



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 07 March 2024 at 18:00**

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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Access

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

Facilities

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

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COLCHESTER CITY COUNCIL
Planning Committee
Thursday, 07 March 2024 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

Cllr Arnold	Cllr Bloomfield	Cllr Burrows	Cllr Buston
Cllr Cory	Cllr Cox	Cllr Dundas	Cllr Ellis
Cllr Goacher	Cllr Hagon	Cllr Harris	Cllr King
Cllr Kirkby-Taylor	Cllr Law	Cllr Laws	Cllr Luxford-Vaughan
Cllr Naylor	Cllr Nissen	Cllr Pearson	Cllr Powling
Cllr Rippingale	Cllr Rowe	Cllr Scordis	Cllr Scott-Boutell
Cllr Smalls	Cllr Smith	Cllr Smithson	Cllr Sommers
Cllr Sunnucks	Cllr Willetts	Cllr J. Young	

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

Please note that Agenda items 1 to 2 are normally dealt with briefly.

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

Live Broadcast

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Declarations of Interest

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

4 Urgent Items

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

5 Have Your Say(Hybrid Planning Meetings)

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

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

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

6 **Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meeting held on 25 January 2024 are a correct record.

2024-01-25 CCC Planning Committee Minutes

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7 **Planning Applications**

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

7.1 **230033 Land to the Rear of, Dorothy Curtice Court, London Road, Copford, Colchester, CO6 1DX**

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Application for the erection of one assisted living block (for the over 55s) of 72 units comprising 32no. one bedroom flats and 40 no. two bedroom flats and associated communal facilities; erection of sheltered housing accommodation of 18 units (as an extension to the existing scheme at Dorothy Curtice Court for over 55s), comprising 13no. one bedroom flats and 5 no two bedroom flats; together with associated access, amenity space, vehicle and bicycle parking, EVC points, hard and soft landscaping, sub-station, drainage ponds, boundary treatments and other associated works.

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

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

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

PLANNING COMMITTEE

25 January 2024

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

1041. Site Visits

A site visit took place for application 230033 Land to the Rear of, Dorothy Curtice Court, London Road, Copford, Colchester, CO6 1DX with the following Members in attendance:

- Cllr Lilley
- Cllr Hogg
- Cllr MacLean

A site visit took place for application 232206 Lodge Farm, Boxted Road, Great Horkesley, Essex, CO6 1DX with the following Members in attendance:

- Cllr Lilley
- Cllr Hogg

1042. 230033 Land to the Rear of, Dorothy Curtice Court, London Road, Copford, Colchester, CO6 1DX

The Committee considered an application for the erection of one assisted living block (for the over 55s) of 72 units comprising 32no. one bedroom flats and 40 no. two bedroom flats and associated communal facilities; erection of sheltered housing accommodation of 18 units (as an extension to the existing scheme at Dorothy Curtice Court for over 55s), comprising 13 no.one bedroom flats and 5 no. two bedroom flats; together with associated access, amenity space, vehicle and bicycle parking, EVC points, hard and soft landscaping, substation, drainage ponds, boundary treatments and other associated works. The application was referred to the Planning Committee as the application had been called in by Councillor Ellis for the following reasons:

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

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

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

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

Nadine Calder, Principal Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee heard that the site was allocated in the Colchester Local Plan under SS4 and that it did exceed the allocation number and that there was a large amount of tree planting on site. The Committee heard that the proposal included Assisted Living and Sheltered Housing and detailed that part of the extension of the allocation was due to the public open space. The Committee were shown the floorplans of the assisted living block and that there were solar panels on the roof. The Committee were shown photos of the site which included the proposed access, Dorothy Curtice Court, and the other access location that was assessed and not pursued along London Road at Willow Park. It was noted that this access would need to be widened, that some buildings and a commemorative garden would have to be removed, and that it had been assessed there could be a detrimental impact on a listed building. The Committee heard that it had been assessed that the 90 units could be provided on the site in a policy compliant way and that the benefits of the scheme outweighed the harm. The Principal Planning Officer concluded by outlining the contents of the amendment sheet and asked the Committee to note that that scheme was 100% affordable housing, that 274 new trees would be planted on site, and detailed that the officer recommendation was for approval as detailed in the report and amendment sheet.

Steven Braund addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the proposal before the Committee did not meet the requirements of the allocation and that the 90 dwellings on the site was a 30% increase. The speaker drew attention to the paragraph 15.5 and 15.6 regarding the proposal exceeding the site allocation and that the proposal did not include a mix of development and that a three-storey building did not fit in with the area. The Committee heard that the access being taken off of Queensbury Avenue was not in accordance with the Essex Design Guide and that the traffic movements from the site would exceed the limit for the road that was currently serving a large number of dwellings and queried the accuracy of the Road Safety Audit. The speaker concluded by querying whether the site really was within range of local services, that there would be an impact on the conservation zone and that the site failed to meet the policies and allocation set by the Council.

Karen Crowder-James addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that there was an identified need for assisted living housing and that the development was a logical extension and detailed that the allocation SS4 only mentioned family market dwellings and not assisted living. The Committee heard that the proposal met all of the sustainable development requirements and had appropriate parking with a lot of new trees being planted and detailed that the SS4 allocation policy supported access to the site from Queensbury Avenue and added that access had been assessed from London Road and was currently prevented due to demolishing existing housing, the removal of existing parking and would impact a listed building. The Committee heard that the proposal was supported by Essex County Council's Highways Department and summarised that there is a recognised need in this sustainable location and that there would be far less vehicles movements with this proposal than with 70 family dwellings.

