



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 15 February 2024 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

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call

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

www.colchester.gov.uk

COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 15 February 2024 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

Cllr Arnold	Cllr Bloomfield	Cllr Burrows	Cllr Buston
Cllr Cory	Cllr Cox	Cllr Dundas	Cllr Ellis
Cllr Goacher	Cllr Hagon	Cllr Harris	Cllr King
Cllr Kirkby-Taylor	Cllr Law	Cllr Laws	Cllr Luxford-Vaughan
Cllr Naylor	Cllr Nissen	Cllr Pearson	Cllr Powling
Cllr Rippingale	Cllr Rowe	Cllr Scordis	Cllr Scott-Boutell
Cllr Smalls	Cllr Smith	Cllr Smithson	Cllr Sommers
Cllr Sunnucks	Cllr Willetts	Cllr J. 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, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

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

6 **Minutes of Previous Meeting**

No minutes have been presented to the Committee for confirmation.

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 | 232564 Holy Trinity Church, Trinity Square, Trinity Street, Colchester | 7 - 26 |
| | Application for listed building consent to reposition 23no gravestones , minor realignment of boundary wall and new lighting (Amended Description). | |
| 7.2 | 232565 Holy Trinity Church, Trinity Square, Trinity Street, Colchester | 27 - 56 |
| | Application for minor realignment of boundary wall and railings and reposition of 23 no gravestones. Additional footpaths, hard surfacing, additional gates and removal of some railings and new lighting (Amended Description). | |
| 7.3 | 231600 Land to West of, The Folley, Layer-de-la-Haye, Colchester | 57 - 80 |
| | Application for construction of 70 dwellings including 24 affordable homes (Rural Exception Site Local Lettings homes, Affordable Rent Homes and Shared Ownership Homes), garages, parking, vehicular/ cycle and pedestrian accesses, public open space, landscaping, drainage infrastructure and other associated works. | |
| 7.4 | 232367 4 St. Botolphs Street, Colchester, CO2 7DX | 81 - 90 |
| | Planning permission is sought for replacement of timber sash windows with UPVC sash windows which will be painted black. Top of sash windows at front corner to be curved to match original windows. Also new timber door to flats and re-instatement of parapet and clock to front. | |

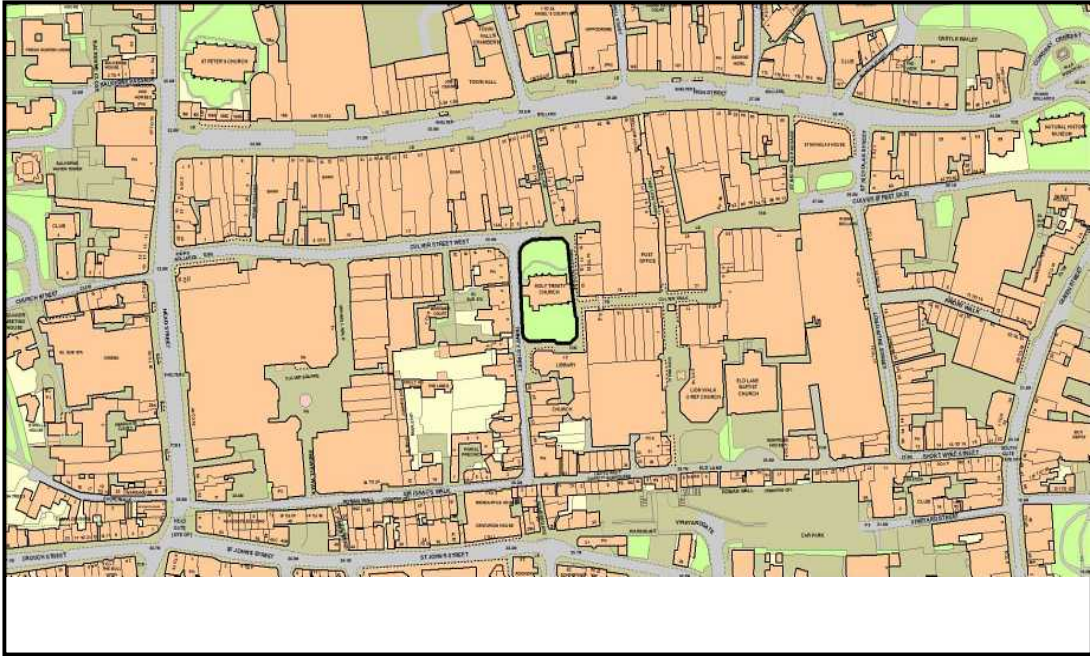
8 Exclusion of the Public (not Scrutiny or Executive)

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

91 - 102

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



The Ordnance Survey map data included within this publication is provided by Colchester City Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.1

Application: 232564

Applicant: Alison Fogg

Agent: Katarina Santic

Proposal: Reposition of 23no gravestones, minor realignment of boundary wall and new lighting (Amended Description)

Location: Holy Trinity Church, Trinity Square, Trinity Street, Colchester

Ward: Castle

Officer: Chris Harden

Recommendation: **Grant Listed Building Consent**

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Mark Goacher who raises the following concerns:
“Significant concerns raised by residents about the applications to open up the graveyard to the public and move headstones. Concerns that this alters the settings of a heritage building and could lead to increased anti-social behaviour around one of Colchester's oldest buildings: littering and urination in particular. The opening up of the church door and its location could lead to it becoming a stopping off point for users of the night time economy to relieve themselves. The moving of gravestones amounts to a change in the setting of the building and raises ethical concerns about the encouraging of the public to eat, drink and throw litter onto people's graves. Concerns that this shows a casual disrespect and that this lowers to cultural tone of the area. Also significant concerns about the loss of wild flora and fauna to a planned and manicured garden.”

2.0 Synopsis

- 2.1 This is the Listed Building application associated with the tandem Planning Application 232565. The key issues for consideration on this Listed Building application are thus the impact upon the character and fabric of any Listed structures affected by the works which would include the boundary fencing/walling, lighting on the Church and the impact upon the gravestones. Other wider planning issues are considered under the planning application.
- 2.2 The application is subsequently recommended for Approval. It is considered that the proposal has achieved an appropriate balance between protecting the character and fabric of the Church and protecting features within the churchyard and on the boundary whilst enhancing the public realm and increasing public accessibility to the site. The Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government by way of the Levelling Up Fund. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub.
- 2.3 The churchyard works are intended to enhance the public realm including in association with the use of the church. Conditions will be applied to ensure the works are sympathetic to the Heritage Assets. The proposal is therefore considered to comply with policies within with the National Planning Policy Framework and Section 16 (2) LB & Con Areas Act as it preserves the character of Listed features and that any less than substantial harm is outweighed by the public benefits of the scheme.

3.0 Site Description and Context

- 3.1 The site lies within the Conservation Area and comprises the former Holy Trinity Church and its graveyard. The former church is a Grade 1 Listed Building. Holy Trinity was made redundant in 1956 and was briefly a museum and later, an arts centre and café.

4.0 Description of the Proposal

4.1 The proposal is for the minor realignment of boundary wall and railings and reposition of 23no gravestones. There will be additional footpaths, hard surfacing, additional gates and removal of some railings and new lighting. The footpaths and hard surfacing would not be deemed as part of the Listed Building application as such.

4.2 In terms of the detail of the scheme relating to works to listed structures (principally curtilage not independently listed), the following is proposed:

- The existing railings are repainted and the stone coping and brick walls repaired.
- Minimise any relocation of gravestones
- At the front of the church, the railing line is proposed to be pulled back
- A new entrance from the churchyard is proposed on the north and a further new entrance at the south facing the library.
- An indicative lighting scheme has been put forward.

4.3 A set of proposals for the refurbishment and re-use of Holy Trinity is being developed in collaboration with a charity organisation who will use the Church as their community hub, having recently secured additional funding by the National Heritage Lottery.

4.4 In support of the application the agent has made the following comments:

“The aim of the project is to make the churchyard a public garden in the heart of the city, as a place for people to relax, meet friends, eat lunch, and enjoy a moment of calm. The design approach is light-touch, changing as little as possible while making the churchyard accessible and usable for all.

Both Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub. The public realm design is intended to create a coherent scheme that works for both general public, and the users and management of the church itself.”

4.5 Submitted with the application are the following documents relevant to the Listed Building application::

- Heritage, Design and Access statement.
- Indicative lighting scheme.

4.4 There is an associated planning application 232565.

5.0 Land Use Allocation

5.1 Graveyard.

6.0 Relevant Planning History

6.1 211240

Listed Building Application to paint a permanent art mural on the external side of the church graveyard wall.

Refuse - 09/07/2021

190039

Installation of drinking water fountain. Drinking water fountain to be installed on adjacent wall of Holy Trinity Church & utilise existing water & drainage services in Church. Drinking water fountain is of stainless steel construction, 900mm high x 3

Withdrawn - 06/02/2019

190038

Installation of drinking water fountain. Drinking water fountain to be installed on adjacent wall of Holy Trinity Church & utilise existing water & drainage services in Church. Drinking water fountain is of stainless steel construction, 900mm high x 3

Withdrawn - 06/02/2019

161259

Advertisement Consent

GO4 Market / Cafe, Holy Trinity Church

Interpretation panel mounted on churchyard railings containing general historical information and logos. Tactile and braille elements are also included. Situated near Grade I Listed former church building.

Approve Conditional - 05/08/2016

131135

Proposed Advertising banners, menu boards at designated points on exterior railings surrounding the property.

110030

Change of use from former museum to a cafe with occasional music events and church services, addition of gate and railings to prevent access into tower. Refurbishment of kitchen and WC f

Approve Conditional - 23/03/2011

110031

Youth Culture Limited

Listed building application for change of use from former museum to A cafe with occasional music events and church services. General refurbishment and decoration to main church hall, addition of gate and railings to prevent access into tower. Refurb

Conditional - 23/03/2011

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. As this is a Listed Building application, the Local Plan policies will not be applicable as Listed Building works are not relevant but are relevant to the Planning Application.

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 **Essex Police** have made the following points (precised):

Suggested condition:

30.1.24

“Prior to the occupation, hereby permitted discussions shall be entered into with Essex Police relating to detailed design and layout (specifically access and egress, boundary delineation, lighting provision and CCTV capability), management practices and operational policing considerations. Details of design to align to Secure by Design and crime prevention through environmental design concepts. Details of which shall be submitted to and approved in writing by the Local Planning Authority in consultation with Essex Police. Thereafter the development shall be implemented in accordance with the approved details.”

Indicative lighting plan.

“The Essex Police Designing Out Crime team thank you for submitting the indicative lighting design for planning application 232565 - Holy Trinity Church and surrounding grounds.

We acknowledge that the proposals provide the scope and ambition of the lighting provision, however, before we can fully assess the uniformity and effectiveness of the lighting, we would require sight of the Lighting Impact Assessment and LUX levels demonstrating compliance to BS5489-1:2020

Please be aware, generically from a Designing out Crime perspective we would not advocate bollard lighting and therefore once the LUX levels have been determined, we would welcome a discussion to ensure the balance between ecology and security is garnered.

We look forward to working with you.”

Other comments received from the Police regarding security and anti-social behaviour are covered in detail in the Planning Application Committee report.

8.3 Historic England states (Précised):

Historic England Advice :Significance of Holy Trinity Church

Holy Trinity is particularly interesting for its fine pre-Conquest west tower, probably built mid 11th century; largely in Roman brick, in three stage with a pyramidal tiled roof. The west doorway has a triangular head and the windows are round-headed.

The tower was built on to an earlier Church of circa 1000, of which only the west wall remains. The rest of the building is largely 14th and 15th century and was much restored in 1886.

The former Church is listed at grade I in recognition of its outstanding architectural and historic interest.

The proposals and their impact on Holy Trinity Church

Approval is sought for minor realignment of the boundary wall and railings and repositioning of 23 gravestones.

Historic England were closely involved with the development of the proposals from the outset at Pre-application stage.

The scheme in its formally submitted form comprises repainting the existing railings and repairing the stone coping and brick walls; re-siting of the line of the railings at the front of the church further back to create a more welcoming and open entrance to the Church as well as additional seating in the public realm; liaising with Beth Chatto Gardens to enhance the planting and installing gravel paths, together with provision of bench seating, which will enable the greenery and planting of the churchyard to dominate.

Policy considerations for these proposals

The National Planning Policy Framework identifies that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (paragraph 189).

Holy Trinity Church is one of only 2.5% of listed buildings nationwide that are listed at grade I and is therefore of considerable importance.

Paragraph 197 of the NPPF states that when determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

Paragraph 199 also states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), irrespective of the level of harm.

Finally, Paragraph 200 states that any harm to, or loss of significance of a designated heritage asset should require clear and convincing justification.

Paragraph 202 of the NPPF notes that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the scheme.

Setting is then defined in the Framework as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset and may affect the ability to appreciate that significance or may be neutral.'

Historic England's position

Having considered the documentation submitted with the application, including the 'Heritage, Design and Access Statement' produced by Hat Projects, we are supportive of the proposals in their revised form.

Initially four options were put forward and our feedback was that a minimal intervention approach, which would maintain the green and peaceful 'oasis' atmosphere in the busy City Centre, would be the most contextually appropriate in this sensitive location.

We are satisfied that the Breedon gravel 1.5m wide path that would connect the entrances/emergency exits from the church; together with 1.2m wide secondary paths around the churchyard would not form overly dominant, visually intrusive features within the immediate setting of the Church. The paths at the widths proposed would be a proportionate response to providing accessibility for all.

We are also of the view that the repointing, cleaning and repair of the boundary wall copings and repair and repainting of the railings would greatly enhance the setting of the grade I listed Church and the churchyard itself.

Recommendation

Historic England supports the application on heritage grounds and considers that the proposals meet the requirements of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

You should also bear in mind section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan

should also be borne in mind, unless material considerations indicate otherwise.

8.4 Conservation Officer states:

The former Holy Trinity Church is listed at Grade I (NHLE List Entry Number 1169575). Grade I listed buildings are of exceptional interest and only 2.5% of listed buildings are Grade I. The site was first listed on 25 February 1950 and its list entry describes it as follows: *“Particularly interesting for its fine pre-Conquest west tower, probably built mid C11, largely in Roman brick, 3 stages, pyramidal tiled roof; the west doorway has a triangular head and the windows are round-headed. This tower was built on to an earlier Church of circa 1000, of which only the west wall remains. The rest of the building is largely C14 and C15, much restored in 1886. There is an interesting monument - a mural alabaster monument to William Gilbert 1544-1603 famous for his researches into electricity.”*

1.2 A detailed description of the building is included in the “Inventory of the Historical Monuments in Essex, Volume 3, North East” of the Royal Commission on Historical Monuments of England, published in 1922. According to the account of the site’s development, the Vestry was added to the east side of the Church when Holy Trinity was restored and extended with the North Aisle and North Chapel in the second half of the Nineteenth Century.

1.3 Holy Trinity was made redundant in 1956 and was briefly a museum and later, an arts centre and café. At present, it is vacant and not accessible to the public. Despite its vacant status, the historic site makes a very positive contribution to the Conservation Area. It is a green space between the busy commercial zones of Lion Walk Shopping Centre and Culver Street that contributes positively to the area by virtue of the aesthetic qualities of the historic church and the tranquil character of the churchyard.

