**

The landscaping details referred to in Condition 1 above shall be in full compliance with the Councils Landscape Guidance Note LIS/C and include:

Updated Landscape Statement to include Type 2 photomontaged visualisations with year 1 & 15 mitigation planting from viewpoints 1 & 3 and update findings as required.

Finished levels or contours, where notable changes are proposed

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

25.

**Reserved Matters Requirements**

Any subsequent reserved matters proposals shall be in accordance with the following documents hereby approved:

- Transport Statement dated February 2022 by Intermodal Transport
- Tree Survey Report - Rev B dated April 2020 reviewed 2022 by Kirsten Bowden

Reason: To ensure that the detailed proposals follow the principles that formed the basis on which the application was submitted, considered, and approved by the Local Planning Authority having had regard to the context of the site and surrounding area.

26.

**Travel Information and Marketing**

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

Reason: In the interests of promoting sustainable development and transport.

27. **Open Space Provision**

At least 10% of the site area shall be laid out for use as amenity open space in accordance with a scheme submitted to and agreed, in writing, by the Local Planning Authority before the work commences and made available for use within 12 months of the occupation of the first dwelling to which they relate and thereafter retained for public use.

Reason: In order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment after the development is completed.

28. **Parking Space – Size Requirement**

Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

29. **Highways Requirements**

The Access and layout details referred to in Condition 1 should ensure the following:

- i) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary or any carriageway.
- ii) All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.
- iii) All footways should be provided at no less than 2.0m in width
- iv) Any garage provided with its vehicular door facing the carriageway shall be sited a minimum of 6m from the highway boundary
- v) Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter
- vi) details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage)
- vii) vehicular visibility splays of 90m by 2.4m by 90m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter or a 3.0m wide parallel band visibility splay across the

entire sites frontage to School Road which shall be formed as a walkable grassed verge and retained and maintained free from obstruction clear to ground thereafter.

Reason: To avoid the displacement of loose material onto the highway, that roads and footways are constructed to an acceptable standard, to ensure vehicles are left standing clear of the highway whilst the garage door is opened and closed and to ensure that a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction

## **Informatives**

1. 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.
2. PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.
3. 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.

## **4. Highways Informatives**

There should be no vehicular access over any radius kerbs.

The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.

Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.

Refuse freighters are unlikely to manoeuvre over Private Drives.

Communal refuse and recycling storage areas should be provided within 15m of any carriageway where a collection vehicle can manoeuvre.

## **5. Landscape Informatives**

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

## **6. Archaeology Informative**

In this case, archaeological trial trenching evaluation will be required in the first instance, prior to development commencing. Depending on the results of the trial trenching, further archaeological work, or preservation in situ of remains, may be required. The Archaeological Officer will, on request of the applicant, provide a brief for each stage of the archaeological investigation

## **7. Tree Informative**

It should be noted that any technical interpretation of these detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional (i.e. Arboricultural consultant – details of local practices available through Arboricultural Officer on 01206 282469 (am only).

In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Arboricultural Consultant and the Council's Arboricultural Officer. Please refer to the planning application number in any correspondence