At the request of the Chair the Democratic Services Officer read out a statement from Cllrs Ellis and Bentley as follows:

“Chairman and Committee members, forgive me for sending in a written representation on behalf of Cllr Kevin Bentley and myself as we are both already committed elsewhere at another meeting this evening.

I called in this application for the reasons set out in the report, and despite the officer recommendation, arrived at through weighing the application in the planning balance, I have to assume that the planning officer has a set of scales that weigh very differently to mine. Cllr Bentley, myself and the residents of Copford sincerely hope that the Committee scales weigh in our favour and against the applicant.

We assume that the applicant will tell you that this application was undertaken with community consultation. The community feel this was a tick box exercise only, and their responses made no difference to the applicants' original plans. The initial planning officer Eleanor Moss, did manage to make some alterations, but as I hope you can see this evening, they do not go far enough to make the scheme acceptable.

I'll admit to reading the committee report with a growing sense of incredulity, how, in this day and age, we can accept a poorly designed scheme (admitted in the report) on the basis it's made acceptable because future occupants are to be given the opportunity to interact with one another? While we agree health and well-being are of great importance, the building in which residents are to enjoy this sense of camaraderie will, one expects stand for considerably longer than the lifetime of its occupants, your and our lifetimes and the lives of our offspring. It is simply unacceptable to posit that poor design can be outweighed by health and well-being. The two should be indivisible. Therefore the first reason for you to refuse this application is on grounds of poor design. It conflicts with Section 2 policies SP7 and DM15. Copford and Colchester deserve so much better than inadequate design that fails policy compliance, we should be insisting on excellence and this simply isn't it. Ask the presenting officer if they think this design is excellent? If not, why is it recommended for approval?

And why is the building mass so great and the additional storey height required? It's because the applicant is stuffing additional units into the scheme, a 30% uplift over the 70 homes specified in SS4. We vehemently disagree with the planning officers' statement that the development could be considered to comply with SS4 and ask committee to consider this point carefully, her policy interpretation requires close scrutiny and her conflicting statements

in the report about the built form being at odds with the surrounding built environment and yet being SS4 policy compliant simply makes no sense to us. Failing to comply with Local Plan Policy SS4 is another reason for refusal.

The additional units causes a further issue, that of inadequate parking provision. This is woefully under standard for a remote out of town location with poor public transport provision. Please interrogate this point fully, and consider inadequate parking provision as yet another reason for refusal.

Now turning to the access issue. We believe not nearly enough has been done to address this. Policy SS4 clearly states that the access should be from two locations, Queensbury Avenue, a Cul de sac, AND/OR London Road. The applicant already owns the land to access this site from two locations on London Road, Willow Park and Dorothy Curtice Court. They refused from the beginning to fully explore the possibility of the DCC access, saying that it would require the demolition of two existing resident's homes. Whether true or not, this is not a reason to close debate on the use of the London road access stipulated in SS4 by the Local Plan Examiner. As an authority we have displaced far larger numbers of residents in need of assisted living when redeveloping sites such as Elfreda House. It's not impossible to do and the displaced residents could then be provided a new and better home, hardly impossible in a scheme of this size. Question... did planning officers explore this option and if not, why not? Forcing all of the traffic along Queensbury might be deemed acceptable by a highways officer sitting in their office in Chelmsford, in reality it will be a disaster for existing residents. We implore Committee to insist on a London Road access.

And finally, in para's 16.38 and 17.3 the planning officer talks of a sustainable location within walking distance of a number of key local services and facilities required for day to day living. Please ask her to give you the details of these, to show you where they are in relation to this development and then to explain how the residents this application is catering to, will access those facilities on foot and return home on foot. It's a flawed assumption and as with so many flawed assumptions in this report, has been used to weigh in favour of what is clearly an unacceptable development. Please tip the scales the other way, refuse it and ask the applicant to revise the scheme downward in numbers and revisit the issue of access to make it policy compliant."

At the request of the Chair, the Principal Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee heard that the design was not of an outstanding nature but it did not have to be and was acceptable and confirmed that there had been no objection from the Urban Design Officer. The Committee heard that the site had been allocated and therefore it was acceptable for habitation and for houses to be built on site. It was noted that access to the site had been explored and although the access from Queensbury Avenue was not acceptable to residents it was acceptable in policy terms and confirmed that other options had been explored in detail.

Members debated the application on issues including: that if another access route was explored then a lot would have to be demolished, that the proposal was higher than the allocation of 70 homes but that the proposal would be for 90 assisted living units which would be 100% Affordable Housing. Members continued to debate whether facilities locally would support further development which included Doctors facilities with some Members feeling that it was inappropriate to put elderly people in a field next to the A12. Members also discussed the public transport links in the area and queried whether any access could be taken from Turkey Cock Lane.

The debate continued with Members noting the lack of facilities nearby, the number of

proposed units, that the red line plan had been amended, that there was not a mix of development on site, and that some Members felt that this did not accord with the Neighbourhood Plan. Members discussed the proposal on issues including the design of the proposal, that some Members felt that the site was inappropriate for assisted living, and the effect that construction would have on existing residents of Queensbury Avenue.

