



Colchester  
City Council

# Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,  
Colchester, CO1 1PJ  
Thursday, 25 January 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.

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**COLCHESTER CITY COUNCIL**  
**Planning Committee**  
**Thursday, 25 January 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 Dundas	Cllr Ellis	Cllr Goacher
Cllr Hagon	Cllr Harris	Cllr Kirkby-Taylor	Cllr Law
Cllr Laws	Cllr Lissimore	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 Sommers	Cllr Sunnucks	Cllr Willetts
Cllr J. Young	Cllr T. 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](mailto:democratic.services@colchester.gov.uk) by 12.00 noon on the working day before the meeting date. In addition for those who wish to address the committee online we advise that a written copy of the representation be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

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

## 6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 30 November 2023 and 14 December 2023 are a correct record.

**2023-11-30 CCC Planning Committee Minutes** 7 - 10

**2023-12-14 CCC Planning Committee Minutes** 11 - 14

## 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 **230033 Land to the Rear of, Dorothy Curtice Court, London Road, Copford, Colchester, CO6 1DX** 15 - 44

Application for the erection of one assisted living block (for the over 55s) of 72 units comprising 32 no. one bedroom flats and 40 no. two bedroom flats and associated communal facilities; erection of sheltered housing accommodation of 18 units (as an extension to the existing scheme at Dorothy Curtice Court for over 55s), comprising 13 no. one bedroom flats; together with associated access, amenity space, vehicle and bicycle parking, EVC points, hard and soft landscaping, sub-station, drainage ponds, boundary treatments and other associated works.

7.2 **232206 Lodge Farm, Boxted Road, Great Horkesley, Essex, CO6 4AP** 45 - 78

Application for construction of processing, packaging and dispatch building, with associated access, hardstanding, drainage, services and landscaping.

7.3	<b>232792 Land Fronting, Gosbecks View, Colchester</b>	79 - 112
	Application for construction of 3 no 3-bedroom & 3 no 2-bedroom bungalows and 1 no 3- bedroom & 2 no-4-bedroom houses with associated garaging and alterations to access road with pedestrian margin (resubmission of 231402)	
7.4	<b>232148 John Castle Way, Colchester</b>	113 - 120
	Retrospective application for erection of a fence in the alleyway adjoining John Castle Way and Bourne Court to prevent documented anti-social behaviour such as: drug dealing, trespassing and threatening behaviour.	
8	<b>Exclusion of the Public (not Scrutiny or Executive)</b>	
	In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).	
	<b>Planning Committee Information Pages v2</b>	121 - 132

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

**PLANNING COMMITTEE**  
**30 November**  
**2023**

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Davidson, Hogg, MacLean, Mannion, McCarthy, McLean, Tate, and Warnes
<i>Substitute Member:-</i>	
<i>Also in Attendance:-</i>	Cllr Harris Cllr Sunnucks

**1036. Minutes**

The minutes of the meeting held on the 28 September 2023, 19 October 2023, and 9 November 2023 were confirmed as a true record.

Prior to the start of item 7 and determination of applications the Chair detailed that they had changed the running order so that applications would be heard in the following order:

1. 232148 John Castle Way, Colchester
2. 231153 Land to the East of, Newbarn Road, Great Tey
3. 230761 Holly Cottage, Straight Road, Boxted, Essex, CO4 5QN

**1037. 232148 John Castle Way, Colchester**

The Committee considered an application for retrospective planning permission for the erection of a fence in the alleyway adjoining John Castle Way and Bourne Court to prevent documented anti-social behaviour such as: drug dealing, trespassing, and threatening behaviour. The application was referred to the Planning Committee as the application had been called in by Councillor Warnes and is controversial locally.

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

Philip Moreton, Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee heard that a consultation response from the Police had been included in the Amendment sheet and detailed that the fence as shown in the photographs presented to the Committee and detailed that the closing of the route would mean the loss of an accessible route as well as the need to promote an accessible route. The Committee heard that the issues regarding anti-social behaviour had been taken into consideration when making a recommendation. The case officer detailed that the recommendation had been amended to provide a compromise solution to allow approval of the application with further conditions to secure a lockable gate along John Castle Way.

Jennifer Radford addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that they were speaking on behalf of local residents who were on both sides of the fence and detailed that it was frustrating to residents as they had been cut off and had meant that some house numbers on John Castle Way were no longer recognised as part of that road by the postal service. The Committee heard that the speaker had never seen any suspicious behaviour on the pathway or the use of motorcycles but had seen many confused walkers. The Committee heard that the speaker had lived in Bourne Court for 11 years and had never experienced any of the issues of threatening behaviour except for one issue. The speaker detailed that many people used the pathway to walk to Abbey Field. The speaker detailed that they suffered from mobility issues and that the retention of the fence would mean a journey three times longer than without and that it would necessitate the use of a car journey.

Councillor Dave Harris addressed the Committee as Ward Member for Berechurch. The Committee heard that the original application had been agreed in 2016 and that following residents moving onto the site issues had emerged with some motorbikes going down the footpath. It was noted that previously on site there were staggered gates to stop motorcycles and that the Police had been contacted regarding these incidents but detailed that there needed to be a facility to walk through down John Castle Way. The Ward Member detailed that they had received comments from residents both supporting and objecting the proposal for retention and if there was the possibility of a resident locking a gate for access that could work but reiterated there should be some form of route though, that the current situation was intolerable for some residents and that CCTV could ameliorate the anti-social issues in the area.

At the request of the Chair, the Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee were referred to the Amendment Sheet where the Designing Out Crime Officer had detailed that there had been no reported crimes of anti-social behaviour in John Castle Way in the last 12 months. It was detailed that officers would like to see the pedestrian route stay open and that the recommendation had been amended to include a lockable gate. The Planning Officer further confirmed that the John Castle Way was not a designated Public Right of Way.

Members debated the application on issues including: the need for an open and transparent discussion on the application around the benefits of keeping the pathway clear for use by pedestrians and cyclists. It was noted by the Committee that there did appear to be elements of anti-social behaviour in the area and a query arose as to whether the developer had sought a certificate of development for the proposal prior to the application coming before the Committee. Concern was raised by the Committee on the sudden change in recommendations as there were areas that required further consideration including the hours of closure of the gate as well as the impact that this would have on the local community.

At the request of the Chair The Joint Head of Planning, Simon Cairns, detailed that the change of recommendation had come about from a discussion on how to reconcile the community interest of the walkway alongside the Community Safety issues and realised that a solution was possible to compromise and condition a lockable gate following further discussions.

Members continued to discuss the proposal with some Councillors commenting that it was a reasonable compromise but that there was concern in how it had been handled and whether it would set precedents for other developments as well as Committee decisions. Further debate continued on whether there needed to be additional lighting on the pathway, that a further consultation was needed with the Police and local residents on the proposed changes



as well as the applicant.

It was proposed and seconded that the application be deferred to allow consultation with the planning agent/applicants and community over potential installation of a lockable gate in lieu of existing unauthorised fencing. Furthermore, it was resolved that the item would be returned to the Committee for consideration.

*RESOLVED (NINE votes FOR, and ONE vote AGAINST)* That the application is deferred to allow consultation with the planning agent/applicants and community over potential installation of a lockable gate in lieu of existing unauthorised fencing. Furthermore, it was resolved that the item would be returned to the Committee for consideration.

### **1038. 231153 Land to the East of, Newbarn Road, Great Tey**

The Committee considered an application for approval of reserved matters following outline approval 212646 – erection of 30 dwellings and 1ha of public open space and access from Newbarn Road. The application was referred to the Planning Committee at the request of Members of the Planning Committee when outline planning permission for the development was granted at the Planning Committee meeting on the 31 March 2022.

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

Nadine Calder, Principal Planning Officer, presented the application to the Committee and assisted the Committee in its deliberations. The Committee heard that access to the site had been agreed in the outline application and detailed that the application before the Committee was for the layout and detail. The Committee were shown the details of the open space, drainage, and house types that detailed the floor plans and designs of the dwellings. It was detailed in the amendment sheet that Permitted Development (PD) Rights had been removed on some properties to ensure visual amenity on the development. The Committee were shown on a map which plots would have their PD Rights removed. The Principal Planning Officer concluded that the officer recommendation was for approval as detailed in the report with the additions from the Amendment Sheet.

Marian Hamer (Chair of the Great Tey Neighbourhood Plan Group) addressed the Committee pursuant to the provisions of Planning Committee procedure rule 8 in opposition of the application. The Committee heard that the Council had disregarded the support for sections 8.1 and 10 of the report and that residents had been consulted but had been ignored. The speaker detailed that it was inappropriate to have a response on urban design in a rural area and that they had been encouraged to meet the developer but were not advised that the delays would be detrimental to the community with some properties being 8 metres away from existing property. The Committee heard that the spatial strategy and the residential amenity space on the site was a subjective judgement. The speaker concluded by detailing that there was harm associated with plot 16 with three windows overlooking and asked that the Committee defer the application for further reconsideration.

Andrew Ransome (Agent) addressed the Committee pursuant to the provisions of Planning Committee procedure rule 8 in support of the application. The Committee heard that the outline planning permission had been granted on the 31 March 2022 and detailed that they had given consideration to all parties in the preliminary requirements and noted that the scheme had been allocated in the Colchester Local Plan 2022. The speaker detailed that the proposal was adjacent to existing development and provided a permeability to the existing

settlement and additional public open space within the application. The speaker concluded by confirming that there were no technical constraints on site and asked the Committee to approve the application.

Councillor William Sunnucks addressed the Committee as Ward Member for Rural North. The Committee heard that the Great Tey Neighbourhood Plan Group had been working on their plan for 7 years and outlined that they might have had influence over the proposal if they had not been overridden by the Essex Design Guide and detailed that the application could be tweaked to get a solution that everyone could be happy with.

At the request of the Chair, the Principal Planning Officer detailed that the Urban Design Officer as detailed by the Objector was a job title and that they looked at how to create places. The Committee heard that officers had not ignored the comments of the community or the Neighbourhood Plan Group but confirmed that the principle of development had already been agreed on site and that it would not be an improvement for residents that currently enjoyed uninterrupted open views of the field. It was noted that access to the site was off of Newbarn Road as opposed to Farmfield Way which would have a larger impact on existing residents. The Principal Planning Officer concluded by detailing that the layout conformed with the Local Plan and that the plots on the site detailed as compromising residential amenity were bungalows and that there would not be a materially harmful impact.

In response to questions from the Committee the Principal Planning Officer confirmed that it was only the reserved matters remaining on site that needed to be approved and that there was pedestrian and cycle access through to Farmfield Way with no potential for the addition of a play area for children as this would have needed to be secured through the outline permission.

*RESOLVED (EIGHT votes FOR with ONE vote AGAINST and ONE ABSTENTION)* That the application is approved as detailed in the officer recommendation in the report and conditions contained within the amendment sheet.

### **1039. 230761 Holly Cottage, Straight Road, Boxted, Essex, CO4 5QN**

The Committee considered an application for retrospective planning permission for construction of side boundary brick walls. The application was referred to the Planning Committee as the applicant was a former Councillor and a current Alderman of Colchester City Council. Section 9 of the Planning Procedures Code of Practice requires all applications which are submitted by or on behalf of former Councillors (within the last 6 months) to be reported to the Planning Committee.

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

*RESOLVED (UNANIMOUSLY)* That application 230761 is approved as detailed in the Officer recommendation.

**PLANNING COMMITTEE**  
**14 December**  
**2023**

<i>Present:-</i>	Cllrs Lilley (Chair), Barton, Davidson, Hogg, McCarthy, McLean, Powling, Tate, and Warnes
<i>Substitute Member:-</i>	Cllr Powling for Cllr Mannion
<i>Also in Attendance:-</i>	

**1040. 231412 Land to the Rear, 3 Highfield Drive, Colchester, CO3 3QA**

The Committee considered an application for the demolition of the double garage, relocation of existing car parking and creation of a two bedroom detached bungalow. The application was referred to the Planning Committee as the application had been called in by Councillor Willets for the following reasons:

1. This application is located on a narrow private drive and has negligible sight splay at its junction with A1124 Lexden Road, and no remedial action is proposed as part of this application. While the traffic volumes are unlikely to cause concern to Essex County Council in regard to vehicle flow on Lexden Road, the existing access is already a hazard to pedestrians passing-by on the footway of Lexden Road. Further development at this unsuitable location will exacerbate the conflict with pedestrians using the footway. This matter of public safety is neither addressed by ECC highways policy nor by the City Council Planning Policy. Therefore in making a decision, the Planning Committee needs to take into account the wider issues of public safety pertaining to the access to this development.

2. The proposed site is very small and tightly constrained and the proposed development extends over land that was a designated a vehicle turning area for this private lane, as the Planning Committee can see on previous planning applications for this site. This impedes the safe flow of traffic to the other houses in what is already a cramped geometry. Again this is not directly covered by CCC Planning Policy and needs determination by the Planning Committee.

3. While each application must be determined solely on its merits, local residents point to the history of refusal of applications and appeals on this site for broadly similar developments. Planning Inspectors conclusions on previous applications need to be carefully weighed for relevance by the Planning Committee in regard to this application, including their statement that the principle of erecting any new dwelling, regardless of its size or design on the appeal site would be likely to harm the character, quality and appearance of the area.

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

Nadine Calder, Principal Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee were shown the proposed elevations of the site and the street scenes as well as a blue line plan of the site showing ownership. The presentation continued with photographs of the site and detailed that the conditions proposed included landscaping conditions to tidy up the site. Members were shown details of previous applications on site which had all be previously refused and detailed that the precursor to the application before the Committee had been for a two-storey dwelling, which had also been refused by the Planning Committee and had not been allowed at appeal by the Planning Inspectorate. The Principal Planning Officer concluded by detailing that the application before the Committee was materially different to those that had previously been refused and confirmed that the site was policy compliant with an officer recommendation of approval as detailed in the Committee report.

Chris Taylor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that over the past thirteen years all proposed applications on the site had been refused as they had not complied to policies and also harm the area. The Committee heard that the proposal was contrary to policies DM19 and DM15 of the Colchester Local Plan (2022), not enhancing the site and surroundings as well as DP1, that the proposal did not respect the landscape or setting of the area. It was detailed that the Council had previously refused access for number 9 Highfield Drive and that if approved the Council would be setting a dangerous precedent as the applicant had allowed the site to become unkept and used this as leverage for gaining approval for the Planning Application. The speaker concluded by detailing that the property boundary for the site had been changed and asked that the Committee refuse the application and the principle of development on the site as this would harm the character and appearance of the area.

Michael Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the site had a long history of applications and outlined that the proposal before Members was not for a home on the corner of the street and that care had been taken with regards to the visual amenity on site and that there were no changes proposed for the turning area on Highfield Drive. It was noted that parking had been relocated since the previous application on the site and confirmed that the open space would be landscaped which was an improvement to previous applications. The speaker outlined that the proposal would benefit from Victorian detailing and that as this was a bungalow it would give the appearance of a converted building. The Committee heard that the are was well served by busses and that there were no statutory objections from consultees and concluded by outlining that the proposal was a high-quality scheme as set out in the Local Plan and that measures were secured to enhance the site from its current status.

At the request of the Chair, the Principal Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee heard that the principle and size of the proposal had been assessed and commented that if approved the proposal would not set a precedent and was noted that there was no objection from Essex County Councils Highways Department and confirmed that no access arrangements onto Lexden Road from Highfield Drive were proposed for alteration. The Principal Planning Officer detailed that they sympathised with the Have Your Say speakers comments on tidying the land but detailed that this was an opportunity to improve the open space. The Principal Planning officer concluded by confirming that issues of land ownership were not within the remit of the Committees decision making powers.

Members debated the application on issues including: the officer recommendation before the committee and whether any condition could be added to remedy any damage to the private turning head on the private road caused from construction of the development. Debate continued with Members detailing that there had been many iterations of the proposal before the Committee over the preceding years and thanked the applicant for listening to concerns to preserve the streetscape.

Following a question from Committee the Principal Planning Officer confirmed that the conditions for the proposal included a standard condition regarding archaeology.

It was proposed and seconded that the application be approved as detailed in the officer recommendation with additional condition as follows:

- Prior to commencement of the development a road surface condition survey shall be undertaken by an appropriately qualified person and submitted for approval in writing by the LPA. Prior to occupation a second road surface condition survey shall be undertaken by an appropriately qualified person showing the degradation of the road surface caused by vehicles used in the construction of the approved development (if any) and the measures that will be taken to repair it which shall also be submitted for approval in writing by the LPA. The repair measures set out in the second survey shall be carried out in full prior to occupation of the development.

*RESOLVED (UNANIMOUSLY)* That the application is approved as detailed in the officer recommendation with the additional condition as follows:

- Prior to commencement of the development a road surface condition survey shall be undertaken by an appropriately qualified person and submitted for approval in writing by the LPA. Prior to occupation a second road surface condition survey shall be undertaken by an appropriately qualified person showing the degradation of the road surface caused by vehicles used in the construction of the approved development (if any) and the measures that will be taken to repair it which shall also be submitted for approval in writing by the LPA. The repair measures set out in the second survey shall be carried out in full prior to occupation of the development.





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

1.1 This application is referred to the Planning Committee because it was called in by Councillor Ellis for the following reasons:

*“The fact that this is an allocated site in CCC Local Plan section 2 is not in dispute. It was allocated, albeit contrary to the wishes of the village of Copford, with circa 130 objections to the allocation. This particular planning application has a considerable number of issues which need addressing prior to any approval for development in this location.*

*Policy SS4 clearly states that access will be via Queensbury Avenue AND/OR London Road, the expectation being that the access will be from London Road. It clearly states AND London Road, OR London Road, however one reads that, it can only be interpreted as London Road being an access point. The development proposal accesses the entire site from Queensbury Avenue, this is simply unacceptable. ‘Avenue’ is a misnomer, Queensbury is in fact a cul de sac, serving a quiet and close community. The road is of insufficient standard to accept a great deal more traffic.*

*The Local Plan allocation is for 70 dwellings, the application is for 90! To accommodate this quantum of development on site the developer has had to increase the height of buildings, this has led to a development out of scale and therefore character with the local area. It does nothing to ‘enhance’ the location in which it sits. There are issues with size, scale, landscaping, ecology, highways and woeful under provision of on site parking. All of these can be addressed at Committee, but it really does need to be a Committee decision should the recommendation be for approval.”*

## **2.0 Synopsis**

2.1 The key issues for consideration are the principle of development, highway matters, flood risk and drainage, heritage, ecology, impact on the character of the area, and impact on amenity.

2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received including those from statutory consultees. The material planning considerations which are relevant to the proposal are detailed in the report. The report considers this submission documentation alongside the key material planning matters and comments set out in representations received.

2.3 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

3.1 The site (which equates to some 3.13ha) is located to the north of the existing settlement, forms part of the historic rural hinterland beyond developments fronting London Road and lies adjacent to a historic estate development. The site’s immediate context consists of the Queensbury Avenue estate to the west, existing assisted living and residential developments to the south/west and open countryside with the A12 beyond, to the north. The site is undeveloped and laid to pasture, with established landscape features along the majority of its boundaries and within the site, relative to historic field



boundaries. The site's existing character is verdant and relatively open, akin to the adjacent open countryside, by virtue of its established landscape features and historic use/designation as open countryside.

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

4.1 The application proposes the erection of two blocks of living accommodation; one block of 72 units comprising 32no. one bedroom flats and 40no. two bedroom flats and associated communal facilities for assisted living (or extra-care housing which offers more support than sheltered housing, but still allows the resident to live independently) and one sheltered housing accommodation block of 18 units (as an extension to the existing scheme at Dorothy Curtice Court for over 55s to provide accommodation for elderly or disabled people consisting of private independent units with some shared facilities and a warden), comprising 13no. one bedroom flats and 5no. two bedroom flats together with associated access, amenity space, vehicle and bicycle parking, electric charging points, hard and soft landscaping, sub-station, drainage ponds, boundary treatments and other associated works.

