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Item No: 7.2

Application: 220317

Applicant: Mr Raj Singh Rathore.

Agent: Mr Robert Pomery

Proposal: Demolition of Former Bearings Factory and Erection of New Building comprising 3 no. blocks over four and five storeys containing 65 no. Residential Apartments and 2 no. Commercial Units (Class E), with undercroft car parking (REVISED DRAWINGS RECEIVED)

Location: Gamet Bearings, Hythe Station Road, Colchester, Essex, CO2 8LD

Ward: Greenstead

Officer: John Miles

Recommendation: Approval subject to recommended conditions and S106 agreement.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Young has called-in this application for the following reason:

“Overbearing residential development proposed for an industrial site which will result in loss of amenity for residents of Greenstead Road. This will also result in serious parking and congestion issues on an already busy road.”

2.0 Synopsis

- 2.1 The key issues for consideration are, the design of the proposal, heritage impacts, the impact the scheme will have on neighbouring amenity and the level of parking provision.

- 2.2 The scheme, as revised since first submitted, is considered to ultimately represent sustainable development and will provide a number of public benefits, including supporting wider policy aspirations for the regeneration of the Hythe Special Policy Area. The proposed development is considered to achieve an appropriate quality of design, will not result in material harm to neighbouring amenity, makes suitable parking provisions and is otherwise acceptable with regard to wider material planning considerations.

- 2.3 The scheme is held to be in general compliance with adopted local plan policy and in any areas where a degree of policy conflict has been identified, this is considered to be outweighed by the wider benefits of the scheme. The recommendation put forward to members is one of approval, subject to conditions and completion of a suitably worded Section 106 agreement.

3.0 Site Description and Context

- 3.1 The site is located on the corner of the Hythe Station and Greenstead Road, totalling approximately 0.43Ha.

- 3.2 The site is rectangular in shape and has a gradual fall from north to north-east. The previous Gamet Bearings building remains on site, it is a large industrial building which spans across the majority of the site. This building was formally Colchester Machine Tool Solutions, this was a division of 600 Group Plc and in Colchester was renowned for machine tool brand names such as Colchester Lathes & Harrison Lathes. Since the group has moved the site has remained vacant. A number of large trees and billboards run along the north-eastern boundary fronting onto Greenstead Road. These billboards are subject to an on-going discontinuous notice.

- 3.3 The main access to the site is via Greenstead Road at the northern part of the site. Access can also be gained along Hythe Station Road along the south east boundary, which currently has a small parking court.

4.0 Description of the Proposal

4.1 The proposed scheme is for a mixed use development comprising of 65 residential dwellings and commercial spaces. The proposal is split into 3 blocks sitting on a podium deck with commercial and duplex units on the ground floor.

5.0 Land Use Allocation

5.1 East Colchester / Hythe Special Policy Area

6.0 Relevant Planning History

6.1 None directly 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
- SP5 Employment
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

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

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG3 Economic Growth Provision
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing

- DM2 Community Facilities
- DM3 Education Provision
- DM4 Sports Provision
- DM5 Tourism, leisure, Culture and Heritage
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM18 Provision of Open Space and Recreation Facilities
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water Waste and Recycling

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

EC2 East Colchester / Hythe Special Policy Area
 EC3 East Colchester

7.6 There is no Neighbourhood Plan in this area.

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

The Essex Design Guide
 External Materials in New Developments
 EPOA Vehicle Parking Standards
 Biodiversity
 Backland and Infill
 Affordable Housing
 Community Facilities
 Open Space, Sport and Recreation
 Sustainable Construction
 Cycling Delivery Strategy
 Urban Place Supplement
 Sustainable Drainage Systems Design Guide

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.

Private Sector Housing – No objection. Raised comments in relation to windows and ventilation.

Environment Agency – No objection subject to the recommended conditions.

SuDs – No objection subject to the recommended conditions.

Environmental Protection - No objection subject to recommended conditions.

Natural England – Notes the scheme will need to comply with the Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

Colchester Civic Society - The Colchester Civic Society do have concerns regarding this application to develop the Garnet Bearings site. We share the concerns from the reports, regarding noise from both road traffic and the very close nearby, rail traffic. The reports acknowledge that the noise levels will require a need to close windows and balcony doors to provide an acceptable level for the noise to manage sleep and a reasonable daytime living standard. This noise level is acknowledged by further reports into air quality to be compromised by volume of passing traffic. This to will require a requirement to keep windows closed and the installation of a mechanical ventilation system to deliver satisfactory levels for human living standards. The site provides no opportunity for external recreational space except for those with a balcony that are already compromised. This is a particular problem in an area devoid of public open space. Again, we have concerns with the apartment sizes. At least two 1 bedroom apartments are below the required space size of 50m². and ten of the 2 bedroom apartments are under the requirement of a minimum of 61m². Our last concern is the height for the proposed blocks. This is an area of low level warehouse development and the equally low level Tesco store as well as standard housing of two floors. The blocks of a proposed four and five floors will present a mass that quite dominates and threatens to overwhelm the surrounding area. Even worse, it will set a precedent for development of the adjacent warehouse area. We do though appreciate the underground parking scheme but would suggest that the scheme should be reduced in apartment numbers to balance the provision. Local street parking is virtually impossible and further numbers would lead to an increase in undesirable local stress.

Essex Police – Recommends Secure by Design

Essex Fire and Rescue – No objections.

Urban Designer – Consultation response set out in the design section below.

Contaminated Land Officer - Phase II report received but further information needs to be clarified, however residual contamination risks can be controlled by way of conditions, to ensure the site is made suitable for its intended use.

Landscape Advisor –

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 the landscape element of the site's townscape setting:

1. Include Type 1 visualisations for all viewpoints in the TVIA, i.e., clearly and accurately illustrating the extent of the development, and Type 2 visualisations for key landscape viewpoints 5, 6, 8 & 11, i.e., wireframe. This in order that the location of the development within visualisations can be appreciated and the visual impact of the development from key landscape viewpoints assessed.
2. The existing mature trees to the site frontage should be clearly proposed and identified for retention, subject to agreement by the Arboricultural Officer, this to help protect public amenity as these trees have an important softening impact on the street scene.
3. A hedge should not be proposed up against the frontage wall (consider climbers) and any proposed trees set a minimum 2m away from the wall, this in order to allow sufficient space for the hedging/trees to mature unimpeded and to retain the viability of the frontage wall (e.g. foundations). Alternatively, consideration should be given to reducing the frontage wall height to 1.2m, this to better complement such existing flatted development site frontages onto Greenstead Road, increasing light levels into the garden space and increasing the public amenity value of the space whilst better softening the street scene.

The detail (as opposed to concept) landscape element of the proposals submitted at this the application stage under 2426-LLA-XX-00-DR-0100-P02, 0301.P02, 0600-P02, 0601.P02, 0101.P02, 0302-P02, 0603-P02 & 0604.P02, are not required at this the planning application stage but would normally be addressed under landscape condition(s) through an application to discharge condition, this so as not to unduly protract the planning application process, as finalising landscape detail can take some time. If full landscape details are intended to be submitted at this the application stage, then that needs to be clarified as part of the proposal within a covering letter. The detail proposals will then need to be cross-checked against Guidance Notes C (LIS/C) (this is available on this CBC landscape webpage under Landscape Consultancy by clicking the 'read our guidance' link).