## **8. Design Informatives**

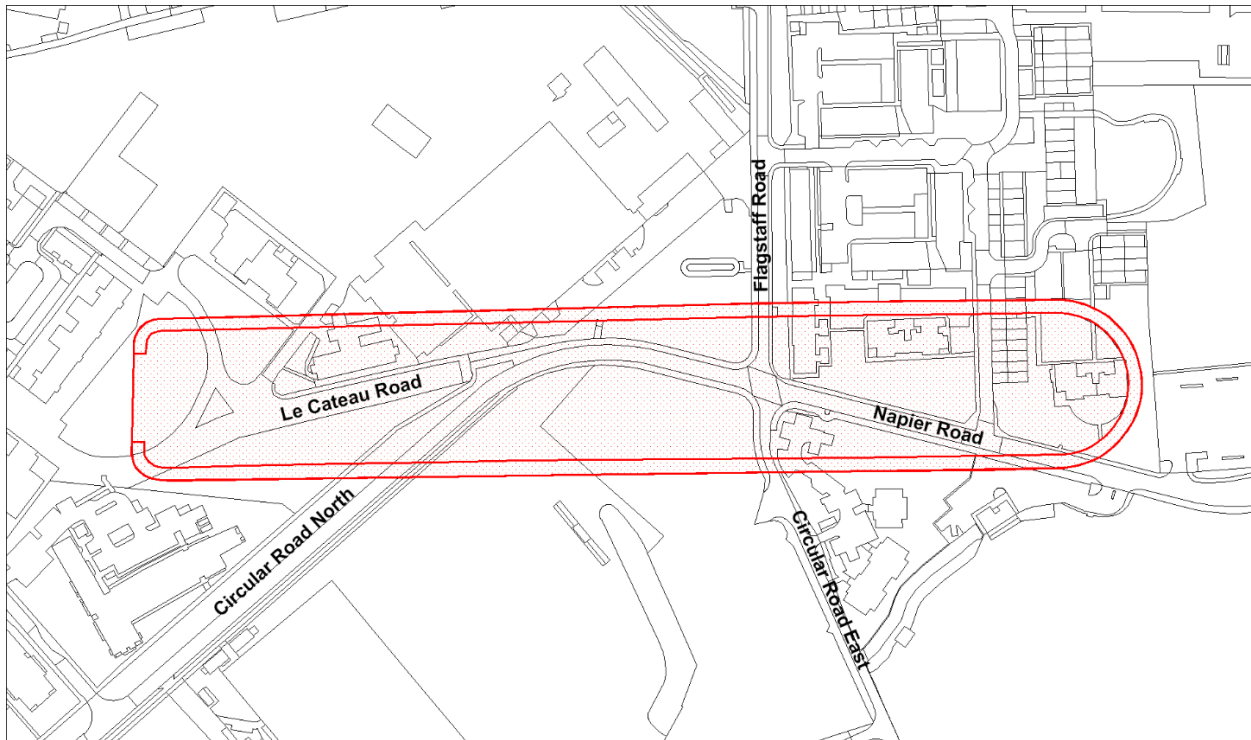
In the interests of being proactive, it is considered relevant to advise that the following recommendations to enhance the design of the scheme, should be taken into consideration upon the reserved matters application submission:

- The proposed development should adopt a rural system of spatial organisation. Typologies such as Arcadia or Boulevard would be appropriate. The resulting layout should be landscape led and landscape dominated, with the landscape containing the built environment (see Essex Design Guide).
- Given that the site bounds the settlement on two sides, with public open space and open countryside on the other two sides, it would be expected that the site would provide a degree of transition between these two contrasting settings. This might be reflected in densities or typologies adopted across different areas of the site.
- Consideration should be given to the location of the access; this currently requires the removal of the only tree along the northern boundary of the site.

- Pedestrian connections to the existing PROW network and adjacent extended recreation ground are welcomed.
- The ratio of grey infrastructure within the site is excessive considering the densities proposed, primarily due to the low ratio of roads fronted by dwellings.
- It is not considered acceptable to use parking treatments and rear boundary treatments to enclose areas of POS.
- Given the sites context, the creation of numerous further sensitive edges (to areas of POS) within the site is not advisable.
- Parking provision is overly prominent within the scheme, partially as a result of positioning and partially due to over provision.
- The site lacks legibility (evidenced by the fact the main access road and longest road within the proposal is only fronted by three units)
- Areas of public realm lack any genuine sense of enclosure.
- Fronting on to School Road is welcomed, as is the open aspect to the sites southern boundary.
- Residential areas should include areas of informal/incidental green/open space. This should include both green and blue infrastructure, which should consist of a network of integrated features.
- The framework requires that new streets are tree-lined and that opportunities are taken to incorporate trees elsewhere in developments. It is important to ensure that the right trees are planted in the right places and that appropriate measures are in place to secure the long-term maintenance of newly planted trees and that existing trees are retained wherever possible.
- Built form should establish a site wide positive and coherent identity that residents and local communities can identify with. This identity should respond to the sites context and reinforce/enhance the local vernacular. The detailing must be of a high quality.
- The layout of the development and positioning of elements of landscape/built form should create a series of distinct spaces and take the opportunity to create character areas within the development.
- Areas of public open space should be fronted by units in order to ensure good levels of activity and natural surveillance. Similarly, units should front boundaries with existing adjacent roads and countryside edges to avoid domination of the streetscape and wider landscape views by rear boundary treatments.
- A variety of parking treatments should be adopted across the site. The National Design Guide requires car parking to be well-designed, landscaped and sensitively integrated into the built form so that it does not dominate the development or the street scene.
- A clear road hierarchy should be established and reinforced by adopting a varied surface material for shared surfaces and utilising a variety of frontage treatments for plots.
- Back to back distances should comply with the Essex Design Guide (15-25m dependent on relationship between units).
- Focal/nodal buildings should be included to enhance legibility within the site.
- Brick walls should be used to enclose boundaries that address public/semi-public realm, this includes parking courts.
- Consideration should be given to the proposals carbon footprint, for both the long and

short term. This should include consideration of energy consumption and energy generation (i.e. construction methods, materials, building orientation and openings, utilities, renewables, etc).