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

5.1 The site forms part of a housing allocation (Policy SS4 Copford, 'East of Queensbury Avenue'), which is identified to accommodate 70 new dwellings of a mix and type of housing.

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

6.1 None relevant to this planning application.

#### **7.0 Principal Policies**

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

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

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- 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
- SG8 Neighbourhood Plan
- ENV1 Environment
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- 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:

SS4 Copford

7.5 The Copford with Easthorpe Neighbourhood Plan is also of relevance. The Copford and Easthorpe Neighbourhood Plan was made in October 2023 and sets out the vision for development until 2033. The policies within the Neighbourhood Plan that are of relevance are:

CE3 Design and Character

CE4 Housing

CE6 Environment

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Backland and Infill  
Affordable Housing  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 **Anglian Water** - No objections, informatives recommended.
- 8.3 **Archaeological Consultant** - No objection subject to recommended condition.
- 8.4 **Contaminated Land Officer** - No objection subject to recommended conditions.
- 8.5 **Environmental Protection** - No objections subject to recommended conditions.
- 8.6 **Essex County Council as the Lead Local Flood Authority** - No objections subject to recommended conditions.
- 8.7 **Essex County Council as the Waste Planning Authority** - No objections.
- 8.8 **Essex Green Infrastructure** - No objections subject to recommended conditions.
- 8.9 **Essex Police** - Recommends Secure By Design.
- 8.10 **Fire and Rescue** - Recommends compliance with Building Regulations.
- 8.11 **Highway Authority** - No objections subject to recommended conditions.
- 8.12 **Historic Buildings and Areas Officer** - Concerns raised, harm to be weighed against public benefits.
- 8.13 **HSE (Health and Safety Executive)** - No comments to make.
- 8.14 **Landscape Advisor** – No detailed comments provided at time of writing this report.
- 8.15 **Natural England** - Habitats Regulations Assessment required.
- 8.16 **Place Services Ecology** - No objection subject to recommended conditions.
- 8.17 **Planning Policy** - No objection in principle subject to compliance with Development Plan as a whole. Potential conflict with Policy SS4 to be weighed up in the planning balance.

8.18 **Tree Officer** – No objection in principle but asked consideration be given to making the building smaller or reconfigure it to give more space between trees and building.

8.19 **Urban Design Officer** - Raised concerns which have been partially overcome by amendments. Outstanding concerns to be weighed up in planning balance.

## **9.0 Parish Council Response**

9.1 The Parish Council have objected to the proposal, providing a lengthy letter of objection, which can be accessed on the Council's website. The main reasons for objection can be summarised as follows:

- Conflict with Policy SS4 (increased number of housing)
- Design of three storey building is out of character with surrounding buildings
- Contrary to Neighbourhood Plan
- Queensberry Avenue is unsuitable for access
- Insufficient on-site parking
- Impact on Copford Water Recycling Centre
- Not enough capacity at local GP surgeries and dentists
- Parts of the site are liable to flooding
- Removal of trees
- Insufficient information provided in relation to archaeology
- Insufficient information provided in relation to contaminated land

## **10.0 Representations from Notified Parties**

10.1 The first consultation exercise has resulted in 150 letters of objection from 99 households including four letters from outside the Copford area and an additional four letters from outside the administrative area of Colchester. The full text of all of the representations received is available to view on the Council's website. The main reasons for objecting can be summarised as follows:

- No evidence to support the need for additional homes for older people
- Conflict with Policy SS4
- Queensberry Avenue is unsuitable for construction traffic
- Queensberry Avenue is unsuitable for the proposed volume of traffic
- Congestion along London Road / Copford / Stanway
- Insufficient parking
- Increased on-street parking
- Impact on residential amenity
- Loss of privacy
- Loss of light
- Increased traffic noise / noise pollution
- Increased danger to pedestrians and children walking/cycling to school
- Design/3 storey buildings is out of keeping with the village
- Overdevelopment
- Damage and loss to wildlife and trees
- Lack of infrastructure (school, dentist, GPs)
- Copford Recycling Works is over capacity

10.2 Two rounds of reconsultation were undertaken as part of which 33 letters of objection from 27 households (including six which did not comment as part of

the original consultation) and 35 letters of objection from 27 households (including three that did not comment on either of the previous consultations) were received respectively. No new material planning considerations were raised with objections repeating previous objection comments.

- 10.3 The proposal has also resulted in three letters of support (two of which were sent from outside the Copford area) with the main reasons for objecting being the provision of affordable housing for the elderly and the development being a logical extension to an existing estate.

### **11.0 Parking Provision**

- 11.1 The proposal includes a total of 72 parking spaces (including ten disabled spaces, eleven visitor spaces and five staff parking spaces), with the sheltered housing benefitting from 16 parking spaces for residents and two visitor spaces and the assisted living being provided with 40 residents parking spaces, nine visitor spaces and five staff parking spaces.

### **12.0 Accessibility**

- 12.1 The proposal has the ability to comply with the provisions of the Equality Act in respect of access for all new dwellings.

### **13.0 Open Space Provisions**

- 13.1 The proposal includes the provision of 2.46ha of Public Open Space (POS) which far exceeds the 10% requirement sought by policy.

### **14.0 Air Quality**

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

### **15.0 Planning Obligations**

- 15.1 This application is classed as a “Major” application and therefore it has been considered by the Development Team. The below contributions are considered to be required to mitigate the scheme and be sought via Section 106 of the Town and Country Planning Act 1990:

#### **Highways**

Residential Travel Plan and Travel Information Packs in accordance with Essex County Council guidance plus Essex County Council’s Travel Plan monitoring fee(s).

#### **Community – £110,809.35**

##### Project

Copford Village Hall Refurbishment and/or extension/new build to Copford Village Hall, creating a community hub space for parish council, residents, police, NHS etc. Full costs yet to be gained.

#### **Parks & Recreation – £72,309.22**

##### Ward Project - £28,023.92

Borough Projects to improve disabled access to Stanway Country Park

Borough Project - £44,285.30

Castle Park Sensory Garden Tactile/Visual/Scent planting and interpretation (For Visual Impaired) enhancement works.

**Transport - £25,000**

Towards walking and cycling provision as per LCWIP 3 linking the development to Colchester and or other sustainable Transport measures

**Archaeology - £15,153.00** contingent on finds

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

£753 for enhancement of the Colchester HER

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

**Libraries - £7,002**

To improve, enhance and extend the facilities and services provided at Stanway library.

**NHS - £55,000**

**16.0 Report**

Principle of Development

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

16.2 Section 2 of the Local Plan allocates land to meet the housing targets up to 2033 in accordance with the Spatial Strategy set out in Policy SG1. Copford is identified as a Sustainable Settlement in the spatial strategy and Policy SS4 allocates 70 dwellings on Land East of Queensberry Avenue and up to 50 dwellings on land west of Hall Road.

16.3 Policy SS4, in respect to this current application, states the following:

***East of Queensberry Avenue***

*In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the area identified on the policies map which provides:*

- (i) 70 new dwellings of a mix and type of housing to be compatible with surrounding development;*
- (ii) Access via Queensberry Avenue and/or London Road;*
- (iii) The permanent diversion and/or upgrade to the existing Public Right of Way which runs along the western boundary edge of the site.*

16.4 The explanatory text in paragraph 6.148 states that:

*“Development of land to the east of Queensberry Avenue represents a sensible and logical extension to the existing built up area of Copford to the north of London Road. The site has been proposed for allocation for residential use, but the delivery of new extra care facilities at this location would also be supported, given its proximity to existing similar facilities to the north of London Road. Access to this site will be via Queensberry Avenue or London Road, where feasible. There is a Public Right of Way running along the western boundary of the site and development proposals will need to consider a permanent diversion or upgrade to the public footpath. The site on Land to the East of Queensberry Avenue has been identified to be suitable for development given its location adjacent to an existing development boundary and being surrounded by development on three sides. The site is located just off the main London Road which provides good access to shops, services and facilities in both Stanway and Marks Tey, including the train station. There are bus stops along London Road.”*

16.5 The proposal the subject of this application is for a total of 90 units (72 assisted living units, 18 sheltered accommodation units) which is higher than the 70 new dwellings set out in Policy SS4 and therefore does exceed the requirements of Policy SS4.

16.6 The application site also exceeds the Local Plan allocation to the north east of the site. The area that is located outside the allocation would however provide public open space with the built form being firmly contained within the Local Plan allocation.

16.7 The Council accept that there is a need to provide specialist housing across the city for older people as well as other sectors of the community. This is set out in Policy DM10, which states (amongst other things) that the *‘Local Planning Authority will seek to provide for the needs of particular groups’* including older people and specialist housing and that the Council will *‘support proposals that make specific provision for older persons housing, subject to proposals meeting other policy requirements or the need outweighing other considerations.’* It also states that the Local Planning Authority will support provision of schemes providing higher levels of care for specialist groups. *‘New development proposals for these groups will be supported where there is a proven need; they are located within settlements; and are accessible by public transport.’* The principle for providing new extra care facilities on this site was also supported in the supporting text to Policy SS4 (as set out in paragraph 16.4 above).

16.8 The Copford with Easthorpe Neighbourhood Development Plan was made on 18<sup>th</sup> October 2023 and forms part of the Development Plan for Colchester. The application site lies largely within the settlement boundary for Copford through the allocation of the land for residential development in Policy SS4. Consequently, it meets the requirements of Policy CE1 Settlement Boundaries and Development of the Neighbourhood Plan which supports the principle for new development if it is within the settlement boundaries. There is nothing contained within the Neighbourhood Plan that would suggest this site is not acceptable for residential development.

- 16.9 The site is considered to be an appropriate location for new residential development (including much needed specialist housing) in accordance with Policy SS4. The acceptability of a proposal that seeks an increase in numbers will need to be considered against other criteria set out in the Local Plan in relation to density and design, and in relation to compatibility with the surrounding development, which is a requirement of Policy SS4.
- 16.10 The proposal could be said to comply with Policy SS4 in principle if it is considered that, despite the additional numbers, the proposal provides for a mix and type of housing that is compatible with surrounding development.
- 16.11 In the event that the policies in the Plan, which enable the assessment of the proposed development, do not provide support, the proposal would consequently be in conflict with Policy SS4 in principle.
- 16.12 These material planning considerations will now be assessed in the report below and will need to be factored into the planning balance.

#### Design and Appearance

- 16.13 Section 2 Plan Policies SP7 and DM15 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Policy SP7 states, in particular, that all new development must meet high standards of urban and architectural design. In addition to that, Section 2 Plan Policies DM10 and DM12 set out detailed requirements in respect of development density, housing diversity, and housing standards to ensure the efficient use of land and to achieve high standards for design, construction, and layout in order to create inclusive and sustainable communities that suit a range of different households.
- 16.14 The proposed use of the site for a mixture of residential uses is welcome in terms of place making. While the development, which consists of three storey buildings, would be higher than other dwellings in the area, this site can accommodate taller buildings without appearing overly prominent or over bearing in the wider area as it is very well screened from wider public vantage points (with the exception of the western public right of way). This also assists in ensuring the scheme delivers the most efficient use of land in a sustainable location. The site currently comprises existing grass land and thus any development will inevitably be seen as more dominant in the townscape than the grass land. However, the site is allocated for residential use via the local plan site allocation process and the principle is thus established.
- 16.15 Prepared as part of the Neighbourhood Plan and now given formal status via policies CE3, the Design Guidance and Codes covers a wide area to the west of Roman River which includes Copford, Copford Green and Easthorpe, as well as the rural area between them. A character analysis is carried out for each village, although only the analysis for Copford is relevant to the proposed scheme. This analysis includes a review of the “sub-character areas” of London Road and Queensberry Avenue, but the site itself is not considered.



- 16.17 The Urban Design Officer notes that the site's shape and existing natural features result in awkward shaped areas of developable land, that do not lend themselves particularly well to traditional housing typologies. The type of development put forward as part of this application however would make more efficient use of the developable areas of the site and enable the retention of a high proportion of existing green features. The spatial approach adopted appears broadly appropriate with regard to access to the site and the areas that are suitable to accommodate built environment. The plans show good levels of POS, accommodating a network of SUDs features and a generous degree of landscaping. This also facilitates relatively extensive walking routes and numerous informal and incidental spaces for the enjoyment of potential residents and the wider public. These walking routes combine well with a variety of pedestrian access points to provide good access to the site, to establish good levels of pedestrian connectivity and permeability within the scheme.
- 16.18 The form, scale, massing and materiality of the sheltered block are broadly consistent with existing examples of surrounding built environment. The mass is relatively well concealed by the composition of elements and the consistent rhythm achieved on the elevational treatments.
- 16.19 The plan form, architectural form and height of the assisted living block are at odds with the surrounding suburban built environment. However, the plan form responds efficiently to the site constraints and also looks to accommodate partial transition of the existing variable topography of the site. While the creation of three storey development is criticised locally, the proposed height results in minimal harm in itself, given the site's generally enclosed nature. However, the proposed height combined with the plan form, results in a structure of considerable mass. The proposal seeks to visually mitigate the resulting mass through its architectural form and materiality. Improvements have been made in this regard through negotiations, including; increased depth of set backs and projections on building facades, variation of fenestration, increased variation in heights of building elements varied ridge lines and roof forms and more logical application of materials.
- 16.20 There remain a handful of instances where the application of materials continues to lack logic. Notwithstanding these instances, the amendments referred to above have increased the authenticity of the visual articulation of individual elevations, establishing a variety of visually individual modules. The composition of the various modules remains relatively random and incohesive, resulting in a lack of comprehensive legibility within the wider composition. However, this approach does establish a good degree of visual interest and articulation which visually mitigates the mass of the proposed structure. Additionally, whilst on paper it is evident that this is a singular mass cloaked in a variety of architectural treatments and materials, it is unlikely this will be readily perceivable to future users from the site.
- 16.21 On balance, the amendments have improved the overall design of the scheme and ensure that the revised scheme better accords with Policy DM15 of the adopted Local Plan.

### Historic Environment

- 16.22 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting. The Framework sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 203). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 205). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 206). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 208). The Framework also promotes good design advising that permission should be refused for development of poor design. These statutory obligations are echoed within Section 2 Local Plan Policies ENV1 and DM16.
- 16.23 There are four designated heritage assets in the wider vicinity of the site, with Old Mill House (Grade II, List Entry Number 1273846) and Shrub House (Grade II, List Entry Number 1239076), which are located to the south of the site, having been identified as the heritage assets that would be affected the most by the proposed development. Nevertheless these dwellings are set at over 50 m from the application site in private gardens which provide screening and enclosure and contribute towards their setting. Historically, the buildings had a direct relationship with the surrounding agricultural land which includes the application site and forms part of their wider setting. This matter was considered as part of the local plan site allocation process via the supporting evidence base through a Heritage Impact Assessment (HIA)
- 16.24 Old Mill House and Shrub House are located on a section of London Road where development did not extend beyond the street frontage. The relationship of the listed houses with the land to the north has therefore not been disrupted. This land contributes to their significance by preserving the open landscape aspect that formed their context historically. The development of the application site would infill the area between the development at Queensberry Avenue to the west and Belingham Drive to the east and would urbanise this agricultural land which would cause wider harm to the significance of the listed buildings through loss of this agricultural landscape character. This harm would be in the spectrum of *less than substantial*, as per the classification of the Framework.
- 16.25 In line with the statutory obligations imposed, the Framework and Local Plan Policies ENV1 and DM16, great weight should be given to the anticipated harm to the significance of Old Mill House and Shrub House. In accordance with the provisions of the Framework and Policy DM16, the less than substantial harm that has been identified to be caused by this proposal needs to be weighed against the public benefits that the development would secure. This will be assessed in the Planning Balance below.

16.26 The current application includes vehicular access from Queensberry Avenue to the west of the site with no changes proposed to Willow Park to the south east. This is beneficial from a heritage perspective given that access through Willow Park has the potential to affect the setting of Copford Place (Grade II, List Entry Number 1239077) and Stable to north of Copford Place (List Entry Number 239078) by way of creating a busy junction in the vicinity of these listed buildings.

#### Residential Amenity

16.27 Section 2 Plan Policy DM15 states that all development must be designed to a high standard and protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Section 1 Policy SP7 echoes these sentiments, requiring all development to protect the amenity of existing and future residents, including with regard to noise and vibration.

16.28 The scheme raises no concerns with regards to loss of light or privacy nor will the new dwellings be materially oppressive to the existing neighbours. The representations that cite harm to neighbouring amenity have been carefully considered. A development site such as this will inevitably change the manner in which neighbours enjoy their dwellings to a certain extent as development causes a degree of impact. It is however considered that the proposed layout does not materially compromise neighbouring residential amenity.

16.29 The amenity of future occupiers of the proposed development also needs to be assessed and to this extent, a Daylight and Sunlight Report has been submitted. This highlights general issues resulting from north facing elevations, single aspect units and deep plan living spaces. Following some minor internal and external changes to the development (including changes to the room layout and the removal of balconies), on balance, it is considered that the amended proposals do not give rise to any demonstrable concerns with regards to the amenities of future occupiers of the development in this regard.

16.30 Enhancements have been made during the determination of this application to improve the distinction between public and private space within the site and to create defensible space outside of ground floor units. As a result, the communal courtyards benefit from a greater deal of enclosure which enhances their privacy. Similarly, the ground floor units now benefit from appropriate levels of privacy. In light of the quantum of POS provided by the scheme, the quantum of private amenity space appears reasonable and justified. On this basis, the scheme delivers an appropriate standard of residential amenity.

#### Highway Matters and Parking

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

- 16.32 It is noted that many of the objections that have been received in relation to the proposed development have identified the perceived inadequacy of the local highway network and the problems experienced by local residents, pedestrians and cyclists at present, especially concerns in relation to the adequacy of Queensberry Avenue and the traffic impact the proposal would have upon this residential road. The concern is that the proposed development would exacerbate current problems and also create highway safety issues. These views are fully acknowledged and appreciated.
- 16.33 Essex County Council Highways have been consulted on the acceptability of the use and proposed development in this location on highway safety and efficiency. The Highway Authority has advised in its consultation response that the existing highway infrastructure provision would be sufficient to cater for both the existing traffic and that likely to be generated by the development.
- 16.34 If the recommended Highway Authority conditions are placed on any permission then it is considered the development would be acceptable on highway safety grounds.
- 16.35 The Local Plan allocation states that access to the development should be via Queensberry Avenue and/or London Road, with this development proposing access off Queensberry Avenue only. The proposal has considered alternative access arrangements. However, access via the Willow Park/London Road junction has been ruled out due to the narrow width of this access that is incapable of accommodating two way vehicular traffic and the Council's concerns with regards to the likely impact that this would cause on the setting of designated heritage assets. Access through the existing Dorothy Curtice Court was also considered as a potential alternative. However, this would have required the demolition of existing homes of elderly residents and the potential removal of a sensitive memorial garden located within the grounds of Dorothy Curtice Court. With the Local Plan identifying Queensberry Road as a suitable access, other options having been considered and there not being any objection to the proposed access arrangements by the Highway Authority, it is not considered that a refusal on the grounds of impact on local road infrastructure could be justified.
- 16.36 In terms of parking, it is not possible in this case to directly apply the adopted car parking standard as the use does not fall neatly within either use class C2 (Residential Institutions) or C3 (dwelling houses). Officers consider it reasonable to conclude that the proposed use would not require the C3 parking standard to be applied in full. However, it is also expected that some residents will have cars and consideration has to be given to staff and care workers who will potentially regularly visit the site.
- 16.37 The proposal includes a total of 72 parking spaces (including ten disabled spaces, eleven visitor spaces and five staff parking spaces). The sheltered housing would be provided with 16 parking spaces for residents and two visitor spaces and the assisted living accommodation would benefit from 40 residents parking spaces, nine visitor spaces and five staff parking spaces.