Officer Note: Additional visualisations have been submitted and it has been confirmed the mature trees to the frontage are outside the site boundary and are not proposed to be removed. Exact landscape details are to be secured by condition and the applicant has been made aware of the requested amendments to the frontage planting and that these are expected to be included in any final scheme submitted for approval.

Highway Authority – Provided the development is carried out in accordance with planning application drawing number 6783-A-1107-P4, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:

1. Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 2.
2. No occupation of the development shall take place until the following have been provided or completed: a) The vehicle and pedestrian site access arrangements as shown in principle on planning application drawing number 6783-A-1107-P4 b) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development) c) Residential Travel Information Packs in accordance with Essex County Council guidance Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

Archaeological Advisor - While this proposed development is large in scale, it is not in a part of Colchester that is recognised to have particular archaeological potential. Equally, archaeological deposits, should they have been present, are likely to have been disturbed by the construction of the existing building. Borehole logs provided by the applicant show circa 1m of made ground across the site, directly on top of clays, suggesting that layers with archaeological potential may have been removed. There are no archaeological requirements.

Heritage Officer –

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

The application site is situated in the vicinity of the designated Hythe Conservation Area whose northernmost boundary is situated at approximately 120 m to the south-west of the site. Originally a small settlement around the mid-12th century St Leonards Church, the Hythe expanded in the 14th, both as a port and as a suburb, when the borough leased land for quays and warehouses in the 1330s and 1340s. The area remained a busy industrial centre in the post-medieval period and continued into the mid-19th century when the railway line was extended from Colchester to Hythe Station to serve the port. The transport links fuelled the development of new industries and the commercial activity at the Hythe reached a peak in the 1930s and 1940s. From the mid-20th century, the industrial activities of the Hythe declined, quays were subjected to clearance works and various areas have since been redeveloped with a mix of residential, industrial and commercial properties. The Hythe Conservation Area comprising a section of Hythe Hill that is centred around St Leonard's Church and includes a cluster of listed building at the east end of the road. The boundary of the Conservation Area also extends to east to include a section of Hythe Quay, the former Rising Sun Public House and the Maponite Buildings.

The former Rising Sun Public House on Hythe Station Road is listed at Grade II for its special architectural and historic interest (NHLE List Entry Number 1306772). The building dates from the late 18th century and is built in rendered brick with double-pitch tiled roof and 2 canted bay windows on the ground floor and two doors with flat hoods over.

With regard to the wider impacts on the setting of the Hythe Conservation area to the south-west, the principal effect will be experienced in terms of the long views towards the river corridor out from and into the Conservation Area. By virtue of their height and massing, the three blocks would be prominent among the existing development in their vicinity. Their erection would affect the townscape as experienced from within the Conservation Area (Perspective Viewpoint 6 and 8) and introduce a scale that would sit more comfortably with the development on Hawkins Road and the area further south on River Colne. Perspective Viewpoint 4a confirms that the development would be appreciated together with the former Rising Sun PH. However, this impact on the views of the listed building has a rather static character and the historic pub would be fully appreciated as the viewer moves westwards on Hythe Station Road and the building comes into focus, leaving the application site behind. However, the development would intrude into the views of the listed building as seen from the west end of Hythe Bridge where the Rising Sun and the Maponite Buildings are the main focal points in the views to the east, with the low-rise development at Greenstead Road forming an unobtrusive backdrop to these heritage assets. The proposed blocks would challenge the prominence of the Rising Sun in these views but their impact would be peripheral and would not screen or prevent the appreciation of the historic building as the viewer moves eastwards. By virtue of the impact on the townscape character in the vicinity of the Hythe Conservation Area and the effect on views that include the listed Rising Sun PH, the proposed development would cause a level of harm to their significance though adverse impact on their setting and appreciation. This harm would be at the lower end of the less than substantial spectrum, as per the classification of the NPPF.

In accordance with the provisions of the Framework and DM16, the harm caused by this proposal needs to be weighed against the public benefits that the development would secure.

Colchester Cycling Campaign –

Convenient secure covered cycle storage should be provided for residents, and commercial staff and customers, e.g., at one space per residential bedroom, including spaces for non-standard cycles, e.g. [e-]cargo bikes

There should also be a cycle maintenance area(s).

Moreover, loading space, access, and facilities (e.g. chargers, parcel lockers) for [e-]cargo bikes should also be provided close to the entrance of each block, and the retail, including for third parties, e.g. PedalMe

The vehicle access should give priority to pedestrians and cyclists over vehicle movements.

S106 contributions should be made:

- Borough-wide to cycle infrastructure maintenance
- to local LCWIP routes, including LCWIP 4 between the Town and Greenstead
- towards improved cycle permeability between Greenstead Rd., St. Andrew's Av., and Greenstead

9.0 Parish Council Response

9.1 Non-Parished

10.0 Representations from Notified Parties

10.1 The application has been advertised by site notice procedure and letters of notification to occupiers of neighbouring properties. The application resulted in letters of objection from eleven 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.

- Overdevelopment
- Insufficient Parking
- Too much parking
- Underdevelopment
- Inappropriate Design
- Not tall enough
- Overly Dominant
- Overlooking/loss of privacy
- Noise and disturbance
- Not enough parking
- Adds to traffic
- Lack of infrastructure
- Loss of light
- Loss of employment land
- Flood risk
- Below the national space standards

11.0 Parking Provision

11.1 A total of 71 car parking spaces are proposed and a total of 124 cycle parking spaces. More information on parking provisions is included in the Highways and Parking section of the report.

12.0 Accessibility

12.1 In considering the application due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. The proposed development comprises of 5no. two bedroom duplex units, 12no. one bedroom flats and 48 two bedroom flats, all of which have been designed to Accessible and Adaptable dwelling standards. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration. Taken as a whole the proposal does not give rise to any concerns from an accessibility or equality perspective more widely.

13.0 Open Space Provisions

13.1 Amenity provisions are considered in more detail in the main body of the report.

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.

15.2 The proposals have been the subject of a viability review produced by Morley Riches & Ablewhite Chartered Surveyors ("MRA") on behalf of the applicant. This has since been subject to numerous revisions and independent assessments by BNP Paribas. The most recent independent viability review undertaken by BNP Paribas concluded that, with 100% private housing, the scheme would generate a surplus of £238,639 against the viability benchmark.

The application and identified viability issues were considered by Development Team at the meeting on Thursday 28th September 2023. Following discussion, in light of the viability work undertaken, it was accepted that at this time the scheme is able to contribute a maximum of £238,639 towards Section 106 contributions, with 100% market housing. The Obligations agreed are as follows:

NHS - £39,000.00

Moneys to help mitigate anticipated increase demand on existing primary healthcare services in the local area.

Parks and Recreation - £77,783.42

For Castle Park Play Area improvements

Transport & Sustainability - £25,000.00

For additional CCTV deployment

Community - £96,855.58

Contribution towards delivering a program of works to improve the Light Ship at Hythe Quay, including improving access.

The above identified contributions are in addition to a proportionate financial contribution to the Essex Coast RAMS of £10,189.40 (65 x £156.76).