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**Item No: 7.3**

**Application:** 221174

**Applicant:** Colchester Borough Council

**Agent:** Mr Philip Wise

**Proposal:** Erection of an interpretation panel containing historical information and graphics at the Roman Circus archaeological site, Flagstaff Road.

**Location:** Roman Circus Archaeological Site, Flagstaff Road, Colchester

**Ward:** New Town and Christ Church

**Officer:** Hayleigh Parker Haines

**Recommendation:** Approve

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

- 1.1 This application is referred to the Planning Committee due to the applicant being Colchester Borough Council.

## **2.0 Synopsis**

- 2.1 This application seeks advertisement consent for an interpretation panel in lectern format. The key issues for consideration are amenity and public safety.
- 2.2 The application is subsequently recommended for Approval, subject to conditions.

## **3.0 Site Description and Context**

- 3.1 The application site is situated on Flagstaff Road close to the cross roads with Circular Road North, Napier Road and Circular Road East. This falls within the Garrison Conservation Area and the Circus Scheduled Monument.

## **4.0 Description of the Proposal**

- 4.1 Advertisement consent is sought for the installation of an interpretation panel containing historical information and graphics in relation to The Roman Circus, as shown below. This would sit 0.9 metres above ground level, with the panel itself having a width of 0.8 metres and a depth of 0.59 metres. This is to be of the same design and specification as used elsewhere within the Borough (Balkerne Gate – 130350)

## The Roman Circus



Alexander Wagner's 'The Chariot Race', painted in 1896. Although this is a reconstruction of the Circus Maximus in Rome, it captures the spectacle and the drama of races at Colchester's Roman Circus (private collection).

The Roman Circus, a chariot racing track, was discovered in 2004 by the Colchester Archaeological Trust. It is the only example of a circus to have been identified in Britain.

The circus at Colchester was built using a standard design found throughout the Roman Empire. One end of the track was completely filled by a row of starting gates and at the other was a sharp 180-degree turn. The two long straight sections were separated by a barrier called a 'spina', which supported a series of decorative columns and other features, including lap counters. The track was flanked by tiers of seating along the two long sides and the curved end.

The Colchester circus was around 475m long and 75m wide. It is estimated that it could have seated up to

8,000 people. It was constructed around AD 120 and had already gone out of use by the end of the Roman period.

Chariot racing was the oldest and most popular sport in the Roman world. On race days the circus at Colchester would have thronged with people – many of them may have travelled a long distance to be there. People would have placed bets on the outcome of the races. Popular charioteers would have been cheered on and admired for their skills. The risk of serious injury or even death among the competitors only added to the excitement.

Today, the Roman Circus Centre provides information about the site and visitors can see reconstructions of the starting gates and the seating.

## Colchester Roman Heritage



The outline of the now vanished Roman Circus overlaid on the modern street plan



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www.colchester.org.uk



## 5.0 Land Use Allocation

### 5.1 Public open space

## 6.0 Relevant Planning History

### 6.1 There is not particularly recent or relevant planning history in relation to this application

## 7.0 Principal Policies

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

## 7.2 Local Plan 2017-2033 Section 1

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

- SP7 Place Shaping Principles

## 7.3 Local Plan 2017-2033 Section 2

On 4<sup>th</sup> July 2022 Full Council resolved to adopt the modified Section 2 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The following policies are considered to be relevant in this case:

- ENV1 Environment
- DM5 Tourism, Leisure, Culture and Heritage
- DM15 Design and Amenity
- DM16 Historic Environment

7.4 The application site does not fall within a Neighbourhood Plan Area.

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

- The Essex Design Guide
- External Materials in New Developments

## 8.0 Consultations

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

8.2 The Historic Buildings and Areas Officer has raised no objection to the proposal.

8.3 The Archaeological Officer has raised no objection to the proposal, subject to the inclusion of a pre-commencement condition to ensure a scheme of archaeological investigation is provided.

8.4 Historic England considers that the proposed works would have a negligible impact on the significance of the monument and therefore has no objection subject to a condition being included regarding a scheme of archaeological work being secured.