The Principal Planning Officer detailed that the application was 3 storeys tall and that the area was well contained and could be seen at its worst currently with no foliage on the trees. It was noted that the site was well screened and it was assessed that the area could accommodate 3 storeys and that the sloping of the site created an effective use of land. The Principal Planning Officer detailed that the development would provide mitigations and confirmed that the Copford with Easthorpe Neighbourhood Plan did not have any policies on what should be on this site. The Committee heard that access from Willow Park was not being considered by the Committee and had not been assessed.

At the request of the Chair, Martin Mason, Strategic Development Engineer detailed that the Willow Road Access was not within the Highways Boundary or control and that the application was assessed on what was applied for.

Members continued to debate the application on issues including: the allocation's designation and that it had been assessed by a Planning Inspector, that one access point to the site was not acceptable, and that there would not be enough space for visitor car parking or deliveries. Some Members raised concern regarding the access and that this was the second time that an access from London Road had not met Members expectations.

At the request of the Chair the Joint Head of Planning (Simon Cairns) responded to the points made in the debate and detailed that allocation SS4 detailed 70 units that would be family homes and it was anticipated that the 90 units would create lower amount of trip designation due to the different class of dwelling.

At the request of the Chair the Strategic Development Engineer added that the traffic movements for the 90 units for assisted living would be significantly less than 70 family dwellings and that the NPPF Tests regarding capacity detailed that the impact had to be severe confirming it would be difficult to argue that on this application.

At the request of the Chair the Joint Head of Planning outlined that if the Committee did feel that the 90 units were unacceptable then harm would need to be identified and referred back to the comments from the Strategic Development Engineer that there was not any harm identified via traffic movements.

Members continued to debate the proposals on issues including: the provision of facilities in the area, and whether additional accesses could be considered. At the request of the Chair the Joint Head of Planning and Strategic Development Engineer detailed that allocation SS4 did not contain Turkey Cock Lane as a means of access in the allocation policy and that there would be associated concerns regarding capacity and safety.

It was proposed and seconded that the application be deferred and that delegation was given to the Joint Head of Planning to negotiate:

1. Alternative access arrangements
2. Reduction in the number of units to achieve compliance with site allocation policy SS4 (70 units)
3. And a reduction in the size and scale of the blocks from 3 storeys.

RESOLVED (SIX votes FOR and THREE votes AGAINST) That the application is deferred, and that delegation was given to the Joint Head of Planning to negotiate:

1. Alternative access arrangements
2. Reduction in the number of units to achieve compliance with site allocation policy SS4 (70 units)
3. And a reduction in the size and scale of the blocks from 3 storeys.

1043. 232206 Lodge Farm, Boxted Road, Great Horkesley, Essex, CO6 4AP

A short break was taken between 19:16-19:27 following the conclusion of application 230033 but before the commencement of 232206.

The Committee considered an application for the construction of processing, packaging and dispatch building, with associated access, hardstanding, drainage, services and landscaping. The application was referred to the Planning Committee as the application had been called in by Councillor Laws for the following reasons: *“Residents are concerned about the sale and massing of this development as well as the light pollution on the edge of the Dedham Vale AONB with its recent efforts to improve “dark skies”.*”

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

Chris Harden, Senior Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee heard that the site was close to the Area of Outstanding Natural Beauty (AONB) and showed the Committee the current state layout of the site as well as the proposed processing and packaging building which would rationalise the existing processes on site. The Committee were shown photographs of the site and the surrounding area and were asked to note that the site was well screened from the surrounding properties in the area. The Senior Planning Officer detailed that the building would be 92 metres in length and that the height of the proposal had been reduced as far as was operationally possible. It was noted that the requirement for this operation in the business was to use automation and would change where products were currently stored on site so that the processes of the business could be more efficient. The Committee heard that two letters of objection had been received regarding the proposal which detailed the issues of working hours on site, screening of the proposal from view, and a limiting the number of Heavy Goods Vehicle (HGV) movements. The Senior Planning Officer detailed that careful consideration had been given to the Highways concerns in the area and that there had been no objection from the (AONB) team or the landscaping officer. It was noted that it was not anticipated that there would be an increase in vehicle movements from the site and although the road was not ideal for HGV transport it did have legally secured passing places. The Senior Planning Officer concluded by detailing that the proposal would have to meet the rural lighting criteria, that extra planting would be needed to meet the canopy cover requirements and that there was an amendment to condition 15 which should include the rural Zone E2 lighting and that the officer recommendation was for approval.

Colin Leek addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that they lived alongside the site and detailed that policy DM6 says that development would only be supported on exceptional sites. The speaker detailed that the proposal was for a 364-day

industrial activity and that 70% of the products processed on site came from beyond Essex and as such should be located in an accessible employment area such as Langham or another location that had better access. The speaker detailed that there was nothing in the recommendations that would stop the doubling of HGV use and that the proposal would loom over their property and would come with noise pollution from air conditioning units and it was not clear how these would be mitigated against. The speaker concluded by detailing that there would be an impact of the building looming over their property and noise from the industrial building and moving vehicles.

Steven Rose addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard the application was for a new Onion processing facility as there was an ever-increasing demand for them especially in the form of peeled and chopped Onions. It was detailed that to achieve the demand and to stay financially viable there was a need for increased automation and efficiency. The speaker detailed that there was national and local support for food security and confirmed that Stourgarden Ltd was a field to store operation with profits being reinvested to the business. The speaker concluded that the business was a major local employer and the proposal before the Committee would support the vitality of the business.