2.0_Scope Of Works: Summary

2.1 The present application relates to the churchyard and proposes the repair of the existing railings and brick walls, the partial removal and partial realignment of railings on the Holy Trinity Street frontage, two new gates ,relocation of 23 gravestones, footpaths, hardstanding and planting with seating and lighting.

3.0_Relevant Statutory Duties

3.1 Local Plan Policy ENV1 and DM16 reflect the statutory obligations as set out in Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting and the desirability of preserving or enhancing the character or appearance of Conservation Areas. In a similar vein, the National Planning Policy Framework (2021) gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm (Par.199) . Any harm to the significance of designated heritage assets from their alteration (or from development within their setting) should also require clear and convincing justification (Par.200) . Where this harm is identified as

less than substantial, the Framework instructs that this harm should be weighed against the public benefits of the proposal (Par.202). This planning balance is also prescribed in Policy DM16.

4.0 Analysis of Impact Upon Heritage

4.1 The proposal was developed as part of the Town Deal which secured government funding for a range of initiatives to support economic growth, connectivity and quality of life in Colchester City. A set of proposals for the refurbishment and re-use of Holy Trinity is being developed in collaboration with a charity organisation who will use the Church as their community hub, having recently secured additional funding by the National Heritage Lottery.

4.2 The submitted set of proposals for the churchyard was finalised over consultation with the Council, the public and other stakeholders. Initially, four options that ranged from minimum interventions to the churchyard and its enclosure to fully removing the wall and railings to create a public square were put forward. The selected version balances those aspirations by preserving most of the existing wall and railings, combine new paths, seating areas and refreshed planting for the churchyard and modify the Holy Trinity Street enclosure to create a small “piazza” before the south porch/ entrance to the Church.

4.3 The proposals include the repair and refurbishment of the retained boundary wall and railings which would secure an improvement to the setting of the Church and the appearance of the Conservation Area. The two new gates would provide welcome connections, to Pelham Lane to the west and the Library to the East. The landscaping, including the addition of accessible footpaths and seating areas, aims to make the churchyard an accessible and usable public space while preserving its character of a green enclosure within the busy urban environment.

4.4 The scheme has given rise to concerns regarding its potential to facilitate antisocial behaviour and vandalism. At present, the robust railings and lack of public access have minimised these risks but have also restricted the public engagement with the heritage asset. Public access to historic sites entails risks to their safety but these can be minimised with the proper risk and threat assessment to inform site-specific measures for the protection of the site. This process has started with consultation with Essex Police but the engagement should continue, to produce a finalised set of appropriate measures.

4.5 In conclusion, the application is part of wider initiative for Colchester City Centre that uses heritage as a vehicle for economic and social growth. Being prepared in tandem with the scheme for the adaptive reuse of the church, the projects seek to secure improvements to the setting of the Grade I listed Church, restore access to the historic churchyard, facilitate its enjoyment and promote the public engagement with the historic Church. The anticipated benefits for the historic site would also reflect positively on the Conservation Area and enhance its vitality and viability. Appropriate planning conditions should be used to minimise the risk of potential adverse effects (such as the security risks) and ensure that the scheme is delivered to the highest standards, as appropriate for the Grade I listed site. Subject to the use of such conditions, there are no objections to the application on heritage grounds.

Recommended conditions:

Z00- Railings & Walls Repairs

Prior to the commencement of the repairs to the railings, coping stones and brick walls hereby approved, a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

ZMD – Re-pointing

No works to re-point the external brickwork shall be undertaken until:

a) Details of the extent of re-pointing have been submitted to and approved in writing by the Local Planning Authority; and

b) A sample panel not less than 1 metre square to show the proposed mortar composition and colour, and the method of pointing, has been prepared on site, inspected and approved in writing by the Local Planning Authority.

The sample panel shall be photographed (or otherwise identified for comparison as work proceeds) prior to works commencing and the works shall thereafter be carried out to match the approved sample.

Z00- Gravestones repair/cleaning

No works to clean and repair any monuments (headstones, ledger slabs and tomb chests) shall be undertaken until a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Area.

ZME – Sample Panel

Prior to any new bricks being laid, a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local

Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority.

The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Z00- Details of new railings and gates

Prior to the installation of new railings and gates hereby approved, their details shall be submitted to and approved, in writing, by the Local Planning Authority.

The submitted details shall show the railings and gates, together with the associated new wall sections and steps, in elevation and horizontal/vertical sections at scales between 1:20 and 1:1, as appropriate

The works shall thereafter be carried out in accordance with the approved details.

- Z00- Specifications and samples of all new materials
- Z00- Details of new furniture and equipment
- Z00- Details of landscape scheme, including drainage strategy
- Z00- Details of lighting scheme
- Z00- Details of security measures
- Z00- Management/ maintenance plan

8.5 Urban Design officer states (précised):

General Comments

The primary considerations for this application relate to Heritage matters, which are more appropriately addressed by the relevant specialist. In more general place making terms, the increased use and access to this 'landmark' space within the City Centre is welcomed. However, it would be preferable to see the use of the churchyard more closely related, and contributing to the long term viability of the heritage asset it contains. As a stand alone space and place the success of this scheme will be reliant on achieving the right degree of accessibility and permeability, that accommodate a level of use that allows the space to feel inviting and safe.

Additional comments made about opening of access points and to have regard to anti-social behaviours potential, bench positioning and sizes and lighting detail.

8.6 Archaeologist states:

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

I note that the applicant has been in liaison with Historic England during the preparation of this scheme, and that HE are supportive of the proposals. I also note that the applicant has submitted a survey of the existing gravestones, and I have added a copy of this report to the Colchester Historic Environment Record.

8.7 Other comments have been received from the Highway Authority, and the Contaminated Land Officer and these are detailed in the Planning Committee report as they would not be applicable to Listed Building considerations.

8.8 Colchester Civic Society:

The Colchester Civic Society wish to object to the proposed changes to the Holy Trinity Church graveyard.

These are described as a minor realignment of the boundary wall and railings as well as the repositioning of twenty three of the gravestones but our members do regard these changes as quite considerable alterations to the quiet dignity of this oasis. We remain unconvinced of the need for these overall, quite dramatic

changes to this private space. This place of natural peace amidst the busy public thoroughfares of the City centre.

Extra gateways will be created, the original gates will be opened providing a total of six pathways will be laid where once were gravestones and benches and rubbish bins introduced into this hallowed ground. Not least a power point will provided for the benefit of adjacent market stalls.

The tranquillity of this private space will be destroyed and lost for the benefit of those we fear most to encourage into this most important place. This is the heart of our visitor attraction in the City centre and we wish it to remain that which we have always most valued.

This is a space that calls for gently sensitive maintenance so that it remains a calm and natural place .Indeed it is this one of the virtues that attracts the new tenant ,Community 360 as safe place for their clients with socialising issues.

As soon as it is opened up for public use, those virtues will be lost for the pleasure of drinking of all kinds ,food consumption and busy with children . Come night time we are particularly concerned by potential for unwanted activity around the Saxon Tower. The Police recognise the probability of this area becoming misused and suggest the lighting and surveillance cameras as a necessity . Bollards are to be introduced to the new open area to prevent vehicular entry and parking.

And we ask why ? Why are we to lose the ancient street line ? Why are we to permit the movement and indeed removal of the ancient gravestones of our Colchester forebears ? Graves will be marked by a stranger's stone and we ask why ?

This is an ancient graveyard ,hallowed ground for those who lived nearby and worshiped at the church and yet we wish to transform it into an extension of Lion Walk's social use. We are now concerned for the residents of the Square and nearby who will learn to appreciate the current graveyard for what it is rather than the probable magnet for unsavoury behaviour .

We seem blind to the problems that closed the other City Centre graveyards of St Mary-at -the Walls ,St Martins ,St Peter's and the ongoing social issues at St Botolph's Priory. We do not wish to see this space become abused in future. Perhaps we could suggest that any removed railings are stored against any future need.

8.9 Environmental Protection state:

Should permission be granted Environmental Protection wish to make the following comments:-

The lighting should as low level as practicable to minimise light spill offsite, glare and skyglow. We therefore recommend the following condition:

ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E3 SUBURBAN (medium district brightness – well inhabited rural areas, small town centres, suburban locations).

9.0 Parish Council Response

9.1 Non Parished

10.0 Representations from Notified Parties

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

9 letters of objection have been received which make the following points:

- Support 100% Cllr Goacher's concerns.
- Proposals might be laudable but naivety of HAT and council planners involved is astonishing. Instead of being "peaceful oasis-like public garden for people to relax, eat lunch and meet friends", it will be monopolised by takeaway customers who will show little respect for graveyard.
- Will be free outdoor seating and tables for burger and sandwich bars and street drinkers.
- Kids will be jumping across graves. Relocation of grave headstones are disrespectful to Colcestrians of previous generations and will change the appearance of the churchyard in the Conservation Area.
- Urinal by doorway.
- Inviting Anti Social Behaviour, vandalism and litter. Who will deal with it?
- Plan ignores the reasons why the railings were put there in the first place: to protect the place against anti – social behaviour.
- Already enough of a choice for people to sit and eat.
- Don't let Holy Trinity church be disrespected.
- Will invite disrespectful behaviour in the surrounds of an ancient church.
- Already a calm and tranquil place.
- Will disturb and drive out the wildlife that nest and live in this space.
- Railings and walls, including Ha Ha walls, have been used around graveyards to keep animals out to respect the dead for almost ever. It is the enclosure that defines the character of most church yards and importantly the realm beyond the churchyard.
- Low wall and the railings have defined the Holy Trinity Churchyard for many years and also the character of the Streets that surround them.
- Streets are the settings to many historic buildings including listed ones. Must consider harm proposal may have on the Conservation area as a whole.
- Historic strongly defined line of the street generated by the walls and railings of the church yard should be maintained and not be allowed to be broken.
- Railings were removed as part of war effort and when returned delineate where human remains are and strengthen the definition of the public space around the churchyard, thus defining character of Conservation Area.

- Will increase cost of maintenance as one knows public access means increased rubbish and wear and tear.
- Removal of churchyard railings is in breach of the Council's Statutory Duty to protect the character of the Conservation Area.
- Contrary to the "Colchester City Council (City Centre) Public Space Protection Order 2023".
- Contrary to the Council's policies of promoting and protecting biodiversity and wildlife habitats.
- Scheme has potential for some public benefit but may not comply with enhancing Conservation Area.
- Combination of the risk of antisocial behaviour, the realigning of the ancient, perimeter and removal and repositioning of over 20 gravestones amounts to a degree of harm - potentially substantial - that is not outweighed by the purported potential public benefit.
- Removal not realignment of railings.

11.0 Parking Provision

11.1 None

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of discrimination; the site is accessible by a number of modes of transport (cycle, wheelchair, foot). See Highways/Access section of report.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle:

16.1 In terms of the principle, the key issues for this Listed Building application relate to the impact upon the character and fabric of the Listed elements of the site, including the Church, walls and railings and the gravestones. All other planning issues are covered in the associated planning application committee ref:232565. The statutory duty for the decision maker in deciding whether to grant listed building consent is set out in s.16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990 which states:

“In considering whether to grant listed building consent for any works the local planning authority or SoS shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Impact upon character and fabric of Listed Building, churchyard features and boundary features.

- 16.3 Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
- 16.5 Paragraph 206 of the NPPF (2021) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 207, 208 and 209 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 16.6 In this case the proposal is considered acceptable having regard to its impact upon the character and fabric of the Listed Church and upon the fabric of the churchyard. The scheme has been progressed following negotiation with the Council’s Conservation Officer and with Historic England, neither of which have objections to the proposal subject to the application of detailed conditions.
- 16.7 As confirmed by the Council’s Conservation Officer, the submitted proposal for the churchyard was finalised over consultation with the Council, the public and other stakeholders. There were initially four options put forward and the selected scheme is considered to represent an appropriate balance between preserving and enhancing the public realm and accessibility and use of an open space in the heart of the City Centre whilst preserving the character and of the Listed Church and churchyard features. The proposal would preserve the vast majority of the existing wall and railings.
- 16.8 The scheme would have the benefit of including the repair and refurbishment of the retained boundary wall and railings and this would secure an improvement to the setting of the Church and the appearance of the Conservation Area. It is considered the new gates would provide beneficial connections to Pelham Lane to the west and the Library to the East.
- 16.9 Historic England has also confirmed it is in support of the proposal, confirming that the minimal intervention approach as put forward is the most appropriate. Historic England also agrees that the repointing, cleaning and repair of the boundary wall copings and repair and repainting of the railings would greatly enhance the setting of the grade I listed Church and the churchyard itself. No objections have been raised by the Conservation Officer or Historic England to the repositioning of gravestones which need to be moved to allow the access paths. It is not considered the repositioning significantly affects the

DC0901MWeV9.3

historic value of the gravestones or affects the setting of the Church or historic character to a significant degree and that any less than substantial harm is outweighed by the public benefits of the scheme.

- 16.10 It would appear that some of the gravestones may well not be in their original locations; for example those that are close to a drain adjacent to the East wall of the Church. The majority are to be moved a short distance only. The comments made by objectors about the possible disrespecting of the occupiers of the graves has been given careful consideration but this would not be a planning reason or Listed Building issue to object to the scheme, particularly as the repositioning would not be far from their existing locations and that some gravestones may not be in their original locations. On balance their repositioning is considered acceptable in this respect given the public benefits of the scheme.
- 16.11 With regard to the lighting scheme put forward, this is purely illustrative and a condition will be applied to control precise details. It is considered a scheme similar to that put forward is likely to be acceptable although Historic England's comments are awaited on lighting and any received will be reported to the Committee. Any lighting scheme will need to ensure the character of the Church is preserved.
- 16.12 In conclusion, it is considered that the Listed Building works respect the character and fabric of the Listed elements on the site and are supported by the Council's Conservation Officer and Historic England (subject to lighting details) and it is considered that any less than substantial harm is outweighed by the significant public benefits of enhancing the public realm, including improved public access.
- 16.13 It is considered that, subject to appropriate conditions, the anticipated benefits for the historic site would reflect positively on the Conservation Area and enhance its vitality and viability, adding public benefits. The planning conditions can ensure that the scheme is delivered to the highest standards, as appropriate for the Grade I listed site. Subject to the use of such conditions, there are thus no objections to the application on heritage grounds.
- 16.14 Overall it is therefore considered that the proposal would not be contrary to the requirements of the NPPF in particular paras 204, 206-209. The proposal would also be in conformity with the statutory duty set out in s.16(2) of the Planning (Listed Buildings & Conservation Areas) Act 1990.

17.0 Planning Balance and Conclusion

- 17.1 In conclusion, it is considered that the listed building proposals have achieved an appropriate balance between protecting the character and fabric of the listed building elements of the site and that any less than substantial harm is outweighed by the significant public benefits of the proposal. These benefits include enhancing the public realm and increasing public accessibility to the site. Conditions will be applied to ensure the works are sympathetic to the Listed Heritage Assets. The Listed Building application is therefore considered to comply with section 16(2) of the Planning (Listed Buildings Conservation Areas) Act 1990 and with the National Planning Policy Framework.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is to:

Grant Listed Building Consent subject to the following conditions:

1. ZAA - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAM – Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing :169.TS_HAT.PL_P01, P02, P03, AIA with plans, Rec'd 13.11.24, Indicative Lighting Plan P05 Rec'd 9.1.24, P10 Rec'd 15.1.24.