8.5 Environmental Protection have no comment.

## **9.0 Parish Council Response**

9.1 The site falls within the New Town and Christ Church Ward which is Non-Parished

## **10.0 Representations from Notified Parties**

10.1 One public letter of representation has been received supporting the application, and is summarised below:

- Fully endorse this initiative to promote the presentation and interpretation of the Roman Circus site for public benefit and for the benefit of the heritage economy of the town. *Comments noted*

## **11.0 Accessibility**

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

## **12.0 Planning Obligations**

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

## **13.0 Report**

13.1 Regulation 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007 requires that local planning authorities control the display of advertisements in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

13.2 The National Planning Policy Framework (NPPF) confirms (at paragraph 132): The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient, and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

### **Public Safety**

The National Planning Practice Guide (NPPG) states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing

or other places where local conditions present traffic hazards. There are less likely to be road safety problems if the advertisement is on a site within a commercial or industrial locality, if it is a shop fascia sign, name-board, trade or business sign, or a normal poster panel, and if the advertisement is not on the skyline.

Paragraph: 067 Reference ID: 18b-067-20140306

Revision date: 06 03 2014

Development Plan policy DM21 requires all development to maintain the right and safe passage of all highways users.

In this case, the site is located on the footpath, whereby pedestrian access is common. The proposed signage relates to the wider site in which it is located and is not significantly different to the other interpretation panels throughout the Borough. It is not considered that the proposed panel would be mistaken for traffic signs so as to pose a hazard. The signs would attract passers-by to a certain extent (as they are designed to do), but are not considered to distract passers-by unnecessarily or to a hazardous extent.

The Highway Authority have been consulted as part of the application and have confirmed that they have no objections to the proposal.

## **Amenity**

The NPPG confirms that “Amenity” is not defined exhaustively in the [Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007](#). It includes aural and visual amenity ([regulation 2\(1\)](#)) and factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest ([regulation 3\(2\)\(a\)](#)).

It is, however, a matter of interpretation by the Local Planning Authority (and the Secretary of State) as it applies in any particular case. In practice, “amenity” is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement.

So, in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural, or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.

This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

If the advertisement makes a noise, aural amenity would also be taken into account before express consent would be given.

*Paragraph: 079 Reference ID: 18b-079-20140306*

*Revision date: 06 03 2014*

In considering the design and character, Local Plan policies ENV1 and DM15 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.

The proposed signage is of a muted palette which would not be overly dominant within the surrounding area. Furthermore, due to its limited height and scale, this is not considered to result in an overly dominant or incongruous addition that would significantly alter the character of the site and therefore, it is considered that the site would visually remain similar and as such it is not considered that this would have a detrimental impact on the character and appearance of the site or surrounding area.

It should be noted that the interpretation panel is to be located within an area of high Archaeological importance (The Roman Circus). In the interests of public amenity, to ensure that this remains a significant historic feature of the Borough it is considered reasonable to include a condition securing a programme of archaeological work to ensure that there is limited impact on archaeological layers/features. Monument consent with conditions has been granted by the SoS for the installation.

## **17.0 Conclusion**

Taking into account, the above assessment, it is considered, subject to conditions, the proposed interpretation panel would be acceptable in terms of public safety and amenity.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

**Approval** of planning permission, subject to the following conditions:

### **1. Standard Advertisement Condition**

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to

the reasonable satisfaction of the Local Planning Authority.

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

## **2. Programme of Archaeological Work**

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 Adopted Development Policy DM16 and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

## **Informatives**

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





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**Item No:** 7.4

**Application:** 220921

**Applicant:** Alison Fogg - Colchester Amphora Trading Ltd

**Agent:** Mr Mark Paulley, Barefoot & Gilles

**Proposal:** Proposed construction of additional overspill car parking.

**Location:** Land opposite, Magpie Chase, Stanway, Colchester, CO3 8WB

**Ward:** Stanway

**Officer:** Lucy Mondon

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because the applicant (Colchester Amphora Trading) is a subsidiary of Colchester Borough Council.

## **2.0 Synopsis**

- 2.1 The proposed development is for additional overspill car parking to serve the Stanway Community Centre, which is currently nearing completion having received planning permission in 2021. The key issues for consideration are principle of development, contamination, highway matters, flood risk and drainage, ecology, impact on the character of the area, and impact on amenity.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. The application is supported by a statement from Stanway Parish Council (the prospective tenant) to justify the need for additional car parking. The report considers this submission alongside the key material planning matters and comments set out in representations received.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