In the event there are improvements in the scheme's viability over the lifetime of the development, to ensure any such improvements in viability are coupled with a proportionate increase in financial contributions provided by the developer, any S106 agreement will be subject to early and late-stage viability review mechanisms.

Delegated authority is sought for the completion of the S106 agreement, as outlined above.

16.0 Report

Principle

- 16.1 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.
- 16.2 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.
- 16.3 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.
- 16.4 The Hythe area is a former commercial harbour which includes some rundown and underused industrial land in East Colchester. Together with the University of Essex, the eastern area of Colchester has experienced a period of significant change and growth.
- 16.5 The site is located in the established Hythe regeneration area that seeks to deliver sustainable, mixed-use neighbourhoods. Over the plan period the

East Colchester/Hythe Special Policy Area provides capacity to accommodate approximately 800 new dwellings including those already committed. The regeneration of this area needs to secure the viable re-use of heritage assets and provision of a distinctive public realm. Growth needs to be supported by improvements to transport infrastructure and services, flood mitigation and open space to ensure that sufficient amenity space is included to support the increasing population. Regeneration will involve partnership working with public sector agencies, the local community, and the private sector, including support for community-based initiatives such as community land trusts.

- 16.6 Given the above, the proposed mixed-use development is considered to be acceptable in principle, however there are strict policy considerations that the scheme would need to comply with. These are discussed further in the below report. Of most relevance is Policy EC2: East Colchester / Hythe Special Policy Area, which is provided in full below for transparency and ensuring a thorough analysis of the policy consideration has taken place.

Development within the area defined on the Policies Map as the East Colchester/ Hythe Special Policy Area will be encouraged and supported where it contributes to achieving the following key objectives:

- (i) *Regeneration of the area at densities appropriate to an urban area with good public transport connections and a mix of commercial, community and residential uses to provide additional jobs, homes and community and environmental enhancements, in line with the site allocations shown on the East Colchester Policies EC1-4 map, and create a strong sense of identity for the area;*

- 16.7 It can be argued that the proposals will directly support the regeneration of the local area by providing development on an underutilised parcel of land. Opportunities for enhancement of the public realm and environmental enhancement exist as a result of the proposals. The proposal would also deliver a mix of commercial and residential uses.

- (ii) *Maximise the potential benefits of the location adjacent to the University, enhanced by its expansion (Policy EC1) and supporting development associated with the University Research Park to provide significant office floor space and high-quality new jobs;*

- 16.8 While the development is not specifically intended for use by the University, given the location the proposal could certainly assist in providing accommodation for employees of the University. The scheme would also provide ground floor commercial units which could support the University in wider terms.

- (iii) *Deliver significant public realm enhancements appropriate to local context, maximising the potential of the riverside location and improving the environment, increasing connectivity and providing convenient public access for pedestrians and cyclists;*

- 16.9 The proposals will provide significant public realm improvements and improve connectivity and sustainable movement within the area, including the establishment of secure cycle parking. The existing building is disused, and the site has been the subject of antisocial behaviour since becoming redundant. The proposed new commercial and residential units will increase footfall in the area and improve natural surveillance of the existing public realm, with anticipated safety and vitality benefits. Upgrades to the two bus stops best placed to serve the site can also be secured by condition.
- (iv) Ensure new developments are responsive to the distinctive historic character of the area and reinforce the significance of the Conservation Area designation through the re-use of heritage assets;*
- 16.10 The site is not located within the conservation area nor does it form part of the immediate setting of any designated heritage assets. Proposals on the site do however still have the potential to impact heritage assets which are relatively distant from the site and these issues are commented upon in the relevant section below. Taken as a whole the proposals are considered to have been designed in a manner that complements the local context and character of the area.
- (v) Contribute to the delivery of the East Transit Corridor which will bring significant improvements to public transport and accessibility, through enhanced services, improved links to the Town Centre and new Garden Community;*
- 16.11 The proposals will result in significant public realm enhancements and improve connections within the Transit Corridor particular when accessing the university from the town centre and vice-versa.
- (vi) Enhance provision of Green Infrastructure to maximise potential opportunities for biodiversity and habitat creation, benefit nature conservation and landscape, enhance connectivity including linkages with the new garden community and establish new areas of open space for public enjoyment including an urban park to serve the community;*
- 16.12 The application site mostly comprises hardstanding. As shown on the accompanying landscape drawings, the development is proposed to introduce green infrastructure through soft landscaping to the site and provide opportunities for biodiversity enhancement and habitat creation including appropriate planting. This application is also accompanied by a Preliminary Ecological Appraisal, which is commented upon further below.
- (vii) Contribute towards flood risk solutions, in accordance with Flood Risk Management policy DM23 and SWMP recommendations for CDAs 01, 02 and 03;*

16.13 A Flood Risk Assessment accompanies this planning application which demonstrated the proposals have been developed to mitigate any flood risks and this is assessed later in the report. Ensuring flood risk is appropriately mitigated (in accordance with the details submitted) and that the scheme makes suitable provisions for sustainable urban drainage can be controlled by condition. The proposals are considered acceptable in these regards.

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

16.14 As established above, residential accommodation is seen as a wholly compatible use within the area. Ground floor commercial uses will also assist in creating active frontages. In respect of neighbouring amenity, assessments regarding the heights of the proposals and its suitability within the locality are assessed within the Landscape, Townscape and Visual Impact Assessment and the Daylight/sunlight assessments that accompany this planning application and are discussed later in this report.

(ix) Situate proposals for residential development away from land which is contaminated. Where necessary mitigation measures will be required to be agreed with the Local Planning Authority;

16.15 A Phase I and Phase II contamination risk assessment have been submitted and subject to conditions the Council's Contaminated Land Officer considers the site can be made safe for the intended use from a contamination perspective.

(x) Development should also seek to soften the environment around the electricity sub-station to minimise its intrusive impact on the surrounding area. Opportunities to maximise the potential for comprehensive regeneration of King Edward Quay will be encouraged including exploring the potential to redistribute uses to allow for clustering of complementary uses and to respond to site constraints such as flood risk and land contamination.

16.16 The proposal is not considered to present any conflict with this criterion of Policy EC2.

16.17 For the reasons outlined above the development proposed in this location is considered acceptable in principle, subject to a thorough assessment of the application details, material considerations and compliance with all relevant policy criteria, as considered in more detail in the sections below.

Design and Appearance

16.18 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'.

- 16.19 Government guidance on design is provided by the National Design Guide and National Model Design Code, both of which form part of the government's Planning Practice Guidance. The National Design Guide seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice. Whilst the National Model Design Code sets out clear design parameters to help establish what good quality design looks like and provides a common overarching framework for design. These documents are intended to help create beautiful and distinctive places, with a consistent and high-quality standard of design.
- 16.20 At a local level these policies are carried through to Section 1 Plan Policy SP7, which seek to ensure development responds positively to local character and context to preserve and enhance the quality of existing places and their environs. These policies are supported by more detailed guidance provided by supplementary planning documents such as the Essex Design Guide.
- 16.21 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.