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

3. ZAA – Lighting Design

Prior to first occupation of the site for the development hereby and notwithstanding the submitted details permitted precise details shall be submitted to and agreed in writing by the Local Planning Authority of the following:

(i) all lighting provision (including LUX levels) and any CCTV provided on listed structures.

The development shall be implemented in accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

4. Z00- Railings & Walls Repairs

Prior to the commencement of the repairs to the railings, coping stones and brick walls hereby approved, a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

5. ZMD – Re-pointing

No works to re-point the external brickwork shall be undertaken until:

a) Details of the extent of re-pointing have been submitted to and approved in writing by the Local Planning Authority; and

b) A sample panel not less than 1 metre square to show the proposed mortar composition and colour, and the method of pointing, has been prepared on site, inspected and approved in writing by the Local Planning Authority.

The sample panel shall be photographed (or otherwise identified for comparison as work proceeds) prior to works commencing and the works shall thereafter be carried out to match the approved sample.

Reason: In order to preserve the character and fabric of listed structures.

6. Z00- Gravestones repair/cleaning

No works to clean and repair any monuments (headstones, ledger slabs and tomb chests) shall be undertaken until a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

7. ZME – Sample Panel

Prior to any new bricks being laid, a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to preserve the character and fabric of listed structures.

8. Z00- Details of new railings and gates

Prior to the installation of new railings and gates hereby approved, their details shall be submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall show the railings and gates, together with the associated new wall sections and steps, in elevation and horizontal/vertical sections at scales between 1:20 and 1:1, as appropriate

The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the listed structures.

9. Z00- Development Details:

Prior to first occupation of the development hereby permitted and notwithstanding the submitted details precise details of the following shall be submitted to and agreed in writing by the Local Planning Authority:

- (i) Specifications and samples of all new materials

Reason: In order to preserve the character and fabric of listed structures.

19.1 Informatives

19.1 The following informatives are also recommended

Informative 13: PLEASE NOTE that a Listed Building Consent will be required for any of the following minor works associated to the development hereby approved where they affect the existing fabric of the building in their installation, including fixing alarm systems or video security and lighting equipment.

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 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.

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



The Ordnance Survey map data included within this publication is provided by Colchester City Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.2

Application: 232565

Applicant: Alison Fogg

Agent: Katarina Santic

Proposal: Minor realignment of boundary wall and railings and reposition of 23no gravestones. Additional footpaths, hard surfacing, additional gates and removal of some railings and new lighting. (Amended Description)

Location: Holy Trinity Church, Trinity Square, Trinity Street, Colchester

Ward: Castle

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Mark Goacher who raises the following concerns:
“Significant concerns raised by residents about the applications to open up the graveyard to the public and move headstones. Concerns that this alters the settings of a heritage building and could lead to increased anti-social behaviour around one of Colchester's oldest buildings: littering and urination in particular. The opening up of the church door and its location could lead to it becoming a stopping off point for users of the night time economy to relieve themselves. The moving of gravestones amounts to a change in the setting of the building and raises ethical concerns about the encouraging of the public to eat, drink and throw litter onto people's graves. Concerns that this shows a casual disrespect and that this lowers to cultural tone of the area. Also significant concerns about the loss of wild flora and fauna to a planned and manicured garden.”

2.0 Synopsis

- 2.1 The key issues for consideration are the impact upon the character of the Conservation Area, setting of Grade 1 Listed Church and churchyard features as well as consideration of any potential anti-social issues, and impact upon vegetation and wildlife.
- 2.2 The application is subsequently recommended for Approval. It is considered that the proposal has achieved an appropriate balance between protecting the character of the Conservation Area, setting of the Church and protecting features within the churchyard whilst enhancing the public realm and increasing public accessibility to the site. The Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government by way of the Levelling Up Fund. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub.
- 2.3 The churchyard works are intended to enhance the public realm including in association with the use of the church. Conditions will be applied to ensure the works are sympathetic to the heritage assets, minimise the potential for anti-social behaviour and protect vegetation and wildlife. The proposal represents sustainable development and is considered to comply with policies within the Local Plan, City Centre Masterplan SPD and with the National Planning Policy Framework.

3.0 Site Description and Context

- 3.1 The site lies within the Conservation Area and comprises the former Holy Trinity Church and its graveyard. The former church is a Grade 1 Listed Building. Holy Trinity was made redundant in 1956 and was briefly a museum and later, an arts centre and café. The re-use of the building has struggled to achieve long term viability with the associated yard becoming increasingly cut off from the wider community.

4.0 Description of the Proposal

4.1 The proposal is for the minor localised realignment of boundary wall and post war railings and repositioning of 23no headstones. There will be additional footpaths, hard surfacing, additional pedestrian gates and removal of some railings and new lighting.

4.2 In terms of the detail of the scheme, the following is proposed:

- Simple gravel paths coupled with selectively placed bench seating allowing the greenery and planting of the churchyard to dominate.
- The existing railings are repainted and the stone coping and brick walls repaired.
- Any relocation of gravestones has been minimised and as many trees and planted areas have been retained as possible.
- At the southwest front of the church, the railing line is proposed to be pulled back to create a more welcoming and open entrance to the church and more seating in this area, which is the sunniest part of the site. This also gives the church a direct entrance from the street, rather than via the churchyard, which will be more accessible and flexible in terms of the future use and management of the church. Bollards will be installed to prevent unauthorised vehicle parking on the paved areas.
- A new entrance from the churchyard is proposed on the north, making the space more accessible from the High Street, and a further new entrance at the south facing the library.
- An indicative lighting scheme has been put forward.

4.3 A set of proposals for the refurbishment and re-use of Holy Trinity is being developed in collaboration with a charitable organisation (Community 360) who will use the Church as their community hub, having recently secured additional project development funding from the National Heritage Lottery.

4.4 In support of the application the agent has made the following comments:

“The aim of the project is to make the churchyard a public garden in the heart of the city, as a place for people to relax, meet friends, eat lunch, and enjoy a moment of calm. The design approach is light-touch, changing as little as possible while making the churchyard accessible and usable for all.

Both Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub. The public realm design is intended to create a coherent scheme that works for both general public, and the users and management of the church itself.”

4.5 Submitted with the application are the following documents:

- Heritage, Design and Access statement.
- Arboricultural Impact Assessment
- Ecological Survey
- Indicative lighting scheme.

- Detailed landscape proposals
- 4.6 There is an associated Listed Building application 232564.

5.0 Land Use Allocation

5.1 Graveyard.

6.0 Relevant Planning History

6.1 211240

Listed Building Application to paint a permanent art mural on the external side of the church graveyard wall.
Refuse - 09/07/2021

190039

Installation of drinking water fountain. Drinking water fountain to be installed on adjacent wall of Holy Trinity Church & utilise existing water & drainage services in Church. Drinking water fountain is of stainless steel construction, 900mm high x 3
Withdrawn - 06/02/2019

190038

Installation of drinking water fountain. Drinking water fountain to be installed on adjacent wall of Holy Trinity Church & utilise existing water & drainage services in Church. Drinking water fountain is of stainless steel construction, 900mm high x 3
Withdrawn - 06/02/2019

161259

Advertisement Consent
GO4 Market / Cafe, Holy Trinity Church
Interpretation panel mounted on churchyard railings containing general historical information and logos. Tactile and braille elements are also included. Situated near Grade I Listed former church building.
Approve Conditional - 05/08/2016

131135

Proposed Advertising banners, menu boards at designated points on exterior railings surrounding the property.

110030

Change of use from former museum to a cafe with occasional music events and church services, addition of gate and railings to prevent access into tower. Refurbishment of kitchen and WC f
Approve Conditional - 23/03/2011

110031

Youth Culture Limited
Listed building application for change of use from former museum to A cafe with occasional music events and church services. General refurbishment and decoration to main church hall, addition of gate and railings to prevent access into tower. Refurb

Conditional - 23/03/2011

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

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

SG6 Town Centre Uses
ENV1 Environment
ENV3 Green Infrastructure
ENV5 Pollution and Contaminated Land
CC1 Climate Change
TC1 Town Centre Policy and Hierarchy
DM1 Health and Wellbeing
DM2 Community Facilities
DM15 Design and Amenity
DM16 Historic Environment
DM17 Retention of Open Space
DM18 Provision of Open Space and Recreation Facilities
DM21 Sustainable Access to development
DM23 Flood Risk and Water Management
DM24 Sustainable Urban Drainage Systems

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

The Essex Design Guide
External Materials in New Developments
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy

Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Managing Archaeology in Development.
ECC's Development & Public Rights of Way
Planning Out Crime
Colchester City Centre Masterplan

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 **Essex Police** have made the following points (precised):

Suggested condition:

30.1.24

“Prior to the occupation, hereby permitted discussions shall be entered into with Essex Police relating to detailed design and layout (specifically access and egress, boundary delineation, lighting provision and CCTV capability), management practices and operational policing considerations. Details of design to align to Secure by Design and crime prevention through environmental design concepts. Details of which shall be submitted to and approved in writing by the Local Planning Authority in consultation with Essex Police. Thereafter the development shall be implemented in accordance with the approved details.”

Indicative lighting plan.

“The Essex Police Designing Out Crime team thank you for submitting the indicative lighting design for planning application 232565 - Holy Trinity Church and surrounding grounds.

We acknowledge that the proposals provide the scope and ambition of the lighting provision, however, before we can fully assess the uniformity and effectiveness of the lighting, we would require sight of the Lighting Impact Assessment and LUX levels demonstrating compliance to BS5489-1:2020

Please be aware, generically from a Designing out Crime perspective we would not advocate bollard lighting and therefore once the LUX levels have been determined, we would welcome a discussion to ensure the balance between ecology and security is garnered.

We look forward to working with you.”

14.12.23 Essex Police considers that it is important that this specific development is designed incorporating the maximum achievable benefit of Crime Prevention Through Environmental Design. We recognise that communities where safety and security has been addressed and 'designed in' at the earliest planning stages, will enhance the health and wellbeing of its residents and visitors. The perception of crime and fear of crime can be an influential factor in determining the synergy and ongoing sustainability of a location, therefore an integrated approach to crime prevention at an

early stage is necessary to all significant components of its design, planning, and layout.

Further to our initial planning response, in November 2023 the Essex Police DOCO had the opportunity to meet with the applicant to discuss the design and layout of the proposal and offered potential security suggestions. The meeting was constructive, with numerous security recommendations and opportunities to mitigate crime discussed.

To supplement this early engagement and to ensure that the proposal maximises on all opportunities to design out crime, Essex Police would recommend the inclusion of a Planning Condition. The aim of such would be to provide continued engagement with Essex Police and to mitigate all opportunities for crime and the perception of crime. In doing so this will ensure that the development provides a practical level of risk commensurate and sustainable security measures, which are compatible and sympathetic to successful and sustainable partnerships.

29.11.23 The perception of crime and the fear of crime can be an influential factor in determining the synergy and ongoing sustainability of this historically significant site. Essex Police would recommend the developer considers the foreseeability of crime and maximise on the opportunity to embed 'Crime Prevention Through Environmental Design' principles throughout.

Upon review of the available documentation, Essex Police would recommend further information and consideration of the below:

- Crime deemed as a Material Consideration: Due to the site's town centre location, it is imperative to consider crime as a material consideration. Consideration of crime and the perception of crime can be an influential factor in ensuring the ongoing sustainability of the site, so that it does not become a crime hotspot.

Essex Police would recommend developers consider the foreseeability of crime and maximise on the opportunity to design such issues out, to avoid the need for bespoke, situational crime prevention measures in the future. To support this observation, we would request a Planning Condition that would require liaison with Essex Police to ensure that the proposals do not result in the site becoming a crime generator.

- Formal Surveillance Opportunities: The lack of natural and informal surveillance (especially during the hours of darkness) could lead to anti-social behaviour, especially in the public realm space either side of the church tower.

This could be addressed by the installation of CCTV cameras and associated signage. We would welcome the opportunity to discuss formal surveillance opportunities with the applicant.

- Boundary Delineation and Gates: Upon review of the plans, we note that new gates are proposed to supplement existing provision. We would request further detail regarding specification of the proposed gates (inclusive of locking mechanism and toppings.) Additionally, we would require further information regarding the boundary treatment proposals facing onto Trinity Street. We would advocate that the new proposed gates

will not incur any recessed areas and consideration given to the continuing management and securing of the gates at dusk.

- **Lighting:** Lighting plays a pivotal role in deterring criminal activity, but also promotes a feeling of safety within that space. When designing both public and private space, (and when applied and designed correctly), lighting can reduce the potential for crime. Given the amendments to the access to the church, we would welcome discussions to ensure lighting uniformity across the site and to ensure that any proposed CCTV provisions will not be affected.
- **Bollards:** We note from the plans that there is the inclusion of bollards. We would request further information as to the specification and requirement.
- **Seating and Timber Benches:** Careful consideration is needed in relation to the proposed seating provision to ensure that it is risk commensurate and fit for purpose and does not encourage inappropriate use, i.e., vandal, graffiti, and arson resistant.
- **Landscape Proposals:** Regarding the green infrastructure, it is imperative that the management of existing landscape is addressed. This could include reducing the canopy of mature trees and maintain any hedges etc. We would welcome discussions with the developer regarding the proposed landscape plans for the site.
- **Management and Maintenance:** A regular management and maintenance plan must be implemented. This is important to ensure the site continues to meet the original aims. Failure in this may encourage potential crime to develop within this location. A robust layered management plan to self-police any unwanted activity.

The Essex Police Designing out Crime Team would wish to discuss the detailed design and layout of this site and request inclusion in further consultation as part of the planning process for this project.

8.3 Historic England states (Précised):

Historic England Advice: Significance of Holy Trinity Church

Holy Trinity is particularly interesting for its fine pre-Conquest west tower, probably built mid-11th century; largely in Roman brick, in three stage with a pyramidal tiled roof. The west doorway has a triangular head and the windows are round-headed.

The tower was built on to an earlier Church of circa 1000, of which only the west wall remains. The rest of the building is largely 14th and 15th century and was much restored in 1886.

The former Church is listed at grade I in recognition of its outstanding architectural and historic interest.

The proposals and their impact on Holy Trinity Church

Approval is sought for minor realignment of the boundary wall and railings and repositioning of 23 gravestones.

Historic England were closely involved with the development of the proposals from the outset at Pre-application stage.

The scheme in its formally submitted form comprises repainting the existing railings and repairing the stone coping and brick walls; re-siting of the line of the railings at the front of the church further back to create a more welcoming and open entrance to the Church as well as additional seating in the public realm; liaising with Beth Chatto Gardens to enhance the planting and installing gravel paths, together with provision of bench seating, which will enable the greenery and planting of the churchyard to dominate.

Policy considerations for these proposals

The National Planning Policy Framework identifies that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (paragraph 189).

Holy Trinity Church is one of only 2.5% of listed buildings nationwide that are listed at grade I and is therefore of considerable importance.

Paragraph 197 of the NPPF states that when determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

Paragraph 199 also states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), irrespective of the level of harm.

Finally, Paragraph 200 states that any harm to, or loss of significance of a designated heritage asset should require clear and convincing justification.

Paragraph 202 of the NPPF notes that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the scheme.

Setting is then defined in the Framework as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset and may affect the ability to appreciate that significance or may be neutral.'

Historic England's position

Having considered the documentation submitted with the application, including the 'Heritage, Design and Access Statement' produced by Hat Projects, we are supportive of the proposals in their revised form.