Councillor Lewis Barber addressed the Committee as a visiting Councillor. The Committee heard that the site was within their County Division and detailed that there was an assumption of traffic increases in the report however there did not appear to be any evidence to support this or vehicle movements from the site. The visiting Councillor asked the Committee to defer the application so that further information could be sought on the vehicle movements so that the Committee could make an informed decision on mitigating and or limiting transport movements in the area.

At the request of the Chair, Martin Mason, Strategic Development Engineer for Essex County Council responded that it was the Highway Authority's understanding that it was unlikely that the proposal would lead to a significant increase in traffic movements.

Members debated the proposal noting the size and scale of the building in context with the surrounding area and the amount of screening that would be needed. From this a suggestion arose regarding the planting of more mature trees to ensure the screening to lessen the impact of the development on existing residents.

In response to a question from the Committee the Senior Planning Officer detailed that a significant amount of planting was being provided on site and that the building would be as tall as a normal 2 storey building and that it was not considered to be overbearing. Further to this it was detailed that if the Committee were minded to approve the proposal then it would be possible to adapt the landscaping condition to ask for further details of tree planting to provide additional mature trees.

Members continued to debate the proposal on issues including the benefits of the proposal to the business as well as concerns being raised with regards to the traffic movements that could be created from the site.

In response to a question from the Committee the Senior Planning Officer detailed that the designated local produce coming from the site would be from Essex and South Suffolk.

It was proposed and seconded that the application be approved as detailed in the officer recommendation with the amendment to lighting as laid out by the Senior Planning Officer and as follows:

1. That Condition N.o 7 states that notwithstanding the submitted landscaping details a revised scheme shall be submitted and approved providing additional mature tree planting to facilitate instant screening and filtering of views from neighbouring dwellings. Species to be native to enhance biodiversity. Reason: to protect visual amenities enjoyed by neighbouring dwellings

RESOLVED (SEVEN votes FOR and ZERO votes AGAINST, with TWO ABSTENTIONS)
That the application is approved as detailed in the officer recommendation with the additional condition as follows:

1. That Condition 15 includes reference to the Rural E2 lighting guidance

And

2. That Condition N.o 7 states that notwithstanding the submitted landscaping details a revised scheme shall be submitted and approved providing additional mature tree planting to facilitate instant screening and filtering of views from neighbouring dwellings. Species to be native to enhance biodiversity. Reason: to protect visual amenities enjoyed by neighbouring dwellings

1044. 232792 Land fronting, Gosbecks View, Colchester

Robert Carmichael, Democratic Services Officer declared an interest as a close member of their family had worked on the application and as such recused themselves. Matthew Evans, Democratic Services Officer, clerked application 232792.

The Committee considered an application for the proposed construction of 3 no 3- bedroom & 3 no 2-bedroom bungalows and 1 no 3-bedroom houses with associated garaging and alterations to access road with pedestrian margin (resubmission of 231402). The application was referred to the Planning Committee as it had been called in by Councillor Sam McCarthy for the following reasons:

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

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

“ I have been contacted by residents of the area who are concerned over the access lane being used for these extra dwellings. The worry which is real is the new houses will reverse onto what is a well used pedestrian walk route. Also the lay-byes passing places it is thought will be used for visitor parking and thus the road will no longer have users able to pass safely. Highways is a County Council issue and as a County Councillor my duty is to heed the comments and concerns that the existing householders have expressed. I have seen the site and see no other way than to create an access of the main road nearby.

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

John Miles, Senior Planning Officer presented the application to the Committee and assisted them in their deliberations. The Committee heard that the proposal was for 9 dwellings and that this was not the previous application that had been before the Committee and been deferred but was a new application. The Senior Planning Officer detailed that application 231402 had been appealed and was currently awaiting a decision from the Planning Inspectorate. The Committee were shown the differences between the previous and current scheme and asked Members to note that there was an additional passing place and that a 1.2m pathway had been provided linking up Gosbecks Road and the communal visitor parking spaces as well as an informal pedestrian crossing. Furthermore, a size 3 turning head had been included that could be utilised for larger vehicles such as fire engines and refuse vehicles. Members were asked to note that the vehicular access was from Gosbecks View and that all proposed dwellings benefited from on site parking. The Senior Planning Officer concluded by showing the designs of the properties and outlining that the officer recommendation was for approval as detailed in the Committee report.

Richard Rayner addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the application before them was the same application but with a footpath which would narrow the road further and detailed that they did not consider a garage as a third parking space. The speaker detailed that there was no way that any oncoming traffic could pass one another, that the visitor space would become a permanent parking space with emergency services not being able to access properties in the turning head which would also be used for parking. The speaker detailed that there were biodiversity concerns with badgers being seen on site and concluded by detailing that once approved this application could not be rectified.

Mollie Foley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the proposal before the Committee included a 1.2 m footpath that had not been included before which will improve safety along the road and noted that the proposed garages would be wide enough for vehicles being 3m x 7m with the parking spaces proposed being in excess of the estates in the surrounding area. It was noted that any further widening of the road would lead to damage to the heritage asset. The speaker concluded by detailing that a further consultation had been undertaken with Essex County Council's Highways Department where it was confirmed that Gosbecks View was the only viable access to the site.

The Democratic Services Officer read out a statement from Cllrs Barton and McCarthy as follows:

"My sincere apologies that I cannot be with you tonight. I speak on behalf of both myself and Cllr Barton.

I refer back to our comments when this application initially came to the committee. Bar the inclusion of a small footpath (making the road even narrower) all of my concerns remain.