Context

- 16.22 The application site sits on the corner of Hythe Station Road and Greenstead Road. There is mix of uses within the area and given this there is a mix of architectural styles within the area. The area surrounding the application site comprises houses and flatted developments of various scale, mass and design. The surrounding area is of no particular or prevailing architectural style or significant features of special interest. To the east of Greenstead Road is a majority of two storey residential developments which range in age and style. There are some properties which are C19th and more modern developments, with interspersed bungalows. Further to the north (and still on Greenstead Road) are flatted developments which range up to four storeys in height although these are mostly flat roofed. To the north and west of the application site are commercial and industrial uses which are fairly utilitarian in design with waves of hard standing with no particular landscaping features of assist in the assimilation in the area.
- 16.23 Notably, there are a number of mature trees to the east of the site, these are located on the pavement and are believed to be within the ownership of

the Highway Authority. To the south of the site is a Tesco Superstore of fairly typical Tesco design and branding. The height of the Tesco is generally two storeys in height with generous parking provided for the customers. Greenstead Road is a fairly well used thoroughfare providing access to the nearby Hythe train station, East Street (to access the Town Centre) and Clingo Hill (to access the University). Further to this, there are a number of bus stops within the area which connect to the wider hubs of Colchester.

Design Analysis

- 16.24 The Council's Urban Design Officer has reviewed the scheme (as amended since first submitted) and their comments are provided in full below.
- 16.25 *The scale and massing of the proposed built form have been reduced slightly and set back further from the southern boundary. As a result, the proposed structures are set back within the adjacent street scenes, with the tallest element set back further within the site, thus reducing their impact. The detailing of the building facades and the consistency of the fenestration have also been enhanced to achieve increased consistency and legibility. As a result, the proposed structures establish a stronger visual rhythm and visually articulate the buildings massing more appropriately. The amendments to the scheme have thus reduced the visual impact of the proposed structures scale and massing and the juxtaposition with surrounding built form. The scheme could be further enhanced by the specifications of architectural detailing such as depth of window reveals, brick bonding, mortar joint and colour. However, this could be secured by condition.*

The amended plans evidence that adequate amenity space is achieved by the proposal.

The proposal brings a prominent underutilised site back into active use and adopts an innovative approach to accommodating a mixture of land uses. Said uses are consistent with those surrounding the site. By virtue of its height, the proposal is discordant with its immediate context and is more akin to developments in other parts of the Hythe. However, the scheme seeks to mitigate the visual impact of its scale and mass, through its composition and detailing. Other elements of the scheme, such as form, visual rhythm and materiality seek to respond to the site's context and as such the proposal achieves some synergy with the character of the area. On balance, it is considered that overall, the scheme achieves an acceptable standard of architecture and would make a positive contribution to the street scene. In light of this, there are positive and negative elements to the design of the proposed development. Ultimately, by virtue of the latter, the proposed development would still be discordant with the site's immediate context and as such remains contrary to elements of the above outlined national and local planning policies.

As highlighted above, elements of the design of the proposed development have been improved, whilst others remain contrary to the site's immediate context. The negative elements of the design are generally a result of the density of the proposed development, which pertains to matters of principle. As such a balanced judgement is required as to whether the negative elements of the proposed design are considered acceptable in the context of the wider material planning considerations relevant to this application.

- 16.26 The proposed use of the site for a mixture of land uses is welcome in terms of place making. The Urban Designer has noted that although some of the proposed uses are at odds with the existing character of the site, they are consistent with the character of the surrounding area, thus any resulting harm is minimal in terms of design. An acceptable degree of active frontage is delivered at ground floor level and in areas at ground floor level where an active frontage is not delivered enhanced detailing and/or landscaping can be provided to mitigate, which can be secured by condition. The proposal will have further benefits in terms of improved natural surveillance from the domestic activity above ground floor level.
- 16.27 It is noted the Council's Urban Design Officer considers that, by virtue of the proposed building's location and scale it can be argued that the proposed development is not responsive to the prevailing character of the immediate area due to the height and density proposed.
- 16.28 While it is accepted the development, particularly the central block, would be higher than the other noted buildings in the immediate area, this is a prominent and well-proportioned corner site which it is considered has the ability to accommodate a landmark style building (and thus be taller) without creating a harmful juxtaposition with existing built form. The proportions of the site ensure that the buildings, in particular the higher block, can be set back within the site providing opportunities to the north-east frontage for hard and soft landscaping to help effectively 'bed' the development into the street scene and assist in avoiding the buildings appearing overly jarring within the overall townscape. This it is considered will also assist in ensuring the buildings are not overly imposing when experienced from along Greenstead Road.
- 16.29 Furthermore, the composition and treatments of the facades of the proposed structures have been revised since first submitted in light of changes to the buildings' amended massing. As a result, they continue to seek to mitigate their scale and ensure they appear as a coherent collection of various structural elements which share consistent features. The use of a variety of materials and detailing break down the massing of the structures effectively (to be controlled fully by planning condition). As a result, the elevational treatments of the proposed structures achieve a consistent rhythm, appearing balanced and visually articulated. The approach to materiality is consistent with the vernacular of the wider area.

- 16.30 In conclusion, as highlighted above, a number of elements of the design of the revised proposed development have been improved. The proposal brings a disused parcel of land back into use and when taken as a whole delivers an acceptable intrinsic standard of design, architecture and provides enhancements to the existing public realm. The negative elements of the design as noted by the Urban Designer are generally a result of the density of the proposed development, which pertains to matters of principle.

Heritage

- 16.31 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 PP1 requires development proposals to be supported by archaeological evaluation, with mitigation strategy as necessary.
- 16.32 The relevant legislation for the review of the application includes Planning (Listed Buildings and Conservation Areas) Act (1990), whose Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building, or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same document stresses that in the exercise of planning functions, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 16.33 While the application site does not have any heritage interest on its own merit and is not situated within a Conservation Area, the easternmost boundary of the designated Hythe Conservation Area is situated at about 120 m to the south-west. Listed The Rising Sun Public House on Hythe Station Road is located approximately 130m to the south-west.
- 16.34 In terms of the wider impacts on the setting of the Hythe CA to the south-west, the principal effect will be experienced in terms of the long views through the scale and height of development that affects the townscape as seen from the CA and intrudes in some views towards the CA, including the listed rising Sun Pub. These issues have been explicitly considered by the Council's Historic Buildings and Areas Officer:
- 16.35 *With regard to the wider impacts on the setting of the Hythe Conservation area to the south-west , the principal effect will be experienced in terms of the long views towards the river corridor out from and into the Conservation Area. By virtue of their height and massing, the three blocks would be prominent among the existing development in their vicinity. Their erection*

would affect the townscape as experienced from within the Conservation Area (Perspective Viewpoint 6 and 8) and introduce a scale that would sit more comfortably with the development on Hawkins Road and the area further south on River Colne.

Perspective Viewpoint 4a confirms that the development would be appreciated together with the former Rising Sun PH. However, this impact on the views of the listed building has a rather static character and the historic pub would be fully appreciated as the viewer moves westwards on Hythe Station Road and the building comes into focus, leaving the application site behind. However, the development would intrude into the views of the listed building as seen from the west end of Hythe Bridge where the Rising Sun and the Maponite Buildings are the main focal points in the views to the east, with the low-rise development at Greenstead Road forming an unobtrusive backdrop to these heritage assets. The proposed blocks would challenge the prominence of the Rising Sun in these views but their impact would be peripheral and would not screen or prevent the appreciation of the historic building as the viewer moves eastwards.