Initially four options were put forward and our feedback was that a minimal intervention approach, which would maintain the green and peaceful 'oasis' atmosphere in the busy City Centre, would be the most contextually appropriate in this sensitive location.

We are satisfied that the Breedon gravel 1.5m wide path that would connect the entrances/emergency exits from the church; together with 1.2m wide secondary paths around the churchyard would not form overly dominant, visually intrusive features within the immediate setting of the Church. The paths at the widths proposed would be a proportionate response to providing accessibility for all.

We are also of the view that the repointing, cleaning and repair of the boundary wall copings and repair and repainting of the railings would greatly enhance the setting of the grade I listed Church and the churchyard itself.

Recommendation:

Historic England supports the application on heritage grounds and considers that the proposals meet the requirements of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

You should also bear in mind section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan should also be borne in mind, unless material considerations indicate otherwise.

8.4 Historic Buildings and Areas Officer states:

The former Holy Trinity Church is listed at Grade I (NHLE List Entry Number 1169575). Grade I listed buildings are of exceptional interest and only 2.5% of listed buildings are Grade I. The site was first listed on 25 February 1950 and its list entry describes it as follows: *“Particularly interesting for its fine pre-Conquest west tower, probably built mid C11, largely in Roman brick, 3 stages, pyramidal tiled roof; the west doorway has a triangular head and the windows are round-headed. This tower was built on to an earlier Church of circa 1000, of which only the west wall remains. The rest of the building is largely C14 and C15, much restored in 1886. There is an interesting monument - a mural alabaster monument to William Gilbert 1544-1603 famous for his researches into electricity.”*

1.2 A detailed description of the building is included in the “Inventory of the Historical Monuments in Essex, Volume 3, Northeast” of the Royal Commission on Historical Monuments of England, published in 1922. According to the account of the site’s development, the Vestry was added to

the east side of the Church when Holy Trinity was restored and extended with the North Aisle and North Chapel in the second half of the Nineteenth Century.

1.3 Holy Trinity was made redundant in 1956 and was briefly a museum and later, an arts centre and café. At present, it is vacant and not accessible to the public. Despite its vacant status, the historic site makes a very positive contribution to the Conservation Area. It is a green space between the busy commercial zones of Lion Walk Shopping Centre and Culver Street that contributes positively to the area by virtue of the aesthetic qualities of the historic church and the tranquil character of the churchyard.

2.0_Scope Of Works: Summary

2.1 The present application relates to the churchyard and proposes the repair of the existing railings and brick walls, the partial removal and partial realignment of railings on the Holy Trinity Street frontage, two new gates ,relocation of 23 gravestones, footpaths, hardstanding and planting with seating and lighting.

3.0_Relevant Statutory Duties

3.1 **Local** Plan Policy ENV1 and DM16 reflect the statutory obligations as set out in Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting and the desirability of preserving or enhancing the character or appearance of Conservation Areas. In a similar vein, the National Planning Policy Framework (2021) gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm (Par.199). Any harm to the significance of designated heritage assets from their alteration (or from development within their setting) should also require clear and convincing justification (Par.200) . Where this harm is identified as less than substantial, the Framework instructs that this harm should be weighed against the public benefits of the proposal (Par.202). This planning balance is also prescribed in Policy DM16.

4.0_Analysis of Impact Upon Heritage

4.1 The proposal was developed as part of the Town Deal which secured government funding for a range of initiatives to support economic growth, connectivity and quality of life in Colchester City. A set of proposals for the refurbishment and re-use of Holy Trinity is being developed in collaboration with a charity organisation who will use the Church as their community hub, having recently secured additional funding by the National Heritage Lottery.

4.2 The submitted set of proposals for the churchyard was finalised over consultation with the Council, the public and other stakeholders. Initially, four options that ranged from minimum interventions to the churchyard and its enclosure to fully removing the wall and railings to create a public square were put forward. The selected version balances those aspirations by preserving most of the existing wall and railings, combine new paths , seating areas and refreshed planting for the churchyard and modify the Holy Trinity Street enclosure to create a small “piazza” before the south porch/ entrance to the Church.

4.3 The proposals include the repair and refurbishment of the retained boundary wall and railings which would secure an improvement to the setting of the Church and the appearance of the Conservation Area. The two new gates would provide welcome connections, to Pelham Lane to the west and the Library to the East. The landscaping, including the addition of accessible footpaths and seating areas, aims to make the churchyard an accessible and usable public space while preserving its character of a green enclosure within the busy urban environment.

4.4 The scheme has given rise to concerns regarding its potential to facilitate antisocial behaviour and vandalism. At present, the robust railings and lack of public access have minimised these risks but have also restricted the public engagement with the heritage asset. Public access to historic sites entails risks to their safety but these can be minimised with the proper risk and threat assessment to inform site-specific measures for the protection of the site. This process has started with consultation with Essex Police but the engagement should continue, to produce a finalised set of appropriate measures.

4.5 In conclusion, the application is part of wider initiative for Colchester City Centre that uses heritage as a vehicle for economic and social growth. Being prepared in tandem with the scheme for the adaptive reuse of the church, the projects seeks to secure improvements to the setting of the Grade I listed Church, restore access to the historic churchyard, facilitate its enjoyment and promote the public engagement with the historic Church. The anticipated benefits for the historic site would also reflect positively on the Conservation Area and enhance its vitality and viability. Appropriate planning conditions should be used to minimise the risk of potential adverse effects (such as the security risks) and ensure that the scheme is delivered to the highest standards, as appropriate for the Grade I listed site. Subject to the use of such conditions, there are no objections to the application on heritage grounds.

Recommended conditions:

Z00- Railings & Walls Repairs

Prior to the commencement of the repairs to the railings, coping stones and brick walls hereby approved, a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

ZMD – Re-pointing

No works to re-point the external brickwork shall be undertaken until:

- a) Details of the extent of re-pointing have been submitted to and approved in writing by the Local Planning Authority; and
- b) A sample panel not less than 1 metre square to show the proposed mortar composition and colour, and the method of pointing, has been prepared on site, inspected and approved in writing by the Local Planning Authority.

The sample panel shall be photographed (or otherwise identified for comparison as work proceeds) prior to works commencing and the works shall thereafter be carried out to match the approved sample.

Z00- Gravestones repair/cleaning

No works to clean and repair any monuments (headstones, ledger slabs and tomb chests) shall be undertaken until a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Area.

ZME – Sample Panel

Prior to any new bricks being laid, a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local

Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority.

The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Z00- Details of new railings and gates

Prior to the installation of new railings and gates hereby approved, their details shall be submitted to and approved, in writing, by the Local Planning Authority.

The submitted details shall show the railings and gates, together with the associated new wall sections and steps, in elevation and horizontal/vertical sections at scales between 1:20 and 1:1, as appropriate

The works shall thereafter be carried out in accordance with the approved details.

Z00- Specifications and samples of all new materials

Z00- Details of new furniture and equipment

Z00- Details of landscape scheme, including drainage strategy

Z00- Details of lighting scheme

Z00- Details of security measures

Z00- Management/ maintenance plan

8.5 Urban Design officer states (precised):

General Comments

The primary considerations for this application relate to Heritage matters, which are more appropriately addressed by the relevant specialist. In more general place making terms, the increased use and access to this 'landmark' space within the City Centre is welcomed. However, it would be preferable to see the use of the churchyard more closely related, and contributing to the long term viability of the heritage asset it contains. As a stand alone space and place the success of this scheme will be reliant on achieving the right degree of accessibility and permeability, that accommodate a level of use that allows the space to feel inviting and safe.

Additional comments made about opening of access points and to have regard to anti-social behaviours potential, bench positioning and sizes and lighting detail.

8.6 Archaeologist states:

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

I note that the applicant has been in liaison with Historic England during the preparation of this scheme, and that HE are supportive of the proposals. I also note that the applicant has submitted a survey of the existing gravestones, and I have added a copy of this report to the Colchester Historic Environment Record.

8.7 Highway Authority:

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

Any gates erected at the pedestrian accesses shall be capable of inward opening only.

No power cables or extensions to electrical cabling shall encroach into or shall over sail the highway whatsoever.

All footways associated with this proposed development or connect to existing footways should be provided at no less than 2.0m in width, level and hard surfaced and provided with sufficient manoeuvring space for wheelchairs and mobility scooters, particularly in the vicinity of doors or emergency exits.

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

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

Informative1: Steps should be avoided and consideration being given to ramp designs in preference to facilitate inclusive access for all including the partially sighted and mobility impaired.

Informative2: 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:

8.8 Colchester Civic Society:

The Colchester Civic Society wish to object to the proposed changes to the Holy Trinity Church graveyard.

These are described as a minor realignment of the boundary wall and railings as well as the repositioning of twenty three of the gravestones but our members do regard these changes as quite considerable alterations to the quiet dignity of this oasis. We remain unconvinced of the need for these overall, quite dramatic changes to this private space. This place of natural peace amidst the busy public thoroughfares of the City centre.

Extra gateways will be created, the original gates will be opened providing a total of six ,pathways will be laid where once were gravestones and benches and rubbish bins introduced into this hallowed ground. Not least a power point will provided for the benefit of adjacent market stalls.

The tranquillity of this private space will be destroyed and lost for the benefit of those we fear most to encourage into this most important place. This is the heart of our visitor attraction in the City centre and we wish it to remain that which we have always most valued.

This is a space that calls for gently sensitive maintenance so that it remains a calm and natural place .Indeed it is this one of the virtues that attracts the new tenant ,Community 360 as safe place for their clients with socialising issues.

As soon as it is opened up for public use, those virtues will be lost for the pleasure of drinking of all kinds ,food consumption and busy with children . Come night time we are particularly concerned by potential for unwanted activity around the Saxon Tower. The Police recognise the probability of this area becoming misused and suggest the lighting and surveillance cameras as a necessity . Bollards are to be introduced to the new open area to prevent vehicular entry and parking.

And we ask why ? Why are we to loose the ancient street line ? Why are we to permit the movement and indeed removal of the ancient gravestones of our Colchester forebears ? Graves will be marked by a stranger's stone and we ask why ?

This is an ancient graveyard ,hallowed ground for those who lived nearby and worshiped at the church and yet we wish to transform it into an extension of Lion Walk's social use. We are now concerned for the residents of the Square and nearby who will learn to appreciate the current graveyard for what it is rather than the probable magnet for unsavoury behaviour .

We seem blind to the problems that closed the other City Centre graveyards of St Mary-at -the Walls ,St Martins ,St Peter's and the ongoing social issues at St Botolph's Priory. We do not wish to see this space become abused in future. Perhaps we could suggest that any removed railings are stored against any future need.

8.9 Tree Officer:

- 1.0 Survey and Analysis
- 1.1 Regarding the proposed development and AIA provided:
- 1.2 I am in agreement with the tree report provided.
- 2.0 Conclusion
- 2.1 In conclusion, I am satisfied with the arboricultural content of the proposal
- 3.0 Recommendation
- 3.1 Agreement to the landscape aspect of the application subject to condition
- 5.0 Recommended Landscape Conditions:

Make the tree report an approved document including all plan.

8.10 Environmental Protection:

Should planning permission be granted Environmental Protection wish to make the following comments:-

The lighting should as low level as practicable to minimise light spill offsite, glare and skyglow. We therefore recommend the following condition:

ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E3 SUBURBAN (medium district brightness – well inhabited rural areas, small town centres, suburban locations).

8.11 Contaminated Land Officer:

“No objections.”

9.0 Parish Council Response

- 9.1 Non Parished

10.0 Representations from Notified Parties

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

9 letters of objection have been received which make the following points:

- Support 100% Cllr Goacher's concerns.
- Proposals might be laudable but naivety of HAT and council planners involved is astonishing. Instead of being "peaceful oasis-like public garden for people to relax, eat lunch and meet friends", it will be monopolised by takeaway customers who will show little respect for graveyard.
- Will be free outdoor seating and tables for burger and sandwich bars and street drinkers.
- Kids will be jumping across graves. Relocation of grave headstones are disrespectful to Colcestrians of previous generations and will change the appearance of the churchyard in the Conservation Area.
- Urinal by doorway.
- Inviting Anti Social Behaviour, vandalism and litter. Who will deal with it?
- Plan ignores the reasons why the railings were put there in the first place: to protect the place against anti – social behaviour.
- Already enough of a choice for people to sit and eat.
- Don't let Holy Trinity church be disrespected.
- Will invite disrespectful behaviour in the surrounds of an ancient church.
- Already a calm and tranquil place.
- Will disturb and drive out the wildlife that nest and live in this space.
- Railings and walls, including Ha Ha walls, have been used around graveyards to keep animals out to respect the dead for almost ever. It is the enclosure that defines the character of most church yards and importantly the realm beyond the churchyard.
- Low wall and the railings have defined the Holy Trinity Churchyard for many years and also the character of the Streets that surround them.
- Streets are the settings to many historic buildings including listed ones. Must consider harm proposal may have on the Conservation area as a whole.
- Historic strongly defined line of the street generated by the walls and railings of the church yard should be maintained and not be allowed to be broken.
- Railings were removed as part of war effort and when returned delineate where human remains are and strengthen the definition of the public space around the churchyard, thus defining character of Conservation Area.
- Will increase cost of maintenance as one knows public access means increased rubbish and wear and tear.
- Removal of churchyard railings is in breach of the Council's Statutory Duty to protect the character of the Conservation Area.
- Contrary to the "Colchester City Council (City Centre) Public Space Protection Order 2023".
- Contrary to the Council's policies of promoting and protecting biodiversity and wildlife habitats.
- Scheme has potential for some public benefit but may not comply with enhancing Conservation Area.
- Combination of the risk of antisocial behaviour, the realigning of the ancient, perimeter and removal and repositioning of over 20 gravestones amounts to a degree of harm - potentially substantial - that is not outweighed by the purported potential public benefit.

- Removal not realignment of railings.

3 letters of support have been received which make the following points:

- Proposed changes will provide an open space in the centre of Colchester for people to walk, sit and enjoy a moment of calm. Will also improve surroundings for Holy Trinity Church itself. Pleased the design addresses the concerns about security with the ability to close the gates at night.
- Will greatly improve and bring back into use a space in the centre of Colchester that is currently underutilised and a wasted asset. Together with the proposed refurbishment of the church building it will create a new public space in the city centre that will be an oasis of greenery and an attractive feature in its own right. It will be a very real improvement on what is there now.
- Could provide a very attractive public space which will be a tremendous boost to those businesses and organisations around their periphery; not least C360 who will be able to use space for informal events when they occupy the church, also the adjacent library, and nearby businesses in Culver Street West and Lion Walk.
- Improvements will give the area a cared-for appearance which is vital given unique character and outstanding heritage of Trinity Street.
- Holy Trinity Church and its Churchyard are among the most beloved landmarks in our city centre. Council has collaborated and consulted with Historic England, architects, planners, businesses, communities, and residents, to revitalise this historically significant but previously underutilised and overlooked space.
- Scheme will preserve the past whilst creating a space that can be enjoyed by future generations.
- Through active management, will also encourage wildlife back into the heart of our city centre.
- Removal of a small section of the perimeter railing will open-up a small public area next to the Saxon Tower.
- Scheme will help to enable residents, communities, and visitors to enjoy events at the church even when main churchyard is locked. The outermost section of railings on Trinity Street currently prevent this.
- Scheme retains the main (inner) railings and gates which will be locked each evening, enabling this scheme to strike a balance between maintaining public access and enjoyment while ensuring the churchyard continues to be secure.
- Restoration project will breathe new life into Churchyard and offer welcoming space for everyone.