- 16.38 The proposal also includes parking provision for 37 bicycles (ten for sheltered housing residents, 18 for assisted living residents and nine for visitors to assisted living residents) as well as 22 spaces for mobility scooters (six for the sheltered housing residents and 16 for assisted living residents). Given the sustainable location of the site and proximity to local services and facilities, these facilities would encourage the use of a suitable alternative modes of transport to the private car.
- 16.39 In light of the circumstances of this case, the proposed level of parking provision is considered to be appropriate in this instance.

#### Flood Risk and Drainage

- 16.40 Section 2 Plan Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Policy DM23 includes the provision that, where proposals include driveways, hard standing or paving, the use of permeable materials and landscaping will be sought to minimise the cumulative impacts of flooding from such developments.
- 16.41 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%), with no recording of flooding on site. The development itself is therefore unlikely to be susceptible to flooding. The grounds to the north of the site are within Flood Zone 2 and 3, however additional built form is not proposed in these areas of higher flood risk.
- 16.42 Notwithstanding the above, a Flood Risk Assessment (FRA) is required as the site exceeds 1 hectare. The submitted FRA has been reviewed by Essex County Council as the Lead Local Flood Authority who raised no objection to the proposed development in principle, subject to conditions including the submission of a detailed surface water drainage scheme; a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution; a maintenance plan detailing the maintenance arrangement of the surface water drainage system; and the maintenance of yearly logs of maintenance. These are considered to be relevant and necessary in order to make the development acceptable. Subject to these conditions, it is held that the proposed development would comply with the aims of the above-mentioned policies.
- 16.43 Concerns were raised with regards to capacity issues at the Copford Water Recycling Centre, however, in an updated consultation response, Anglian Water confirmed that the Copford Water Recycling Centre will have the available capacity for the flows of this development and consequently, raised no objection to the proposed development subject to informatives.

#### Ecology

- 16.44 Section 40 of the Natural Environment and rural Communities Act (NERC) 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the Framework is that planning should contribute to conserving and enhancing the natural environment.

16.45 Various Section 2 Local Plan Policies seek opportunities to safeguard and enhance biodiversity throughout the City. In particular, Policy ENV1 requires development proposals to be supported by appropriate ecological surveys where necessary; conserve or enhance the biodiversity value of greenfield and brownfield sites (minimising fragmentation of habitats); maximise opportunities for preservation, restoration, enhancement, and connection of natural habitats; and incorporate biodiversity net gain (BNG) of at least 10% in line with principles outlined in the Natural England Biodiversity Metric.

16.46 The application is supported by an Ecological Report, Biodiversity Net Gain Assessment Report and Biodiversity Net Gain Metric which assess the likely impacts of the proposed development on designated sites, protected species and Priority species and habitats and identify appropriate mitigation measures. These reports have been reviewed by Essex County Council Place Services Ecology and Green Infrastructure Environment & Climate Action who have confirmed that sufficient ecological information is available for the determination of this application. The information submitted provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable. The mitigation measures identified in the Ecological Report should be secured by a condition of any permission and implemented in full. This is necessary to conserve and enhance protected and Priority species.

#### Habitats Regulations Assessment / Appropriate Assessment

16.47 It is necessary to assess the application in accordance with the Habitats and Species Regulations 2017 (as amended). The whole of Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest of key features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An Appropriate Assessment was therefore required to assess recreational disturbance impacts as part of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). The applicants have agreed to pay the RAMS contribution as required by the Council's Appropriate Assessment (£156.76 x 90). On that basis it is held that the scheme will mitigate the potential off-site impact to off-site protected areas. The contribution will need to be secured by the Legal Agreement.

#### Biodiversity Net Gain

16.48 The Biodiversity Metric 4.0 was used to calculate the pre-development baseline units which identified a total of 14.55 habitat units and 1.19 hedgerow units. The proposed development is expected to deliver a net gain of 9.6% in habitat units and 99.37% in hedgerow units. The proposed development is therefore considered to succeed in meeting the recommended 10% net gain in as set out in the Environment Act 2021 and local policy, albeit with a slight shortfall in the net gain of habitat units. Essex County Council Place Services Ecology and Green Infrastructure Environment & Climate Action have assessed the BNG calculation and are satisfied with the methodology. They support the proposed biodiversity enhancements to secure measurable net gains for biodiversity which they consider to be reasonable. These measures should be outlined within a Biodiversity Enhancement Strategy and be secured via

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condition. Subject to recommended conditions, the impact of the proposed development will be minimized such that the proposal is acceptable.

#### Trees

- 16.49 Section 2 Local Plan seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline. Policy CC1 seeks, where appropriate, to increase the level of canopy cover on site by a minimum of 10%.
- 16.50 A Canopy Cover Assessment was provided as part of the submitted Arboricultural Impact Assessment. This identified that the existing canopy cover on the site is 5,726m<sup>2</sup>. It is noted that 382m<sup>2</sup> of canopy cover is proposed to be removed, which will have to be replaced in conjunction with the additional 573m<sup>2</sup> of canopy cover that is required to be delivered as part of this proposal. The landscape proposals submitted together with this application include the planting of 274 new, mainly native, trees which would result in a canopy cover of 12,000m<sup>2</sup> (representing an increase of 6,274m<sup>2</sup>), thus significantly exceeding the 10% policy requirement.

#### Archaeology

- 16.51 The proposals are for a sizeable development in close proximity to Stane Street a Roman road of regional importance (Colchester Historic Environment Record no. 8754), with consequent potential for below ground Roman remains. Furthermore, archaeological features dating to the early Iron Age were identified during excavations circa 200m to the south east, just to the west of Hall Road (CHER no. 10051). In order to achieve preservation in situ of any important heritage assets, any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

#### Contaminated Land

- 16.52 Section 2 Plan Policy ENV5 supports proposals that will not result in an unacceptable risk to public health or safety, the environment, general amenity, or existing uses due to the potential of air pollution, noise nuisance, surface / ground water sources or land pollution.
- 16.53 A Geotechnical and Geoenvironmental interpretive Report has been submitted in support of this application which was reviewed by the Contaminated Land Officer. They accept the notes in the report, however, as a result of contradictory comments within the report, it is considered that the worst-case scenario has not been captured with regards to ground gas monitoring. Further ground gas testing and a subsequent report are therefore required. However, it would appear that the site could be made suitable for its intended residential use based on the information provided to date and any planning permission would need to be the subject of the standard contaminated land conditions.

#### Environmental and Carbon Implications

- 16.54 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in

mutually supportive ways. These are economic, social and environmental objectives. This report has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. Local Planning Policy for the development requires that demand reduction measures are implemented to achieve an improvement of Building Regulation standards or better, over Part L1 2021 standards.

16.55 The application is supported by an Energy & Sustainability Statement which confirms that it is the intention to incorporate energy saving measures and on site zero carbon generation beyond the current building regulations benchmark (contained within Part L). The development includes air source heat pumps and photovoltaic panels as well as a 'fabric first' approach to energy conservation which includes enhanced levels of insulation above that required by Building Regulations, thermally efficient windows including triple glazing and construction that is warm all the way round (reduced thermal bridges). These measures will last for the lifetime of the building and reduce the size of heating systems required.

16.56 The Energy & Sustainability Statement sets out that the proposed measures will result in a close to net zero building from the outset. Initial calculations have been undertaken that show the proposed strategy will result in emissions less than half of the new 2021 Building Regulations benchmark. It is therefore considered that the application represents sustainable development.

#### Other Matters

16.57 Concerns have been raised with regards to oversubscription of GP surgeries, dentists etc. Section 2 Plan Policy DM1 (Health and Wellbeing) does not require a Health Impact Assessment for schemes under 100 units. The NHS have assessed the scheme and requested a financial contribution to mitigate the increase in demand this scheme will generate. On this basis, the scheme is acceptable in that regard.

### **17.0 Planning Balance and Conclusion**

17.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Council can demonstrate an up to date adopted local plan and five-year housing land supply and therefore paragraph 11(d) of the Framework is not engaged.

17.2 The Framework makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy. This should be given moderate weight.



- 17.3 The social role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in Copford and is located within walking distance of a number of key local services and facilities required for day-to-day living. There is a body of evidence to support the provision of housing for older people, such as extra care housing, which allows for and enables social contact and interaction, helping to address issues of loneliness and isolation that can occur. To be successful in this, such developments need to be situated in the community, close to local amenities and facilities, to ensure that people within the scheme can stay independent and involved members of that community for as long as possible. The entire site would include a mix of uses with associated comings and goings and activities. Future occupants would have the benefit of living as a community with associated opportunities for social interaction with each other. This would help tackle issues of isolation. Future residents of the development would therefore benefit from improved well-being and health. These benefits are given considerable weight and are held to outweigh any shortcomings of the development with regard to its design.
- 17.4 In respect of the environmental dimension, the proposal would provide housing in a sustainable location so that future residents would not be reliant on a private car, being able to walk or use public transport to access necessary services and facilities, thereby minimising environmental impacts. It would also secure ecological enhancements which weigh in favour of the proposed development. These benefits should be given moderate weight.
- 17.5 The proposed development, however, has also been found to cause *less than substantial harm* to the setting of nearby heritage assets. Paragraph 208 of the Framework requires development proposals which will lead to less than substantial harm to the significance of a designated heritage asset to weigh this harm against the public benefits of the proposal. The public benefits in this instance include the provision of 90 new residential units of a specialist nature, a large area of POS and provision of various walking routes together with the above-mentioned biodiversity enhancements. The identified benefits represent wider public benefits which are considered to outweigh the less than substantial harm to the identified heritage assets.
- 17.6 There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents or have a severe impact upon the highway network.
- 17.7 On the basis of the above, it is concluded that the benefits of the scheme convincingly outweigh any adverse impacts identified and the proposal is therefore acceptable. The planning balance therefore tips strongly 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. Time Limit for Full Permissions**

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

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

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

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

5277-TF-ZZ-SP-DR-A-2000 Rev P6 (Proposed Master Layout Plan)

5277-TF-AL-SP-DR-A-2001 Rev P3 (Site Plan – Assisted Living)

5277-TF-AL-GF-DR-A-2002 Rev P7 (Ground Level Plans Assisted Living)

5277-TF-AL-1F-DR-A-2003 Rev P8 (First Level Plan Assisted Living)

5277-TF-AL-2F-DR-A-2004 Rev P6 (Second Level Plan Assisted Living)

5277-TF-AL-3F-DR-A-2005 Rev P5 (Third Level Plan Assisted Living)

5277-TF-AL-RF-DR-A-2006 Rev P3 (Roof Level Plan Assisted Living)

5277-TF-SB-SP-DR-A-2010 Rev P2 (Site Plan Sheltered Block)

5277-TF-SB-GF-DR-A-2011 Rev P3 (Ground Level Plan Sheltered Block)

5277-TF-SB-1F-DR-A-2012 Rev P3 (First Level Plan Sheltered Block)

5277-TF-SB-RF-DR-A-2013 Rev P1 (Roof Level Plan Sheltered Block)

5277-TF-SP-XX-DR-A-2015 Rev P2 (Parking Strategy Plan)

5277-TF-SB-XX-DR-A-2020 Rev P1 (Substation Switchroom & Refuse)

5277-TF-SB-00-DR-A-2030 Rev P1 (Proposed Sheltered Block Adjacency)

5277-TF-AL-XX-DR-A-2100 Rev P5 (Elevations 01 Assisted Living Block)

5277-TF-AL-XX-DR-A-2101 Rev P6 (Elevation02 Assisted Living Block)

5277-TF-AL-XX-DR-A-2102 Rev P4 (Site Section A-A)

5277-TF-AL-XX-DR-A-2103 Rev P4 (Elevation 05 Assisted Living Block)

5277-TF-SB-XX-DR-A-2110 Rev P2 (ShelteredBlockElevation03)

5277-TF-SB-XX-DR-A-2111 Rev P3 (Sheltered Block Elevation 04)

5277-TF-ZZ-XX-DR-A-2112 Rev P1 (Architectural Treatment)

5277-TF-ZZ-XX-BP-A-1000 Rev P3 (Location Plan)

Arboricultural Assessment & Method Statement by M Welby Ltd (Reference MW.21.0825.AIA, dated 28 October 2022)

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

### **3. Materials**

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these 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.

#### **4. Architectural Detailing**

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (opening casement should match fixed element); doors, cills, lintels, arches, eaves, verges, ridge, brickwork /stone work detailing, transitions between materials, chimneys; recessed/projecting/decorative brickwork; bays, porches, canopies, balconies, 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.

#### **5. Utilities**

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.

#### **6. Site Levels**

Notwithstanding the details shown on the approved drawings, prior to the commencement of any development detailed drawings illustrating the existing and proposed levels across the site, by way of appropriate spot heights and finished floor levels, shall be submitted to and approved, in writing, by the Local Planning Authority. Where levels are proposed to be altered adjacent to site boundaries, the details should evidence levels on the adjacent land beyond the site boundary. In instances where the details illustrate substantial variances in the proposed levels, details shall be submitted that demonstrate how the transition between the levels will be facilitated. The development shall thereafter be carried out in accordance with the approved details.

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

#### **7. Full Landscape Details**

No works shall take place above ground floor slab level until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently

agreed, in writing, by the Local Planning Authority. The submitted landscape details shall be in full compliance with the Councils Landscape Guidance Note LIS/C and include:

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

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

## **8. Landscape Management Plan**

Prior to the first occupation of the development, a landscape management plan detailing long term design objectives and management responsibilities for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times. Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

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

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,

- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved

remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

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

### **13. Validation Certificate**

Prior to the first occupation of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 12.

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

### **14. Surface Water Drainage Scheme**

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change, if hal drain times are not sufficient.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

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

### **15. Scheme to Minimise Risk of Offsite Flooding**

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 certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework requires Local Planning Authorities to 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

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

Prior to occupation a surface water drainage maintenance plan detailing the maintenance arrangements (including who is responsible for different elements of the surface water drainage system, the maintenance activities/frequencies, and maintenance logs) has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

### **17. Construction Environmental Management Plan**

No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved, in writing by, the Local Planning Authority. Ideally, strategic elements of the GI framework 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 CEMP will be required to set out how retained GI, such as trees, hedges and vegetation, as well as any nature designed sites (e.g. SSSI's etc.) 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.

### **18. Landscape Ecological Management and Maintenance Plan**

No development shall take place until a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years has been submitted to and approved, in writing, by the Local Planning Authority. Details should include who is responsible for GI assets (including any surface water drainage system), the maintenance activities/frequencies and 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.

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.

### **19. Yearly Logs of Maintenance**

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.

### **20. Biodiversity Enhancement Strategy**

Prior to any works above slab level being undertaken, 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 measure;
- e) Details of initial aftercare and long-term maintenance (where relevant).

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 habits & species).

### **21. Habitat Management and Monitoring Plan**

No development shall commence until a Habitat Management and Monitoring Plan has been provided to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the Secretary of State's biodiversity metric as applied in the area in which the site is situated at the relevant time.



The content of the Habitat Management and Monitoring Plan should include the following:

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

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

Reason: To allow the development to demonstrate measurable biodiversity net gains and allow LPA to discharge its duties under the Framework and s40 of the NERC Act 2006 (Priority habitats & species).

## **22. Construction Method Statement**

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control noise and vibration;
- measures to control the emission of dust and dirt;
- a scheme for recycling/disposing of waste resulting from demolition and construction works (no waste materials should be burnt on the site).

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.

## **23. Highway works**

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

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

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

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.

#### **24. Cycle Parking**

Notwithstanding the details hereby approved, prior to the development hereby permitted coming in to use, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facilities shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

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

#### **25. Ecological Mitigation**

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Report (Applied Ecology Ltd, October 2022), Landscape Softworks Plan (Portus+Whitton LLP, project no. 1750, Drg no. 02, Rev F, October 2022), Landscape Master Plan (Portus+Whitton LLP, project no. 1750, Drg no. 01, Reg G, October 2022) and Biodiversity Net Gain Assessment Report (Applied Ecology, AEL2037\_v2.0\_20230609).

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

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and S.40 of the NERC Act 2006 (Priority habitats & species).

#### **26. Wildlife Sensitive Lighting Design Scheme**

Prior to the first occupation of the development hereby approved, 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 Local Planning Authority 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).

### **27. External noise**

The recommendations in the accompanying acoustic report shall be implemented to ensure internal noise levels comply with the current version of BS8233 and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

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

### **28. 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.

### **19.1 Informatives**

19.1 The following informatives are also recommended:

#### **Advisory Note on Construction & Demolition**

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

#### **Informative on Conditions Stating Prior to Commencement/Occupation**

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

#### **Landscape**

Detailed landscape proposals, when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B/C (this available on this CBC landscape webpage:

DC0901MWeV9.3

<https://www.colchester.gov.uk/info/cbcarticle/?catid=which-application-form&id=KA-01169> under Landscape Consultancy by clicking the 'read our guidance' link)

### **Archaeology**

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

<http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

### **Informative on Section 106 Agreements**

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

### **Anglian Water**

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

### **Anglian Water - Protection of existing assets**

A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

### **Anglian Water - Building near to a public sewer**

No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

### **Anglian Water**

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact Anglian Water's Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

### **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.



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**Item No:** 7.2

**Application:** 232206

**Applicant:** P.G Rix Farms Ltd

**Agent:** Kevin Coleman

**Proposal:** Construction of Processing, Packing and Dispatch Building, with associated access, hardstanding, drainage, services and landscaping.

**Location:** Lodge Farm, Boxted Road, Great Horkesley, Essex, CO6 4AP

**Ward:** Rural North

**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 Darius Laws who states “Residents are concerned about the sale and massing of this development as well as the light pollution on the edge of the Dedham Vale AONB with its recent efforts to improve 'dark skies'.”

## **2.0 Synopsis**

2.1 The key issues for consideration are the principle of the proposal and its visual impact upon the countryside and impacts upon highway safety, residential amenity, wildlife, vegetation and flood risk.

2.2 The application is subsequently recommended for approval. There is Local Plan and National Policy Support for supporting the rural economy subject to careful consideration of all planning impacts. There is an existing farm complex and this building will result in significant benefits to the business.

2.3 The building can be screened by existing and additional landscaping and has been kept as low as operationally possible and will be finished in dark green, all of which helps to minimise its visual impact within the countryside and nearby AONB.

2.4 The proposed development would not result in any significant increase in vehicular movements to and from the site and consequently complies with NPPF Paragraph 115 which states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” There remains adequate parking and manoeuvring provision on site.

2.5 Conditions controlling delivery times and noise at the boundaries and lighting will avoid any significant adverse impact upon neighbouring residential amenity from noise and disturbance and glare. It is considered that the building is in a location far enough from neighbouring residences and of a scale that would not result in an overbearing impact, loss of light or significant loss of outlook to the nearest residents. Whilst the building would be partly visible from nearby residences, the loss of a view is not a justifiable reason for refusal as there is not a right to a view as a material planning consideration.

2.6 There would be no significant impact upon wildlife and vegetation and there are no objections on flood risk grounds subject to appropriate conditions. An archaeological condition will be applied.

## **3.0 Site Description and Context**

3.1 The site lies within the countryside and is part of Lodge Farm which is part of P.G. Rix Farms Ltd. PG Rix (Farms) Ltd is a major supplier of allium food crops (onions, shallots, garlic). The site area itself is part of a well-maintained grassed area which lies adjacent to an existing hard surfaced storage area and existing farm building related to the business. A complex of farm buildings also related to the business also lies to the North and West. The site is surrounded on the side and front boundaries by hedging and trees. The site lies outside

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the Dedham Vale AONB, the boundary of which is approximately 650m to the North.