## **3.0 Site Description and Context**

- 3.1 The application site ('the site') as a whole is an area of land measuring 0.81ha located on the western side of the Stanway Western Bypass and to the west of the Lakelands housing development. The proposed overspill car parking would be located on the western edge of the site.
- 3.2 The site lies within an existing parkland, although it is segregated by post and wire fencing and has not been used recreationally as part of the parkland. It was previously identified as part of a larger area of Public Open Space in the now superseded Site Allocations Development Plan Document (DPD). The Site Allocations DPD referenced the use of s106 contributions from other developments 'towards the building of a sports hall, community centre or similar facility with associated car parking facilities on 0.8 hectares of land for the benefit of residents in Stanway and Colchester.' Given that the site now has planning permission for a community building, the site is not allocated in the newly adopted Local Plan; land immediately adjacent the site continues to be identified as Public Open Space.
- 3.3 A Colchester Local Wildlife Site lies to the north-west of the site and there are footpaths through the parkland; Public Right of Way (PROW) 149\_11 runs through the parkland between Church Land and Warren Lane on the periphery of the site's northern and western boundaries.
- 3.4 There is an existing crossing with traffic island on the Stanway Western Bypass to the northern end of the application site, allowing pedestrian access from the residential Lakelands development to the parkland.

## **4.0 Description of the Proposal**

- 4.1 The application seeks planning permission for an overspill car parking area for 26 cars. This would replace the approved overspill car parking area of 6 spaces and bring the total car parking capacity to 45 car parking spaces (an increase of 21 car parking spaces overall from the approved scheme). The surfacing for the overspill car parking area would be a reinforced grass system.
- 4.2 The application is supported by
- Application Form
  - Site Plans (existing and proposed)
  - Site Landscaping Plans
  - External Works plans
  - Drainage Details
  - Stanway Parish Council letter to Colchester Community Enabling Officer (dated 23<sup>rd</sup> March 2022)
  - Ecological Appraisal

## **5.0 Relevant Planning History**

- 5.1 The site and its surrounding parkland forms part of a former sand and gravel quarry which has been remodelled and reprofiled as part of the wider Lakelands Development.
- 5.2 Planning Permission was previously granted (October 2020) for a two-storey community centre with associated parking and landscaping (ref: 201365). A revised scheme was approved in May 2021 (ref: 210935) and this scheme is currently being built out.

## **6.0 Principal Policies**

- 6.1 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.
- 6.2 Local Plan 2017-2033 Section 1  
The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:
- SP1 Presumption in Favour of Sustainable Development
  - SP7 Place Shaping Principles

- 6.3 Colchester Borough Local Plan 2017-2033:  
The Section 2 Local Plan was adopted on 4<sup>th</sup> July 2022. Policies relevant to this application include:
- SG1 Colchester's Spatial Strategy
  - ENV1 Environment
  - ENV5 Pollution and Contaminated Land
  - CC1 Climate Change
  - PP1 Generic Infrastructure and Mitigation Requirements
  - DM15 Design and Amenity
  - DM20 Promoting Sustainable Transport and Changing Travel Behaviour
  - DM21 Sustainable Access to development
  - DM22 Parking
  - DM23 Flood Risk and Water Management
  - DM24 Sustainable Urban Drainage Systems
- 6.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):  
The Essex Design Guide  
EPOA Vehicle Parking Standards  
Cycling Delivery Strategy  
Sustainable Drainage Systems Design Guide  
Planning Out Crime  
Stanway Joint Design Statement and Parish Plan

## **7.0 Consultations**

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

Archaeological Adviser

No archaeological requirements.

Contaminated Land Officer

No objection. Recommended informatives.

Environmental Protection

No objection subject to condition to limit hours of construction work.

Essex Bridleways Associations

No comments received.

Essex Wildlife Trust

No comments received.

Highway Authority

No objection. Recommended informative regarding any work within or affecting the highway.

Landscape Officer

Following negotiation, no objections subject to an established product being used for the reinforced grass.

National Highways

No objection.

Natural England

No comments received.

Place Services (Ecology)

No objection subject to securing biodiversity mitigation and enhancement measures.

The Ramblers Association

No comments received.

SUDs

Currently a holding objection, but awaiting further feedback from Essex County Council SUDs team.

## **8.0 Parish Council Response**

- 8.1 Stanway Parish Council have confirmed that they have no objections to the proposed development.

## **9.0 Representations from Notified Parties**

- 9.1 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.

Three objections (two from same resident) have been received from local residents, the content of which is summarised below:

- Loss of green space
- Impact on wildlife

## **10.0 Accessibility**

- 10.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of discrimination; the car parking would be available to all users of the site and the site is accessible by a number of modes of transport (car, bus, cycle, foot). Further, the proposed car parking does not present any issues in terms of accessibility.