- 16.36 *With regard to the wider impacts on the setting of the Hythe Conservation area to the south-west, the principal effect will be experienced in terms of the long views towards the river corridor out from and into the Conservation Area. By virtue of their height and massing, the three blocks would be prominent among the existing development in their vicinity. Their erection would affect the townscape as experienced from within the Conservation Area (Perspective Viewpoint 6 and 8) and introduce a scale that would sit more comfortable with the development on Hawkins Road and the area further south on River Colne.*
- 16.37 While the proposed development is therefore anticipated to result in a degree of harm to the aforementioned heritage assets' significance, as confirmed by the Council's Historic Buildings and Areas Officer the level of harm is considered to be at the lower end of the less than substantial spectrum, as per the classifications of the NPPF. Accordingly, any such harm must be weighed against the public benefits of the scheme.
- 16.38 In this case the scheme is anticipated to make a notable contribution to the wider strategic aims of regenerating the Hythe albeit with a limited erosion of the wider historic setting of the Hythe Conservation Area with a subsequent effect on views that include the listed Rising Sun PH. Taking into account the identified public benefits of the scheme, including in terms of improvements to the public realm along Greenstead Road and the scheme's anticipated support of the wider regeneration of the Hythe Special Policy area, it is considered the public benefits of the scheme outweigh the less than substantial harm identified, in accordance with the provisions of the Framework and Policy DM16.
- 16.39 The Council's Archaeological Advisor has also confirmed that no archaeological impacts are anticipated from the development proposed.

Landscaping

- 16.40 Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline. Policy PP1 requires suitable design and screening/landscaping to minimise any negative impact on the surrounding landscape and/or heritage assets. Policy DM15 of adopted local plan requires proposals to respect its context and surroundings in terms of townscape and/or landscape setting, it also requires proposals to respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area. Policy SP7 requires development to respond positively to local character and protect and enhance assets of natural value. Paragraph 130 of the National Planning Policy Framework [NPPF] requires planning decisions to ensure development is sympathetic to local character, including landscape setting.
- 16.41 In respect of the above policies, a Landscape, Townscape and Visual Impact Assessment has been prepared and accompanies this planning submission. The defined study area is centred on the proposed site and is based on the area from which views of the development may be visible i.e. the visual envelope.
- 16.42 The report undertakes an initial assessment of the site, which explains the site is assessed as making a limited contribution to the local townscape character. This is where the existing character of the site contains some attributes (such as the previous industrial use), that are representative of the local character of the area, but also incongruous elements that detract from the local townscape character including the style of the existing building, the lack of any architectural merit, a poor interface with the existing street spaces and a lack of any trees or other significant vegetation. The existing visual amenity of the site within the context of the Townscape Character Areas has been assessed to offer Fair visual amenity, where the quality of existing views is such that there are a number of incongruous elements and local people are likely to be indifferent to the view.
- 16.43 The proposed building would replace an existing poor quality industrial shed with a new architecturally led development that would seek to improve the character of the area as well as directly improving the interface with the surrounding urban form. The proposals also look to provide public private space along the ground floor that would provide improvements to the public realm. Additional trees and planting can further assist in providing a softer active frontages to the proposals as well as improving the visual aesthetic of the Hythe Station Road and Greenstead Road junction.
- 16.44 The applicants argue that upon completion, the overall effect of the development would be predominantly beneficial. Although built form will increase, the new buildings (architecturally) reflect the Hythe's industrial past and the area, with positive outcomes for the wider townscape area.
- 16.45 In respect of trees, the existing site does not contain any trees of significance and the proposal is sufficiently distanced from the previously

noted highway trees to ensure harm can be avoided during construction works. Any construction would take place behind the existing boundary wall which will assist in ensuring construction traffic and materials will not be within the root protection area, notwithstanding the existing hardstanding ground cover. A condition is also recommended to ensure the construction phase is carried out in accordance with the 2012 British Standard. It will also be necessary to condition that a 10% uplift in tree canopy cover is achieved on site in accordance with planning policy requirements.

Impact on Neighbouring Amenity

- 16.46 Paragraph 130 of the NPPF (2021) requires, amongst other things, planning decisions to ensure development promotes health and well-being and provides a high standard of amenity for existing and future users. Section 2 Local Plan Policy DM12 and DM15 also require all development to protect the amenity of existing and future residents, including with regards to loss of light, overbearing impacts and overlooking.
- 16.47 Of particular consideration under this application is the potential for a loss of daylight and sunlight to the residential properties beyond the north of the application site. To help assess potential impacts on neighbouring properties in these regards a detailed daylight and sunlight report has been submitted.
- 16.48 It should be noted that in order to assess daylight and sunlight it is usual to assess impacts based on the various numerical tests laid down in the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice, 3rd Edition' by P J Littlefair 2022. This document is most widely accepted by planning authorities as the means by which to judge the acceptability of a scheme. As a result, all of the analysis that the applicants provide is fundamentally based upon this guidance.
- 16.49 It should be noted that the BRE guidelines do not put forward a general pass or fail criteria (principally as the BRE provides nationwide guidelines), it primarily looks at whether daylight reductions will be noticeable. It should be emphasized that it has been held on appeal that a noticeable alteration of daylight does not necessarily mean the reduction of daylight is unacceptable. Buildings with an unusually high level of existing daylight (perhaps due to an unusually underdeveloped neighbouring plot) may experience noticeable alterations due to additional massing. Of critical importance therefore is whether the windows/room are left with sufficient daylight.
- 16.50 A degree of flexibility on understanding the acceptability of a scheme is also required. One of the key aspects for example may be the context of a scheme, such as whether it is located in an urban, sub-urban or rural setting. Other criteria include reference to the NPPF where it highlights the requirement to maximise the efficient use of land, or aspirations of the local authority to develop land in accordance with the local plan.

Daylight

- 16.51 Diffuse daylight is the light received from the sun which has been diffused through the sky. Even on a cloudy day, when the sun is not visible, a room will continue to be lit with light from the sky. This is diffuse daylight.
- 16.52 Diffuse daylight calculations should be undertaken to all rooms within domestic properties, where daylight is required, including living rooms, kitchens and bedrooms. The BRE guide states that the tests may also be applied to non-domestic buildings where there is a reasonable expectation of daylight.
- 16.53 The BRE guide contains two tests which measure diffuse daylight: Vertical Sky Component and Daylight Distribution.
- 16.54 The Vertical Sky Component is a measure of available skylight at a given point on a vertical plane. Diffuse daylight may be adversely affected if after a development the Vertical Sky Component is both less than 27% **and** less than 0.8 times its former value.
- 16.55 Notwithstanding the nearby commercial units are not considered particularly sensitive from a daylight perspective, the relevant tests for assessing the Vertical Sky Component are passed with regards to all neighbouring commercial buildings.
- 16.56 The Vertical Sky Component is also passed in respect of a significant majority of openings to neighbouring residential properties, in that the Vertical Sky Component remains above 27% and/or is at least 0.8 times its former value.
- 16.57 Where the proposal is identified to have potentially noticeable impacts to neighbouring windows in terms of the daylight afforded to them when assessed against the aforementioned tests, as far as can be determined the windows impacted are either secondary windows and/or serve non habitable rooms (i.e. bathrooms, circulation areas etc.).
- 16.58 The BRE guide states that the daylight distribution calculation can only be carried out where room layouts are known. The Daylight Distribution test where room layouts are known has been undertaken and all rooms with a requirement for daylight are found to pass the daylight distribution test, where applied.
- 16.59 Taking into account the above it is considered that where any notable impacts on the daylight afforded to certain neighbouring windows have been identified, any such impacts will not be significant to the day to day lives of occupiers such as to have a materially harmful impact on neighbouring amenity, for the reasons identified. The proposed development is also otherwise considered to ensure that sufficient daylight continues to be provided to neighbouring dwellings and commercial premises.