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

4.1 The application proposes the construction of a processing, packing and dispatch building, with associated access, hardstanding, drainage, services and landscaping in conjunction with the existing site. The Total Gross new internal floorspace proposed is 3,740 metres. The building measures approximately 43 metres in width and with a frontage length of 84 and rear length of 92 metres. The height to the ridge of the building has been reduced from 9.96 to 9.525.

4.2 The following documents have been submitted with the application:

- Design and Access and Planning Statement
- Flood Risk Assessment
- Landscape Appraisal
- Arboricultural Impact Assessment
- Ecological Appraisal
- Archaeology Evaluation
- Noise Impact Assessment
- Vehicle Tracking Plan

4.3 In support of the application, the applicant makes the following points:

- PG Rix (Farms) Ltd is a major supplier of allium food crops (onions, shallots, garlic) for the domestic food market, processing 30% of the UK crop, farming in total around 2,650 hectares around the Essex/Suffolk borders.
- Its affiliated supply company, Stourgarden, are significant local employers, with major contracts including supplying 100% of onions for both Tesco and McDonalds in the UK. However, in order to continue servicing these contracts and meeting client requirements, the farm needs to make a significant investment in further automation of its handling, packing and dispatch operation.
- Automated processes require a greater floorspace, and more modern premises are required to facilitate hygiene, maintenance and cleaning, hence the need for the additional building. Greater automation in agriculture ... is as important now as ever, as the UK seeks to gain greater food security and less reliance on imported foods (less than half of UK consumption is produced at home...)
- Efficiency in production and supply is a key factor in combating food-price inflation – the investment in technology in this case (around £5.75m for the equipment and building) will assist in minimising supply costs and therefore helping with food prices for consumers.
- Lodge Farm is a ‘field to store’ operation – the processing and packaging plant is an essential part of the operation of transferring locally grown food from the ground and into supermarkets quickly and efficiently.

- The new processing/pack area is replacing the existing, which will be turned to storage. The reason more storage space is needed is in large part due to the need to store different products separately. So the new processing/pack area is not new floorspace as such, it is a replacement of the existing facility. It has a larger footprint, because as explained this is needed for automation, but the existing prep area is over two stories. The main net change in floorspace at the farm is actually therefore related primarily to additional storage space, not additional processing/pack space.
- the issue is not so much the volume of produce dispatched, but the speed with which fluctuations in client requirements can be responded to, and the efficiency (i.e., the price) at which produce can be supplied, which is needed to maintain contracts.
- Application provides the means to ensure that customer orders can be satisfied quickly and efficiently, and that produce can be stored to meet modern requirements. The facility is not therefore expected to materially affect vehicle movements associated with the site.
- Height of the main preparation area is set by the scale of the machinery to be housed within it. The purpose of the building is to provide the housing for the processing equipment, and the floor to ceiling height in the preparation area has to be sufficient for the equipment to be operated. This height establishes the eaves level at the rear of the building. The eaves level at the front of the building is lower, but still needs to be high enough for the loading bays. The remaining space in the roof is required for service runs (including the air conditioning ducting).
- Drainage design has shown that we cannot set the building any lower. The falls necessary to convey surface water to the ditch on the boundary of the site are already at the minimum level, so any lower of the finished floor level would render the site incapable of being drained.
- The table below shows the most recent permissions granted at the site for other buildings (and the existing prep building), listed in order of height. Both the extensions to the onion box stores granted in 2014 and the new optical grading building granted in 2018 (which sits immediately north of the site for this application) are materially taller, and in addition, the optical grading building is located on higher land.

	<b>Eaves</b>	<b>Ridge</b>	<b>Permissic</b>
Existing Prep Factory	8.8	12.2	
Box Stores	8.707	11.8	132245
Optical Grading Shed	7.7	10.8	180632
<b>Proposed Building</b>	<b>7.725</b>	<b>9.96</b>	
<b>Amended design</b>	<b>7.725</b>	<b>9.525</b>	
Booker Building	6	8.47	210573



## 5.0 Land Use Allocation

### 5.1 Part Countryside, Part Employment

## 6.0 Relevant Planning History

6.1 Lodge Farm has an extensive planning history for various farm buildings and facilities dating from the 1960s. The most recent planning history is as follows (all approvals):

210573 Proposed agricultural steel portal framed grading building and relocation of existing gas tanks -Approved

110310 Steel portal framed side extension building clad with insulated sheeting.

112249 Application for prior notification of agricultural or forestry development - proposed building.

112471 Installation of photovoltaic modules on the roof of the sprayer store

120589 Erect a two storey extension with new quality control room on ground floor and conference room on first floor. Erect a new single storey entrance porch.

132245 Proposed agricultural steel portal framed end extension to provide additional boxed onion storage.

132246 Proposed agricultural steel portal framed end extension to provide additional storage and packing facilities including welfare.

162139 Extension to form additional welfare and office space

180632 Proposed agricultural steel portal framed grading and compost buildings.

110310	Steel portal framed side extension building clad with insulated sheeting.
112249	Application for prior notification of agricultural or forestry development - proposed building.
112471	Installation of photovoltaic modules on the roof of the sprayer store
120589	Erect a two storey extension with new quality control room on ground floor and conference room on first floor. Erect a new single storey entrance porch.
132245	Proposed agricultural steel portal framed end extension to provide additional boxed onion storage.
132246	Proposed agricultural steel portal framed end extension to provide additional storage and packing facilities including welfare.
162139	Extension to form additional welfare and office space
180632	Proposed agricultural steel portal framed grading and compost buildings.

## 7.0 Principal Policies

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

### 7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP5 Employment
- 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  
SG3 Economic Growth Provision

SG4 Local Economic Areas  
 SG7 Infrastructure Delivery and Impact Mitigation  
 SG8 Neighbourhood Plan  
 ENV1 Environment  
 ENV 4 Dedham Vale AONB  
 NV3 Green Infrastructure  
 ENV5 Pollution and Contaminated Land  
 CC1 Climate Change  
 OV2 Countryside  
 DM1 Health and Wellbeing  
 DM6 Economic Development in Rural Areas and the Countryside  
 DM7 Agricultural Development and Diversification  
 DM15 Design and Amenity  
 DM16 Historic Environment  
 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:

N/A

- 7.5 The Neighbourhood Plan for Great Horkeley is only in its Emerging stage with an area designated so has no weight at present.

- 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  
 Open Space, Sport and Recreation  
 Sustainable Construction  
 Cycling Delivery Strategy  
 Urban Place Supplement  
 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  
 Air Quality Management Guidance Note, Areas & Order

## **8.0 Consultations**

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

## 8.2 Highway Authority states (précised):

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

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

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles 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.

Prior to the first beneficial use of the proposed development the applicant shall provide a traffic management plan that should include but is not limited to:

1. Additional permanent signage within the site located in clear view and prominently displayed indicating all HGV Traffic should turn out of the site towards the A134 The Causeway and no access towards Queens Head Road
2. A route plan for all drivers and haulage operators detailing the route to and from the site is from and to the A134 The Causeway being issued to all drivers and vehicles attending the site and to avoid the vehicular HGV use of Queens Head Road and Holly Lane.
3. Additional permanent signage within the site located in clear view and prominently displayed directing HGV traffic to and from the loading and unloading facilities to avoid congestion and obstruction to opposing vehicles

Informative1:

## 8.3 Landscape officer:

1.0 Comments:

1.1 The landscape content/aspect of the strategic proposals lodged on 27/09/2023 under drawing 23.5395.01.A would appear satisfactory.

2.0 Conclusion:

2.1 In conclusion; there are no objections to this application on landscape grounds in principle.

4.0 Recommended Landscape Condition(s) & Informative:

4.1 The following condition(s) is/are recommended:

*Bespoke:*

*Z00 – The landscape details as shown on the approved drawing(s) 23.5395.01.A lodged on 27/09/2023 shall be carried out in full prior to the end of the first planting/seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority and its implementation shall be in compliance with the recommendations set out in the relevant British Standards current at the time of submission. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.*

*Reason: In order to ensure that the landscape is implemented in accordance with the detail submitted within the application.*

#### 8.4 AONB Team states:

The site lies to the east of the main Lodge Farm complex on the north side of Boxted Road Great Horkesley. The site lies outside the Dedham Vale AONB. The boundary to the Dedham Vale AONB is approximately 650m to the north of the application site. Despite the large size of the proposed building, there is limited intervisibility between the AONB and the application site due to intervening hedges, trees and existing farm buildings. Impacts from this scheme on the natural beauty, particularly, landscape quality and scenic quality of the Dedham Vale AONB are unlikely to be major.

It is noted that a number of concerns have been raised about light pollution from this development.

The AONB team has recently commissioned new Lighting Guidance for the Dedham Vale and Suffolk Coast & Heaths AONBs. This includes lighting guidance for domestic and non-domestic developments and may be helpful for mitigating lighting impacts if this is considered to be an issue by your planning authority. Please refer to the following link -

<https://www.dedhamvalestourvalley.org/wp-content/uploads/2023/08/Lighting-Guidance-in-National-Landscapes.pdf>

#### 8.5 Environmental Protection states (precised):

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

ZPA – Construction Method Statement

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.

ZGA - \*Restriction of Hours of Operation\*

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

Weekdays: 07:30-18:30

Saturdays: 07:30-18:30

Sundays and Public Holidays: Restricted to current permission for remainder of site.

ZGB - \*Restricted Hours of Delivery\*

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

Weekdays: 07:30-21:00

Saturdays: 07:30-18:30

Sundays and Public Holidays: Restricted to current permission.

ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed -5dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

External openings

There shall be no windows or doors on the facades facing residential properties.

ZGN - Industrial Processes (if applicable for Control of Fumes, Odours, Dust etc)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme devised by a competent person for the control of fumes, smells and odours, and dust that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority.

The control measures shall thereafter be retained and maintained to the agreed specification and working order.

#### ZGR - \*Light Pollution

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E2 RURAL (low district brightness – sparsely inhabited rural areas, village or relatively dark outer suburban locations), E3 SUBURBAN (medium district brightness – well inhabited rural areas, small town centres, suburban locations); E4 URBAN (high district brightness – town/city centres with high levels of night -time activity).

Note: There shouldn't be regular lighting on the sides of the building facing residential properties.

#### 8.6 Contaminated land officer states:

Should planning permission be granted for this application, the Environmental Protection Team would have no objections with regards to contaminated land.

#### 8.7 Tree officer states:

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 plans).

#### 8.8 Essex Count Council SUDS team states (precised):

Assessment and the associated documents which accompanied the planning application, we **do not object** to the granting of planning permission based on the following:

Condition 1 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 2308-843, rev A, by K Welham Ltd/Ingent consultants, dated December 2023 and the following mitigation measures detailed within the FRA:

- Limiting the discharge from the site to 2.2l/s
- Providing attenuation storage (including locations on layout plan) 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. We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protectingenvironment>

Prior to deciding this application you should give due consideration to the issue(s) below.

It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

#### 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](mailto: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 applicant's responsibility to check that 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.

#### 8.9 Ecology Consultant Essex County Council Place Services: (précised)

**No objection** subject to securing biodiversity mitigation and enhancement measures.

“A lighting scheme should also be conditioned to ensure that bats and other light sensitive species are not discouraged from using the area. The scheme should ensure that no light spill luminates the vegetative areas on site.

we recommend that applicant should discuss this matter with the LPA to determine whether a 10% measurable biodiversity net gain should be demonstrated for this application. This is also required to demonstrate measurable biodiversity net gains, as outlined under Paragraph 174d of the National Planning Policy Framework (2023).

Recommended conditions

#### 1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (James Blake Associates Ltd, September2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

#### 2. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

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, orientations and heights of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

### 3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate 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)

#### 8.10 Consultant Archaeologist states:

The proposed development occupies an area of archaeological cropmarks recorded in the Colchester HER (MCC4815).

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 205), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

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

It should be noted that this application is supported by a Written Scheme of Investigation for Archaeological Evaluation prepared by Archaeology-South East in August 2023, which I have already approved pre-application. It is understood that the fieldwork will be undertaken imminently.

The following archaeological condition (Z00) is recommended in order to secure the required fieldwork and any archaeological mitigation required:

No works shall take place until the implementation of a programme of archaeological work has been secured.....,

#### 8.11 Natural England states: "NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

Natural England's generic advice on other natural environment issues is set out at Annex A.

The proposed development is for a site within or close to a nationally designated landscape namely (Dedham Vale) AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal."

## **9.0 Parish Council Response**

### **9.1 The Parish Council have stated:**

"Great Horkesley Parish Council objects to the Lodge Farm application, noting that there is widespread local opposition, and holding the view that the scale and size of this proposed development is unsuitable for the location and an over-development of such, at 10m high the proposed building will even tower over the others on the site, believed to be some 6m high. It is doubtful that the trees proposed to screen the building could ever do so effectively; the much lower shed on the south side of the Lodge Farm complex is one of the oldest but still clearly visible from the Essex Way and other public places within the village. The Applicant essentially wishes to build a factory in a rural location in close proximity to the Dedham Vale AONB, very near to residences, and accessed via country lanes which already are unsuitable for HGV traffic which a site visit would immediately show.

The Parish Council is concerned about the vast size of the proposed building which will not be in keeping with the local rural landscape and in particular the height of such which will adversely impact nearby homes. There is already significant building infrastructure on site and the scale and massing of the buildings is of real concern. The specific location of the proposed building within the site is also of concern given its very close proximity to residences and the explanation as to why it cannot be located closer to the Applicant's own family residence at Lodge Farm due to fire risk lacks credibility without any fire officer report. The close proximity to residences causes a very real concern as to obstruction of light, light pollution and noise pollution. The Parish Council is concerned as to the feasibility of attenuating noise once the plant is operating which is glossed over in the study supplied with the application; this needs to be determined in advance of consent being granted.

The Parish Council is particularly concerned about vehicular movements at the site, which already generates too high a volume of HGV traffic unsuitable for the narrow access roads. It is not clear whether there will be an increase in traffic, which seems likely given the scale of investment proposed. It also seems likely that the facility will enable the use of larger vehicles which will damage local roads even more than at present. Boxted Road is too narrow to safely and properly accommodate HGV vehicles; only the power company poles have prevented the verges from being completely destroyed. At the junction with the A134 the surface is in constant need of repair, the verges are worn away on both sides and the pavement along the A134 opposite has been destroyed by

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the HGVs swinging out and mounting it as they turn. Surveys of A134 traffic (in connection with development elsewhere) have shown that it is already carrying more HGVs than usual for a road of this type. This is a road which runs through the centre of the village and in many places has only one narrow pavement. It is used by pedestrians and cyclists including those attending local schools, increasing so since the Trinity School at Chesterwell has opened; this school will continue to expand for another four years. The city council intend that there should be more housing in Great Horkesley so it should not at the same time be permitting what seems like industrial development which will increase HGV traffic on the road on which existing and new residents should be able to walk and cycle safely.

The Parish Council is concerned that this site has already reached, if not exceeded, what is appropriate for what was once a rural farm location accessed via a narrow country lane. Enough is enough. The claim that this building must be on the Lodge Farm site, because that's where the company headquarters is, should be rigorously examined. The factory proposed to be built here ought to more suitably and sustainably be built on employment land with good public transport connections and suitable road infrastructure for HGVs, including easy access to the A12; better transport links will also better serve its employees who currently can only realistically travel by car due to lack of local public transport options and safe pedestrian and cycle access. The applicant needs to find a way of splitting the business between two sites.

## **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.

**11 letters of objection and 8 other letters** have been received which raise the following points:

- Additional cars and vehicles passing through village and Boxted Road.
- Boxted Road narrow- passing points needed.
- Local Road network already struggles. Detrimental to highway safety.
- Need alternative access before any new large scale development allowed.
- Building is gigantic in size and scale and very difficult to camouflage into local environment.
- Building may block sunlight (create large shadow's) on neighbouring adjacent properties. Will alter our outlook. Overbearing.
- Rix Farm franchise is thriving business and although this building plan may future proof the business for the next decade, if it continues to grow at its current rate - where does it expand next?
- Would a brand new 'state of the art' factory be better option away from the current site/AONB and closer to better transport links/A12 etc? Does not require rural location.
- Increased Light and Traffic noise.

- Discarded Onion Skins are left to rot for a season on Broad Lane before being buried on the adjacent land -could this factory create further pollution and waste?
- Large Tractors and HGV's are ruining the road junction onto the A134 this will only get worse.
- LP Planning rules state that any buildings in the local area must enhance the local and natural environment – can this be said of this building? Contrary to Policies OV2, SG1,ENV1, DM15.
- Could building be partially buried/sunken into the ground which would make it more thermal efficient and hopefully reduce need for constant air conditioning.
- Expansion plan is currently clunky and awkward in shape and form. Massive building. Incongruous in countryside. Eyesore. More akin to logistics hub and industrial structure.
- Landscape appraisal unfocused. Impact on AONB.
- No appraisal has been made of the impact on the most affected sensitive receptor (Lodge Farm Cottage).
- Noise report does not include plant and machinery. No mention of sound barriers. Noise from refrigeration trailers.
- This is a 364 day operation. 07:30 to 18:30 including weekends and Bank Holidays.
- Industrial unit is less than 80 metres from my home not the current 320 metres. Only 14 metres from residential properties.
- Headlight glare.
- Possible odour pollution.
- Devalue our property.
- Not accord with Development Plan.
- Stourgarden has quadrupled in last 8 years.
- Only 30% production produced locally.

## **11.0 Parking Provision**

11.1 Manoeuvring area shown within service yard on this site. Existing parking provision elsewhere in the complex.

## **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 (car, bus, cycle, foot) and accessible car parking can be provided. There would be level access into the building.

## **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 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that no Planning Obligations should be sought.

## 16.0 Report

### Principle:

16.1 In terms of the principle of the proposal, Para 88 of the NPPF aims to support a prosperous rural economy.

It states that:

Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;

Para 89 of the NPPF goes on to note:

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

16.2 The Government Food Strategy of June 2022 notes:

The food and drink industry has an important role to play in the government’s levelling up agenda. It is the UK’s largest manufacturing industry, bigger than the aerospace and automotive industries combined. UK agri-food and seafood sectors create over £120 billion of value for the economy every year and employ over 4 million people. Working with government, they underpin our food security: demonstrating great resilience when dealing with disruption at national and international levels, particularly in the context of the COVID-19 pandemic and most recently through the conflict in Ukraine.

16.3 Policy DM7 of the Local Plan provides that:

*Agricultural Development and Diversification*  
*The Local Planning Authority will support and encourage appropriate farm diversification proposals where they help support the rural economy, are compatible*

*with the rural environment and help to sustain the existing agricultural enterprise without the need for subdivision of the holding or separate enterprises unrelated to the existing agricultural use.*

- 16.4 Local Plan policies SP5 and SG3 aim to encourage and retain economic uses. Policy OV2 acknowledges that some businesses require a rural location and Policy DM6 is also supportive of rural businesses subject to them being appropriate to the rural area, particularly in terms of scale.