This city deserves better. I appreciate that the land will be used for housing and actually, the houses aren't the issue. It's the access.

I am truly staggered (but not surprised) that highways see no issue. They don't actually visit the site, I'm sure. This road simply cannot cope with more dwellings. This little lane was not built for that.

We must do better. It's no wonder residents across Colchester have such little faith in us, sometimes.

I hope that on this second occasion, more of you have visited the site, as it is crucial for understanding why Gosbecks View cannot be used as the access point.

Reading some of the new objections, I concur entirely and hope that you will have read those objections too. Not only is the little lane too narrow, it becomes overgrown rapidly in the warmer months. We know that we will not be able to keep on top of that. The pathway will become completely consumed. It is not fit for this.

Please, ensure that the applicants deal with all the concerns that were raised the first time around. They haven't so far. We need another access point, it's that simple."

Cllr Harris addressed the Committee as a visiting Councillor. The Committee heard that they shared the concerns of residents on the proposal that was before Members especially with regards to cars reversing onto pedestrian pathways. The Committee heard that people would permanently park in the passing places and would lead to people parking on the pavement as this was overdevelopment of the site and asked that the Committee reject the proposal.

At the request of the Chair the Senior Planning Officer responded to the points made by the Have Your Say Speakers. The Committee heard that the previous application was with the Planning Inspectorate but a date had not yet been set for the appeal to begin and clarified that the carriageway width was not being narrowed by the introduction of the footway. The Committee heard that it created a balance between highway users and the environment of the lane and confirmed that the road was not a public right of way and that there were other pathways in the area including along Cunobulen Way. The Committee heard that parking was in excess of the minimum standards and that the road would be maintained by the Highway Authority once adopted.

In response to a question from the Committee Martin Mason, Strategic Development Engineer at Essex County Council's Highways Department detailed that a Section 278 Agreement would apply weighting restrictions to the road and at that time double yellow lines could be implemented on the lane.

Members debated the proposal noting the impact on existing residents, the highways situation along the lane, the country lane feel and whether this had already been lost. Members continued to debate the proposal on issues including the use of an informal pedestrian crossing.

RESOLVED (SEVEN votes FOR and TWO votes AGAINST) That the application is approved as detailed in the officer recommendation.

1045. 232148 John Castle Way, Colchester

A short break was taken between 20:50-20:59 after the completion of 232792 but before the commencement of 232148.

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

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

Philip Moreton, Planning Officer, presented the application to the Committee and assisted them in their deliberations. The Committee heard that following the item being deferred officers had negotiated with the applicant who had confirmed that they did not wish to install a gate and as such officers had assessed the proposal and this had led to a recommendation of refusal as detailed in the Committee report on the basis of promoting active travel and sustainable transport.

Rennie Chivers addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the speaker lived 200m from the fence and used to walk along John Castle Way before it had been closed off. The Committee heard that the fence was isolating one address from the road and confirmed that county lines drug issues had stopped since this had happened. The speaker detailed that although this was the case it had stopped movement around the estate and that the fence would only deflect criminal activity and not resolve it.

Riki Taylor addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in Support of the application. The Committee heard that the speaker lived on John Castle Way and detailed that they had seen dirty needles and that there was anti-social behaviour in the area which had turned into criminal damage of thrown stones, and slashed tyres from challenging the drug dealers. The speaker noted that the Police were so overrun that this was not considered a priority and detailed that since the fence had been erected there had been no problems. The speaker detailed that they understood why people wanted the cut through back along John Castle Way, but they outlined that they did not want to have to be picking up needles so that Children did not step on them.

Councillor Harris addressed the Committee as a visiting Member. The Committee heard that they had understood the arguments for the proposal to promote cycling and wellbeing when the original application had come forward and not long afterwards there had been complaints regarding mopeds using the area and as such bicycle inhibitors had been implemented. The speaker continued by detailing that there were many complaints regarding anti-social behaviour which had been documented by the Police and that following this the management company had been advised that they could erect a fence. The visiting Councillor concluded by detailing that they would like to see CCTV in the area or a lockable gate.

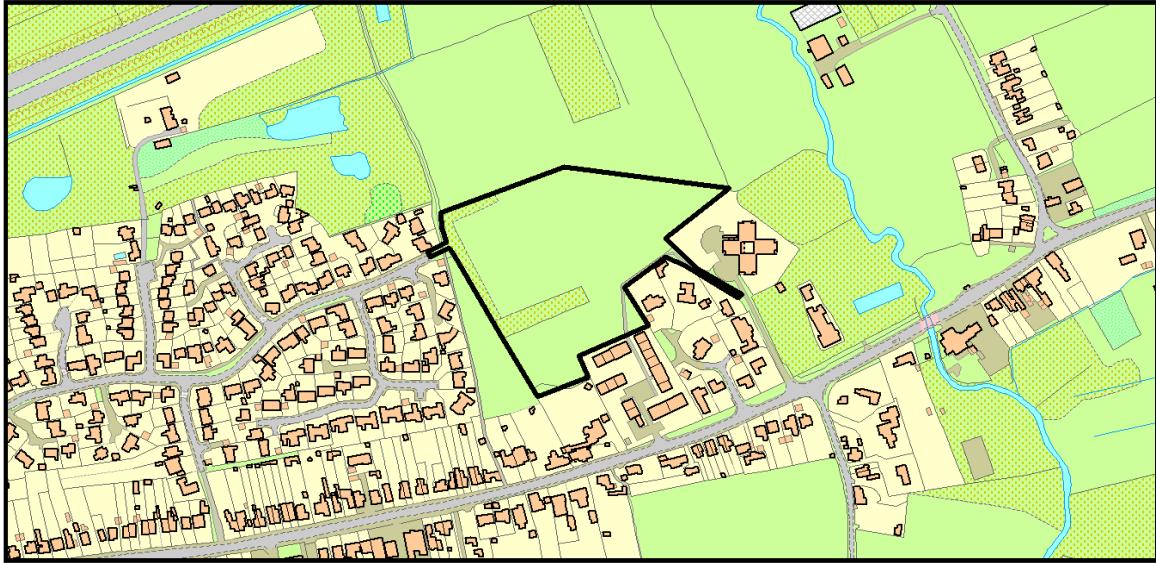
Members debated the proposal on issues including the disappointment that gate had not been supported by the applicant and that anti-social behaviour was a known issue in the area. At the request of the Chair the Joint Head of Planning advised that they were sympathetic to the possibility of a gate but that the applicant was unwilling to look at this option and as such Members had been left with a binary Choice of approving or refusing the application.