## **11.0 Air Quality**

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

## **12.0 Planning Obligations**

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

## **13.0 Report**

- 13.1 The main issues in this case are: principle of development, contamination, highway matters, flood risk and drainage, ecology, impact on the character of the area, and impact on amenity. Particular consideration is given as to how the proposed development would impact upon any design or mitigation measures recently secured under the planning permission for the development of the site for a community building; this is in order to ensure that the previous planning permission is not diminished or compromised in any way.

### Principle of development:

- 13.2 The Local Plan Spatial Strategy directs development towards the most sustainable locations. The site lies immediately adjacent to the settlement boundary of Colchester and was allocated for development in the previous Local Plan, having been considered a sustainable location in terms of accessibility and proximity to both residential and non-residential development. The site benefits from Planning Permission for a community use building, which is currently under construction. The proposed development seeks planning permission for additional parking to serve the community building.
- 13.3 Given the planning background, further development of the site is considered to be acceptable in principle. The current proposal for additional car parking does however need to be considered in respect of sustainability, particularly sustainable transport, in order to reach a conclusion as to its acceptability. The consideration of other material planning matters will also need to be taken into account.

### Highway Matters:

- 13.4 Section 2 Policy DM21 requires all new developments to seek to enhance accessibility for sustainable modes of transport. Policy DM22 states that parking standards for non-residential development should be agreed through joint discussions with the local Highway Authority and the Local Planning Authority in accordance with the most recent local Parking Standards, with a more flexible approach to the parking standards only considered if supported by a parking survey and accumulation data.



- 13.5 The Vehicle Parking Standards SPD sets out the parking requirements for assembly and leisure uses, which is relevant to the community building that the proposed car parking would serve. For this site, the car parking requirements would be a maximum of 26 car parking spaces. The proposed overspill car parking would result in car parking exceeding the maximum set out in the SPD. Policy DM22 does, however, promote a flexible approach in certain circumstances and the proposal has been considered on this basis.
- 13.6 Whilst the planning application does not include a parking survey and accumulation data (potentially due to the fact that the community building is not yet in use), the application is supported by a letter from Stanway Parish Council which seeks to justify the additional car parking spaces. The main points are summarised below:
- Akin to the original permission (201365) for 42 car parking spaces;
  - Comparison to other halls (Great Horkesley and Langham) which have 45-50 car parking spaces;
  - Additional car parking spaces required in order to service users of both the hall and outdoor space, as well as Parish Councillors using the office space;
  - Will provide adequate car parking for disabled and elderly visitors, as well as attended children;
  - Confirmation that the Parish Council is committed to sustainable transport.
- 13.7 The letter sets out that the parking would be necessary for the multiple uses of the building (outdoor and indoor activities, and office space), but that the Parish Council would continue to promote sustainable transport options. The comparison to other halls is noted, although the examples provided differ in that they are in more rural areas where additional parking may be deemed necessary.
- 13.8 The first point raised in the Stanway Parish Council letter is of particular pertinence as it refers to the original planning permission for the community building (ref: 201365). Although this permission is not being implemented, it did include a total of 42 no. car parking spaces, of which 16 no. were in an overspill car parking area. In the committee report it was concluded in respect of car parking that: *The main car parking does not exceed the maximum level of 26 spaces, although an overspill car park has been included which would provide a further 16 car parking spaces; these additional car parking spaces are not considered to encourage car use over more sustainable transport modes as they would be used on a 'needs must' basis which is considered to be a sensible contingency in the case of a community use. One of the local representations received in connection with this application expressed concern about potential car parking in residential streets by users of this development, but the additional overspill parking is considered to address this concern.* It is considered that the same reasoning applies to the current proposal. A condition can be included that the parking is identified as 'overspill car parking' (with a sign) in order to reduce its usage so that it is used when needed rather than as a matter of course; this will also help to encourage visitors to the site to use other modes of transport (e.g. walking, cycling, bus). The site would provide parking for cycles as part of the previous permission, as well as electric charging for both cars and cycles. In

addition, the site is accessible by foot and bus. Access to the site would not be compromised as a result of the proposed development.

- 13.9 Neither National Highways nor the Highway Authority have any objections to the proposed development. The Highway Authority has recommended an informative regarding any works within or affecting the highway.