*Policy DM6: Economic Development in Rural Areas and the Countryside states:*

*The Local Planning Authority will protect Local Economic Areas in rural Colchester that provide an economic function both on allocated sites shown on the policies maps and at other rural locations that provide a similar function.*

*D) New rural employment buildings: Proposals will only be supported in exceptional cases where there are no appropriate existing buildings, there is no available employment land in the locality and a site/area specific business need has been adequately demonstrated.*

*(E) Expansion of an existing business: Proposals to expand an existing employment use into the countryside will only be supported in exceptional cases where there is no space for the required use on the existing site, the need has been adequately demonstrated, and the proposals are essential to the operation of an established business on the site. Consideration must be given to the relocation of the business to available land within a Strategic or Local Economic Area or alternative rural site providing an economic function and in a more sustainable location. In all cases, any new development will be expected to have adequate landscape mitigation to compensate for any additional impact upon the surrounding countryside.*

- 16.5 The application proposes rural/agricultural development, directly supporting the ongoing viability of the existing business, enhancing the rural economy and viability. The proposed development would continue to support employment opportunities, as well as providing for sustainable an agricultural/rural business. The applicant has clearly outlined why the building of this scale and in this location is required i.e.

- Protecting existing local labour by enabling the farm to continue to meet customer requirements for price and speed of supply;
- The scale of investment will help to secure the sub-region as a premier location for home grown allium produce;
- More modern premises for the processing and packaging facility helps to facilitate both hygiene and further automation, which help to keep production costs (and therefore resulting food costs) lower;
- The scale of investment provides opportunities for reducing reliance on imported produce;
- More modern premises with investment in insulation and renewable energy assists in reducing the carbon impact of production;

- Eases space pressure within the Packhouse for storage of separate products/organic and non-organic products, meaning storage space is increased without the need for additional buildings;
- Facilitates “whole crop utilisation” as the new processing and packing facility is able to utilise even the smallest produce, which is currently too small for effective processing by hand, and so is disposed of as waste.

16.6 It is considered that the above requirements justify the principle of this building in this location, having regard to the NPPF which supports the rural economy and the above Local Plan policies which recognise the need to support appropriate agricultural and employment activities of appropriate scale and in a satisfactory location, including when related to an existing business. Accordingly it is considered that the principle of a new building related to the existing business can be supported.

16.7 However, careful assessment on the detailed planning merits of the proposal will need to be made including the positioning, scale and design of the building, its landscape impact and any impact upon highway safety, neighbouring residential amenity, wildlife and flood risk.

Design, Scale and Form and Visual Impact upon the character of the countryside:

16.8 With regard to the design, scale and visual impact of the proposal, Policies SP7 and DM15 of the Local Plan provide that development must respect and enhance the character of the site, its context and surroundings in terms of architectural approach, height, size, scale, form and massing. Policy ENV 1 aims to conserve and enhance the natural environment.

16.9 The abovementioned Policies OV2 and DM6 emphasise proposals should be of an appropriate scale for the countryside, with DM6 and DM7 confirming there should be adequate landscape mitigation to compensate for any additional impact upon the surrounding countryside.

16.10 Whilst this building is clearly large, it is quite well related to the existing complex, being adjacent to the existing access road and directly to the South of an existing hard surfaced storage area and its associated building. It is also East of the existing farm complex. It would be quite well screened by significant existing boundary vegetation and the site of the proposed building has previously been the subject of additional structural landscaping to the boundaries. As per the separately submitted Landscape Assessment, additional structural planting is proposed to the south-west of the site to complete the enhanced planting around the periphery of the site, alongside additional landscape measures within the site. This will include filling in some of the existing gaps in the frontage hedging.

16.11 The building has been kept as low as possible whilst allowing it to function for the required purpose, as detailed earlier. Accordingly it has been reduced by nearly half a metre in height, which is a modest reduction but nevertheless visually beneficial. The table shown earlier of various heights of buildings in the existing farm complex shows that this proposed building is lower than some of those

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buildings and is also lower than most modern packhouses which typically have a 10 m working height. To help put the height into context, 9.5 m in height is similar to a tall 2 storey dwelling.

- 16.12 The building will be finished predominantly in dark green colours which will help it blend into the countryside and the surrounding vegetation. The Landscape Officer has raised no objections subject to the implementation of a landscaping scheme. The site lies 650m to the North of the Dedham AONB and the AONB team has raised no objections given there is "limited intervisibility between the AONB and the application site due to intervening hedges, trees and existing farm buildings". Accordingly, it is acknowledged that impacts from this scheme on the natural beauty, particularly, landscape quality and scenic quality of the Dedham Vale AONB are unlikely to be major.
- 16.13 With regard to lighting, the agent has confirmed that the lighting is expected to be minimal. Unlike the yard to the south of the box stores and optical grading buildings, the agent has confirmed that hard surfacing to the front of the proposed building will only be used for HGV access and servicing and will not be a working yard, and "therefore only very minimal health and safety lighting would be required to the exterior. The loading bays themselves would need to be lit but that lighting is effectively internal to the building. The only other lighting likely to be required is minimum security lighting." Accordingly it is considered a condition specifying that details of any lighting proposed will need to be submitted to and agreed in writing by the Local Planning Authority. Given this control and the anticipated relatively low level of lighting required it is not considered there would not be significant wider impacts, in terms of light pollution in the countryside and AONB, or upon wildlife.
- 16.14 Overall it is considered that the location and scale of the building has been justified in terms of its significant benefits to the existing business and that, subject to conditions relating to materials, finishes, landscaping and lighting, it would be visually appropriate in this countryside location and would not have any significant adverse impact upon the wider rural character and landscape, including the AONB. There would also be no impact upon the setting of any heritage assets.
- 16.15 Accordingly it is considered the scheme complies with Policies OV2, DM6, DM7 DM15, SP7 and ENV1 in this respect as detailed above.

#### Highway Issues

- 16.16 With regard to Highway issues, vehicular access to the building will use the existing farm access onto Boxted Road, which is currently used by vehicles accessing the grading and processing areas. There is therefore no change to the existing access arrangements. This access has good visibility splays in either direction so there is no highway safety issue in this respect.
- 16.17 It has been confirmed that a forecourt is provided for the transfer of raw material for the processing operation, and for parking prior to dispatch. Parking for employees is already provided within the main yard, and no change to the existing parking arrangements is envisaged – the new apron area to the front of the proposed building will be for servicing the operation, not for parking.

- 16.18 The agent has confirmed that the “Application provides the means to ensure that customer orders can be satisfied quickly and efficiently, and that produce can be stored to meet modern requirements. The facility is not therefore expected to materially affect vehicle movements associated with the site.”
- 16.19 Given that the proposed building would not result in a material impact upon vehicle movements to and from the site it is not considered the proposal could justifiably be refused on the impact upon the wider road network, including upon highway safety.
- 16.20 The Highway Authority have been consulted on the application and do not have any objections. Local representations are concerned with traffic movements, the condition of surrounding roads, and damage caused to the roads as a result of use by large vehicles, although these concerns relate to the existing use of the site rather than directly related to the proposal in hand. The concerns of local residents are acknowledged, but on the basis that the proposed development would not result in any significant increase in vehicular movements to and from the site it is not considered the proposal could justifiably be refused on the impact upon the wider road network, including upon highway safety. It also follows that there thus remains adequate parking provision on site, particularly given that is stated on the application form that there will be no increase in the number of employees.
- 16.21 Paragraph 115 of the NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” Given that there is no anticipated increase in vehicular activity as a result of this proposal it is not considered there would be a resultant severe impact upon the highway network so there are not considered to be grounds for refusal in respect of highway impact.
- 16.22 The proposal would therefore no conflict with NPPF Para 115. The proposal would also not conflict with Policy DM15 which provides that development should create a safe environment. Policy DM21 (safe access to development) has similar provisions.

Impact upon neighbouring residential amenity:

- 16.23 It is considered that the building is in a location with sufficient separation from neighbouring residences and of a scale that would not result in an overbearing impact, loss of light or significant loss of outlook to the nearest residents that would warrant a refusal. Whilst the building would be partly visible from nearby residences, the loss of a view is not a justifiable reason for refusal as there is not a right to a view. Existing and proposed additional planting can also help to minimise any visual intrusion upon the nearest residences by screening and filtering views. The proposal is therefore not considered to contravene Policy DM15 in this respect.
- 16.24 In terms of potential noise impact, the submitted acoustic report assesses the current noise levels at the farm in the vicinity of the proposed building, and explains

how the use of suitable planning conditions can ensure no change in noise levels in the vicinity of neighbouring residential uses. Environmental Protection has raised no objections on noise grounds and have recommended conditions relating to site boundary noise levels and no external openings facing residential properties. In addition, the manoeuvring area is on the side of the building away from residences. Overall, subject to the Environmental Protection conditions, it is not considered there would be a detriment to neighbouring occupiers from noise.

16.25 It is also not considered there would be a detriment to neighbouring residential amenity from any odour. Lighting levels and location will be carefully controlled, as mentioned above.

16.26 Overall it is therefore not considered the proposal would have a materially detrimental impact upon neighbouring residential amenity. The proposal thus complies with Policies DM15 and D1 (Health and well Being) in this respect.

#### Flood Risk

16.27 In terms of flood risk, Local Plan Policy DM23 covers flood risk issues. The site does not lie within a Floodzone 2 or 3 so is within Floodzone 1 and not vulnerable to flooding.

16.28 A Flood Risk Assessment has been submitted and the Essex County SUDS team has now withdrawn its original holding objection and now has no objections subject to conditions. These conditions include the provision of an attenuation pond as shown on the submitted block plan towards the front of the site.

16.29 Subject to compliance with the recommended conditions the proposal will comply with Policy DM23 and not result in any flood risk issues.

#### Wildlife Impact

16.30 An ecological survey report has been submitted and Essex County Council Place services has raised no objections 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.

16.31 The proposal therefore does not conflict with Policy ENV1 which concerns impacts upon wildlife.

#### Archaeology

16.32 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 a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

16.33 The application is supported by a Written Scheme of Investigation for Archaeological Evaluation which has already been approved by the Council's archaeologist. Accordingly a condition relating to a programme of archaeological work will be applied.

#### Other

16.34 It is considered there would not be any significant impact upon trees and vegetation as the siting of the building avoids the only vegetation on the vicinity which is predominantly on the boundaries, as shown in the submitted Arboricultural Impact Assessment. The tree officer has raised no objections. Conditions about tree/hedge retention/protection will be applied along with a 10% increase in tree canopy cover condition in accordance with Policy CC1: Climate Change.

### **17.0 Planning Balance and Conclusion**

17.1 In conclusion and having regard to the planning balance of the case it is considered there is support in principle for this building on this site. There is Local Plan and National Policy Support for supporting the rural economy subject to careful consideration of all planning impacts. There is an existing farm complex and this building will result in significant benefits to the business including:

- Protecting existing local labour by enabling the farm to continue to meet customer requirements for price and speed of supply;
- The scale of investment will help to secure the sub-region as a premier location for home grown allium produce;
- More modern premises for the processing and packaging facility helps to facilitate both hygiene and further automation, which help to keep production costs (and therefore resulting food costs) lower;
- The scale of investment provides opportunities for reducing reliance on imported produce;
- More modern premises with investment in insulation and renewable energy assists in reducing the carbon impact of production;
- Eases space pressure within the Packhouse for storage of separate products/organic and non-organic products, meaning storage space is increased without the need for additional buildings;
- Facilitates "whole crop utilisation" as the new processing and packing facility is able to utilise even the smallest produce, which is currently too small for effective processing by hand, and so is disposed of as waste.

17.2 The building can be screened by existing and additional landscaping and has been kept as low as operationally possible and will be finished in dark green, all of which helps to minimise its visual impact within the countryside and nearby AONB.

17.3 The proposed development would not result in any significant increase in vehicular movements to and from the site so complies with NPPF Paragraph 115 which states that "Development should only be prevented or refused on

highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” There remains adequate parking and manoeuvring provision on site.

- 17.4 Conditions controlling delivery times and noise at the boundaries and lighting will avoid any significant impact upon neighbouring residential amenity from noise and disturbance and glare. It is considered that the building is in a location sufficiently far enough from neighbouring residences and of a scale that would not result in an overbearing impact, loss of light or significant loss of outlook to the nearest residents. Whilst the building would be partly visible from nearby residences, the loss of a view is not a justifiable reason for refusal as there is not a right to a view.
- 17.5 There would be no significant impact upon wildlife and vegetation and there are no objections on flood risk grounds subject to appropriate conditions. An archaeological condition will be applied.
- 17.6 In conclusion, the proposal is considered to represent sustainable development in accordance with the provisions of the local plan and approval is consequently recommended.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

### **1. 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 – 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:

L465/02, L465/01, 23.5395.01.A, AIA, Rec'd 27.9.23, L465 02, 2303301 -D001 Rec'd 17.10.23, E23-690-PL-01B, PL-02B, PL-03B, PL-04B, PL-05B, PI-06B, PL-07B, PL-09B Rec'd 18.12.23.

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

### **3. ZBB- Materials and Finishes as stated in application**

The external facing and roofing materials and finishes to be used shall be those specified on the submitted application form and drawings.

Reason: To ensure that materials are of an acceptable quality appropriate to the area.

### **4. Z00- Turning**

The development shall not be occupied until such time as the manoeuvring and turning facility has been provided. These facilities shall be retained in this form

at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that manoeuvring of vehicles in the adjoining streets does not occur, in the interests of highway safety.

**5. Z00- Parking two wheelers**

Prior to commencement of the proposed development, details of the provision for parking of powered two wheelers and bicycles 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.

**6. Z00- Vehicle Signage**

Prior to the first beneficial use of the proposed development the applicant shall provide a traffic management plan that should include but is not limited to:

1. Additional permanent signage within the site located in clear view and prominently displayed indicating all HGV Traffic should turn out of the site towards the A134 The Causeway and no access towards Queens Head Road

2. A route plan for all drivers and haulage operators detailing the route to and from the site is from and to the A134 The Causeway being issued to all drivers and vehicles attending the site and to avoid the vehicular HGV use of Queens Head Road and Holly Lane.

3. Additional permanent signage within the site located in clear view and prominently displayed directing HGV traffic to and from the loading and unloading facilities to avoid congestion and obstruction to opposing vehicles

Reason: To protect the highway user and the integrity and fabric of the highway in the interests of highway safety.

**7. Z00- Landscaping**

The landscape details as shown on the approved drawing(s) 23.5395.01.A lodged on 27/09/2023 shall be carried out in full prior to the end of the first planting/seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority and its implementation shall be in compliance with the recommendations set out in the relevant British Standards current at the time of submission. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that the landscape is implemented in accordance with the detail submitted within the application.

**8. ZPA – Construction Method Statement**

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;  
loading and unloading of plant and materials;  
storage of plant and materials used in constructing the development;  
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;  
wheel washing facilities;  
measures to control 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.

#### **9- 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.

#### **10- ZGA - \*Restriction of Hours of Operation\***

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

Weekdays: 07:30-18:30

Saturdays: 07:30-18:30

Sundays and Public Holidays: 07:30 -18:30.

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

#### **11. ZGB - \*Restricted Hours of Delivery\***

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

Weekdays: 07:30-21:00

Saturdays: 07:30-18:30

Sundays and Public Holidays:07:30 18:30

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

## **12. ZGG - Site Boundary Noise Levels**

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed -5dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

## **13. Z00- Openings**

There shall be no windows or doors on the facades facing residential properties.

Reasons: In the interests of neighbouring residential amenity.

## **14. ZGN - Industrial Processes (if applicable for Control of Fumes, Odours, Dust etc)**

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme devised by a competent person for the control of fumes, smells and odours, and dust that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. The control measures shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes, odours, dust, and smell in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

## **15. ZGR - \*Light Pollution**



Prior to the installation of any external lighting, precise details shall be submitted to and agreed in writing by the Local Planning Authority. Only approved lighting shall be installed. Any such lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the current ILP Guidance Note For The Reduction of Obtrusive Light for zone E2 RURAL (low district brightness – sparsely inhabited rural areas, village or relatively dark outer suburban locations), E3 SUBURBAN (medium district brightness – well inhabited rural areas, small town centres, suburban locations); E4 URBAN (high district brightness – town/city centres with high levels of night -time activity).

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

**16. Z00- Accord with Flood Risk Assessment.**

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 2308-843, rev A, by K Welham Ltd/Ingent consultants, dated December 2023 and the following mitigation measures detailed within the FRA:

- Limiting the discharge from the site to 2.2l/s
- Providing attenuation storage (including locations on layout plan) 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.

**17. Z00- Biodiversity Net Gain**

Prior to any works above slab level, precise details of a 10% measurable biodiversity net gain (including implementation timetable) shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details, including timetable.

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, orientations and heights of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

Reason: To ensure a 10% biodiversity net gain in accordance with Local Plan and National Policy 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).

## **18. Z00- Archaeology**

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

The scheme shall include an assessment of significance and research questions; and:

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Colchester Local Plan 2017-2033 policy DM16 and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

## **19. ZFS- Tree and Hedgerow Protection.**

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years

following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

## **20. ZAN- Site levels Plan**

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

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

### **19.1 Informatives**

19.1 The following informatives are also recommended:

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

Informative 2:

The AONB team has recently commissioned new Lighting Guidance for the Dedham Vale and Suffolk Coast & Heaths AONBs. This includes lighting guidance non-domestic developments and may be helpful for mitigating lighting impacts. Please refer to the following link -

<https://www.dedhamvalestourvalley.org/wp-content/uploads/2023/08/Lighting-Guidance-in-National-Landscapes.pdf>

Informative 3: There should not be regular lighting on the sides of the building facing residential properties. A lighting scheme should also ensure that bats and other light sensitive species are not discouraged from using the area. The scheme should ensure that no light spill luminates the vegetative areas on site.

Informative 4:

To ensure the effective treatment of surface water runoff to prevent pollution there are also the following advisory comments:

It is recommended that the applicant look at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.  
<https://www.essex.gov.uk/protectingenvironment> .

Informative 5 on Archaeology:

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

<http://www.colchester.gov.uk>

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

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

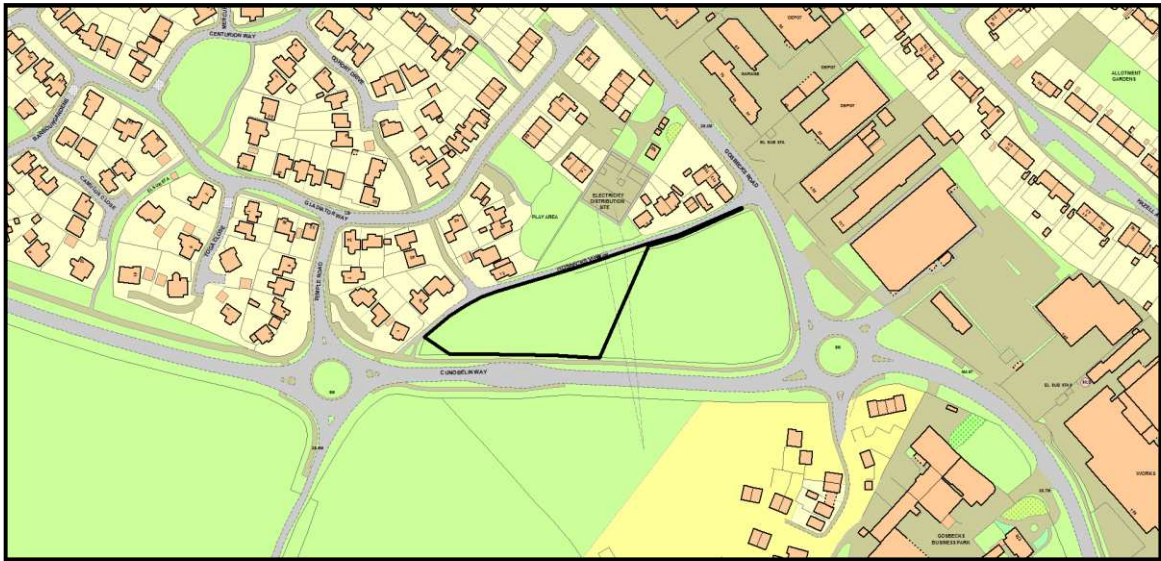
PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester City Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

### **Positivity Statement**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those

concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.