Sunlight

- 16.60 The BRE sunlight tests should be applied to all main living rooms and conservatories which have a window which faces within 90 degrees of due south. The test is intended to be applied to main windows which face within 90 degrees of due south. However, the BRE guide explains that if the main window faces within 90 degrees of due north, but a secondary window faces within 90 degrees of due south, sunlight to the secondary window should be checked. For completeness, within the submitted assessment all windows which face within 90 degrees of due south have been tested. The BRE guide states that sunlight availability may be adversely affected if the centre of the window:
- receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between 21 September and 21 March, and
 - receives less than 0.8 times its former sunlight hours during either period, and
 - has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.
- 16.61 All windows that face within 90 degrees of due south have been tested for direct sunlight. All windows with a requirement for sunlight under the aforementioned adopted standards are held to pass both the total annual sunlight hours test and the winter sunlight hours test. The proposed development is therefore considered to satisfy the BRE direct sunlight to windows requirements.
- 16.62 Taking into account existing and proposed built form it is also not considered the proposed development will result in unacceptable overshadowing of any residential properties' amenity space.
- 16.63 In conclusion, on issues of daylight and sunlight Officers have carefully considered the findings of the daylight and sunlight report. It is accepted that this scheme will have minor impacts on some neighbouring windows in terms of daylight and sunlight, however, with due regard the relevant standards for assessing these issues and taking into account the detailed analysis undertaken in the submitted report, it is not considered any such impacts will have a materially adverse impact on amenity such as to warrant a refusal.
- 16.64 The potential impacts to the sunlight afforded to the solar panels to the southern elevation of 212 Greenstead Road has also been considered as it forms a material planning consideration. Taking into account the distance between the proposed development and 212 Greenstead Road it is not considered the proposal will result in overshadowing of solar panels such as to result in material harm in this regard.

- 16.65 In terms of neighbouring amenity impacts more widely while the development includes windows and external amenity spaces facing towards the neighbouring properties to the north, taking into account the distance and physical relationship between potential new sources of overlooking and existing built form it is not considered the proposal will give rise to any materially harmful angles overlooking, including overlooking of the protected sitting out areas of neighbouring properties, as defined in the Essex Design Guide SPD, or a harmful loss of privacy more generally.
- 16.66 Conditions can be imposed covering the provision of a construction method statement, restrictions on hours of operation and delivery in respect of the proposed commercial units and site boundary noise levels from any new plant or machinery. It is considered that subject to the imposition of the aforementioned conditions it can also be ensured that the development post completion or during the construction phase does not have an unacceptable impact on neighbouring amenity in terms of noise and disturbance.

Occupier Amenity

- 16.67 Paragraph 130 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.
- 16.68 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.
- 16.69 Under the scheme as revised all the proposed dwellings have internal floor areas that meet or are in excess of Nationally Described Space Standards and all units are considered to be afforded acceptable levels of light and outlook taking into account the position and form of proposed openings.
- 16.70 In terms of on-site amenity provisions the scheme includes 1640m² of communal amenity space in the form of raised decks and landscape areas at ground floor level, as well as a total of 325m² of private amenity space in the form of dedicated private terraces serving a majority of units. The scheme is therefore held to accord with Policy DM19 which requires 25m² of communal amenity space per flat which would equate to 1625m² of total amenity space, which is less than the 1965m² proposed.
- 16.71 Subject to conditions covering hours of operation and delivery in respect of the proposed commercial units and that the development accords with the mitigation measures outlined in the submitted acoustic assessment it is also considered it can be ensured future occupiers will not be exposed to undue noise and disturbance from either activity on the development site, or activity in the wider area.

Highway Safety and Parking

- 16.72 Paragraph 111 of the National Planning Policy Framework [NPPF] (2023) provides that development may be refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 of the NPPF states that, within this context, applications for development should create places that are safe, secure...[and] minimise the scope for conflict between pedestrians, cyclists and vehicles.
- 16.73 Section 2 Local Plan Policy DM22 relates to parking standards in association with the Vehicle Parking Standards SPD. Section 2 Local Plan Policy DM21 which further requires development to give priority to the movement of people walking and cycling; and create safe, secure, convenient and attractive layouts which minimise conflicts between traffic, cyclists and pedestrians.
- 16.74 The commercial units are proposed to be serviced via the south-west of the site, while the main vehicular access to the site is via Greenstead Road, to the site's north-west corner. These proposed vehicular access arrangements give rise to no immediate concerns from a highway safety perspective and the Highway Authority have raised no objections.
- 16.75 In terms of vehicle parking the EPOA Parking Standards sets general parking standards, including for residential and commercial 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 2 bedroom dwelling.
- 16.76 It is however recognised within Policy DM22 that, in sustainable locations, such as the application site, there may be circumstances when a deviation from usual parking standards is acceptable.
- 16.77 The proposal outlines a total of 71 parking spaces. This comprises 65 (unallocated) spaces for residents and visitors (including 3 disabled spaces) and 6 parking spaces for the proposed commercial units.
- 16.78 In this case taking into account the accommodation proposed, the central location, accessibility of the site and proximity to key services it is considered there is more than a reasonable prospect future occupiers can and will rely on sustainable transport options. The proposal also includes significant cycle parking provisions, a majority of which is shown to be secured and covered. Taking into account the above it is considered the development provides suitable levels of parking for the residential units, taking into account the sustainability of the location.
- 16.79 The proposed parking provisions for the commercial units are also considered not inappropriate taking into account the sustainability of the location and that the parking standards for commercial units are set as a **maximum**. Cycle parking for the proposed commercial units is also recommended to be secured by condition.

- 16.80 The provisions of residential travel packs to further promote the use of sustainable transport methods and the upgrade of the nearest two bus stops to the site to assist in mitigating any increased demand on such from the proposal can also be secured by condition.
- 16.81 Taken as a whole the proposed development is considered to provide contextually appropriate parking provision and will not give rise to any harm from a highway safety or capacity perspective.