The debate continued with some members detailing that they felt that the bad behaviour should not be allowed to influence decisions but that there were very few options available and that there were not enough Police resources to deal with the issue. Members debated the possibility of the use of CCTV and whether this could be used to form a compromise.

It was proposed and seconded that the application be refused as detailed in the officer recommendation and that a statement is added concerning the need to prioritise public access through the site. Furthermore, that an informative note is added stating that no enforcement action will be taken by the Local Planning Authority within the 6-month period following determination to allow the applicants to explore and enhance measures to mitigate Anti-Social behaviour experienced including CCTV and lighting.

RESOLVED (SIX votes FOR and ONE votes AGAINST, with TWO ABSTENTIONS) That the application is refused as detailed in the officer recommendation with the following additions:

1. That the Committee felt there was a need to prioritise public access through the site.
2. And, that an informative note is added stating that no enforcement action will be taken by the Local Planning Authority within the 6-month period following determination to allow the applicants to explore and enhance measures to mitigate Anti-Social behaviour experienced including CCTV and lighting.



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Item No: 7.1

Application: 230033

Applicant: Mr N Hodgskin

Agent: Mrs Karen Crowder-James

Proposal: The erection of one assisted living block (for the over 55s) of 72 units comprising 32no. one bedroom flats and 40 no. two bedroom flats and associated communal facilities; erection of sheltered housing accommodation of 18 units (as an extension to the existing scheme at Dorothy Curtice Court for over 55s), comprising 13no. one bedroom flats and 5no. two bedroom flats; together with associated access, amenity space, vehicle and bicycle parking, EVC points, hard and soft landscaping, sub-station, drainage ponds, boundary treatments and other associated works.

Location: Land to the rear of, Dorothy Curtice Court, London Road, Copford, Colchester, CO6 1DX

Ward: Marks Tey & Layer

Officer: Nadine Calder

Recommendation: Approval subject to S106 agreement and conditions

1.0 Reason for Referral to Planning Committee

- 1.1 This application was discussed at the Planning Committee of 25th January 2024 when a decision on the application was deferred to investigate the following matters:
- i. Alternative access arrangements;
 - ii. Reduction in no units to achieve compliance site allocation policy SS4 (70 units); and
 - iii. Reduction in size and scale of blocks from 3 storeys.

Alternative access arrangements

- 1.2 Access arrangements via Dorothy Curtice Court and/or Willow Park were assessed, and ultimately discounted, within the Transport Statement, which forms part of the original application submission. Following the Committee's request to reconsider these alternative access routes, the following four alternative access arrangements have been assessed as part of a Transport Addendum:
- Access via Dorothy Curtice Court;
 - Access via Willow Park;
 - In via Queensberry Avenue and out via Willow Park; and
 - In via Willow Park and out via Queensberry Avenue.
- 1.3 The sole access route via the existing Dorothy Courtice Court access off London Road has been discounted due to this resulting in the partial demolition of two existing buildings which accommodate a total of eight households. These properties provide sheltered housing accommodation which forms part of an existing community. There is no need for them to be modernised and the only justification for their demolition would be to provide access to the site. This would be unreasonable. Consequently, Dorothy Courtice Court has been discounted as a viable alternative access route to the site.
- 1.4 Willow Park currently serves three residential properties and the New Copford Place residential care home. The existing access route is approximately 3m wide, except at its junction with London Road, where it widens to around 5.5m.
- 1.5 Willow Park would need to be widened to 5.5m to be suitable to provide the sole means of vehicular access to the site. This would be required in order to allow a car and large vehicle (such as a refuse vehicle) to pass comfortably and incorporate a 2m wide footway along at least one side to allow two wheelchair users to pass.
- 1.6 The Council and Highway Authority acknowledge that the applicant does not control enough land to provide an access in compliance with the requirements set out above and consequently, a two-way route serving the site via Willow Park is not feasible. For this reason, a sole access via Willow Park has been discounted.
- 1.7 This leaves a one-way system along Willow Park to be considered with ingress/egress provided via Queensberry Avenue respectively. For a one-way system in or out of Willow Park, a carriageway of 3m would need to be

maintained, with a 2m wide footway along one side. Again, your Officers and Officers from the Highway Authority acknowledge that the applicant does not control enough land to provide this. It is noted that the current carriageway may be some 3m wide, but there is no footpath along it which would be required to make this access route acceptable.