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**Item No:** 7.3

**Application:** 232792

**Applicant:** Mr Ross Bain

**Agent:**

**Proposal:** Proposed construction of 3 no 3-bedroom & 3 no 2-bedroom bungalows and 1 no 3-bedroom & 2 no 4-bedroom houses with associated garaging and alterations to access road with pedestrian margin (resubmission of 231402)

**Location:** Land fronting, Gosbecks View, Colchester

**Ward:** Shrub End

**Officer:** John Miles

**Recommendation:** Approval, subject to conditions and the prior completion of the necessary Unilateral Undertaking

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

- 1.1 This application is referred to the Planning Committee because it is a resubmission of application 231402 which had been called in by Cllr. Sam McCarthy for the following reason:

*Gosbecks View is a narrow country road that simply cannot cope with more cars utilising the road, let alone pedestrians and cyclists. There's no pathways planned. This causes serious safety concerns for current and potential new residents. Refuse collection is already difficult, with a refuse vehicle causing damage in the past.*

An objection on application 231402 was also received from Cllr. Dave Harris:

*I have been contacted by residents of the area who are concerned over the access lane being used for these extra dwellings*

*The worry which is real is the new houses will reverse onto what is a well used pedestrian walk route*

*Also the lay byes passing places it is thought will be used for visitor parking and thus the road will no longer have users able to pass safely*

*Highways is a county council issue and as County Councillor my duty is to heed the comments and concerns that the existing householders have expressed*

*I have seen the site and see no other way than to create an access off the main road nearby.*

More information on the current status of application 231402 can be found at Section 6.0 of this report.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the design of the proposed development, impacts on the surrounding area, including the landscape and setting of heritage assets, and highway safety.

- 2.2 The scheme, as submitted, is considered to represent sustainable development. It is considered that the proposal relates satisfactorily to the existing landscape setting and respects the setting of heritage assets. The proposals are also considered to provide sufficient parking facilities and subject to the imposition of the conditions requested by the Highway Authority the proposal is considered acceptable from a highway safety and capacity perspective. The development is also held to achieve an appropriate quality of design and is otherwise acceptable with regard to wider material planning considerations.

- 2.3 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The site is approximately 0.45ha in size. Access to the site is proposed via Gosbecks View. To the north is existing residential development and beyond the south of the site is the recently completed Gosbecks Road Bloor Homes development. The land directly beyond the site's eastern boundary forms part



of a Schedule Monument known as 'Gosbecks Iron Age and Romano-British site' (LEN 1002180). The wider context comprises a mix of residential and commercial land uses.

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

4.1 The application seeks planning permission for 3 x 3-bedroom and 3 x 2-bedroom bungalows, 1 x 3-bedroom and 2 x 4-bedroom houses, associated garaging and alterations to the existing access road including a new pedestrian margin.

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

5.1 The site is current grassland and forms part of the Land at Gosbecks Phase 2 allocation, under Policy SC1 of the Section 2 Adopted Local Plan 2017-2033. Under this policy the application site and the wider allocation (which includes the aforementioned Bloor Homes development off Gosbecks Road) is allocated for up to 150 new dwellings.

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

6.1 There is relevant planning history in the form of application 231402. This application was considered by the Committee on 9<sup>th</sup> November 2023. At this meeting the application was deferred for future consideration by Committee. Delegation was given to the Head of Planning to seek revisions to the scheme in the interests of the safety of pedestrians and road users, including the lighting of Gosbecks View, widening of the road and the provision of a footway. It was also requested that the possibility for access to the site directly from Cunobelin Way was reviewed in consultation with the Highway Authority.

Officers subsequently re-opened discussions with the applicant, however on 23<sup>rd</sup> November 2023 notice was received by the Council that the applicant had lodged an appeal on the grounds of non-determination. The appeal relating to application 231402 is currently being processed by the Planning Inspectorate.

The current new application has been submitted concurrently to the appeal. The main contents of the proposal remain largely in accord with the details previously considered however the new application does also include a third proposed passing bay, a new 1.2 metre pedestrian margin along the southern side of Gosbecks View and an additional visitor parking space, as shown on the submitted proposed site layout.

#### **7.0 Principal Policies**

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

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

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision

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

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

### 7.3 Local Plan 2017-2033 Section 2

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
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM2 Community Facilities
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- 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

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

The Essex Design Guide  
Biodiversity  
External Materials in New Developments  
EPOA Vehicle Parking Standards

Community Facilities  
Open Space, Sport and Recreation  
Managing Archaeology in Development.

## **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.

Arboricultural Officer:

*Regarding the proposed development and AIA provided:*

*I am in agreement with the tree report and tree survey provided.*

*The report demonstrates that the important trees on this site will be retained and protected through the development process.*

*In conclusion, I am satisfied with the arboricultural content of the proposal  
Make the tree report an approved document (including plans).*

Archaeological Advisor: No objection - detailed comments included in the main body of the report.

Contaminated Land Officer: No objection, subject a condition covering the reporting of unexpected contamination.

Environmental Protection: No objection. Conditions recommended covering a construction management plan (including limits to hours of work) and post development noise levels (internal and external).

Essex County Fire & Rescue Service:

*Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13.*

*Access for fire service is considered satisfactory subject to fire service access for firefighting purposes to the proposed development being fully compliant with Building Regulations Approved Document B Volume 1, B5. Your attention is drawn to ADB Volume 1, B5 Section*

*When referring to Table 13.1. Essex Fire Service appliance details:*

*More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.*

### **Building Regulations**

*It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector.*

*Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance".*

*Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).*

### **Water Supplies**

*The architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact Water Section at Service Headquarters, 01376 576000.*

### **Sprinkler Systems**

*“There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.*

*Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.”*

Essex Place Services Ecology: No objection subject to conditions.

Officer comment: The suggested conditions are discussed in more detail in the main body of the report.

### Highway Authority:

*Having reviewed the submitted documents in relation to the above planning application, it would appear that in Highway Terms the proposals are similar to those previously submitted under application number 231402, with the addition of a pedestrian margin along Gosbecks View from its junction with Gosbecks Road to the site. The provision of this facility is considered beneficial for all users of the public highway by way of improved width and visibility in order that pedestrians, cyclists and drivers are able to safely manoeuvre simultaneously along the route.*

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

Officer comments: The full consultation response can be viewed on the Council's website including the nine conditions recommended by the Highway Authority.

Historic England: No objection - more detailed comments included in the main body of the report.

Landscape Advisor (comments provided in respect of application 231402):  
*Regarding the landscape content/aspect of the strategic proposals submitted principally under drawing(s) 736/1.C lodged on 10/10/2023 and the Landscape & Visual Impact Assessment (LVIA) dated September 2023 lodged 25/09/2023:*

*In support and addition to the policy/policies and guidance detailed in 3.1 below, the following point(s) should be taken into consideration. This to avoid potential harm to the existing and future character/amenity of the site and its environs that might occur through agreement of the currently proposed scheme, as it is considered it may not adequately conserve/enhance/restore the landscape of the site for the betterment of its wider setting:*

*To help meet national/local policies/guidelines, from a landscape perspective any revised proposal should:*

*The new frontage hedge onto Gosbecks Lane and the SAM should be proposed as single species native *Crataegus monogyna* hedging (rather than mixed hedging) with numerous locally compatible native trees proposed along and within (rather than behind) the frontage hedges, this so as to replicate the characteristic 'enclosed atmosphere' of the Lane and help protect the SAMs landscape and visual integrity and setting in the long-term, whilst allowing for traditional unit hedge enclosure. This could be conditioned.*

*Given the national importance of the adjacent/abutting SAM, any proposed units should seek to face onto and be set well back from the monument. Units 8 & 9 appear to run contrary to this, however, given the constrained nature of the site, reorientating these units to face onto and be set well back from the SAM would be the preferred option from a landscape perspective, as, when considering the importance in landscape terms of the SAM and Gosbecks Lane, it is the nationally important SAM that is the more valued/important element within the landscape.*

*Publicly visible hard rear garden boundary enclosure should be in brick wall rather than fenced, see clause 6.4 of LIS/A.*

Officer comments: The requested amendments to the proposed boundary treatments and form of the proposed planting have been agreed in principle by the applicant and can be controlled by condition. The position and orientation of the proposed dwellings has been carefully considered and Historic England have confirmed that under the plans as revised they have no objection to the spatial relationship between proposed built form and the Schedule Monument, nor do they have an objection to the impact of the development on the Scheduled Monument more widely.

North Essex Parking Partnership: No comment.

Planning Policy: No objection.

## **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. Objections have been received from 11 interested third parties. One general comment was also received.

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 raised are given below.

- Insufficient infrastructure
- Increased traffic
- Gosbecks View is not capable of accommodating additional vehicle movements
- Highway safety issues
- Gosbecks View is used by pedestrians and cyclists
- Alternative land uses would be more appropriate
- Loss of trees and shrubs
- Impact on wildlife
- Insufficient parking
- Emergency access
- Potential flooding

In the interests of transparency it is noted that objections were received from 19 interested parties in respect of application 231402, prior to the appeal being lodged. The full text of all of the representations received on the previous application are again available to view on the relevant page of the Council's website, in so far as they remain relevant to the current proposals.

## **11.0 Parking Provision**

11.1 Each dwelling is served by a minimum of 2 on plot parking spaces. When policy compliant garaging is included a majority of dwellings are served by 3 off-road parking spaces. An unallocated visitor parking space is also proposed to the centre of the site.

## **12.0 Accessibility**

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. In considering the application due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Taken as a whole, the proposed development does not raise any concerns from an accessibility or equality perspective. It is also noted that the proposed development includes the provision of 6 bungalows, with level accommodation across a single floor, providing accommodation that is expected to be more versatile for those with restricted mobility.

## **13.0 Air Quality**

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

## 14.0 Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team. Under the provisions of the adopted Local Plan, the Council does however collect contributions for community and sport/recreation projects to mitigate the impact arising from small scale housing development, which includes this case. A Unilateral Undertaking (UU) will be required to facilitate payment in accordance with the schedule of payments derived from the adopted SPD and draft unilateral undertaking. The following contributions have been calculated as being due:

**Sport and Recreation:** £56,235.32

**Community Facilities:** £24,618.28

Under the provisions of the Unilateral Undertaking a majority of the contributions secured are required to be used towards the provisions and/or improvement and/or maintenance of Community and Sport and Recreation facilities which are in the vicinity of the application site. In the case of Sport and Recreation facilities no more than 35% of the contribution will be used for City projects, with the remainder to go specifically towards local facilities, in accordance with adopted procedures. The contributions identified are considered to meet the relevant tests for planning obligations, as well as being consistent with the approach identified in the Council’s adopted SPDs.

It is also proposed that the relevant RAMS contribution be secured through the Unilateral Undertaking. This is discussed in the main body of the report.

Delegated authority is sought for officers to oversee the completion of the Unilateral Undertaking.

## 15.0 Report

### Principle

15.1 The National Planning Policy Framework (NPPF) sets out the Government’s planning policies for England and how they should be applied, it affirms that the determination of applications should be in accordance with Development Plans, including spatial development strategies.

15.2 In terms of the principle of development, Section 1 Policy SP3 and Section 2 Policy SG1 state existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period and development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Policy SG1 places a focus on Colchester for new sustainable growth. The spatial hierarchy ranks areas of Colchester in order of their sustainability merits and the size, function and services provided in each area.

- 15.3 Development will be focused on accessible locations to reduce the need to travel. Development will be supported where a real travel choice is provided and sustainable travel for different purposes is promoted throughout the day.
- 15.4 The application site is within the settlement boundary for Colchester, in a sustainable location, and notably forms part of the SC1 Land at Gosbecks Phase 2 site allocation which covers the provisions of up “Up to 150 new dwellings of a mix and type of housing to be compatible with the surrounding development.”

*Policy SC1: South Colchester Allocation*

*Allocations as shown on the policies map will be safeguarded for residential uses. In addition to the requirements in Policy PP1, proposals will be required to satisfy the Local Planning Authority with regard to the site-specific requirements as identified below.*

*Land at Gosbecks Phase 2 Development of this site will be supported where it provides: (i) Up to 150 new dwellings of a mix and type of housing to be compatible with the surrounding development; (ii) New bus stop provision to service the site and improve sustainable transport links to Colchester Town Centre; (iii) New public art and improvements to the public realm; and (iv) A contribution to Gosbecks Archaeological Park.*

- 15.5 A majority of the allocation has already been brought forward under application 190522, which granted permission for 144 dwellings on the land to the south of Cunobelin Way. This permission has been implemented by Bloor Homes.
- 15.6 While it is recognised the proposed development would take the total consented dwellings across the wider allocation to 153 dwellings – marginally more than the 150 dwellings referenced in Policy SC1 - subject to the proposal being acceptable with regards to wider material planning considerations it is not considered this undermines the principle of the development proposed.
- 15.7 In this regard it is also important to note that Planning Policy have been consulted as part of the application process and have confirmed they have no objections from a policy perspective, including in respect of the provisions of Policy SC1.

Design and Layout

- 15.8 The National Planning Policy Framework (2023) sets out the Government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, going on to state that 'good design is a key aspect of sustainable development'. The framework also states that



'development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'.

- 15.9 Government guidance on design is provided by the National Design Guide and National Model Design Code, both of which form part of the government's Planning Practice Guidance. The National Design Guide seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice. Whilst the National Model Design Code sets out clear design parameters to help establish what good quality design looks like and provides a common overarching framework for design. These documents are intended to help create beautiful and distinctive places, with a consistent and high-quality standard of design.
- 15.10 At a local level these policies are carried through to Section 1 Local Plan Policy SP7, which seek to ensure development responds positively to local character and context to preserve and enhance the quality of existing places and their environs. These policies are supported by more detailed guidance provided by supplementary planning documents such as the Essex Design Guide.
- 15.11 Section 2 of the Colchester Borough Local Plan 2013-2033 Policy DM15 is also of particular relevance with regard to setting design standards and amongst other requirements seeks to ensure proposed developments respect and enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.
- 15.12 The scheme's layout has evolved since first submitted under application 231402 to ensure the dwellings achieve a meaningful relationship with Gosbecks View, Cunobelin Way and the Scheduled Monument beyond the site's eastern boundary.
- 15.13 A new frontage hedgerow along Gosbecks View and to the Scheduled Monument are also proposed, in addition to estate rail fencing and brick walls to the site's other publicly visible and visually sensitive boundaries. These matters are discussed further in the sections below.
- 15.14 In terms of scale there are a mix of bungalows and two storey dwellings proposed. The proposed buildings are relatively traditional in form and adopt a number of design features reflective of the traditional Essex vernacular. Revisions have been secured since the original submissions under application 231402 which are considered to improve the detailed design of the dwellings and ensure that there is sufficient variation between the dwellings to avoid an overly homogeneous built environment. In addition to this it is considered there are sufficient detailed designed features to the dwellings to ensure there is a good degree of visual interest, and such features are of a consistent character, to aid site identity.

- 15.15 Welcomed detailed design features include sliding sash windows, decorative and feature brickwork, stone heads and cills, bay windows, pentice boards and brick plinths. Proposed materials include facing brick, slate, pantiles and render. The proposed detailed design of the dwellings and their proposed materiality draws cues from the existing development beyond the north of the site and the more recent development on the Bloor Homes site to the south-east.
- 15.16 While the detailed design of the dwellings has been improved and the dwellings are generally considered to achieve a good quality of design, it is considered there is scope and justification for the detailed design of Plot 7 and 9 to be further enhanced. Recommended Condition 4 (architectural details) is therefore worded in such a manner to secure additional detailing to the aforementioned dwellings in the form of exposed rafter feet to Plot 7 and additional brickwork detailing to Plot 9. It is also recommended that the external finish of Plot 8 is amended to render, to provide improved consistency of external finishes, with only Plot 5 currently specified to be rendered.
- 15.17 These amendments and exact details on the design features and materials to be used are recommended to be controlled by condition for precision, and to ensure that these important aspects of the scheme are taken forward in an appropriate manner and with an appropriate quality of finish.
- 15.18 Taken as a whole, the proposed development is considered to achieve an acceptable and policy compliant standard of design, subject to appropriate conditions.

#### Impact on Heritage Assets

- 15.19 Local Plan Policies ENV1 and DM16 seek to conserve and enhance Colchester's historic environment. In line with the NPPF, development that will lead to substantial harm to or total loss of significance of a listed building, conservation area, historic park or garden or important archaeological remains (including the setting of heritage assets) will only be permitted in exceptional circumstances where the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where development will lead to less than substantial harm this harm should be weighed against the public benefits of the proposal. In addition, Policy DM16 requires development proposals to be supported by archaeological evaluation, with a mitigation strategy as necessary.
- 15.20 The main heritage interest of the application is the impact on the land directly beyond the site's eastern boundary which forms part of a Scheduled Monument known as 'Gosbecks Iron Age and Romano-British site' (LEN 1002180).
- 15.21 When application 231402 was first submitted concerns were raised by Historic England that the application contained insufficient information to consider potential impacts on the historic environment. On the basis of the information available, while they had no objection to development per se on

the application site, concerns were raised that the development as originally proposed under the previous application could result in unacceptable and unmitigated harm to the significance of the Monument through the development proposed in its setting.

- 15.22 Over the course of the previous application additional heritage investigation work was undertaken including a Heritage Impact Assessment. Revisions were also made to the layout and landscaping of the development, taking into account advice received from Historic England. As proposed under this current application the proposed dwellings to the east of the site have been orientated to establish a meaningful frontage towards the Scheduled Monument, to recognise and reflect the importance of the Monument and also assist in the interpretation and delineation of the line of the Roman road (Stane Street from St Albans to Colchester), which historically traversed the Schedule Monument site (north-east to south-west).
- 15.23 An interpretation panel is also proposed (exact details to controlled by condition) to provide public benefits in terms of improved opportunities for the public to interpret and appreciate the Scheduled Monument and its significance.
- 15.24 Historic England have confirmed they have no objection to the current scheme (full comments available to view on file), commenting as follows:

***Impact***

*Our most recent view, set out in our letter of 16th October in response to application ref 231402, has been that the development will no longer have a harmful impact upon the significance of the scheduled monument following changes were made to the design and layout in order to mitigate impact.*

***Policy***

*In policy terms the National Planning Policy Framework sets out the desirability of sustaining and enhancing the significance of heritage assets, paragraph 199. It continues that great weight should be given to their conservation and that any harm requires clear and convincing justification, paragraphs 199 and 200. Where a proposal will lead to less than substantial harm, this should be weighed against the public benefits of the proposal, paragraph 202 and 203.*

***Position***

*The currently proposed changes do not substantially affect our position on the withdrawal of our objection as set out in October. We continue to draw your attention to the letter provided by the applicant (Ref: Stamfords dated 10th October) which details design and layout changes and sets out proposals for an interpretation panel.*

*Broadly speaking we appreciate the revisions that have been made and consider that they, with the addition of the interpretation, which should be secured by a suitable planning condition on any consent, would be enough*

to mitigate the harm. We defer on matters of further archaeological fieldwork, design and materials to your specialist advisers.