11.0 Parking Provision

11.1 None

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of discrimination; the site is accessible by a number of modes of transport (cycle, wheelchair, foot). See Highways/Access section of report.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle:

16.1 In terms of the principle of the development, both Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub. The churchyard works are intended to enhance the public realm including in association with the use of the church. The recently adopted City Centre Masterplan has relevant guidance. Under the section titled “Protecting and Integrating Heritage Assets” the masterplan states:

“7. Many of the public realm interventions would also have a positive benefit to heritage assets.- particularly looking at the churchyards as public spaces – see *Public Realm, Open Space and Landscape Urban Design Strategy*” (Page 56)

Under Public Realm, Open Space, Biodiversity and Landscape Urban Design Strategy (pages 44-45) the Masterplan states:

“5. Continue to improve City Squares and churchyards”.The accompanying plan on page 45 identifies Trinity Square as one of these spaces presenting an opportunity for enhancement.

16.2 The site lies within a sustainable location and Local Plan Policy SP1 and National Planning Policy Framework confirm there is a presumption in favour of sustainable development. Policy DM15 aims to support community cohesion and to provide a network of open space and DM17 aims to protect and enhance the existing network of green links and open spaces. Accordingly, overall, there are not objections in principle to the scheme and the proposal should therefore be judged on its planning merits including having particular regard to the impact upon the character of the Conservation Area, setting of Grade 1 Listed Church (and its graveyard), and any impacts for anti-social behaviour/crime and upon vegetation and wildlife.

Design, Layout and Impact upon setting of Listed Building, Churchyard and Conservation Area.

- 16.3 In terms of design and layout considerations, Policies SP7, 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. Policy SP7 states in particular that all new development must meet high standards of urban and architectural design.
- 16.4 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. S38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant adopted Local Plan policy is DM16.
- 16.5 Paragraph 206 of the NPPF (2021) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 207, 208 and 209 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 16.6 In this case the proposal is considered acceptable having regard to its impact upon the character of the Conservation Area, street scene, setting of the Listed Church and upon the fabric of the churchyard. The scheme has been progressed following negotiation with the Council's Conservation Officer and with Historic England, neither of which have objections to the proposal subject to the application of detailed conditions. The proposals are also in conformity with the adopted City Centre Masterplan SPD (see 16.1 above).
- 16.7 As confirmed by the Council's Conservation Officer, the submitted proposal for the churchyard was finalised over consultation with the Council, the public and other stakeholders. There were initially four options put forward and the selected scheme is considered to represent an appropriate balance between preserving and enhancing the public realm and accessibility and use of an open space in the heart of the City Centre whilst preserving and enhancing the character of the Conservation Area and setting of the Listed Church and churchyard features. The proposal would preserve the vast majority of the existing wall and railings (post war features), combine new paths, seating areas and refreshed planting for the churchyard and modify the Holy Trinity Street enclosure to create a small "piazza" before the south porch/entrance to the Church.

- 16.8 The scheme would have the benefit of including the repair and refurbishment of the retained boundary wall and railings and this would secure an improvement to the setting of the Church and the appearance of the Conservation Area. It is considered the new gates would provide beneficial connections to Pelham Lane to the west and the Library to the East. The landscaping, including the addition of accessible footpaths and seating areas, whilst retaining as much vegetation as possible, aims to make the churchyard an accessible and useable public space while preserving its character as a green enclosure within the busy urban environment.
- 16.9 Historic England has also confirmed it is in support of the proposal, confirming that the minimal intervention approach as put forward is the most appropriate. Historic England is satisfied that the Breedon gravel 1.5m wide path that would connect the entrances/emergency exits from the church; together with 1.2m wide secondary paths around the churchyard would not form overly dominant, visually intrusive features within the immediate setting of the Church. The paths at the widths proposed are considered to represent a proportionate response to providing accessibility for all.
- 16.10 Historic England also agrees that the repointing, cleaning and repair of the boundary wall copings and repair and repainting of the railings would greatly enhance the setting of the grade I listed Church and the churchyard itself. No objections have been raised by the Conservation Officer or Historic England to the repositioning of gravestones which need to be moved to allow the access paths. It is not considered the repositioning affects the setting of the Church or historic character to a significant degree and that any less than substantial harm is at the lowest end of the spectrum in magnitude and outweighed by the public benefits of the scheme.
- 16.11 It would appear that some of the gravestones may well not be in their original locations; for example those that are close to a drain adjacent to the East wall of the Church. The majority are to be moved a short distance only. The comments made by objectors about the possible disrespect for the occupiers of the graves has been given careful consideration but this would not be a planning reason to object to the scheme, particularly as the repositioning would not be far from their existing locations and that some gravestones may not be in their original locations. On balance their repositioning is considered acceptable in this respect given the public benefits of the scheme.
- 16.12 With regard to the lighting scheme put forward, this is purely illustrative and a condition will be applied to control precise details. It is considered a scheme similar to that put forward is likely to be acceptable although Historic England's comments are awaited on lighting and any received will be reported to the Committee. Any lighting scheme will need to ensure the character of the Conservation Area and setting of the Church is preserved whilst balancing the benefits to security and minimising impact upon ecology, as will be discussed later in this report.
- 16.13 In conclusion, the scheme overall is supported by the Council's Conservation Officer and Historic England (subject to lighting details) and it is considered that any residual *less than substantial harm* is outweighed by the significant public benefits of enhancing the public realm, including improved public access. The application is part of wider initiative for Colchester City Centre that

uses heritage as a vehicle for economic and social growth. Being prepared in tandem with the scheme for the adaptive reuse of the church, the project seeks to secure improvements to the setting of the Grade I listed Church, restore access to the historic churchyard, facilitate its enjoyment and promote the public engagement with the historic Church. The project is also in conformity with the CCMP SPD.

- 16.14 It is considered that, subject to appropriate conditions, the anticipated benefits for the historic site would reflect positively on the Conservation Area and enhance its vitality and viability. The planning conditions can ensure that the scheme is delivered to the highest standards, as appropriate for the Grade I listed site. Subject to the use of such conditions, there are thus no objections to the application on heritage grounds.
- 16.15 In terms of archaeology, Policy DM16 aims to ensure that archaeological features should be protected and appropriately recorded. The Council's archaeologist has confirmed that the proposed development will not result in material harm to the significance of below-ground archaeological remains. Therefore, there will be no requirement for any archaeological investigation in this case.
- 16.16 Overall it is therefore considered that the proposal would be in conformity with the requirements of the NPPF in particular paras 204, 206-209. The proposal would also not conflict with Policy DM16 which provides that development will not be permitted that will adversely affect the setting of a Listed Building and that development affecting the historic environment should seek to preserve or enhance the heritage asset. Accordingly, the proposal is considered to comply with aims of policies DM15, ENV1 and SP7 in this respect.

Anti-Social Behaviour and Security Issues:

- 16.17 The proposal has resulted in a number of concerns being raised with regard to its potential to facilitate antisocial behaviour and vandalism. This issue has been considered in depth in conjunction with the views of Essex Police. At present it is fair to say that the lack of public access has minimised the anti-social behaviour risks but it has also restricted the public engagement with the heritage asset and minimised the use of the site as a valued part of the public realm.
- 16.18 Following consultation and discussions, the Police have confirmed that there are no objections to the detailed layout of the proposal, including realigning the boundary and creating more accessible and open public spaces. However, detailed conditions will be necessary to minimise the potential for anti-social behaviour. The issue concerns the controls that would be put in place in respect of how the use is managed including times of access (when the gates are locked), overall site management, precise details of lighting and other security measures. The illustrative lighting scheme was added to the proposal in response to the comments received from the Police and other consultees who raised concerns about possible anti-social behaviour.
- 16.19 The Police have suggested that a condition be applied to ensure that prior to the occupation of the site, details relating to access and egress, boundary

delineation, lighting provision and CCTV capability be submitted to and agreed in writing. This condition will be applied and any such details submitted in future will be considered in conjunction with consultation with the Police. The ongoing management of the site would thereafter need to be implemented in accordance with the approved details.

- 16.20 In conclusion, the issue of potential anti-social behaviour has been considered very carefully in conjunction with the Police and having regard to the comments received from the public. This has resulted in the application of a condition to minimise the potential for such anti-social behaviour. Inevitably a balance has to be struck having regard to the public benefits of increased access to the site whilst minimising the potential for such anti-social behaviour. Overall, subject to appropriate conditioning it is considered the proposal would comply with Local Plan Policy, including Policy DM15 which provides that development should “create a safe, resilient and secure environment which supports community cohesion and is not vulnerable to neglect.” Policy DM1 also provides that all development should be designed to promote healthy lifestyles, avoid adverse impact upon public health and promote the use of green spaces. The proposals reflect the interventions promoted by the recently adopted City Centre Masterplan.

Impact on Neighbouring Amenity

- 16.21 Local Plan 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. In this case it is considered that conditions can be applied to minimise any impact upon neighbouring amenity from the increase in public access and use of the site. Environmental Protection have raised no objections. The condition suggested by the Police in the Anti-Social behaviour section of this report will be beneficial in this respect. A condition controlling lighting, which includes LUX levels, precise positioning and glare avoidance will also be applied which will also help protect the amenity of neighbouring residents and businesses. A Construction Management Plan condition can also be added.
- 16.22 Subject to the application of the abovementioned conditions, it is not considered the proposal would be contrary to Policy DM15 which aims to protect public and residential amenity.

Highway and Access Issues:

- 16.23 The Highway Authority has not raised objections subject to conditions and it is not considered there would be a detriment to highway safety. The suggested conditions relating to no outward opening of gates, no oversailing of power cables and a construction management plan will be applied. The suggested footpaths width of 2 metres is not considered appropriate as footpaths of this width would be too visually dominant and undermine the setting of the Church and character of churchyard. There could also be additional impact upon trees and upon gravestones. As the average width of a wheelchair is approximately 0.635 m, it is not considered the minimum width of 1.2 metres of the narrowest of the footpaths would undermine accessibility to all. A balance has had to be

struck in this case to ensure heritage assets and trees are protected. The proposal is therefore not considered to conflict with Policy DM15 in this respect which aims to create a safe environment. It would also comply with Policy DM21 which aims to create safe and convenient access and people friendly street environments and to ensure accessibility for those with impaired mobility.

Trees and Vegetation:

- 16.24 It is considered there would not be any significant impact upon trees and vegetation. There are some works within root protection areas but as there will be 'no-dig' within these areas there are not concerns, subject to compliance with all the provisions within the Arboricultural Impact Assessment (AIA), as recommended by the Council's Tree Officer. A condition making the AIA an approved document will be applied. The proposal will therefore comply with Policy DM15 which provides that development should integrate positively with arboricultural assets.

Wildlife Impact

- 16.25 An ecological survey report has been submitted and has concluded that the "presence of a bat roost in the church should not have any consequences for the current churchyard proposals, provided the external lighting scheme is designed to avoid disturbance impacts." The scheme is acceptable in terms of impact upon wildlife subject to securing biodiversity mitigation and enhancement measures. Conditions have therefore been suggested and these will be applied including securing the 10% Net Biodiversity Gain (not a 'major' development and therefore not a statutory requirement). The proposal therefore does not conflict with Policy ENV1 which concerns impacts upon wildlife.

Other

- 16.26 The application site is outside an identified flood zone and measures less than a hectare and as such a FRA is not required to support the application. The proposal is not considered to have a harmful impact upon surface water drainage within the locality and a surface water drainage condition will be applied.
- 16.27 There are no contaminated land issues.

17.0 Planning Balance and Conclusion

- 17.1 In conclusion, it is considered that the proposal has achieved an appropriate balance between protecting the character of the Conservation Area, setting of the Church and protecting features within the churchyard whilst enhancing the public realm and increasing public accessibility to the site. The Holy Trinity Church and the churchyard/square are part of the Town Deal projects funded by central government. The Council is working in partnership with a local charity to restore and adapt Holy Trinity Church for their use as a community hub. The

churchyard works are intended to enhance the public realm including in association with the use of the church. Conditions will be applied to ensure the works are sympathetic to the Heritage Assets, minimise the potential for anti-social behaviour and protect vegetation and wildlife. The proposal is sustainable development and is considered to comply with policies within the Local Plan and with the National Planning Policy Framework.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing :169.TS_HAT.PL_P01, P02, P03, AIA with plans, Rec'd 13.11.24, Indicative Lighting Plan P05 Rec'd 9.1.24, P10 Rec'd 15.1.24.

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

3. ZAA – Security By Design

Prior to first occupation of the site for the development hereby and notwithstanding the submitted details permitted precise details shall be submitted to and agreed in writing by the Local Planning Authority in conjunction with Essex Police of the following:

- (i) access and egress (including opening times for access) boundary delineation, all lighting provision (including LUX levels) and CCTV capability,
- (ii) management practices and operational policing considerations.

Details of the layout/design shall align to Secure by Design and crime prevention through environmental design concepts. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In order to minimise the potential for anti-social behaviour and crime.

4. Z00- Railings & Walls Repairs

Prior to the commencement of the repairs to the railings, coping stones and brick walls hereby approved, a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Reason: In the interests of preserving the setting of the listed building and the character and appearance of the Conservation Area.

5. ZMD – Re-pointing

No works to re-point the external brickwork shall be undertaken until:

- a) Details of the extent of re-pointing have been submitted to and approved in writing by the Local Planning Authority; and
- b) A sample panel not less than 1 metre square to show the proposed mortar composition and colour, and the method of pointing, has been prepared on site, inspected and approved in writing by the Local Planning Authority.

The sample panel shall be photographed (or otherwise identified for comparison as work proceeds) prior to works commencing and the works shall thereafter be carried out to match the approved sample.

Reason: In the interests of preserving the setting of the listed building and the character and appearance of the Conservation Area.

6. Z00- Gravestones repair/cleaning

No works to clean and repair any monuments (headstones, ledger slabs and tomb chests) shall be undertaken until a Method Statement and Specification shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be carried out in full accordance with the approved details.

Reason: In the interests of preserving the setting of the listed building and the character and appearance of the Conservation Area.

7. ZME – Sample Panel

Prior to any new bricks being laid, a sample panel of all new facing brickwork shall be constructed on site showing the proposed brick types, colours and textures, face bond and pointing, mortar mix and finish profile and shall be made available for inspection by the Local Planning Authority and the materials and methods demonstrated in the sample panel shall have been approved, in writing, by the Local Planning Authority. The approved sample panel shall then be retained on site until the work is completed and all brickwork shall be constructed in all respects in accordance with the approved details.

Reason: In order to ensure that the brickwork can be satisfactorily considered on site with regard to preserving the setting of the listed building and the character and appearance of the Conservation Area.

8. Z00- Details of new railings and gates

Prior to the installation of new railings and gates hereby approved, their details shall be submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall show the railings and gates, together with the associated new wall sections and steps, in elevation and horizontal/vertical sections at scales between 1:20 and 1:1, as appropriate

The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the site where there is insufficient information within the submitted application.