Contamination:

- 13.10 Section 2 Policy ENV5 supports proposals that will not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses due to land pollution.
- 13.11 Matters of contamination were considered under the previous planning permission, with conditions being applied to secure remediation measures and due process should any unexpected contamination be encountered during construction. As a result, the current proposal is not considered to require any further investigation. The Contaminated Land Officer has recommended informatives for best practice and the procedure to follow should any unexpected contamination be encountered.

Flood Risk and Drainage:

- 13.12 Section 2 Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Policy DM23 includes the provision that, where proposals include driveways, hardstanding or paving, the use of permeable materials and landscaping will be sought to minimise the cumulative impacts of flooding from such developments.
- 13.13 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. In terms of the development leading to flooding elsewhere, the proposed car parking area would retain permeability as it would be surfaced with reinforced grass, rather than a solid macadam or paved surface, so surface water run-off would be limited.
- 13.14 The previous planning application for the community building did not trigger consultation with the Lead Local Flood Authority (LLFA), but included SUDs drainage and was assessed on its own merits taking into account relevant planning policy, as well as national guidance on such matters. Similarly, the scale of the current proposal would not trigger statutory consultation with the LLFA. They have however been consulted in order to ensure that the additional car parking would not have an adverse impact on the SUDs drainage secured under the previous planning permission. A holding objection has been issued, but further clarification is being sought with the LLFA given the circumstances of the case and the submission of further information. Given the small scale nature of the proposal (such that it would not normally trigger consultation with the LLFA in anycase) it is reasonable to consider that this matter can be resolved. As such, it is requested that

delegated authority be given to pursue the matter further to a satisfactory conclusion, subject to any conditions that the LLFA may advise.

Ecology:

- 13.15 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment.
- 13.16 Various Section 2 Policies seek opportunities to safeguard and enhance biodiversity throughout the Borough. In particular, policy ENV1 requires development proposals to be supported by appropriate ecological surveys where necessary; conserve or enhance the biodiversity value of greenfield and brownfield sites (minimising fragmentation of habitats); maximise opportunities for preservation, restoration, enhancement, and connection of natural habitats; and incorporate biodiversity net gain of at least 10% in line with principles outlined in the Natural England Biodiversity Metric.
- 13.17 Place Services Ecology were instructed to review the proposed development on behalf of the Council, particularly with regard to how mitigation and enhancement measures could be achieved given that the proposed car parking would be sited in the area where such measures were secured under the previous planning permission; it was considered necessary to ensure that ecological mitigation and enhancement measures would not be compromised as a result of the additional development. Having reviewed the Ecological Appraisal (re-submitted from the previous permission) alongside the current proposals, Place Services concluded that there is sufficient ecological information available with which to determine the application and that the mitigation measures identified in the appraisal remain suitable. There is no requirement for additional measures, provided that the mitigation measures identified in the appraisal are conditioned to be carried out.
- 13.18 In order to ensure that enhancement measures will be implemented, a condition is recommended to secure a Biodiversity Enhancement Strategy. Place Services also confirmed (separately) that they were satisfied that a 10% Biodiversity Net Gain could be achieved via an agreed enhancement strategy at this site. The condition is therefore considered to be necessary and appropriate in order to mitigate the proposed development and meet planning policy requirements.

Impact on the Character of the area:

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

- 13.20 The proposed car parking would be surface level only. There would not be any above ground features (other than a small element of signage required to identify the area as overspill car parking) so there would not be an overtly immediate visual impact on the street scene or character of the area from wider views. In terms of closer views, the visual impact would be reduced by virtue of the surfacing being reinforced grass, thereby having a green and 'landscaped' appearance. This is considered appropriate given the context of the site with the surrounding parkland and addresses local resident concerns regarding loss of 'green space'. The surfacing of the car parking area can be conditioned to ensure that it is carried out as approved and retained thereafter.

Impact on Amenity:

- 13.21 Section 2 Policy DM15 requires all development to be designed to a high standard that protects and promotes both public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 13.22 Whilst a larger car parking area would potentially result in more car movements on site, although these would be in connection with the use of the building and a condition can be included to restrict use of the car park in accordance with the opening hours of the building which would reduce noise and disturbance late at night/early in the morning. The overspill car park would be located on the western side of the site, a considerable distance from residential properties to the east and with the intervening features of the bypass road and the community building itself, so disturbance would be minimised in any case. The Council's Environmental Protection team have considered the application and have not raised any concerns in respect of amenity issues, although they have recommended a condition to control construction hours in the interests of neighbouring amenity and this condition is considered necessary and reasonable.