**Recommendation**

*Historic England does not object to the application on heritage grounds. We consider that the revisions made to the application continue to be enough to meet the requirements of the NPPF at paragraph numbers 199, 200 and 201.*

*Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.*

- 15.25 In terms of on-site archaeology the application is supported by an Archaeological Evaluation, prepared by the Colchester Archaeological Trust. The Council's consultant Archaeological Advisor has reviewed the material submitted and has provided the following comments:

*Despite the close proximity of this site to the route of the former Roman road from Colchester to Gosbecks and to the Gosbecks Iron Age and Roman-British scheduled area, the submitted geophysical survey, archaeological trial-trench evaluation and heritage impact assessment indicate that during the Roman period this particular parcel of land was not as busy as the nearby archaeological landscapes would suggest. The excavated features, many of which were tree throws, were all sterile and largely uneven in their compositions both in profile and in plan, suggesting that they were more likely to be part of the land clearance of trees and scrubland in preparation for farming practices in antiquity. The geophysical surveys from 2015 (ArchaeoPhysica Ltd) and 2023 (Magnitude Survey) both showed readings across the development area which the evaluation trenches attempted to resolve. The 2023 geophysical survey identified a buried surface which has since been revealed to be the compacted modern compound material, while the 2015 geophysical survey showed a linear-shaped response on an almost north-south alignment through the eastern end of the development area, which was not identified during the evaluation.*

*On this basis, it is apparent 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 an archaeological mitigation condition to be applied to any consent granted.*

- 15.26 In conclusion the proposal is considered acceptable with regards to any impacts to heritage assets, including the adjacent Scheduled Monument and below ground archaeological assets, subject to appropriate conditions.

Landscape and Trees

- 15.27 Paragraph 130 of the National Planning Policy Framework [NPPF] requires planning decisions to ensure development is sympathetic to local character, including landscape setting. Policy ENV1 of the Section 2 Local Plan states

that the Council will conserve and enhance Colchester's natural environment. Policy SP7 requires development to respond positively to local character and protect and enhance assets of natural value, while Policy DM15 requires development to positively integrate with landscape assets.

- 15.28 The application is supported by a detailed Arboricultural Impact Assessment and Tree Protection Plan and Landscape Visual Impact Assessment.
- 15.29 The proposed development looks to retain a majority of the existing trees on site, including the veteran Oak Tree to the site's northern boundary. Where existing trees are proposed to be removed, they have been assessed as being of a low quality and it is considered the proposed new tree planting on site will more than compensate the removal of any existing natural features. The Arboricultural Officer has confirmed he is in agreement with the arboricultural content of the proposal.
- 15.30 It is understood that the existing vegetation to the site's northern boundary is *Rubus fruticosus* (invasive blackberry brambles) which appear to have suffocated the hedgerow which previously lined this section of Gosbecks View. The proposal includes the removal of the existing brambles and the planting of a new native hedgerow, supportive of the overall aim from a landscape perspective of ensuring Gosbecks View retains a verdant and rural feel.
- 15.31 Other boundaries are proposed to be finished in a mix of hard and soft boundary treatments. To the eastern boundary, further hedgerow and tree planting is proposed, in addition to low level estate rail fencing. While the proposed timber fencing currently shown on the submitted plans to part of the site's southern and western boundary is considered unacceptable in visual amenity terms, the applicant has agreed to the boundary treatments to these areas to be revised to a brick wall set behind a new hedgerow, as requested by the Landscape Advisor. These revised landscape details and the implementation and management of an appropriate scheme of hard and soft landscaping can be controlled by condition.
- 16.32 Overall, the proposal is considered to either provide appropriate landscaping in terms of the details submitted or, where required, amendments can be secured by way of condition, to ensure any final detailed scheme successfully integrates with the surrounding landscape and achieves a high-quality public realm.

#### Highway Safety and Parking Provisions

- 16.33 Paragraph 115 of the National Planning Policy Framework [NPPF] (2023) provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 15.34 Section 2 Local Plan Policy DM22 relates to parking standards in association with the Vehicle Parking Standards SPD. Section 2 Local Plan

Policy DM21 requires development to create safe, secure, convenient and attractive layouts.

- 15.35 It is noted that a majority of the objections received are in relation to the proposed vehicular access to the development along Gosbecks View. Concerns are understood to relate mainly to the width of the existing road, anticipated increase in vehicle numbers and at present the absence of a formal footway. These views are fully acknowledged and appreciated by Officers, with careful consideration having been given to these matters.
- 15.36 In terms of access provisions, following the consideration of application 231402 further enquiries have been made with ECC Highways on the possibility of access via Cunobelin Way. A detailed response on this matter has been provided by Matthew Tiller, Strategic Development Officer at ECC Highways:

*Below is an extract from the SDM Policy document for ease of reference and where all vehicular access is assessed against.*

***Policy DM1 General Policy***

*The Highway Authority will protect the highway network for the safe and efficient movement of people and goods by all modes of travel by ensuring that:*

- i. all proposals are assessed and determined in relation to the Development Management Route Hierarchy Policies (Policies DM2 – DM5);*
- ii. where vehicular access is accepted in principle; the number of access points will be kept to a minimum on roads designated within the Development Management Route Hierarchy;*
- iii. where access is accepted in principle; new access points will be designed and constructed in accordance with the current standards;*
- iv. where existing access is to be used, substandard accesses will be improved and/or upgraded in accordance with the current standards for the category of road;*
- v. all proposals are assessed and determined against current standards for the category of road having regard to the capacity, safety and geometry of the highway network;*
- vi. all proposals have safe and convenient access for sustainable transport modes commensurate to its location;*
- vii. proposals will not create a significant potential risk or be detrimental to the safety of the highway network.*

*Cunobelin Way is classified as a Secondary Distributor road which its function is defined as being “The carrying of traffic safely and efficiently between substantial rural populations and on through routes in built up areas”*

**Policy DM3 Secondary Distributors Between Defined Settlement Areas:**

*The Highway Authority will protect the function of Secondary Distributors between defined settlement areas by:*

- i. prohibiting direct access;*
- ii. prohibiting intensification of use of an existing access;*
- iii. requiring improvements to existing substandard accesses.*

*Exceptions may be made where access is required to developments of overriding public, environmental, national and/or regional need.*

**Within Defined Settlement Areas:**

***The Highway Authority will protect the function of Secondary Distributors within defined settlement areas by:***

- iv. ensuring that where there are overriding safety concerns and where access is available to a lower category of road in the Development Management Route Hierarchy this is used;***
- v. ensuring that new access points will be designed and constructed in accordance with the current standards;***
- vi. requiring improvements to existing substandard accesses.***

*Point iv. above instructs that where access is available to a lower category of road in the Development Management Route Hierarchy this is used, Gosbecks View clearly meets that requirement.*

*I also raise concerns that even if a satisfactorily designed access could be used providing access from Cunobelin Way the impact on the free flow of traffic from the roundabout would likely be unacceptable as the tendency is to accelerate away from roundabouts and drive to the Posted Speed Limit (PSL) a new connection to Cunobelin Way is likely to generate congestion on or around the roundabout and at the connection to each arm of that roundabout. It may also lead to confusing and unexpected slowing, braking and signalling on a significant traffic distributor. This would likely apply to a left in or filter lane arrangement.*

*Any new access to the proposed development site from Cunobelin Way would also remove the existing connecting footways and layby and may also interfere with the existing street lighting plan which the Highway Authority will resist.*

*Any proposal would require a Stage 1 Road Safety Audit together with the Designers responses to all points raised by the Audit including any mitigation measure identified within the audit, in my experience it would be unlikely to receive a satisfactory report in this location. Furthermore, the*

*new access regardless of design would be considered unnecessary and an over engineered solution to a perceived problem for a very modest development.*

*In summary, The Highway Authority would not support the proposal for a new vehicular connection to the modest development of up to 9 dwellings currently proposed off Gosbecks View from Cunobelin Way for the reasons discussed above, there being no benefit to highway users and being contrary to the SDM Access policies.*

15.37 In light of the firm position from the Highway Authority that access would not be supported from Cunobelin Way for the reasons outlined, the acceptability of the scheme must be considered on the basis of the access arrangement proposed, namely with vehicular access via Gosbecks View.

15.38 In this regard it is important to note that following the consideration of application 231402 changes have been made to the form of the proposed access provisions. The scheme now includes the provision of three new vehicle passing bays along Gosbecks View - one more than previously proposed under application 231402.

15.39 In response to the concerns previously raised the current application also includes a new pedestrian footway at 1.2 metres in width along the southern side of Gosbecks View, to link to the footway on Gosbecks Road. The provision of this footway can be secured by condition and in this respect the proposed development is anticipated to provide a degree of betterment in highway safety terms, in providing a formal footway along Gosbecks View, where one does not currently exist. In their comments Essex County Council Highways also explicitly raise the perceived benefits of the new pedestrian margin, commenting as follows:

*Having reviewed the submitted documents in relation to the above planning application, it would appear that in Highway Terms the proposals are similar to those previously submitted under application number 231402, with the addition of a pedestrian margin along Gosbecks View from its junction with Gosbecks Road to the site. The provision of this facility is considered beneficial for all users of the public highway by way of improved width and visibility in order that pedestrians, cyclists and drivers are able to safely manoeuvre simultaneously along the route.*

15.40 In addition to this, under the conditions recommended by the Highway Authority the developer will also be required to provide a new informal pedestrian crossing (pram crossing) to the bellmouth where Gosbecks View meets Gosbecks Road to current patterns and standards.

15.41 Officers consider that the proposed solution, when taken as a whole, provides an effective solution to ensure there are suitable provisions for highway users, including pedestrians, while also being mindful of the need to ensure that important natural features along Gosbecks View can be retained and Gosbecks View retains its current verdant and rural feel.



- 15.42 In addition to the above, taking into account the relatively modest number of dwellings proposed, while the development is anticipated to increase vehicle movements along Gosbecks View, it is not anticipated the proposal will fundamentally alter the character or nature of vehicle movements along the road, which is anticipated to remain lightly trafficked. Furthermore, while the relatively modest dimensions of the highway along Gosbecks View has been raised as an area of concern in representations received, on the other hand the existing characteristics of the road are such that it is not considered the road is conducive to vehicles travelling at high speeds.
- 15.43 As previously noted, Essex County Council Highways have been consulted on the acceptability of the proposed development, including in respect of issues of highway safety. Essex County Council Highways have confirmed that, in their role as statutory consultees, they consider from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to recommended conditions.
- 15.44 Taking into account the anticipated levels of vehicle movements, low traffic speeds and the mitigation/highway improvements proposed, with due regard to the consultation response received from Essex County Council Highway Authority in their role as statutory consultees, the proposed development is considered acceptable from an access and highway safety perspective.
- 15.45 In terms of vehicle parking the EPOA Parking Standards sets general parking standards, including for residential uses. In terms of residential development EPOA parking standards set a standard of 1 car parking space per 1 bedroom dwelling and 2 parking spaces per dwelling with 2 bedrooms and above.
- 15.46 A minimum of 2 off-road parking spaces are provided per dwelling. Including policy compliant garaging a majority of dwellings are served by 3 off-road parking spaces.
- 15.47 While three dwellings do not benefit from a third parking space on site (to serve as visitor parking), the application proposes a centrally located visitor parking space which is considered sufficient to serve the aforementioned dwellings which are without on-plot visitor parking. EPOA parking standards requires 0.25 visitor parking spaces per dwelling (unallocated) (rounded up to nearest whole number) and with one unallocated visitor parking space proposed to serve the three dwellings without onsite visitor parking, the parking provisions proposed are held to be in accord with these standards.
- 15.48 When taken as a whole, subject to a condition requiring the proposed garaging to be retained for vehicle parking the proposed parking provisions are considered adequate to serve both residents and visitors and are held to be in compliance with adopted standards.

- 15.49 The provision of suitable cycle parking facilities for each dwelling can be ensured through the imposition of the cycle parking condition recommended by the Highway Authority.
- 15.50 Taken as a whole Officers are of the view that the proposed development is acceptable from a parking, highway safety and highway capacity perspective for the reasons outlined above.

#### Impacts on Neighbouring Properties

- 16.51 Paragraph 135 of the NPPF (2023) requires, amongst other things, planning decisions to ensure development promotes health and well-being and provides a high standard of amenity for existing and future users. Section 2 Local Plan Policies DM12 and DM15 also require all development to protect the amenity of existing and future residents, including with regards to loss of light, overbearing impacts and overlooking.
- 15.52 In terms on neighbouring amenity, the nearest neighbouring properties are the dwellings beyond the north of the site. Taking into account the position, scale and orientation of proposed built form the proposed development would not result in material harm to neighbouring amenity through a loss of light, outlook, or through affording unsatisfactory angles of overlooking, with due regards to the relevant tests for assessing these issues, as set out in the Essex Design Guide SPD.
- 15.53 The vehicle movements associated with the development proposed are also not expected to result in material harm to neighbouring amenity as a result of increased noise, vibrations and/or disturbance.
- 15.54 As recommended by Environmental Protection, a condition is proposed covering the provision of an appropriate Construction Method Statement covering matters such as the hours of construction deliveries and work, and measures to control noise, vibration and dust during the construction phase. Subject to the imposition of such a condition, it is considered it can be ensured that the construction phase of the development takes place in a suitable manner, in the interests of the amenities of existing residents.

#### Occupier Amenity

- 15.55 Paragraph 135 of the NPPF (2023) requires, amongst other things, planning decisions to ensure development promotes health and well-being and provides a high standard of amenity for existing and future users. Section 2 Policy DM12 states residential development will be supported where high standards of design, construction and layout are promoted, and sets general amenity standards for new dwellings, while Policy DM19 sets specific private amenity space standards. Policy DM15 also set further residential amenity requirements.
- 15.56 All the proposed dwellings have internal floor areas that meet or are in excess of Nationally Described Space Standards and it is considered all dwellings will be afforded acceptable levels of light and outlook to all

habitable rooms. A condition can also be imposed to ensure that appropriate sound insulation and passive ventilation measures are included to the properties (where found to be required) to ensure appropriate internal noise levels are achieved, in accordance with recognised standards.

- 15.57 Taking into account the size, orientation and shape of the amenity spaces proposed it considered that the scheme delivers private amenity space provisions of an acceptable quality, and which are afforded an acceptable degree of privacy.

#### Ecology and Biodiversity Net Gain

- 15.58 Section 40 of the Natural Environment and rural Communities Act 2006 [NERC] places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Paragraph 180 of the NPPF specifically, states development should contribute to and enhance the natural and local environment and minimise impacts on biodiversity, with appropriate ecological surveys required when there is reason to suspect the presence of protected species.
- 15.59 Policy ENV1 seeks to conserve or enhance biodiversity of the City and sets a requirement for development to achieve a 10% Biodiversity Net Gain [BNG], where appropriate and that development proposals that have adverse effects on the integrity of habitats sites will not be supported.
- 15.60 A Preliminary Ecology appraisal has been submitted in support of the application. This document concludes that with the mitigation outlined there will be no unacceptable impacts to existing ecology, including protected species. Essex Place Services have reviewed the information submitted and confirmed they are satisfied that there is sufficient ecological information available for determination of this application and that the information submitted provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable in these regards.
- 15.61 Compliance with the recommendations of the submitted ecological appraisal and the implementation of a biodiversity enhancement strategy can be controlled by the conditions recommended by Essex Place Services, as can the use of a wildlife sensitive lighting design scheme.
- 15.62 While it is understood that in this instance it has not been possible to demonstrate measurable biodiversity net gain of at least 10% on site at this stage, it is proposed by the applicant that biodiversity net gain is achieved through a combination of on and off-site provisions. While there is a presumption that measurable net gain in biodiversity is made onsite wherever possible, there are provisions for off-site compensation to be used in both policy and emerging legislation, and this is accepted by Officers. Subject to a pre-commencement condition to secure exact details of the on

and off-site biodiversity provision and their long-term management and maintenance, the proposal is considered acceptable from a biodiversity net gain perspective and is considered to be in accordance with Policy ENV1 in this regard.

### HRA/RAMS

- 15.63 Development proposals must not have an adverse effect on the integrity of habitat sites. Section 1 Policy ENV1 states that development proposals that have adverse effects on the integrity of habitats sites will not be supported.
- 15.64 A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been completed as part of the local plan in compliance with the Habitats Directive and Habitats Regulations. Further to Section 1 Policy SP2, contributions are required from qualifying residential development, within the Zones of Influence as defined in the adopted RAMS, towards mitigation measures identified in the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The proposed development has been considered in line with Natural England guidance, which concludes that the whole of Colchester is within the zone of influence for the East Coast RAMS and that, unless a financial contribution is secured (to fund avoidance and mitigation measures in line with the RAMS), the proposed development is likely to have a significant effect upon habitat sites through increased recreational pressure, when considered in-combination with other plans and projects.
- 15.65 A proportionate financial contribution towards the Essex Coast RAMS is to be secured as part of the Unilateral Undertaking. Subject to the completion of the Unilateral Undertaking the proposed development is acceptable in respect of its impact upon habitat sites, as appropriate mitigation will be secured, in accordance with the conclusions of the Habitats Regulation Assessment [HRA] undertaken. This mitigation is considered sufficient to ensure that likely significant effects on the integrity of habitat sites does not occur, including when the development is considered in combination with other plans and projects.

### Contamination

- 15.66 Paragraph 189 of the NPPF states that a site should ensure it is suitable for its proposed use, taking account any arising risk from contamination. This is reflected in policy ENV5.
- 15.67 A Phase 1 Contamination Risk Assessment has been submitted as part of the application. The Council's Contaminated Land Officer has reviewed the document and is in agreement with the report's conclusions that there does not appear to be any significant sources of contamination associated with the site and no intrusive investigation is considered to be required in respect of contamination. A precautionary condition covering the reporting of unexpected contamination is however recommended. Subject to the imposition of such a condition the proposal is considered acceptable from a contamination perspective.

### Climate Crisis and Sustainability Measures

- 15.68 The site is located in a sustainable location which will encourage sustainable transportation modes to be used by residents. The applicant has also confirmed that each dwelling will be provided an EV charging point and the proposed dwellings will be served by air source heat pumps.
- 15.69 In addition to this the application proposes extensive new planting, including a good number of new trees and new native hedgerows.

### Other Matters

- 15.70 The application site is located within Flood Zone 1 which has a very low risk of flooding from rivers or the sea (less than 0.1%) according to Environment Agency Long Term Flood Risk Information. The site is also outside any areas at risk of flooding from reservoirs. The site is not, therefore, considered to be particularly susceptible to flooding. The use of porous materials to all driveways and/or provisions being made to direct run-off water from driveways to permeable or porous areas is specified as a requirement of the landscaping plan, to assist in further reducing flood risk.
- 15.71 Finally, in terms of other material planning considerations, the proposed development does not raise any concerns.

## **16.0 Planning Balance and Conclusion**

- 16.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the adopted local plan. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental.
- 16.2 In respect of the first of these, **the economic role**, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.
- 16.3 The **social role** of sustainable development is described as supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, that reflect current and future needs and support communities' health, social and cultural well-being.
- 16.4 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in the south of Colchester, would provide an appropriate mix of house types, is located within walking distance of a number of key local services and facilities

required for day-to-day living and will make an important contribution to the Councils' housing land supply. The proposal would also deliver social benefits in terms of increasing the public's ability to interpret the significance of the Scheduled Monument through the interpretation panel proposed.

- 16.5 In respect of the third dimension, the **environmental role**, the proposal will provide housing in a sustainable location so that future residents would not be wholly reliant on private car, being able to walk, cycle or use public transport to access necessary services and facilities, thereby minimising environmental impacts. Ecological enhancements and biodiversity net gain can also be secured by condition.
- 16.6 There is also sufficient information to be confident that overall the development would not cause material harm to the amenity of nearby residents and the scheme is considered to achieve appropriate standards of design. It is recognised that the proposed development would have an impact on the existing character of the site (i.e., by introducing built development where there is none currently) however with sensitive landscaping it is not considered the proposal will result in unacceptable harm to the character and appearance of the area, including the landscape setting. While concerns have been raised about the proposal's impact on the highway network, the issues raised have been carefully considered and, for the reasons outlined in the main body of the report, the proposal is considered acceptable from a highways perspective.
- 16.7 In summary, it is officers' opinion that the scheme represents sustainable development and taking into account the factors identified above, the planning balance tips towards an approval in this instance.