9. Z00- Development Details:

Prior to first occupation of the development hereby permitted and notwithstanding the submitted details precise details of the following shall be submitted to and agreed in writing by the Local Planning Authority:

- (i) Specifications and samples of all new materials
- (ii) New furniture (including benches) and equipment
- (iii) Landscape scheme, including drainage strategy
- (iv) Maintenance Plan

Reason: In order to preserve the character and setting of Heritage Assets.

10. Z00 – Gates

Any gates erected at the pedestrian accesses shall be capable of inward opening only.

Reason: To prevent hazards and obstruction caused by gates opening onto the highway, in the interests of highway safety.

11. Z00 – Power Cables

No power cables or extensions to electrical cabling shall encroach into or shall over sail the highway whatsoever.

Reason: To protect and preserve the integrity and fabric of the highway and to avoid trip and fall hazards to pedestrians, in the interests of highway safety.

12. Z00- Footways

All footways associated with this proposed development or connect to existing footways shall be, level and hard surfaced and provided with sufficient manoeuvring space for wheelchairs and mobility scooters, particularly in the vicinity of doors or emergency exits. Reason: To ensure that footways provide inclusive access for all visitors and being constructed to an acceptable standard, in the interests of highway safety.

13. Z00- Construction Management Plan

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

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

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

14. ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E3 SUBURBAN (medium district brightness – well inhabited rural areas, small town centres, suburban locations).

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

15. Z00 – Ecology

The development hereby approved shall proceed in accordance with submitted ecology report and prior to first use precise details of wildlife mitigation and enhancement (including implementation timetable) to include a biodiversity net gain of 10% shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved strategy.

Reason: In the interests of wildlife protection and enhancement

19.1 Informatives

19.1 The following informatives are also recommended:

Informative1: Steps should be avoided and consideration being given to ramp designs in preference to facilitate inclusive access for all including the partially sighted and mobility impaired.

Informative2: 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:

Informative 3: PLEASE NOTE that a Listed Building Consent will be required for any of the following minor works associated to the development hereby approved where they affect the existing fabric of the building in their installation, including fixing alarm systems or video security and lighting equipment.

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.

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 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.

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



The Ordnance Survey map data included within this publication is provided by Colchester City Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.3

Application: 231600

Applicant: Denbury Homes

Agent: Mr Robert Eburne

Proposal: Construction of 70 dwellings including 24 affordable homes (Rural Exception Site Local Letting homes, Affordable Rent Homes and Shared Ownership Homes), garages, parking, vehicular / cycle and pedestrian accesses, public open space, landscaping, drainage infrastructure and other associated works

Location: Land to West of, The Folley, Layer-de-la-Haye, Colchester

Ward: Marks Tey & Layer

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because this is a major application on an allocated site where the proposal is a departure from the adopted local plan. The proposed access point deviates from the allocation policy of SS10 Layer De La Haye. The policy requires primary access to serve the development from Great House Farm Road (South boundary of the site) whereas the proposal is for sole vehicle access onto and from The Folley. In addition, policy SS10 also requires a fully equipped children's play area however, due to local objections, this is not included in the final proposal. Furthermore, the Rural Exception Site has been amalgamated into the wider scheme and does not sit within an area outside of the settlement limits as per the previous approval.

2.0 Synopsis

- 2.1 This full application follows the consent of two outline applications 211392 and 211393 each for a parcel of land on this allocated site. They were subsequently approved at committee and this current application has amalgamated the two parcels into one master planned proposal.
- 2.2 The application has been assessed against adopted planning policy, with the benefit of consultation responses and representations from third parties. The planning benefits of the proposal are considered to outweigh any identified adverse impacts, most notably the affordable housing provision and the low density layout.

3.0 Site Description and Context

- 3.1 The site is located in the northeast of Layer de la Haye, adjacent to the settlement boundary of the village (to the south).
- 3.2 The site is an amalgamation of two sites with outline consent and is now a single site of 4.9Ha in size.
- 3.3 The site is irregular in shape with a larger rectangular shape being the main wider section to the North West with a smaller irregular pentagonal shaped area to the South East. This is where the access point onto The Folley will be located. The north of the site adjoins another field and Public Right of Way 141/3, and the western boundary meets the rear gardens of properties in Les Bois. The Southern boundary of the site is adjacent to properties in Great House Farm Road, and Martin End. The eastern boundary of the allocation site however adjoins The Folley, which comprises interspersed detached residences within large plots.

4.0 Description of the Proposal

- 4.1 The proposal seeks full planning permission for 70 homes which includes 24 affordable homes (Rural Exception Site Local Letting Homes, Affordable Rent Homes and Shared Ownership Homes), garages, parking, vehicular / cycle and pedestrian accesses, public open space, landscaping, drainage infrastructure and other associated works.

5.0 Land Use Allocation

5.1 The land is currently arable farmland. The site is allocated under policy SS10 of Section 2 of the adopted Local Plan for 'at least 35 new dwellings of a mix and type compatible with surrounding development, to include bungalows and small family homes'.

6.0 Relevant Planning History

6.1 As noted above, previous outline proposals for housing development 211392 and 211393 were approved in 2022. This current application is an amalgamation of the two delivering the same number of open market and affordable units. There have been a number of planning approvals in the immediate vicinity, but these have no material bearing on the site in question.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

SG1 Colchester's Spatial Strategy
SG2 Housing Delivery
SG7 Infrastructure Delivery and Impact Mitigation
ENV1 Environment
CC1 Climate Change
PP1 Generic Infrastructure and Mitigation Requirements
DM1 Health and Wellbeing
DM2 Community Facilities
DM8 Affordable Housing
DM9 Development Density

DM10 Housing Diversity
DM12 Housing Standards
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 adopted local plan policies set out below are of direct relevance to the decision making process:

SC1 South Colchester Allocations
SS10 Layer de La Haye

- 7.5 There is no Neighbourhood Plan for the 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
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC’s Development & Public Rights of Way
Planning Out Crime

8.0 Consultations

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

Active Travel England
No comment

Arboricultural Officer
To be updated verbally

Archaeological Officer

Evaluation report has been submitted. Very few archaeological features were identified, and those exposed were fully explored at the time via the extension of the relevant trenches. The proposed development will not result in material harm to the significance of below ground archaeological remains. No requirement for any archaeological investigations in this case.

Anglian Water

Anglian water has capacity for the foul drainage/waste water resulting from this development.

Colchester Cycling Campaign

No objections

Contaminated Land Officer

Requests that a 'reporting of unexpected contamination' condition is imposed.

ECC Green Infrastructure

No objections. Conditions suggested.

Environmental Protection

Conditions requested

Environment Agency

No comments

Essex County Fire and Rescue

Access for the fire service is considered satisfactory. Additional water supplies for fire fighting may be required. Applicant/architect is advised to contact water section at headquarters. They also recommend a risk based approach to the inclusion of automatic water suppression systems (AWSS).

Essex Police

Notes the importance of lighting to deter criminal activity. EV charge points recommended to be certified to British Standard's Institute Kitemark for the Internet of Things.

Highway Authority

No objections subject to conditions.

Highways England

No objections

Landscape officer

No objections

LLFA (ECC SuDS)

No new comments since re-consultation. No objection subject to conditions.

Mineral and Waste (ECC)

The MWPA recognise that the proposed area of development prohibits prior extraction of minerals, and future realistic minerals development. It is noted in section 3.4 that “there is potential for this site-won material to be utilised on-site during construction, which would potentially reduce costs and contribute to the sustainability of the project”. The MWPA encourage this. The MWPA is otherwise satisfied with the conclusions drawn and notes that an MRA is not required for the site.

Natural England

No objections subject to securing mitigation measures (RAMS payments).

NHS

Developer contribution to mitigate the impacts of the proposal - £42,750.00

Public Sector Housing

No objections

Ramblers Association

No comments

UK Power Networks

No objections. Have asked that there is a 3m access width to their poles for maintenance. **(Officer Note – Agent has confirmed that 3m clearance has been achieved around each pole through the site. See file for email).**

Urban Design Officer

Comments provided. Largely acceptable, conditions provided.

9.0 Parish Council Response

9.1 Following amendments to the scheme and a re-consultation, the Parish Council have stated the following:

Layer de la Haye Parish Council would like to see the existing high voltage cables run underground within the new proposed development as once the estate is built there will be no adequate access for maintenance.

Layer de la Haye Parish Council are pleased that Denbury homes has listened to the requests of the residents and actioned them following a recent informal meeting between all parties.

Officer note – UK Power Networks have not objected and asked for a 3m clearance around each pole for maintenance. Agent confirmed that this has been done (see above). Given this, it is considered that the poles/cables can be accessed for maintenance.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties and this generated a number of comments (29 objections, 34 'other' comments and 17 support comments). We also received two letters from Rt Hon. Priti Patel MP setting out concerns of two residents who wrote to her.

10.2 Some of the comments received a very detailed and it is beyond the scope of this report to set them all out in full. 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.

- The scheme has increased from a previous 50 to now 70
- Local services are already saturated
- Sole access onto the Folley is wrong. Access should be through estate as previously stated.
- Construction traffic only using The Folley will cause issues
- Green space to North should be moved to separate development from Martin End
- Too much social housing near Martin End
- Increased traffic in the area
- Possible overlooking from new development into existing homes
- The Folley road is in poor condition and cannot handle the only access point
- More bungalows and 1.5 storey dwellings should be included
- Noise and dust during development will negatively impact adjacent homes

11.0 Parking Provision

11.1 Proposed parking provision meets the adopted standards and is considered adequate for each proposed dwelling. Highways have not objected.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.

For all CBLP allocations the accessibility standard for 10% of market housing and 95% of affordable housing will meet Building Regulations Part M4 Cat 2. 95% (excluding upper floor dwellings). 5% of affordable housing should meet Part M4 Cat 3 (2) (b) as set out in Policy DM12 vi.

13.0 Open Space Provisions

13.1 Despite the revisions, the development area does not extend into public open space provisions. This provision totals to 13,389 square metres.

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 Contributions/Obligations that would be agreed as part of planning permission 231600 would be:

- **Libraries** - £5446.00
- **Communities**: £148,711.75
- **Parks and Recreation**: £314,917.40 and 91,997.34 to maintain POS if adopted.
- **Affordable Housing** and first let local connections lettings policy to be part of 106 agreement as set out in detail below.
- **RAMS** contribution to also be collected via the Section 106 agreement.
- **NHS** – Developer contribution to mitigate the impacts of the proposal - £42,750.00

16.0 Report

16.1 The land subject of this application is allocated for ‘at least 35 new dwellings’ and the Rural Exception Site has been amalgamated into the wider scheme and does not sit within an area outside of the settlement limits as per the previous approval.

16.2 Given the land allocation under policy SS10 of the adopted Local Plan as well as the previously approved outline permissions for the site, now amalgamated into one proposal, the principle of the proposal has been considered acceptable.

16.3 The proposal consists of a mixture of bungalows, 1.5 storey and two storey dwellings with 19 plots as affordable rent, 5 plots as shared ownership and 46 plots as open market totalling to 70 new dwellings with 24 considered affordable homes.

16.4 The proposal provides a varied mix of dwelling designs and materials as can be seen in the submitted house type drawings. Materials range from external bricks, timber cladding and some render. All materials proposed are considered to be of high quality. Further to the above materials, the proposed detailing and fenestration of the dwellings is considered to be high quality with quoining and soldier coursing as well as good quality window detailing enhancing the design.

16.5 Policy DM15 Design and Amenity provides that all development must be designed to a high standard, respect and enhance the character of the site, its context and surroundings. Given the above, it is considered that the proposal meets these policy requirements regarding design and materials.

Affordable Housing

16.6 Policy DM8 of the adopted local Plan requires 30% of new dwellings on housing developments of 10 or more dwellings should be provided as affordable housing. As noted above, 24 of the proposed 70 dwellings will be classed as affordable housing which is 34% affordable housing allocation. This meets the policy

requirement with a 2.8 dwelling number increase over the baseline requirements. In terms of affordable housing provision therefore, the proposal is considered acceptable and policy compliant.

- 16.7 The outline permissions were separated into two independent planning permissions. One of those permissions was for a rural exception site (RES) which sat outside of the development boundary as is typical of RES's. This scheme however, has encompassed the RES and the allocated site in one master planned layout. It is important to note that the quantum of affordable housing is as previously approved and the new s106 agreement that will be drafted following the resolution will secure not only the affordable dwellings on the RES but the local lettings policy that previously applied to the larger of the sites which previously gained permission.
- 16.8 In short this proposal will encompass all of the affordable housing that the two previous outline permissions secured with the same total number of units and proportion of affordable homes..

Development Density

- 16.9 Policy SP3 of section 1 of the adopted Local Plan states that future growth (of existing settlements) will be planned to ensure settlements maintain their distinctive character. Policy DM9 Development Density of section 2 of the adopted Local Plan provides that development will need to be at an appropriate density and massing and have regard to the character of the site and its immediate surroundings as well as the wider locality. As can be seen in the submitted documents, the proposal is of a low density which reflects the surrounding low density development in the village, in particular the density of dwellings along The Folley and Les Bois to the West.
- 16.10 Regarding the above, the proposal is considered of low density that positively responds to the context and character of the locality. The proposed layout/density is appropriately rural in character.

Amenity

- 16.11 Policy DM15 Design and Amenity states that all development will protect and promote public and residential amenity, particularly with regard to privacy, overlooking, noise and disturbance. Adequate amenity provisions have been retained with regards to new dwellings affecting each other. There are no concerns in this regard.
- 16.12 It is noted however, that a number of objections have been submitted raising concerns over rear first floor windows negatively impacting amenity of existing dwellings in terms of angles of outlook into private amenity spaces, in particular, this issue has been raised regarding 'Martin End'. The Essex Design Guide requires a minimum back-to-back distance of 25m between existing and proposed homes. The initial distance proposed on submitted documents between the new dwellings and the existing Martin End dwellings was 26m however, up to date revisions has increased the distance to 29m and with a landscaped buffer.

16.13 Given that the intervening distance exceeds the minimum required, impact on existing dwellings is considered acceptable, satisfying policy requirements. The proposal is also wholly in conformity with the character of the area.

Canopy Cover

16.14 Policy CC1 Climate Change recognises the need for a low carbon future and sets out criteria which this is achieved by for future development. Criteria (iv) provides that development proposals should seek to increase canopy cover on site by a minimum of 10%. Given that the development site is at present mostly open field, any additional tree planting will result in canopy cover gain however, the recent revisions have included around an 89% canopy cover gain which far exceeds policy requirements and is considered a positive contribution.

Climate Change

16.15 In 2019 Colchester Council declared a climate emergency. As such, policy CC1 Climate Change provides criteria for new development to achieve a low carbon future for Colchester. As noted above, this policy includes canopy cover however, it goes further by requiring, inter alia, renewable and low carbon technologies and design and construction techniques for climate change mitigation as well as other relevant criteria. The applications submitted Design and Access Statement acknowledges the Council's position and policy and indicates that a condition requiring such details is expected. Accordingly, such a condition will be included.

Biodiversity Net Gain

16.16 Policy ENV1 Environment provides that the Local Authority will conserve and enhance Colchester's natural environment. Under section C subsection (v) it states that development will be supported where it incorporates beneficial biodiversity conservation features, measurable biodiversity net gain of at least 10% in line with the principles outlined in the Natural England Biodiversity Metric, and habitat creation where appropriate.