Flood Risk and Drainage

- 16.82 Local Plan Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Major development proposals required to reduce post development runoff rate back to the greenfield 1 in 1 year rate, with an allowance for climate change. On brownfield sites where this is not achievable, then a minimum betterment of 50% should be demonstrated for all flood events. DM24 requires all new residential and commercial development, car parks and hard standings to incorporate Sustainable Drainage Systems (SuDS) appropriate to the nature of the site. Policy PP1 also seeks appropriate SuDS within the overall design and layout of development sites. In addition, the policy requires adequate wastewater treatment, water supply network enhancements, and sewage infrastructure enhancements for the relevant catchment area.
- 16.83 The site largely lies within tidal Flood Zone 3a, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposed use is classified as 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG).
- 16.84 National policy on meeting the challenge of climate change, flooding and coastal change is contained in the National Planning Policy Framework (the Framework). Paragraph 159 of the Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) and that development will normally be directed towards areas with a lower risk of flooding through the application of the sequential tests and subsequently where applicable the Exception Test.
- 16.85 The sequential and exception tests are applied below, with due regard to relevant standing advice and the NPPF and NPPG.

Sequential Test

- 16.86 The application is supported by a Sequential Assessment document. While there are undoubtedly sites in the wider Colchester area at a lower risk of flooding, in the context of the East Colchester / Hythe Special Policy Area and policy aspirations for approximately 800 new homes over the plan period within the East Colchester/Hythe Special Policy Area, the conclusions within the submitted Sequential Assessment that the

application site is the most sequentially preferable site for the development proposed are considered reasonable. On the basis of the information submitted and otherwise available it is considered that the proposed development passes the Sequential Test.

Exception Test

- 16.87 All three elements of the Exception Tests have to be passed before development may be permitted. For the Exception Tests to be passed the following criteria apply, with associated site-specific consideration provided:

It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk.

- 16.88 As discussed above the proposal brings a disused parcel of land back into use and delivers public realm improvements. The proposal is also anticipated to make a notable contribution to the wider policy aspirations for the regeneration of the East Colchester/Hythe Special Policy Area. The proposal will also deliver 65 new homes in a highly accessible and sustainable location. These benefits are considered to outweigh the identified flood risk.

It must be demonstrated that the development will be safe for its lifetime taking into account the vulnerability of its users.

- 16.89 Issues of safety and vulnerability of future users is considered in detail in the submitted Flood Risk Assessment. Notable points include that Flood resilient materials and construction measures can be used to help ensure impacts of any potential flooding are minimized as much as possible and occupants can subscribe to the EA Flood Warning Direct Service. In the event of flooding safe egress routes to flood zone 1 are considered to be easily accessible. Notwithstanding this, in the event that evacuation is not possible, safe dry refuge is available in the upper floors of the building, with internal access provided. The site is also located in an area that benefits from flood defenses, specifically, the Colne Tidal Barrier. Taking into account the above and subject to the recommendations of the Flood Risk Assessment that sleeping accommodation will be set no lower than first floor and additional flood resilient measures will be implemented up to 600mm to address surface water flooding of the site, it is considered it can be ensured the development will be safe for its lifetime taking into account the vulnerability of its users.

The development will be safe without increasing floor risk elsewhere and where possible will reduce the overall flood risk.

- 16.90 The development will not result in a significant change in the impermeable area of the site and therefore is unlikely to impact upon surface water runoff rates and flood storage capacity. There is also opportunity for implementing SuDS mitigation measures which can be secured by condition, as

recommended by Essex County Council in their role as Lead Local Flood Authority.

- 16.91 Taken as a whole, for the reason outlined above the proposed development is considered acceptable from a flood risk perspective, subject to conditions.

Ecology

- 16.92 Section 40 of the Natural Environment and rural Communities Act 2006 [NERC] places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Paragraph 174 of the NPPF specifically, states development should contribute to and enhance the natural and local environment and minimise impacts on biodiversity, with appropriate ecological surveys required when there is reason to suspect the presence of protected species.
- 16.93 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.
- 16.94 A phase 1 ecological desktop study has been submitted in support of the application. This found there are no statutorily protected sites in or in the vicinity of the site. A review of the site found there was no grassland, trees or hedgerows within the site which limits the sites ecological potential. The existing buildings show low roosting potential for bats. In terms of wild birds, enhancement measures have been recommended in the form of planting to provide some recognised wildlife value to wild birds. This will be implemented by a suitably worded planning condition.
- 16.95 Given the low ecological value of this industrial site, it is considered that 10% biodiversity net gain and 10% tree canopy cover can be comfortably achieved. This is recommended to be secured via planning condition.
- 16.96 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site. Residential accommodation has an impact and therefore this scheme must be assessed on that basis. Given without mitigation the proposals are anticipated to result in likely significant effects on Habitat Sites a detailed HRA has been undertaken and is held on the planning file. The main conclusions of this assessment and additional context are provided below.
- 16.97 Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In

Colchester we have the Colne Estuary Special Protection Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.

- 16.98 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the governments advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £157.73, which applies to all residential development within the Zone of Influence (Zol). The whole of Colchester is within the Zol. All residential proposals within the City should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected, and the proposal complies with the Habitat Regulations.
- 16.99 While given the site's constraints significant onsite mitigation such as on-site "Suitable Alternative Natural Green Space" is not a realistic prospect, the indicative site plan does indicate areas of private and communal amenity space providing recreation opportunities for residents. It is concluded that subject to securing a proportionate financial contribution in line with the Essex Coast RAMS it can be ensured that the development is not likely to have a significant affect upon the interest features of the above-mentioned Habitat sites. Payment of the RAMS tariff is proposed to be secured via the S106 agreement.

Contamination

- 16.100 Paragraph 183 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.
- 16.101 Phase I and Phase II contamination reports have been submitted and reviewed by the Council's Contaminated Land Officer who is satisfied that, subject to conditions, it can be ensured that the site is made safe for its intended use from a Contaminated Land Perspective.

Climate Crisis and Sustainability Measures

- 16.102 The site is located in a sustainable location which will encourage sustainable transportation modes to be used by residents. Cycle parking will be provided as previously noted and a cycle maintenance area is also recommended to be secured by condition. As discussed, the upgrade of the existing nearest bus stops and the provision of residential travel packs to actively promote and support the use of sustainable transport methods is controlled by condition.
- 16.103 The applicant has also indicated that proposed dwellings will be designed to achieve the equivalent of Code for Sustainable Homes Level 4 for energy and water usage, through compliance with Approved Document L1A and G of the Building Regulations, following CFSH's removal in 2015.
- 16.104 It has been further advised that energy usage will be minimised through the specification of a highly insulated building fabric and low air permeability, facilitating a robust and fabric first approach.
- 16.105 To further reduce the carbon footprint of the development, photovoltaic (PV) solar panels are proposed to the roof of the development.

17.0 Conclusion and Planning Balance

- 17.1 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.
- 17.2 In respect of the first of these, **the economic role**, the current proposal would provide clear 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, in addition to the new commercial units proposed.
- 17.3 The **social role** of sustainable development is described as supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- 17.4 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in the east of Colchester and 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 is also expected to result in notable benefits in terms of improvements to the public realm and is anticipated to act as a catalyst for further positive regeneration in the Hythe Special Policy Area.