## **17.0 Recommendation to the Committee**

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a Unilateral Undertaking to secure the contributions outlined, and the following conditions:

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

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

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

### **2. Approved Plans**

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

736/LP1B,  
736/1E,  
736/2B,  
736/3B,  
736/4C,

736/5B,  
736/6A,  
736/7A,  
736/8,  
736/9,  
736/10

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

### **3. Materials (Exact Details TBA)**

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. Notwithstanding the details submitted, the exterior of Plot 8 shall be predominantly finished in render, exact details to be agreed. Such materials as may be approved shall be those used in the development.

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

### **4. Architectural Details**

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 brick bonding, mortar joint, window detailing (including details of the depth of reveal), bay windows, doors, cills, arches, eaves, verges, gullies, ridge, brickwork /stone work detailing, recessed/projecting/decorative brickwork, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The details shall also include the use of exposed rafter feet to Plot 7 and additional brickwork detailing to Plot 9. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: To ensure that these important architectural details are implemented in a satisfactory manner, to ensure the development achieves a good degree of visual interest and demonstrates a high quality of design.

### **5. Landscaping Scheme**

No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards

current at the time of submission. The scheme shall be broadly inline with the details already submitted under the application but shall also comply with the following requirements:

- The new frontage hedge onto Gosbecks View and the Scheduled Monument should be proposed as single species native *Crataegus monogyna* hedging (rather than mixed hedging) with numerous locally compatible native trees proposed along and within (rather than behind) the frontage hedges.
- Publicly visible hard rear garden boundary enclosure should be brick walls rather than fenced.
- All private driveways shall be finished in a porous material, or provision shall be made to direct run-off water from driveways to a permeable or porous area or surface within the curtilage of the dwellinghouse.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out and where the details submitted appear generally acceptable but in some areas revisions and/or additional information is required. In the interests of visual amenity, landscape character and reducing flood risk.

## **6. Landscaping Scheme Part 2**

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

## **7. Landscape Management Plan**

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

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



## **8. Tree Protection**

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes, the relevant British Standard and the details submitted within the submitted Arboricultural Impact Assessment, the associated Appendices and submitted drawing number 10291-D-AIA.

All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

## **9. Ecological Mitigation**

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Liz Lord Ecology, Rev A – May 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

## **10. Biodiversity Net Gain**

No development shall commence unless and until a Biodiversity Management Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time and the Biodiversity Management Plan shall include:

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

measures needed;

c) Where it has been demonstrated to the satisfaction of the Local Planning Authority that 10% net gain in biodiversity cannot be achieved on site, proposals for any off-site biodiversity net gain provision;

d) Where off-site provisions are required, a management and monitoring plan

for all off-site biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed; The development shall be implemented in full accordance with the requirements of the approved Biodiversity Management Plan. Reason: To conserve and enhance protected and Priority species / habitats and allow the development to demonstrate measurable biodiversity net gains.

### **11. Wildlife Sensitive Lighting**

Prior to the first occupation of the development hereby approved 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).

### **12. Interpretation Panel**

Prior to the first occupation of the development hereby approved details on the siting, design (including means of construction) and content of the proposed interpretation panel (in respect of the adjacent Schedule Monument) shall have been submitted to and approved in writing by the Local Planning Authority. The interpretation panel shall be installed by the developer in the form agreed prior to the first occupation of the development and shall thereafter be retained in the approved form in perpetuity and be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority. Reason: As this is the basis on which the application has been considered and to ensure that anticipated public benefits of the scheme are delivered in order to mitigate any harm to the setting of

the Scheduled Monument, in accordance with Paragraph 202 of the NPPF.

**13. Removal of PD (Means of Enclosure)**

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure (other than those approved under the provisions of the conditions attached to this permission) shall be erected 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, with particular regard to preserving the existing landscape character of Gosbecks View and ensuring the setting of the adjacent Scheduled Monument is not unduly impacted through unsympathetic means of enclosure.

**14. Removal of PD (Garaging Retained for Parking)**

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

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

**15. Removal of PD (Residential Extensions)**

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

**16. Noise**

Prior to construction of the development above ground level, a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces shall be submitted to and approved, in writing, by the Local Planning Authority. Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not

exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) significantly enhanced ventilation will be required, with any reliance upon building envelope insulation with closed windows should be justified in supporting documents that cross reference the mitigation measures used. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime The development shall thereafter be carried out in accordance with any details approved and shall be retained in accordance with these details thereafter. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

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

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control noise and vibration;
- measures to control the emission of dust and;
- a scheme for recycling/disposing of waste resulting from demolition and construction works (no waste materials should be burnt on the site).

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

### **18. Reporting of Unexpected Contamination**

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.

**19. Highways 1/9 (Parking and Turning Areas etc.)**

Prior to the first occupation of any of the dwellings hereby approved the internal roads and junctions, visitor parking, vehicular accesses and turning facilities shall all be provided in full accord with the details shown on V & B DRAWING NUMBERED 736/1 REV E. The unallocated visitor parking space shown on the approved plans shall be signed as such prior to first occupation and shall subsequently be retained in perpetuity in its approved form and for its approved use. Reason: To ensure that vehicles using the site access do so in a controlled manner and to ensure there are sufficient parking provisions available, in the interests of highway safety.

**20. Highways 2/9 (Visibility Splays)**

Prior to the occupation of any of the proposed development, a 11m x 2.4m x 11m visibility splay, shall be provided on both sides of the new bellmouth junction with Gosbecks View and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in the interests of highway safety.

**21. Highways 3/9 (No Unbound Materials)**

No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the carriageways or highway boundary. Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

**22. Highways 4/9 (Planting Set Back)**

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway.

**23. Highways 5/9 (Cycle Parking)**

The development shall not be occupied until such time as details of the provision for parking and storage of bicycles sufficient for all occupants 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.

**24. Highways 6/9 (Construction Management Plan)**

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

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

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

**25. Highways 7/9 (Off-site Crossing Works)**

Prior to the occupation of any of the proposed dwellings the applicant shall provide a new informal pedestrian crossing (pram crossing) to the eastern side of the bellmouth of Gosbecks View together with tactile paving to each pedestrian crossing here to current patterns and standards and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel. Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development.

**26. Highways 8/9 (Pedestrian Margin and Passing Bays)**

Prior to the first occupation of any of the proposed dwellings the applicant shall provide a new "pedestrian margin" to the southern side of Gosbecks View and three new passing bays (complete with "no parking" signage) in full accordance with the details shown on drawing number 736/1E and entirely at the Applicant/Developer's expense

The pedestrian margin is to extend along Gosbecks View to connect appropriately with the existing footway at the junction with Gosbecks Road, together with the provision of any signage, Traffic Regulation Orders or other requirements deemed necessary along the route as required. All details are to be agreed in writing with the Highway Authority and are subsequently to be implemented as agreed. Reason: To improve manoeuvrability for all users of the public highway in the interests of highway safety and in the interests of promoting sustainable development and travel.

**27. Highways 9/9 (Travel Packs)**

Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

## 18.1 Informatives

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

### **INS - Highways Informatives**

- All highway related details shall be agreed with the Highway Authority
- All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be addressed for the attention of the Development Management Team via [development.management@essexhighways.org](mailto:development.management@essexhighways.org)
- The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

#### Note - MUD / DEBRIS ON HIGHWAY

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus

etc. on the highway. In addition, under Section 161 any person, depositing anything

on a highway which results in a user of the highway being injured or endangered is

guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is

taken onto the highway.

Reason: To ensure that on-street parking of these vehicles in the

adjoining streets  
does not occur, in the interests of highway safety and Policy DM 1 of  
the Highway  
Authority's Development Management Policies February 2011.





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**Item No:** 7.4

**Application:** 232148

**Applicant:** Oakbourne Management

**Agent:** Euan Shepherd

**Proposal:** Retrospective application for erection of a fence in the alleyway adjoining John Castle Way and Bourne Court to prevent documented anti social behaviour such as: drug dealing, trespassing and threatening behaviour.

**Location:** John Castle Way, Colchester

**Ward:** Berechurch

**Officer:** Phillip Moreton

**Recommendation:** Refusal

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

1.1 This application is referred to the Planning Committee because the application has been called in by Cllr Martin Warnes and is controversial locally.

## **2.0 Synopsis**

2.1 The key issues for consideration are: the principle of development, the impact on the character and appearance of the Area, pedestrian/cycle connectivity and amenity. Other material planning matters are also considered. The comments submitted by statutory consultees, as well as other consultees and local representations are considered.

2.2 The application is subsequently recommended for refusal.

## **3.0 Site Description and Context**

3.1 The site is a footpath/cycleway that is located to the East of John Castle way and west of Bourne Court. The site is a footpath and cycleway associated with the development of residential properties of John Castle Way that was secured by condition 30 of the approved outline permission (132075) for this development to connect King George Avenue with Dudley Court. See below:

30. Prior to occupation the new cycleway/footway linking King George Road to Dudley Close will be constructed entirely at the Developer's expense.  
Reason: To make adequate provision within the highway for the additional pedestrian and cycling traffic generated within the highway as a result of the proposed development.

3.2 A complaint was made to the Council's planning enforcement team that the footpath/cycleway had been closed off by a close boarded fence. The complaint was investigated, and a site meeting took place on site with residents of the estate, the estate managers, planning officers and ward councillors where the issues were discussed. It was explained that a planning application would need to be submitted to the City Council to seek the retention of the fence and that this should be presented to Colchester's Planning committee for determination to consider the pro's and con's of the application in the context of the Council's adopted plan policies which encourage walking and cycling.

## **4.0 Description of the Proposal**

4.1 The application seeks retrospective planning permission for a fence to block the pedestrian/cycleway link which connects John Castle Way and Bourne Court

## **5.0 Land Use Allocation**

5.1 Residential predominantly.

## **6.0 Relevant Planning History**

6.1 132075 – Outline – Residential development comprising up to 24 no. dwellings, associated landscaping and vehicular access from King George Road. Approved 18/11/2014.

6.2 160071 – Full – Erection of 27 residential units, complete with access and parking provision. Approved 10/08/2016.

## **7.0 Principal Policies**

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

PP1 Generic Infrastructure and Mitigation Requirements

DM15 Design and Amenity

DM20 Promoting Sustainable Transport and Changing Travel Behaviour

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

## **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 **Transport and Sustainability** – We note that the landowner is applying for retrospective planning approval for blocking off the foot and cycleway they installed only 5-6 years ago. We note that they claim this will stop antisocial behaviour, but I believe they have severed a foot and cycle path leaving two dead-end paths. With no people passing through this space, with passive policing to those using the path, surely the potential for antisocial behaviour is higher.

The original planning approval for the development (132075) required a new cycleway/footway linking King George Road to Dudley Close to be constructed entirely at the developer's expense, and the reason for this condition was to make adequate provision for the additional pedestrian and cycling traffic generated as a result of the proposed development. We would suggest that this is a well-used east west route linking the Bourne Road/ Mersea Road area with the LCWIP route 5 Garrison route which serves the residential areas to the west as well as linking into the city centre. This link also enables cyclists and pedestrians to access the LCWIP 5 Garrison route from The Hythe area via Distillery Lane and Bourne Pond nature reserve and avoiding the busy Mersea Road. Of course, the residents of this development also enjoy the foot and cycle access that this link provides, including access to St Georges Primary school.

We would suggest that any antisocial behaviour is addressed by the landowner other means, which do not conflict with their original planning condition and allow local residents to make their journeys on foot or bike in line with Council policy to help reduce congestion and enable healthy lifestyles.

8.3 **Community Safety Officer** – No response received at the time of writing the report.

- 8.4 **Police Designing Out Crime Officer** –The Essex Police Designing Out Crime Office (DOCO) thank you for the opportunity to comment on retrospective planning application 232148.

It is important that public realm spaces are designed where safety and security is subliminal to the user of that space, as the perception of crime and the fear of crime can be an influential factor in determining the synergy and ongoing sustainability of a neighbourhood and the wider community. From a reported crime perspective, Essex Police data and records for the location (over the last twelve months), do not appear to reflect the crime and ASB as proposed. However, Essex Police records alone will not equate for public perception or consider incidents that are not reported. The fear and perception of crime can play a significant factor in enhancing the health and wellbeing of the residents and wider community. We, the DOCO, would welcome the opportunity to meet with the applicant to discuss this location and gain a clearer understanding of the concerns voiced by the residents. If you have any further queries, please do not hesitate to contact the team via [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk).

#### 8.5 – Environmental Protection – No Comment

- 8.6 – **Highways Authority** - The Highway Authority observes that the fence is located on private land and not highway Maintainable at Public Expense and therefore does not object to the proposals as submitted.

- 8.7 - **Colchester Cycling Campaign** – The cycling campaign objects to this proposal. Please note that the original conditions for this development (plan 132075) specified that the developer provide a pedestrian/cycle link between King George Road and Dudley Close/Bourne Court. What prevents antisocial behaviour is frequent passing and repassing by ordinary citizens. Creating what amounts to two cul-de-sacs is likely to increase not decrease any such activity. We request that the fence is removed and also (in line with LTN 1/20 and the principles set out in Gear Change) that any staggered barrier is taken out. It is clear from the other comments on the application that this is a valued link for cyclists and pedestrians. Retaining the blockage would result in significant diversions and possibly more journeys by car.

#### 9.0 Representations from Notified Parties

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

Objection comments summary:

- Concerns about loss of walkable access to amenities e.g., Doctors surgery, schools
- Concerns about the loss of pedestrian and cycle path are at odds with Council policy.
- Concerns over loss of access to public transport.
- Concerns about the access for emergency vehicles.
- Fears over isolation from the wider community.
- Walkway improved connectivity in the local community

Support comments summary:

- Alleyway allegedly used for criminal activity.
- Antisocial behaviour on pathway.

- Safer for children

## **10.0 Air Quality**

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

## **11.0 Planning Obligations**

11.1 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.

## **12.0 Report**

### **Connectivity and Amenity**

12.1 Local Plan Section 2 Policy DM20 sets out criteria that will be applied to increase modal shift towards sustainable modes by improving accessibility of development through the promotion of walking and cycling as an integral part of development with sustainable transport being improved to provide better connections between communities and their needs. This will be achieved by Safeguarding existing and proposed routes for walking, ensuring new developments are supported by quality public transport linking them to the main urban areas and major centres of employment, health and education. Access to public transport should be within walking or cycling distance of any new development.

12.2 Local Plan Section 2 Policy DM15 states that development should protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight and create a safe, resilient and secure environment, which supports community cohesion and is not vulnerable to neglect, whilst also stating that development should provide attractive, well connected and legible streets and spaces, which encourage walking, cycling, public transport and community vitality, whilst adequately integrating safe vehicle access.

12.3 In this instance, the proposal seeks retrospective planning permission for the retention of a close boarded fence that closes off the formerly existing path and cycleway. The path/cycleway in question was secured by condition 30 of the outline planning application (130072) as a part of the approval. It is clear that the intent of the condition was for the path/cycleway to be retained as a part of the development to improve and increase access to local amenities by the local community via sustainable means e.g., walking and cycling and therefore reduce the need to drive in line with local policy to promote sustainable transport to help reduce congestion and enable healthier lifestyles.

12.4 The management company/applicant representing residents has installed in path/cycleway that connects John Castle Way with Bourne Court to combat documented anti-social behaviour such as: drug dealing, trespassing and threatening behaviour. The problems experienced are acknowledged by officers who appreciate the burden this has imposed on residents of the dwellings fronting the link.

12.5 It is considered that the closing off of the path/cycleway leads to a loss of accessible link/route (that was secured by condition) for community access to local amenities and

public transport which promotes sustainable transport and reduces the need for journeys by car. As the cycle/footway has been blocked it results in pedestrians that need to head East to west towards Berechurch Road needing to head around the development either north via Mersea Road and Pownall Crescent, or south via Mersea Road and then east via The Willows resulting in a longer journey. This longer journey in turn may result in more local residents driving to their destination instead of walking and cycling.

### **13.0 Planning Balance and Conclusion**

13.1 This scheme was heard before planning committee on 30/11/23 by way of compromise, an approval was recommended, subject to condition, that a lockable gate be installed in place of the fence panels by submission of a scheme for approval to include details of the times at which the gateway will be closed and locked to be subsequently agreed upon following consultation with the ward councillors. This proposal was deferred to allow consultation with the applicant on whether the proposed compromise was acceptable.

13.2 The applicant, following consultation with the residents of John Castle Way, believe that the proposed installation of a gate would not work. As the residents feel that the lockable gate would cause further issues and disgruntlement. They would not feel comfortable going down to lock the gate as there would be a high likelihood of being threatened by those carrying out the anti-social behaviour. As it is assumed that the residents would be made to lock the gate and open it and this would make it a highly uncomfortable situation for them, putting further strain on them and would increase the chances of being threatened. The residents also believe that the problems would continue during the times the gate would be unlocked.

13.3 Whilst the need for the fence to combat perceived anti-social behavior is understood the demonstrable harm caused by the blocking of this conduit clearly fails to comply with Adopted Policy DM20 and the NPPF 2023 Paragraph 104 both of which look to promote active and sustainable modes of transport. A compromise of a lockable gate was suggested by way of condition, this was deemed unacceptable by the residents, for the reasons stated above. Therefore, the planning balance tips in favor of refusal of this scheme.

### **14.0 Recommendation to the Committee**

14.1 The Officer recommendation to the Committee is for:

REFUSAL of planning permission for the reasons set out below:

1. The National Planning Policy Framework (the Framework) (2023) Para 104 States that transport issues should be considered from the earliest stages of plan making and development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued.

Local Plan Section 2 Policy DM15 states that development should protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight and create a safe, resilient and secure environment, which supports community cohesion and is not vulnerable to neglect, whilst also stating that development should provide attractive, well connected and legible streets and spaces, which encourage walking, cycling, public transport and community vitality, whilst adequately integrating safe vehicle access.

Local Plan Section 2 Policy DM20 sets out criteria that will be applied to increase modal shift towards sustainable modes by improving accessibility of development through the promotion of walking and cycling as an integral part of development with sustainable transport being improved to provide better connections between communities and their needs. This will be achieved by Safeguarding existing and proposed routes for walking, ensuring new developments are supported by quality public transport linking them to the main urban areas and major centres of employment, health and education. Access to public transport should be within walking or cycling distance of any new development.

Whilst the need for the fence to combat perceived anti-social behaviour is understood the demonstrable harm caused by the blocking of this conduit clearly fails to comply with Adopted Policy DM20 and the NPPF 2023 Paragraph 104 both of which look to promote active and sustainable modes of transport. The Planning Balance therefore tips in favour of a Refusal of this scheme by reason of the resultant harm to the policy objective of promoting sustainable and active travel through the provision of permeable and well-connected development.





## Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

## **Planning Obligations**

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

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

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

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

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

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

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

## Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



## Colchester Borough Council Development Management

### Highway Safety Issues

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

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

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

### Parking Standards

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

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

For residential schemes:

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

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



## Colchester Borough Council Environmental Control

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

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

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

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

#### Noise Control

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

#### Emission Control

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

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

Use for the provision of —

- (a) financial services, or
  - (b) professional services (other than health or medical services), or
  - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

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

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

## **Class A4. Drinking establishments**

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

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

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

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

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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



### **Sui Generis Uses**

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

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

### ***Interpretation of Class C3***

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

### ***Interpretation of Class C4***

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

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

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

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

*If Councillors require more information, or minor amendments to be explored, then the item should be deferred.*

*If no more information or amendment is desired Councillors will proceed to propose a motion.*