16.17 As can be seen from the latest revisions, the proposal includes a 28% biodiversity net gain. This exceeds the minimum policy requirement significantly and is therefore considered acceptable. In addition, Place Services has supported the proposed biodiversity enhancements and have suggested conditions accordingly.

Ecology

16.18 As part of the proposal a Preliminary Ecological Appraisal, Winter Bird Survey, Bat Activity Survey and Reptile Survey has been submitted. Place Services has commented advising that they are satisfied there is sufficient ecological information available for determination of this application. They go on to state that the mitigation measures identified in the above-mentioned documents

should be secured by conditions and implemented in full. Accordingly, they have provided a number of relevant conditions to secure these measures.

Sustainable Urban Drainage Systems

- 16.19 Policy DM24 Sustainable Urban Drainage Systems provides that all new residential and commercial development, car parks and hard standings should incorporate Sustainable Drainage Systems (SuDS) appropriate to the nature of the site. Such systems shall provide optimum water runoff rates and volumes taking into account relevant local or national standards. It goes on to state that SuDS design and quality will be expected to conform with standards encompassed in the relevant BRE, CIRIA standards and Essex County Council's SuDS Design Guide to the satisfaction of the Lead Local Flood Authority. Furthermore, the policy notes that opportunities should be taken to integrate sustainable drainage within the design of the development, to create amenity space, enhance biodiversity and manage pollution.
- 16.20 Accordingly, a Flood Risk Assessment and Surface Water Drainage Strategy has been submitted. The report notes that the site is located within Flood Zone 1 and the proposed development will not cause further flood risk to the local surrounding areas. It goes on to observe that the site has been proven to infiltrate at source and therefore the proposed surface water drainage design has been designed such that all captured water will be disposed of into the ground mimicking the existing characteristics of the site.
- 16.21 Further to the above, the report also finds that a perched water table was found consistently across the site at depths of approximately 2.1-2.8m and therefore all infiltrating features have been designed to be a minimum of 1m above the water table. Furthermore, sizeable attenuation has been provided across the site to accommodate all the relevant design events with a suitable freeboard above such water levels.
- 16.22 The report goes on to advise that more than sufficient pollution mitigation has been enforced across the design and the proposed foul drainage on site, drains to an adoptable pumping station via gravity and is pumped to a newly constructed manhole on-line of the existing Anglian Water foul sewer located within The Folley. Finally, the report finds that both the surface water and foul water systems have been designed in accordance with all relevant policies and guidelines.
- 16.23 Further to the above, it should also be noted that there are 4 proposed drainage basins located around the site that will provide a catchment for surface water run-off and can hold large bodies of water.
- 16.24 As per the initial submission, SuDS made a holding objection which the applicant has attempted to overcome with their re-submitted drawings which they consider satisfy the requirements of the SuDS team. SuDS formal response and suggested conditions are awaited following reconsultation. **Officer note – SuDS have since comments with no objections subject to suggested conditions.**

Public Rights of Way

- 16.25 There are two public rights of way, one along the North boundary and one along the West boundary. These have been integrated into the layout from the outset and have been afforded ample space to ensure their definitive line will be maintained.

Departure from Policy

Access Points

- 16.26 Policy SS10 allocation for this site states access points as '*Primary highways access to serve the development from Great House Farm Road with secondary, non-thoroughfare access, from The Folley to serve a limited number of dwellings*' however, as can be seen from the proposal, the main access for the estate is from The Folley with footpath only access to and from Greate House Farm Road and Old Forge Road.
- 16.27 This departure from the policy has been met with almost an even mixture of support and objection from public consultations.
- 16.28 It is important to note that whilst the proposed layout does not comply with this policy, in visual terms it can be seen that the layout provides for 5 large and well detailed dwellings fronting but set back from The Folley. This in officer's opinion adequately retains the rural feel of this section of The Folley and will be wholly in keeping with the character of the immediate surroundings. The scheme does not comply with the policy because access is afforded to all 70 dwellings from this single access point, but there is no consequential harm to the character to the area that can be identified.
- 16.29 It is therefore important to consider the impact of the single access approach on highway safety. The question members must consider is, does the use of only one access to serve the entire development for vehicular traffic cause material harm to the highway network. The Transport Assessment that has accompanied the application has concluded that the visibility splays for the proposed access onto The Folley meet required standards in both directions and that the site access (onto The Folley) is more than sufficient to accommodate the proposal for 70 dwellings in terms of capacity. Overall, the Transport Statement considers the development can be accommodated through taking sole access from The Folley with no detriment to the network capacity or safety.
- 16.30 The Highway Authority ECC have assessed this scheme and the Transport Assessment that has been submitted and have no objection to the layout or the single vehicular access approach. On that basis, officers have not been able to identify any demonstrable harm from the departure to criterion (ii) of policy SS10. On that basis, the proposed departure from the policy in this instance is held to be acceptable. The highway authority has requested for some tweaks to highway geometry which the applicant has made and are currently under assessment by highways, the outcome of which and any conditions needed will be reported on the updates sheet and included.

Officer note – Highways have since commented on the revised drawings stating no objections and recommended several conditions which will be included.

Lack of Childrens Play Area

- 16.31 Criterion (iii) of policy SS10 requires areas of public open space, to include an equipped children's play area. The scheme provides ample public open space 13,389sqm far in excess of the adopted 10% of site area requirement however, it does not provide an equipped play area.
- 16.32 The play area has been intentionally omitted due to concerns from the Parish Council raised in their initial representation to the previous outline permission comments.
- 16.33 As the proposed S106 agreement secures a financial contribution towards the upgrade of the existing play area in Layer De La Haye, on balance this minor departure is held to be acceptable.

Rural Exception Site

- 16.34 Criterion (iv) of policy SS10 requires a masterplan demonstrating how the development will positively and comprehensively relate to the future delivery of a rural exceptions site (RES) on adjacent land.
- 16.35 As set out above, this scheme has taken a master planned approach and the outcome of this is the Rural Exception Site dwellings do not sit in an area that is outside of the settlement limits as they did in application 211393. The scheme before members comprises the same site area as the two outline permissions but has combined them into one full application that still achieves the same quantum of both market and affordable dwellings, including the Local Lettings pilot that was secured in the previous legal agreement.
- 16.36 The outcome is therefore a scheme which is technically a departure from the Local Plan by virtue of part of the site being located outside of the development boundary. In this instance, the master planned approach has delivered a high quality layout that will achieve a real sense of place befitting an area such as Layer De La Haye. On that basis the departure from the Development Plan is justified.

17.0 Planning Balance and Conclusion

17.1 To summarise the application comprises a technical departure from the Adopted Development Plan. However, for the reasons as set out above, the departures do not cause identifiable demonstrable harm and the scheme proposed is a spacious and attractively laid out housing development with well-designed house types in the traditional idiom that will complement the existing housing stock in the vicinity. The

scheme will achieve a genuine sense of place and meets the Government's test of beauty as set out in the framework.

17.2 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. This is inherent to the introduction of built form within an undeveloped greenfield site and therefore unavoidable. It is also accepted that there is will a potential very minor impact on neighbouring amenity and an intensification on the highway network. It is however held that this scheme is a well-designed, beautiful development befitting the rural area.

17.3 In terms of the **economic role**, this scheme will be beneficial as new dwellings sustain new residents who will use local and Borough wide facilities and spend in the local economy. The scheme will also generate new Council Tax receipts and contribute to the New Homes Bonus.

17.4 In terms of the **social role** this scheme provides very convincing benefits, namely the provision of market housing, the provision of affordable housing and the facilitation of the Rural Exception Site in a comprehensive master planned manner. It is also noted that this scheme will also pilot the same local letting policy secured at outline stage.

17.5 Whilst clearly a departure from the plan, it is officers' opinion that the planning balance tips in favour of an approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the 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. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers. (Full list of plans will be inserted here)

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

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

4. No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.
Reason: In order to ensure that suitable materials are used on the development in the interests of good design and visual amenity as there are insufficient details within the submitted planning application.

5. Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the depth of reveal and any dormer features); rooflights to be used; doors, cills, lintels, arches, eaves, verges, ridge, brickwork /stone work detailing, chimneys; recessed/projecting/decorative brickwork; bays, porches, plinths; blank and faux windows; and any rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The development shall thereafter be implemented in accordance with the approved additional drawings.
Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design and that the character and appearance of the area is not compromised by poor quality architectural detailing.

6. No works shall commence (above ground floor slab level) until details (including position) of all external plant (including solar PV), extract ducts, vents, grilles and meter housings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
Reason: In the interests of good design and visual amenity, as there are insufficient details within the submitted planning application.

7. Notwithstanding the details shown on the approved drawings, prior to their construction precise details of the position, type and composition of all boundary treatments enclosing individual plots shall be submitted to and approved, in

writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details

Reason: In the interests of visual amenity with regard to ensuring a consistent approach to legibility of the space and an appropriate quality of design is achieved across the site.

8. Notwithstanding the details shown on the approved drawings, no works shall commence (above ground floor cill level) until revised details of the proposed windows (size and disposition of glazing panels) have been submitted to and approved, in writing, by the Local Planning Authority. Fixed lights should reflect opening casements and vice versa, in terms of size and proportions of glazing panels and frame components. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure a consistent approach is applied to the proposed dwellings in their entirety, in the interests of visual amenity and establishing an appropriate standard of design.

9. Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected on any public facing boundary unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

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

Reason: To retain adequate on-site parking provision in light of the under provision of off plot visitor parking and in the interest of highway safety.

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

Reason: To promote the use of sustainable means of transport

12. No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the GI framework to conserve, enhance and restore where there are gaps are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a Construction Environmental Management Plan (CEMP) will be required to set out how

retained GI, such as existing boundary trees, hedges and vegetation will be protected during construction.

Reason: The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

- 13.** No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). Ideally, strategic elements of the GI framework to conserve, enhance and restore where there are gaps are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a Construction Environmental Management Plan (CEMP) will be required to set out how retained GI, such as existing boundary trees, hedges and vegetation will be protected during construction.

Reason: The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

- 14.** No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years. Although consideration of aligning through mandatory biodiversity net gain will be required where it will be expected for the habitat to be secured for at least 30 years via obligations/ conservation covenant.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies.

We would also expect details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason: To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

Failure to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

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

Reason: To ensure the GI are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure the high-quality and multi-functional benefits of GI assets.

- 16.** No works shall take place until a Biodiversity Net Gain Management and Monitoring Plan is submitted to and approved in writing by the local planning authority. The Biodiversity Net Gain Management and Maintenance Plan shall

include 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports.

The Biodiversity Net Gain Management and Maintenance Plan should cover:

- Details of the management and maintenance operations, actions and work schedule for years 1 – 5 and with broader management aims for the lifetime of the BNG commitment of 30 years.
- Proposals for monitoring needed to measure the effectiveness of management, including methods, frequency and timing.

Details of the roles and responsibilities for implementation and monitoring, as well as the legal, financial, and other resource requirements for BNG delivery, are secured.

- Including setting out the reporting procedures and options for remedial works and adaptive management to account for necessary changes in work schedule to achieve the required targets if needed.

The biodiversity uplift agreed upon in the Biodiversity Gain Plan/ Assessment shall be implemented in full for the entire 30-year period.

Reason: To ensure measurable net gains are being delivered and effectively maintained and in accordance with LPA's BNG Policy, allowing the LPA to discharge its duties under the NPPF (2023).

17.ZPA – Construction Method Statement

18. 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 noise and vibration;
- measures to control the emission of dust and dirt (for developments above 50 units a specific Dust Management Plan is required);
- a scheme for recycling/disposing of waste resulting from demolition and construction works (no waste materials should be burnt on the site);
- the appointment of a public liaison person to update residents on the development and deal with complaints, including dust and noise, contact details to be displayed at the site entrance (for developments above 50 units). 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.

19.ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

20. Prior to occupation of any of the dwellings, a scheme shall be submitted to and approved in writing by the Local Planning Authority providing details of the position and type of solar PV panels and or any other low carbon elements, for example but not limited to Air or Ground Source Heat Pumps to be installed on the dwelling. No dwellings may be occupied until the approved are installed and are in full working order.

Reason: To facilitate the move to lower carbon homes which is encouraged by policy CC1

21. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Essex Ecology Services Limited, November 2018), Winter Bird Survey (Essex Ecology Service Limited, February 2022), Bat Activity Survey (Essex Ecology Services Limited, October 2019) and Reptile Survey (Essex Ecology Services Limited, May 2019) as already submitted with the planning application and agreed principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

22. Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority Species shall be 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).

23. The works shall be implemented in accordance with the approved details prior to occupation 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).

24. Prior to first occupation of the development hereby permitted, 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)

25. The development permitted by this planning permission shall be carried out and maintained in accordance with the approved Flood Risk Assessment and Surface Water Drainage Strategy, ref 2301-783, dated April 2023 as supplemented by Technical Drainage Note, ref IP-2301-783/TN01 dated 21/09/23, both by Ingent Consulting Engineers and the following mitigation measures detailed within the FRA:

- Infiltration testing in line with BRE 365 at locations of infiltration features. If infiltration rates are unsuitable, limiting discharge from the site to the 1/1yr greenfield rate for all storm events up to the 1/100yr +45% CC.
- Provide attenuation storage for all storm events up to and including the 1:100 year storm event inclusive of 45% climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- To ensure the effective treatment of surface water runoff to prevent pollution.
- To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

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

planning authority. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

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

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

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

- a) A priority junction off The Folley to provide access to the proposal site. Junction shall have but not be limited to a minimum 43 metre visibility splay in both directions as measured along the nearside edge of The Folley's carriageway
- 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) Improvements to Footpath 3 Layer-de-la-Haye between the B1026 (High Road) and The Folley (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) Residential Travel Information Packs in accordance with Essex County Council guidance

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

- 29.** The public's rights and ease of passage over Footpath 3 Layer-de-la-Haye and Footpath 32 Layer-de-la-Haye shall be maintained free and unobstructed at all times

Reason: To protect the Public Right of Way (PRoW) network in accordance with policy DM11 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

30. This permission shall not be exercised in addition to the extant permissions 211392 and 211393 granted by the Local Planning Authority on 18th October 2022 but shall be an alternative to that permission. Should one of the permissions be implemented the other permission shall not be implemented.

Reason: In order to ensure that the two permissions are not both implemented as this would be considered to be an overdevelopment of the site and the implications of such a proposal would need to be carefully considered.

19.1 Informatives

19.1 The following informatives are also recommended:

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.

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 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.

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

Landscape Informative

'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](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)'.