## **14.0 Planning Balance and Conclusion**

- 14.1 Section 1 Policy SP1 states that, when considering development proposals, the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 14.2 In this case, whilst the proposed car parking would result in the site exceeding the maximum car parking levels set out in planning policy, there are mitigating circumstances that leads to the conclusion that the proposed development can be approved. The proposed car parking would be used as an overspill car parking area, so would not be part of the main car park or used for regular car parking and would not be seen as such having a grassed surface. Its visual impact would therefore be minimal and would not necessarily promote car use over other more sustainable modes of transport. Ecological mitigation and

enhancement measures can also be secured. The proposal is therefore considered to be acceptable from an environmental point of view. Economically, the car parking would be of benefit to both users and visitors to the site, which would in turn enhance the viability of the building. From a social perspective, the car parking would potentially enable a greater use of the site (perhaps by those unable to access by other means) and the additional car parking would relieve any (perceived or actual) pressure for parking in the nearby residential areas, this being a concern that has been expressed previously by local residents.

- 14.3 Subject to reaching a resolution in terms of drainage, the proposed development is considered to be acceptable in terms of planning policy, having had regard to other material planning matters and necessary planning conditions.

## **15.0 Recommendation to the Committee**

15.1 The Officer recommendation to the Committee is for:

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

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

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

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

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

Unless otherwise stipulated in the conditions below, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:

Site and Location Plans (2103 DE 10-100 Revision A);

Site GA Plan (2103 DE 10-400 Revision B);

Site Landscaping Plan – North (2103-DE / 10-01 Revision A); and

Site Landscaping Plan – South (2103-PI-10-02 Revision E).

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

### **3. Use of Car Park**

The car parking area hereby approved shall provide for 26 car parking spaces and shall only be used during the hours that the community building to which it serves is in use.

Reason: For the avoidance of doubt as to what has been approved and in the interests of preventing undue noise and disturbance to neighbouring residents.

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

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

#### **5. Ecological Mitigation Measures**

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Practical Ecology, June 2020), as appended by drawing no. 2103 DE 10-400 Revision A. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

#### **6. Surfacing**

Notwithstanding the submitted drawings, the car parking area hereby approved shall be constructed and surfaced with a PERFO system for reinforced grass, as per Barefoot & Gilles emails, dated 4<sup>th</sup> July 2022 16:17. The reinforced grass system shall be fully installed/constructed prior to the car park being first used and shall be maintained as such thereafter.

Reason: In order to maintain a softer and landscaped appearance in the interests of visual amenity and the character of the area.

#### **7. Biodiversity Enhancement Strategy**

The car parking area shall not be brought into use until a Biodiversity Enhancement Strategy for protected and Priority Species has been submitted to, and approved in writing by, the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

## 8. Signs for Overspill Car Parking

The car parking area hereby approved shall not be brought into use until a sign (or signs) have been erected to identify the area as overspill car parking only.

Reason: In order to maintain the car park as an overspill parking area so that visitors are encouraged to access the site by alternative and more sustainable modes of transport, and in order to ensure that compaction of the ground is reduced so that the reinforced grass system is established.

## 16.0 Informatives

16.1 The following informatives are also recommended:

### 1. 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. 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. Highway Informative

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org).

### 4. Contaminated Land Informative 1

The applicant is advised that the site to which this planning permission relates is located within 250 metres of filled land.

If changes are to be made to the foundations of the development site, or other groundwork to be undertaken, the developer should ensure that, in accordance with current best-practise guidance on appropriate construction methods, precautionary measures are incorporated, sufficient to minimise risks from any ground gases. If changes to foundations are proposed, prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site

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investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. The Local Planning Authority should be given prior notification of any proposed remediation scheme. Further advice can be found in the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

## **5. Contaminated Land Informative 2**

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local

Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

## **6. Ecology Informative – insect hotels and bee boxes**

Please be advised that insect hotels and bee boxes should not be shaded and should ideally face in a southerly or easterly direction to increase the amount of sunlight they are exposed to. Please take this into account as part of the Biodiversity Enhancement Strategy required under condition of this permission.



## Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

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

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

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

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

## Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



## **Colchester Borough Council Development Management**

### **Highway Safety Issues**

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

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

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

### **Parking Standards**

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

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

For residential schemes:

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

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



## **Colchester Borough Council Environmental Control**

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

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

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

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

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

Use for the provision of —

- (a) financial services, or
  - (b) professional services (other than health or medical services), or
  - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

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

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

## **Class A4. Drinking establishments**

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

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

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

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

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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



**Sui Generis Uses**

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

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

***Interpretation of Class C3***

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

***Interpretation of Class C4***

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

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

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

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

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

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

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