- 1.8 In addition to the above, there are other matters which prevent a one-way system utilising Willow Park. There are residential dwellings to the west of Willow Park which, together with the care home, have legal access rights over Willow Park and therefore, the whole route could not be made one-way. This could cause confusion as well as danger due to lack of passing places, reduced visibility around the bend or the potential for vehicles having to reverse south along Willow Park towards the junction at London Road which could cause a danger to highway safety. For these reasons, it was concluded that a one-way route along Willow Park would not provide safe and suitable access to the proposed development.
- 1.9 The above reasons for discounting an alternative access route via Willow Park are all based on highway safety matters. As set out in paragraph 16.35 of the Committee Report, the Council would however also have reservations in relation to a proposed access along Willow Park due to its potential impact on the setting of the Grade II listed Copford Place which lies directly to the east of Willow Park. This means that, even if an access to the site via Willow Park were to be accepted on highway safety grounds, there may be other factors which would ultimately lead to this access arrangement not being supported by your Officers.
- 1.10 In summary, having reassessed alternative access routes, it is concluded that Dorothy Curtice Court and Willow Park do not present suitable or viable alternative access arrangements to the site. Access via Dorothy Curtice Court would require the demolition of existing dwellings which are not otherwise in need of demolition. Utilising Willow Park as the sole means of access cannot be supported as it would require land outside the applicant's control to make this route suitable while the use of Willow Park as a one-way route has the potential to result in unsafe conditions due to a lack of appropriate intervisibility and passing places. There are also concerns with regards to the intensification of this access in terms of its impact on the setting of the historic environment.
- 1.11 In contrast, access via Queensberry Avenue does not present any such problems. This route does not require the demolition of any homes, is wide enough to accommodate a refuse vehicle and car (for example) passing one another, benefits from footways along both sides of the carriageway and does not have any impact on the setting of nearby listed buildings. It also complies with Policy SS4 and therefore represents a suitable form of access to the site.

Reduction in number of units to achieve compliance with site allocation policy SS4 (70 units) / Reduction in size and scale of blocks from 3 storeys

- 1.12 In response to the second and third reasons for deferring a decision on the proposed development, consideration has been given to reducing the number of units in conjunction with lowering the height of the assisted living element. The removal of the third floor would result in the loss of 26 units (resulting in

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the provision of 64 units overall). The applicant advised that a scheme of that scale would no longer be viable or financially sustainable. A decision was therefore made not to reduce the number of units or the size and scale of the assisted living block.

- 1.13 Instead, additional justification has been provided in the form of images of existing and proposed views of the development from public vantage points (with the proposed development inserted to scale) and a scaled section drawing which demonstrate that the development is appropriately placed within the site, where the level difference in combination with existing and proposed landscaping would ensure that the development blends in with the locality. This additional evidence shows that any impact of the proposed development would be localised only and not affecting the surrounding area to a degree that would be visually or materially harmful. Officers therefore consider that the proposed development, without amendments, remains acceptable in this context.

Conclusion

- 1.14 On the basis of the above, no amendments to the scheme have been made since the application was presented to Members at the Committee of the 25th January 2024. Notwithstanding the concerns that were raised by Members during the Committee, it is your Officers' opinion that the development, as proposed, is acceptable as it would be contained within the site, thereby not significantly impacting on the character of the surrounding area and would bring significant economic, social and environmental benefits, including the provision of a 100% affordable scheme and significant biodiversity enhancements which tip the planning balance strongly in favour of the proposed development.
- 1.15 The recommendation to Members therefore remains one for approval subject to a S106 agreement and conditions, as set out in paragraph 18.1 of the Committee Report, which is attached as an appendix to this Addendum (with the matters of the Amendment Sheet for the previous Committee having been incorporated into the Committee Report).

APPENDIX 1- Copy of Committee Report considered at meeting 25 January 2024

1.0 Reason for Referral to the Planning Committee

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

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

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

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

2.0 Synopsis

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

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

2.3 The application is subsequently recommended for approval.

3.0 Site Description and Context

3.1 The site (which equates to some 3.13ha) is located to the north of the existing settlement, forms part of the historic rural hinterland beyond developments fronting London Road and lies adjacent to a historic estate development. The site’s immediate context consists of the Queensbury Avenue estate to the west, existing assisted living and residential developments to the south/west

and open countryside with the A12 beyond, to the north. The site is undeveloped and laid to pasture, with established landscape features along the majority of its boundaries and within the site, relative to historic field boundaries. The site's existing character is verdant and relatively open, akin to the adjacent open countryside, by virtue of its established landscape features and historic use/designation as open countryside.

4.0 Description of the Proposal

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

5.0 Land Use Allocation

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

6.0 Relevant Planning History

6.1 None relevant to this planning application.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

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

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

7.3 Local Plan 2017-2033 Section 2

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

- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- SG8 Neighbourhood Plan
- ENV1 Environment
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM18 Provision of Open Space and Recreation Facilities
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water Waste and Recycling

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

SS4 Copford

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

CE3 Design and Character

CE4 Housing

CE6 Environment

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

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

8.0 Consultations

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

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

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

9.0 Parish Council Response

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

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

10.0 Representations from Notified Parties

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

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

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

the original consultation) and 36 letters of objection from 28 households (including three that did not comment on either of the previous consultations) were received respectively. No new material planning considerations were raised with objections repeating previous objection comments.