- 17.5 In respect of the third dimension, the **environmental role**, the proposals are compliant with Policies SP1, SG1 and EC2, which all advocate development within sustainable locations within the settlement boundaries of Colchester, with a particular focus on utilising previously developed land and the regeneration of the East Colchester area. 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 be secured by condition.
- 17.6 While the proposal is anticipated to result in a degree of erosion of the wider historic setting of identified heritage assets, as detailed in the main body of the report any less than substantial harm arising in this regard is considered to be convincingly outweighed by the public benefits of the scheme within this key regeneration area.
- 17.7 There is also sufficient evidence to be confident that overall the development would not cause material harm to the amenity of nearby residents, have a severe impact upon the highway network, or give rise to unacceptable harm with regards to wider material planning considerations.
- 17.8 In conclusion, it is considered that the benefits of the scheme convincingly outweigh any adverse impacts identified and the planning balance tips in favour of an approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the drafting and signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. 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:

6783-A-1101-P1,
6783-A-1103-P1,
6783-A-1104-P5,
6783-A-1104-P5,
6783-A-1105-P9,
6783-A-1106-P5,
6783-A-1107-P4,
6783-A-1108,
6783-A-1201-P4,
6783-A-1202-P4,
6783-A-1203-P4,
6783-A-1204-P3,
6783-A-1205-P3,
6783-A-1206-P4,
6783-A-1207-P3,
6783-A-1208-P3,
6783-A-1209-P3,
6783-A-1210-P3,
6783-A-1211-P3,
6783-A-1212-P3,
6783-A-1213-P3,
6783-A-1214-P3,
6783-A-1215-P3,
6783-A-1216-P3,
6783-A-1301-P4,
6783-A-1302-P5,
6783-A-1303-P6,

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

3. Materials

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

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

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); doors, louvres, grilles, cills, arches, rustication, eaves, verges, gullies, ridge, brickwork /stone work detailing, recessed/projecting/decorative

brickwork and cladding; railings; 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. Car park wall details

Prior to its construction, precise detailed drawings at an appropriate scale of the ground floor front elevation enclosing the car park shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

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

6. Levels

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.

7. Amenity Space

The proposed communal amenity spaces shown on the approved plans, including the communal amenity space at ground floor level and the communal amenity space on the 'Podium Deck', shall be provided and made accessible for the benefit of occupiers of the dwellings hereby approved, prior to the first occupation of the development and otherwise in accordance with the provisions of any wider conditions attached to this permission. The communal amenity spaces shall be retained in their approved form and accessible to occupiers of the dwellings on site in perpetuity. Reason: In the interests of future occupier amenity and as this is the basis on which the application has been considered and found to be acceptable.

8. Landscaping

No part of the development shall be occupied until a scheme of hard and soft landscape works for the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also accurately

identify positions and spread of all existing trees, shrubs and hedgerows on the site, proposed planting, details of any hard surface finishes and external works, implementation of which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The scheme shall also demonstrate a increase in tree canopy cover across the site of at least 10%. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species, 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 relatively small scale of this development where there are publicly visible areas to be laid out but there is insufficient detail within the submitted application.

9. Landscape Management

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority 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. Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

10. Landscape Management

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use. Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

11. Tree Protection

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the

Local Planning Authority.

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

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

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

13. BNG

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.

14. Ecological Mitigation

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Risk Assessment Phase 1 Desk Study Report (STM Environmental) 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).

15. Car Parking and Turning

The development shall not be occupied until such time as the service, delivery, car parking and turning areas, have been provided in accord with the details shown on drawing 6783-A-1107-P4. The service, delivery, car parking and turning areas shall be retained in their approved forms and for their approved purposes at all times thereafter. Reason: To ensure there are appropriate service, delivery, car parking and turning areas serving the development, in the interests of highway safety.

16. Cycle Parking

Prior to the first occupation of the development the bicycle parking facilities indicated on the approved plans shall be provided and made available for use, in addition to a cycle maintenance area (to serve occupiers of the residential units) and additional bicycle parking facilities to serve the commercial units, both of which shall be in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained in the form approved. Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

17. EV Charging

Prior to the first use of the development hereby approved the EV charging point facilities indicated on the approved plans shall be provided and made available for use. Reason: In the interests of the environment and improving air quality.

18. CTMP

Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan Reason: To protect highway efficiency of movement and safety.

19. Highway Works and Travel Packs

No occupation of the development shall take place until the following have been provided or completed: a) The vehicle and pedestrian site access arrangements as shown in principle on planning application drawing number 6783-A-1107-P4 b) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development) c) Residential Travel Information Packs in accordance with Essex County Council guidance Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

20. Construction Management Plan

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

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

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

21. Refuse and Recycling

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

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

22. Management Company

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

23. Opening Hours

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

Weekdays: 07.00 – 22.00

Saturdays: 07.00 – 22.00

Sundays and Public Holidays: 08.00 – 20.00

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

24. Deliveries

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

Weekdays: 07.00 – 20.00

Saturdays: 07.00 – 20.00

Sundays and Public Holidays: 10.00 – 20.00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from 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.

25. Self-closing Doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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.

26. Acoustic Measures

The development shall be constructed in accordance with the recommendations in the acoustic assessment and mitigation report reference NOI-2021-000002, produced by STM Environmental Consultants Ltd. The development shall thereafter 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.

27. Control Measures for Restaurant Use

None of the commercial units hereby approved shall be used for purposes falling under Use Class E(b) of the General Permitted Development Order (as amended) unless unit specific control measures have been installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme

shall be in accordance with Colchester City Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and in working order at all times while the unit to which the approved scheme relates is being used for purposes under Use Class E(b). In addition to this any foul water drains serving a commercial kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions. Reason: To ensure that there is a scheme for the control of fumes and odours 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 and to prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

28. External Lighting

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 CBC External Artificial Lighting Planning Guidance Note (EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS).

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

29. Commercial Use

For the avoidance of doubt the commercial units hereby approved shall only be used for purposes falling within Use Class E of the General Permitted Development Order and for no other purposes.

Reason: For the avoidance of doubt as to the scope of this permission and as alternative uses would require further consideration at such a time as they may be proposed, including with respects to impacts to the amenity of the area.

30. Contamination

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

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

- groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

31. Contamination

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.

32. Contamination

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.

33. 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 30, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 31, 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 32.

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.

34. Remediation

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 33. 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.

35. Managing Flood Risk

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) prepared by STM Environmental, referenced FRA 2020 000105 and dated 22/04/2022 and the following mitigation measures detailed within the FRA:

1. Finished ground floor levels are set no lower than 3.4 metres above Ordnance Datum (AOD).
2. Finished first floor levels are set no lower than 7.4 metres above Ordnance Datum (AOD). 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 reduce the risk of flooding to the proposed development and future occupants.

36. SuDS

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and 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 should include but not be limited to: Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. Limiting

discharge rates to 1.0l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated. Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event. Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event. Final modelling and calculations for all areas of the drainage system. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. Detailed engineering drawings of each component of the drainage scheme. A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features. An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy. The scheme shall subsequently be implemented as approved prior to first 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 Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

37. SuDS

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

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

38. SuDS

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority. Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

39. SuDS

The development hereby permitted shall not be commenced until the existing pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition. Reason: To ensure that drainage system

implemented at the site will adequately function and dispose of surface water from the site.

19.1 The following informatives are also recommended:

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

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

Highways Informative:

- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org
- Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Essex SuDS Informatives: Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer

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

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