Anglian Water Informative:

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

SUDS Informative

INFORMATIVES: Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed Suds which may form part of the future register, a copy of the Suds assets in a GIS layer should be sent to suds@essex.gov.uk. Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note. It is the applicants responsibility to check if they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside our area of expertise. 3 We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Broadband Informative

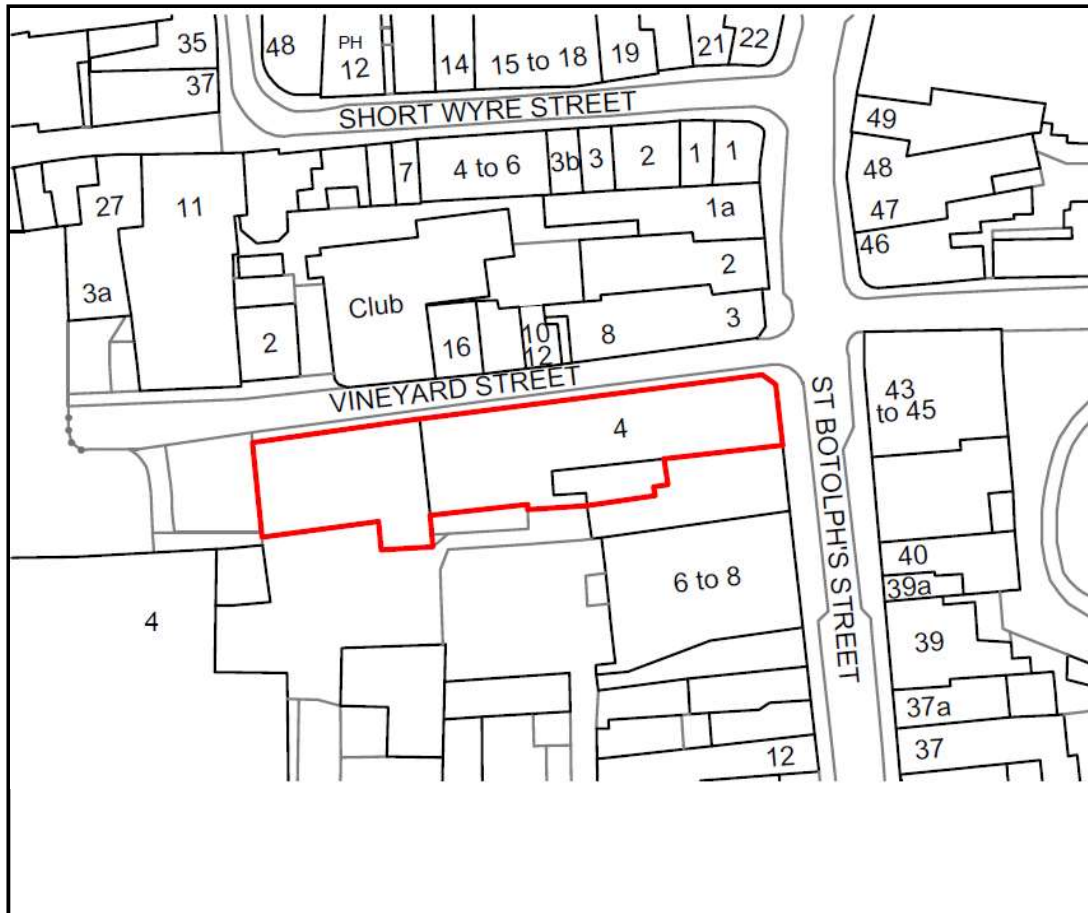
The developers are strongly encouraged to ensure the site is served by broadband in the interests of connectivity.

EV Charging points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated).

Highways Informatives

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



The Ordnance Survey map data included within this publication is provided by Colchester City Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No: 7.4

Application: 232367

Applicant: Mr Rasih

Agent: Mr Wilton Ndoro

Proposal: Planning permission is sought for replacement of timber sash windows with upvc sash windows which will be painted black. Top of sash windows at front corner to be curved to match original windows. Also new timber door to flats and re-instatement of parapet & clock to front elevation.(resubmission of 231370)

Location: 4 St. Botolphs Street, Colchester, CO2 7DX

Ward: Castle

Officer: Daniel Bird

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because previous application 231370 was refused at committee and this submission aims to overcome the previous concerns.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact of the works on the character and appearance of the conservation area and the significance of the locally listed building.
- 2.2 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable on balance. The below report details how this recommendation has been reached. The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site is a corner plot which sits to the west side of St Botolphs Street and the south of Vineyard Street and is occupied by a grand locally listed Victorian building within the Colchester Area No.1 (City Centre) Conservation Area.

4.0 Description of the Proposal

- 4.1 Retrospective planning permission is sought for the replacement of timber sash windows with upvc sash windows which will be painted black. The top of the sash windows at the front corner are to be curved to match the style of the original windows. Also a new timber door with door surround with pilasters to be re-instated like for like in rendered masonry. Also the re-instatement of the parapet & clock to the front elevation.
- 4.2 Detailed drawings have been provided to illustrate the design and finish of the door details, clock, parapet and window arches to reinstate some of the historic features of the building.

5.0 Land Use Allocation

- 5.1 The application site benefits from a lawful, business, commercial and service use (class E – nightclub) at ground floor and residential use (flats) to the first and second floors.

6.0 Relevant Planning History

- 6.1 The site benefits from recent planning applications for the conversion of the upper floors to residential units:

231370 - Replacement of timber sash windows with upvc sash windows, new timber door to flats and re-instatement of parapet & clock to front elevation. – Refused

230533 – Conversion of part of Nightclub to provide 5 flats – Approved

230407 – NMA for internal reconfiguration of flats approved under 171871 - Approved

171871 - Proposed conversion of part of Silk Road into 3 no flats – Approved

7.0 Principal Policies

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

- 7.2 Local Plan 2017-2033 Section 1

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

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

- 7.3 Local Plan 2017-2033 Section 2

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

ENV1 Environment
DM15 Design and Amenity
DM16 Historic Environment

- 7.4 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
External Materials in New Developments
Colchester City Centre Masterplan

8.0 Consultations

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

The Historic Buildings and Areas Officer has identified that the replacement windows have resulted in less than substantial harm to the character of the Conservation Area. However the additional details in terms of the detailing of the parapet, replacement door, door surround, clock and window arches are considered to mitigate this harm.

Colchester Civic Society have objected to the replacement windows due to the impact on the character of the locally listed building, conservation area.

The Highway Authority have requested a construction management plan be conditioned if the application is approved.

9.0 Parish Council Response

- 9.1 The site is Non - Parished

10.0 Representations from Notified Parties

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

Concerns regarding the impact of the UPVC windows on the character and appearance of the conservation area and the significance of the locally listed building.

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 Air Quality

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

13.0 Planning Obligations

- 13.1 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.

14.0 Report

14.1 The main issues in this case are:

- Design and Impact on the Surrounding Area, Conservation Area and the significance and fabric of a locally listed building.

14.2 Design and Impact on the Surrounding Area, Conservation Area and the significance and fabric of a locally listed building.

14.3 Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Policy SP6 seeks to promote and secure high quality design and provide buildings that exhibit individual architectural quality within well considered public and private realms. Policies DM15 states development must be designed to a high standard, positively respond to its context, achieve good standards of amenity, and demonstrate social, economic and environmental sustainability. Great weight will be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Poor design will be refused including that which fails to take the opportunity for good design or improving the local area. This policy also sets out design criteria that new development must meet. These require new development to be of a high quality, respect the character of the site and its context and help establish a visually attractive sense of place for living, working and visiting through good architecture and landscaping.

14.4 Furthermore, this is of particular importance given the location of the site within the Conservation Area alongside the building itself being regarded as a Non-Designated Heritage Asset (NDHA). Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to pay special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

14.5 The National Planning Policy Framework (2023) is an additional consideration. Section 16, Par. 205 determines that when considering the impact of a proposed development on the significance of a designated heritage asset, (Conservation Area) great weight should be given to the asset's conservation. Par. 206 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Para. 208 clarifies that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Additionally, Para. 209 requires that the determination of applications should consider the effect on the significance of a non-designated heritage asset and when applications directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 14.6 The above legislation and national policies for the protection of Conservation Areas and non-designated heritage assets are reflected in Colchester Local Plan 2017-2033-Section 2 Policies ENV1-Environment and DM16- Historic Environment which seek to protect Colchester's built heritage and enhance the historic environment. Policy DM16 reflects the provisions of the NPPF and clarifies that, where development will lead to less than substantial harm to the significance of Conservation Areas, this harm should be weighed against the public benefits of the proposal. The Policy also stresses that the conservation of Colchester's historic environment will be ensured by the protection and enhancement of existing buildings which do not have Listed Building status but have a particular local importance or character which it is desirable to conserve.
- 14.7 St Botolph's Street is a continuation of Queen Street, sloping down from the site of the former South Gate to the junction with Osborne Street and Magdalen Street at the area of St Botolph's Circus. The street still retains much of its 19th century mercantile character, although the appearance of the buildings is sometimes better retained on the upper floors; the ground floors accommodate commercial uses and the street frontage is characterised by shopfronts and signage of varying design and quality. The site falls within a key regeneration area within the city centre and occupies a particularly prominent corner site.
- 14.8 The application property is situated on the west side of the street which comprises a mix of two and three-storey buildings, mostly of mid and late 19th century date. The scale tends to decrease towards southern end of the street and the most prominent buildings are the application building on the corner with Vineyard Street and no 6-8 , an imposing building with classical detailing.
- 14.9 This application follows application 231370 that was refused at Planning Committee on 07/09/23. Compared to application 231370, the present application proposes the use of uPVC windows for the corner windows of the property with a curved top light that matches the arch lintel for two windows on the corner of the building, a detail that was present in the original timber windows. The application also proposes the reinstatement of the parapet and clock that were also removed without permission and the details contained within drawing 856 - 506- REV 01 are considered to overcome the previous concern.
- 14.10 Application 231370 proposed some modifications to the uPVC windows including a change of colour and removal of the visible trickle vents, seeking to improve the detailed design of the windows to secure some mitigation of their adverse impact on the appearance of the building and its surroundings. The present application proposes additional mitigation via the modification of the corner windows that represents an additional improvement. As concluded in the case of the former application 231370, these modifications still do not fully mitigate the adverse impact to the significance of the locally listed building and the consequential harm to the significance of the wider Conservation Area, but the magnitude of harm would be moved lower in the spectrum of '*less than substantial harm*'.

- 14.11 With regard to the parapet and clock, the proposal for their reinstatement is welcomed. However, details of the work need to be informed carefully by historic and more recent photographs to ensure that this architectural feature will be replicated accurately and to an appropriate architectural and structural standard. The details outlined within drawing number 856 - 506- REV 01 and 856-505 REV 04, are considered to further assist in offsetting the identified harm associated with the installation of plastic replacement windows.
- 14.12 Similarly, the reinstatement of a new door and surround to the ground floor street entrance to the flats on the Vineyard street elevation represents an opportunity to enhance the side elevation of the building that has been marred by unsympathetic alterations in the past. Images of the site from Google Street View in 2009 show the original door surround with pilasters and projecting cornice with dentils. These details of the door surround should be reinstated like-for-like in rendered masonry, as seen in the old images of the building, together with a traditional timber panelled door of appropriate design. The amended details supplied within drawing numbers 856 - 506- REV 01 and 856-505 REV 04, provide a method to implement these changes, which is considered to further mitigate the impact of the replacement windows.
- 14.13 For the reasons set out above, the loss of the original timber fenestration and its replacement by uPVC windows is regrettable and has an adverse impact on the significance of the locally listed building. The alteration detracts from its character and appearance and this detrimental change reflects adversely on the authenticity of the street scene, having thus a negative impact on the designated Conservation Area that amounts to a level of harm identified as less than substantial, as per the classification used in the NPPF.
- 14.14 The application also proposes the reinstatement of the parapet detail on the corner of the building; the parapet was modified during recent external repair works. The tall segmental pediment with the large, decorated keystone and the roundel that once accommodated a clock was an imposing decorative feature that enhanced the appearance of the building and stressed its importance as a corner building which makes a notable contribution to the street. Its loss is detrimental to the appearance and significance of the locally listed building and has an adverse impact on the Conservation Area designation as well. The proposal for its reinstatement, together with the clock that was removed at an unknown date, is welcome and the details supplied as part of this application are considered acceptable.
- 14.15 In conclusion, the removal of the original timber sash windows and their replacement by uPVC sash windows has an adverse impact on the significance of the locally listed building through loss of original features and unsympathetic alteration to its appearance. The alteration also has a wider negative effect on the street scene and thereby detracts from the significance of the designated Conservation Area. The magnitude of this harm amounts to a *less than substantial* level of harm to its significance. The modification of the windows with the use of black finish, the removal of the trickle vents, the reinstatement of the Vineyard Street door detailing and parapet and clock would serve to mitigate this harm, moving the harm lower in the spectrum of less than substantial. Having regard for the provisions of the NPPF (Par.202)

and the Local Plan (Policy DM16) which require that any harm to the significance of designated Conservation Areas should be weighed against the public benefits of the proposal (should this harm is identified as less than substantial), this assessment will be undertaken below.

15.0 Planning Balance and Conclusion

15.1 The National Planning Policy Framework (2023) is an additional consideration. Section 16, Par. 209 states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

15.2 Although the building is not afforded statutory listed status; it does form part of Colchester's Local List and has sufficient heritage interest for its age, and contribution to the wider streetscene to be regarded as a non-designated heritage asset. The works were undertaken due to the previous windows being in a state of disrepair and to improve the thermal efficiency of the building as a whole. Whilst the loss of timber authentic sash windows, within the conservation area is regrettable, as discussed above, this is considered to have resulted in less than substantial harm to the character and appearance of the conservation area. Furthermore, other material considerations such as retention of facilities within the Town Centre, the active use of upper floors of commercial buildings and improved thermal and acoustic performance need to be considered alongside retaining and sustaining the significance of non-designated heritage assets also weigh in the assessment in the planning balance.

15.3 It is clearly desirable to see active residential use of upper floors return to the city centre. Residents spend in the local economy and help sustain businesses and services. The loss of historic fenestration is always (as discussed above), regrettable and has had an adverse impact on the conservation area. The preamble to Policy TC3 of the Local Plan states that at St. Botolph's, the Council is actively pursuing a co-ordinated scheme for redevelopment of the outdated buildings and vacant land in line with long-standing Council objectives for the area to achieve a mixed-use development with a focus on leisure and related uses. The overarching principle is to enhance and create an attractive city centre to enhance vitality and viability. The proposed works, indirectly ensure that the leisure/commercial aspect is retained at ground floor whilst providing an active use to the upper floor to effectively utilise the building.

15.4 Taking into account the above, it is considered there is a *less than substantial* adverse harm impact on the conservation area designation, whereby the public benefits of securing a commercial property within the Town Centre, active upper floors of this premises alongside the retention of the locally listed building, in a suitable manner alongside the reinstatement of the parapet detailing, clock and side door surround, when weighed up are considered on balance to outweigh the less than substantial harm to the conservation area.

15.5 The circumstances of this application are considered materially different as a result of the additional details provided concerning the reinstatement of the proposed door surround, parapet, clock, ball finial, door surround and improved corner window design to reinstate arch-headed windows. This proposal will enable the details to be agreed prior to determination and provide a scheme which can be impemented, within an agreed time frame. These additional details are considered on balance to overcome the concerns highlighted during the deliberations on the recent application by the committee and to mitigate the *less than substantial harm* identified to the non-designated heritage asset. The design and specification of the clock, parapet detail and door surround, are attributed considerable weight in the planning balance, as this would reinstate historic features to the building that are deemed to provide material public benefits to the wider conservation area. Consequently, a conditional approval is recommended on balance.

16.0 Recommendation to the Committee

16.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be completed before the expiration of two 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. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 856 - 100 - REV 02, 856-505 REV 04 and 856 - 506- REV 01

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. Clarification Regarding Window finish

For the avoidance of doubt, within 3 months of the date of this permission, all replacement windows to the upper floors of the building shall be finished in a matt black and retained as such in perpetuity.

Reason: In order to preserve the historic character and appearance of the locally listed building and wider surrounding Conservation Area.

19.1 Informatives

19.1 The following informatives are also recommended:

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

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 scrapyards 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.