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

11.0 Parking Provision

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

12.0 Accessibility

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

13.0 Open Space Provisions

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

14.0 Air Quality

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

15.0 Planning Obligations

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

Affordable Housing

Scheme to be 100% affordable

Highways

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

Community – £110,809.35

Project

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

Parks & Recreation – £72,309.22

Ward Project - £28,023.92

Borough Projects to improve disabled access to Stanway Country Park

Borough Project - £44,285.30

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

Transport - £25,000

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

Archaeology - £15,153.00 contingent on finds

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

£753 for enhancement of the Colchester HER

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

Libraries - £7,002

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

NHS - £55,000

16.0 Report

Principle of Development

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

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

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

East of Queensberry Avenue

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

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

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16.4 The explanatory text in paragraph 6.148 states that:

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

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

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

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

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

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

Design and Appearance

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

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

Historic Environment

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

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

Residential Amenity

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

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

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

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

Highway Matters and Parking

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

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

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

Flood Risk and Drainage

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

Ecology

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

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

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

Habitats Regulations Assessment / Appropriate Assessment

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

Biodiversity Net Gain

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

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

Trees

- 16.49 Section 2 Local Plan seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline. Policy CC1 seeks, where appropriate, to increase the level of canopy cover on site by a minimum of 10%.
- 16.50 A Canopy Cover Assessment was provided as part of the submitted Arboricultural Impact Assessment. This identified that the existing canopy cover on the site is 5,726m². It is noted that 382m² of canopy cover is proposed to be removed, which will have to be replaced in conjunction with the additional 573m² of canopy cover that is required to be delivered as part of this proposal. The landscape proposals submitted together with this application include the planting of 274 new, mainly native, trees which would result in a canopy cover of 12,000m² (representing an increase of 6,274m²), thus significantly exceeding the 10% policy requirement.

Archaeology

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

Contaminated Land

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

Environmental and Carbon Implications

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

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

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

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

Other Matters

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

17.0 Planning Balance and Conclusion

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

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

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

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

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

1. Time Limit for Full Permissions

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

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

2. Development To Accord With Approved Plans

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

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

5277-TF-AL-SP-DR-A-2001 Rev P4 (Site Plan – Assisted Living)

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

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

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

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

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

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

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

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

5277-TF-SB-RF-DR-A-2013 Rev P2 (Roof Level Plan Sheltered Block)

5277-TF-SP-XX-DR-A-2015 Rev P3 (Parking Strategy Plan)

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

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

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

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

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

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

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

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

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

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

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

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

3. Materials

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local

Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development in the interests of good design and visual amenity as there are insufficient details within the submitted planning application.

4. Architectural Detailing

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (opening casement should match fixed element); doors, cills, lintels, arches, eaves, verges, ridge, brickwork /stone work detailing, transitions between materials, chimneys; recessed/projecting/decorative brickwork; bays, porches, canopies, balconies, plinths; blank and faux windows; and any rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate. The development shall thereafter be implemented in accordance with the approved additional drawings.

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

5. Utilities

No works shall commence (above ground floor slab level) until details (including position) of all external plant (including solar PV), extract ducts, vents, grilles and meter housings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of good design and visual amenity, as there are insufficient details within the submitted planning application.

6. Site Levels

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

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

7. Full Landscape Details

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

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

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

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

8. Landscape Management Plan

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

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

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

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

- archaeological sites and ancient monuments;

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

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

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

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

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

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

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

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

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

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

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

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

13. Validation Certificate

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

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

14. Surface Water Drainage Scheme

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

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

The scheme shall subsequently be implemented prior to occupation.

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

15. Scheme to Minimise Risk of Offsite Flooding

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. The scheme shall subsequently be implemented as approved.

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

16. Surface Water Drainage Maintenance Plan

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

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

17. Construction Environmental Management Plan

No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved, in writing by, the Local Planning Authority. Ideally, strategic elements of the GI framework are brought forward in phase one of the development to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. Therefore, a CEMP will be required to set out how retained GI, such as trees, hedges and vegetation, as well as any nature designed sites (e.g. SSSI's etc.) will be protected during construction.

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

18. Landscape Ecological Management and Maintenance Plan

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

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

19. Yearly Logs of Maintenance

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

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

20. Biodiversity Enhancement Strategy

Prior to any works above slab level being undertaken, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

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

21. Habitat Management and Monitoring Plan

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

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

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

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

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

22. Construction Method Statement

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

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

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

23. Highway works

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

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

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

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

24. Cycle Parking

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

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

25. Ecological Mitigation

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Report (Applied Ecology Ltd, October 2022), Landscape Softworks Plan (Portus+Whitton LLP, project no. 1750, Drg no. 02, Rev F, October 2022), Landscape Master Plan (Portus+Whitton LLP, project no. 1750, Drg no. 01, Reg G, October 2022) and Biodiversity Net Gain Assessment Report (Applied Ecology, AEL2037_v2.0_20230609).

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

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

26. Wildlife Sensitive Lighting Design Scheme

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

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife &

Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

27. External noise

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

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

28. Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

19.1 Informatives

19.1 The following informatives are also recommended:

Advisory Note on Construction & Demolition

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

Informative on Conditions Stating Prior to Commencement/Occupation

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

Landscape

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

DC0901MWeV9.3

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

Archaeology

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

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

Informative on Section 106 Agreements

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

Anglian Water

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

Anglian Water - Protection of existing assets

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

Anglian Water - Building near to a public sewer

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

Anglian Water

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

Informative on Any Application With a Site Notice

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

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.

